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1-27-77

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federal register

THURSDAY, JANUARY 27, 1977

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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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.

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
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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.

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federal register

Area Code 202 Phone 523–5240

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to the Refiner Price Regulations; Increased Non-Product Costs and Allocation of Increased Costs To Exempt Products

I. Introduction

On July 27, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 31863, July 30, 1976) to consider proposals to amend the refiner price regulations (10 CFR, Part 212, Subpart E) regarding the passthrough of increased non-product costs and the method of allocating increased costs to exempt products.

Written comments with respect to the July 30 notice were received from interested parties and a public hearing was held on August 24, 1976 at which oral statements were presented. After consideration of all the written and oral presentations, FEA has determined to modify in part and adopt certain of the proposed amendments. This rulemaking proceeding is continued with respect to the proposed amendments on which action is not being taken in today's notice. The amendments adopted and issued today are effective with respect to increased costs incurred beginning January 1, 1977, and with respect to maximum allowable prices beginning February 1, 1977.

II. Summary

FEA price regulations have always included provisions with respect to the passthrough of increased non-product costs by refiners. Initially, increased non-product costs could be passed through generally according to the increase in the rate at which the costs were incurred, subject to a prenotification procedure and FEA approval. (§ 212.82(b)(2); 39 FR 6533, February 20, 1974) Such prenotification and approval procedures proved complex and cumbersome and were therefore eliminated by amendments to the regulations, effective December 1, 1974. The amended regulations provided that specific increased non-product costs, defined in eight categories, could be calculated by refiners and passed through automatically, without the need for prenotification. (§ 212.83(c)(2)(E); 39 FR 42368, December 5, 1974)

Comments received since the eight defined categories of increased non-product costs were adopted and the comments and testimony presented in this proceeding indicate that FEA should expand the eight defined categories to include significant additional categories of non-product cost increases.

The regulations issued today therefore adopt additional categories of non-product cost increases, revise the definitions of certain existing categories, and generally standardize the computation of the amount of increase in each category of non-product costs in a manner that is analogous to the method for computing the amount of increased crude oil costs. Also, the regulations issued today require that the allocation of increased crude oil costs and increased non-product costs to covered products be based on volume refined rather than sales volume. Several issues discussed in the July 30 notice, such as treatment of "processing fees," methods of allocating non-product cost increases among petroleum product categories, and adjustments to May 1973 non-product costs to reflect changes in business operations are being further considered by FEA. Final amendments to the regulations may be hereafter adopted regarding certain of these issues; further notices of proposed rulemaking may be appropriate for certain other of these issues

III. Increased Non-Product Costs

A. Method of computation of increased non-product costs

The July 30 notice proposed two principal alternative methods for standardized computation of all categories of increased non-product costs. The first or "simple method" was based upon a comparison of the dollar amounts of non-product costs incurred in May 1973 and in the month for which the amount of non-product cost increase was being measured, and did not require any adjustment in the result until any month in which refinery output exceeded the May 1973 output by more than 10%. The second, or "output adjusted method" was based upon a comparison of the non-product cost per unit of refinery output in May 1973 with the non-product cost per unit of refinery output in the month for which the amount of non-product cost increase was being measured, multiplied by the total volume of refinery output in the month of measurement. The "output adjusted method" was proposed to be required for computation of increased non-product costs beginning with any month in which refinery output exceeded the May 1973 output by more than 10%. Once a refiner was required to use the "output adjusted method" it was proposed that this method would then be required to be used throughout the remainder of that calendar year.

FEA has concluded that the benefits of simplicity, which led it to propose the method of computing increased non-product costs without any adjustment for volume for refiners with output not in excess of 110% of their May 1973 output, are counterbalanced by the negative consequences such a regulation would have. In particular, adoption of the simplified method would have tended to discourage refinery expansion. Although it would have afforded cost passthrough benefits to the extent that current refinery output was in excess of May 1973 levels, those benefits would have been lost if current refinery output amounted to 110% or more of May 1973 output.

FEA has therefore concluded that all refiners shall be required to use only the proposed standardized "output adjusted method" for the computation of all increased non-product costs.

The "output adjusted method" for computation of increased non-product costs adopted today is similar to the method for computation of increased crude oil costs currently prescribed in § 212.83(c)(2)(iii)(C). The amount of increase in each category of non-product cost shall be computed by determining the difference between the amount of that cost in the month of measurement per unit of refinery output and the amount of that cost in May 1973 per unit of refinery output, multiplied by the amount of refinery output in the month of measurement. This amendment simplifies in certain respects the former regulations, which provided for different computational methods for the various categories of increased non-product costs.

It was suggested by some commentors that the "output adjusted method" for computation of increased non-product costs should not be adopted. They stated that, because refinery operating costs, except for fuel, are not directly tied to refinery output, computation of increased non-product costs by a method based upon a cost increment per unit of refinery output tends to interfere with free market pricing patterns of incremental production. Such pricing would not necessarily reflect the per unit reduction in non-product costs which results when a relatively fixed total amount of non-product costs is spread over a larger volume of production. It was further suggested that the "output adjusted method" of computation of increased non-product costs would result in artificially low prices and would tend to stifle incentives to decrease costs by requiring refiners to pass on to consumers all savings engendered by such reductions.

FEA is aware that levels of all non-product costs are not directly tied to levels of refinery output and that the

"output adjusted method" for computation of increased non-product costs adopted today does not permit the pricing of incremental production according to free market conditions. FEA has concluded, however, that this method of computation, which generally operates to require decreases in per unit costs associated with increased refinery output to be passed through in the form of lower prices, is appropriate. Although this method may operate to some extent to reduce incentives for refiners to decrease costs, prices of approximately half of the volume of refined petroleum products are no longer regulated. Moreover, to the extent that cost reductions are required to be passed through in the form of lower prices, there are potential benefits to the refiner concerned of increased sales volumes. Accordingly, FEA has concluded that the "output adjusted method" of computing increased non-product costs, required by the regulations adopted today, is an appropriate price control mechanism which does not unduly re-vide in the definition of "E'" in § 212.83 strict the incentives to decrease refinery non-product costs.

FEA recognizes that non-product costs in certain categories are typically paid or incurred on an irregular basis. Accordingly, the amended regulations pro-(c)(2)(iii)(E), as was proposed in the July 30 notice, for averaging such costs. Costs paid or incurred less frequently than monthly during the firm's fiscal year which included May 1973 must be averaged over such year (and costs paid or incurred each month during the firm's fiscal year which included May 1973 but in significantly different amounts independent of output variation must be averaged over such year) to calculate non-product costs for May 1973. Such costs must also be averaged over the firm's current fiscal year for each month of measurement, if they are accrued according to generally accepted accounting practices historically and consistently applied by the firm concerned.

The requirement to average such costs over the firm's fiscal year means generally that if, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, costs such as maintenance costs are accrued, such costs may also be accrued for purposes of calculating non-product cost increases. However, in such instances appropriate corrective adjustments must be made to reflect the costs actually incurred.

In the ordinary case, except for costs which typically occur at intervals of greater than one year (such as the maintenance costs of major refinery shutdowns, in which case the costs incurred must be averaged over the period to which they apply), the costs treated as incurred during a firm's fiscal year under the accrual provision of § 212.83(c)(2)(iii)(E) must not exceed the amounts of such costs actually paid or incurred during that fiscal year. Furthermore, as discussed below, in computing the newly adopted categories of "maintenance cost increase" and "Federal, State, and local tax increase" FEA has provided for adjustments to May 1973 costs so that they reflect levels averaged over an appropriate period of time.

.B. ADDITIONAL CATEGORIES OF INCREASED NON-PRODUCT COSTS

The regulations issued today adopt the three proposed additional categories of increased non-product costs that may be used in the computation of total increased non-product costs under § 212.83(c)(2)(iii)(E), with certain modifications, plus another category on which FEA invited comments. The new categories are: "depreciation cost increase," "maintenance cost increase," "federal, state and local tax increase," and "overhead cost increase."

1. *Depreciation cost increase.* The addition of a "depreciation cost increase" category to § 212.83(c)(2)(iii)(E) enables refiners to recover increased depreciation costs. The July 30 notice proposed that refiners be permitted to pass through as a non-product cost increase

> • • • all depreciation associated with capital investment undertaken since May 15, 1973 for refining and storage of covered products including investment to expand refinery capacity, to produce lower sulphur refined petroleum products, to institute energy conservation measures, and to increase storage capacity. Both equipment and facility expansion would be included. (41 FR at 31864)

FEA proposed to permit a passthrough of these depreciation costs as increased non-product costs in order to permit recovery of costs of capital investments to expand domestic refining capacity, to achieve energy conservation, and for equipment installed to produce lower-sulfur products which enable users of such products to conform to pollution control standards applicable to them. These have been identified as important national objectives by the Congress, and current FEA regulations tend to discourage investments for such purposes by not permitting full recovery of their costs in prices of covered products.

The comments generally supported the addition of the "depreciation cost increase" category to the existing categories of non-product cost increases.

FEA has concluded, however, that the "depreciation cost increase" should be computed in accordance with the standardized "output adjusted method" discussed above, rather than the method that was proposed. The proposed method would simply have treated as depreciation cost increase all costs "attributable to the depreciation of refinery equipment and storage capacity acquired and installed and facility expansion since May 15, 1973," without regard to the level of depreciation costs that was incurred in May 1973 and reflected in prices on May 15, 1973. Hence, the proposal would not accurately have reflected net increases in depreciation costs since May 1973 because it would only have measured certain added depreciation costs, without regard to any reductions in depreciation costs which may also have occurred.

By computing the amount of increase in this category through a comparison of depreciation per unit of output in the month of measurement with depreciation per unit of output in May 1973, the need to determine whether a particular asset was "acquired and installed since May 15, 1973" is obviated. Also, this modification to the proposal is appropriate to insure that only net increases in depreciation costs over May 1973 levels are permitted to be passed through. Because May 15, 1973 sales prices reflected the May 1973 level of depreciation costs, FEA has concluded that any increases in those price levels based on the passthrough of increased depreciation costs should reflect only the net increase in such costs since May 1973.

Accordingly, the regulations adopted today provide that all increases in depreciation costs per unit of output in a month of measurement over May 1973 levels per unit of output may be included in increased non-product costs and used to determine a refiner's maximum allowable selling price under the refiner price regulations, except as discussed in section III.C.1. below. The separate category for "pollution control cost increase" has been deleted as no longer necessary, as the costs which formerly fell into that category will now generally fall within the new depreciation cost increase category.

FEA has decided in these amendments to require each refiner to calculate depreciation cost increase pursuant to that refiner's customary accounting practices generally accepted and consistently and historically applied for purposes of its certified annual financial statements filed with the Securities and Exchange Commission or a comparable state regulatory agency. If no certified financial statements are so filed, depreciation cost increase must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm.

2. *Maintenance cost increase.* The "maintenance cost increase" category of increased non-product costs adopted today includes all increased costs associated with the maintenance and repair of refinery equipment, except direct labor cost associated with maintenance and repair of refinery equipment, which is to be reflected under the labor cost increase category. The maintenance cost increase category includes contract maintenance.

Refiners that, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, treat maintenance costs such as those associated with major anticipated and unanticipated refinery shutdowns (maintenance costs incurred at greater than monthly intervals) on an accrual basis and prorate such costs over an appropriate period shall accrue such costs for purposes of calculating per unit non-product costs for the month of May 1973 and the month of measurement.

Refiners that, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, do not treat the maintenance costs associated with anticipated and unanticipated refinery shutdowns on an accrual basis shall compute the May 1973 per unit maintenance costs by adding all maintenance costs incurred during an appropriate period approved or required by FEA including May 1973 (such as one or two years) and dividing by output during that period. Such refiners, shall, however, compute the maintenance cost increase for the month of measurement according to the generally accepted accounting practices historically and consistently applied by the firm concerned.

For example, a refiner that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement accrued the costs of anticipated and unanticipated major refinery shutdowns shall compute the maintenance non-product cost increase per unit of refinery output by computing the difference between (1) the total cost of the standard maintenance (ordinary daily repair and minor emergency maintenance) per unit of refinery output incurred in the month of measurement plus the accured cost for anticipated and unanticipated major refinery shutdowns per unit of refinery output for the month of measurement and (2) the total cost of such standard maintenance per unit of refinery output incurred in May 1973 plus the accrued cost for anticipated and unanticipated major refinery shutdowns per unit of refinery output for May 1973.

However, a refiner that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement did not accrue the costs of anticipated or unanticipated major refinery shutdowns shall compute the maintenance non-product cost increase per unit of refinery output by computing the difference between (1) the total actual cost incurred for maintenance per unit of refinery output in the month of measurement and (2) the total actual cost incurred for maintenance per unit of refinery output during an appropriate period approved or required by FEA including May 1973 (such as one or two years).

3. *Federal, State and local tax increase.* The "federal, state and local tax increase" category of increased non-product costs adopted today includes costs incurred in payment of new types of property, excise, franchise and other similar taxes such as license fees imposed since May 1973, as well as increases in the actual dollar amount of such taxes per unit of output incurred in the month of measurement over the amount per unit of output incurred in May 1973. As was proposed, federal, state or local income taxes are excluded from this category of increased non-product costs. Passthrough of the $2 per barrel tax imposed by the Commonwealth of Puerto Rico on each barrel of petroleum imported into and consumed in Puerto Rico is discussed separately in section V, below.

Refiners that, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, treat taxes incurred at greater than monthly intervals on an accrual basis and prorate such costs over an appropriate period shall accrue such costs for purposes of calculating per unit non-product costs for the month of May 1973 and the month of measurement. Costs of taxes treated as incurred during a firm's fiscal year under the accrual provision of § 212.83(c)(2)(iii)(E) must not exceed the amounts of such costs actually paid or incurred during the fiscal year which includes May 1973 or which includes the month of measurement.

Refiners that, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, do not treat the costs of taxes incurred on an accrual basis and do not prorate such costs shall compute the May 1973 per unit tax costs by adding all taxes incurred during the firm's fiscal year which included May 1973 and dividing by output during that period. Such refiners shall, however, compute the per unit tax cost for the month of measurement according to generally accepted accounting practices historically and consistently applied by the firm concerned.

For example, a refiner that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement accrued the costs of taxes incurred over its fiscal year shall compute "federal, state, and local tax increase" per unit of refinery output by computing the difference between (1) the accrued cost of taxes incurred per unit of refinery output for the month of measurement and (2) the accrued cost of taxes incurred per unit of refinery output for May 1973.

However, a refiner that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement did not accrue the costs of taxes incurred shall compute "federal, state, and local tax increase" per unit of refinery output by computing the difference between (1) the total actual cost incurred for taxes per unit of refinery output in the month of measurement and (2) the total actual cost incurred for such taxes per unit of refinery output during the firm's fiscal year which included May 1973.

4. *Overhead cost increase.* In its July 30 notice FEA indicated its intention to amend the regulations to permit the passthrough of as many types of increased non-product costs as would be easily auditable as directly related to refining operations. Based on its analysis of the comments received, FEA has decided to adopt another category of increased non-product costs: "overhead cost increase." This category includes increased costs of insurance, outside legal and accounting fees, and inter-refinery transportation costs directly attributable to refining operations.

C. REVISION OF CURRENT CATEGORIES OF NON-PRODUCT COST INCREASES

The regulations issued today adopt amendments to the current "refinery fuel cost increase" and "labor cost increase" categories of increased non-product costs. These amendments conform the computations in these categories to the standardized "output adjusted method," discussed above.

1. *Refinery fuel cost increase.* Prior to the regulations issued today, refinery fuel non-product cost increases were required to be calculated in terms of the rate of fuel usage (e.g., Btu's to refine one barrel of crude oil) during May 1973. A refiner that used fewer units of energy currently to refine a barrel of crude oil than in May 1973 was permitted to pass through a dollar amount of refinery fuel cost increase based upon its current per unit cost of refinery fuel and its May 1973 rate of fuel usage. This method of computing the amount of increased cost of refinery fuel was adopted to provide an incentive for fuel conservation. Thus, for refiners that have reduced their rate of fuel usage, this method permits an increased cost passthrough which is greater than the actual increased expenditure for refinery fuel. On the other hand, for refiners that have increased their rate of fuel usage, this method operates to prevent the passthrough of the full amount of the actual increased expenditure for refinery fuel.

The earlier basis for adoption of this method of computing "refinery fuel cost increase" was noted and the reason for for the proposed modification of the computation was explained in the July 30 notice, which stated in part:

> FEA's intent in using the rate of May 1973 fuel usage in lieu of the fuel usage in the month of measurement was to encourage refiners to use fewer btu's to refine a barrel of crude oil. Refiners were thus provided with an economic incentive to install equipment or make other capital investments to conserve energy used for refinery fuel. However, the proposed addition of "depreciation cost increase," should encourage energy conservation by permitting a dollar-for-dollar passthrough of such investment costs. It does not therefore appear any longer to be appropriate to permit refiners also to have an opportunity to recoup a bonus for increased efficiencies in refinery fuel usage in the refinery fuel cost increase category. Also, because use of desulfurization equipment typically requires increased rate of refinery fuel usage, the cost of which cannot currently be recovered to the extent that the current rate exceeds the rate in May 1973, the current regulations have tended to discourage installation of such equipment. (41 FR at 31865)

The regulations adopted today, as discussed above, adopt a new category of depreciation cost increase, which removes an aspect of the regulations that formerly discouraged investments for the purpose of fuel conservation. Accordingly, the amendments adopted today

generally provide for the computation of "refinery fuel cost increase" under § 212.83(c)(2)(iii)(E)(I) as the actual increased cost of refinery fuel per unit of current output, multiplied by units of current output. The former conservation incentive method of computing refinery fuel cost increase is, however, retained as an option for refiners that choose to exclude from their calculation of depreciation cost increase all depreciation associated with investments which effect fuel conservation.

Comments urging the retention of the refinery fuel conservation incentive suggested that a requirement to pass through refinery fuel cost savings to the market place, even with the addition of the "depreciation cost increase" category, would result in a decrease in the incentive to save fuel. Comments suggested that the elimination of the "refinery fuel incentive" would discourage refiner investment in fuel economy in light of alternative investment possibilities and that the removal of this incentive was not consistent with the intent of section 381 (a) of the Energy Policy and Conservation Act (Pub. L. 94–163, "EPCA") which directs the FEA to promote increased energy conservation and efficiency. Finally, it was urged that the removal of the refinery fuel incentive would be unfair to those refiners which had taken measures to conserve fuel in reliance on the regulatory incentive which had been afforded.

FEA believes that the adoption today of a "depreciation cost increase" category to enable refiners to recover increased depreciation costs provides generally an incentive to expend capital funds both to increase refinery output and efficiency, as discussed above. However, because of the special considerations that exist with respect to refinery fuel—particularly the higher priority of fuel conservation as opposed to other types of efficiency measures and the reliance which has been placed on the refinery fuel incentive regulations—FEA has concluded that refiners should be afforded an option to continue to calculate refinery fuel cost increase based on the refinery fuel conservation incentive.

In such cases, however, the "depreciation cost increase" category of increased non-product costs adopted today shall be calculated exclusive of any depreciation for capital investments which have operated to reduce the rate of refinery fuel usage below the May 1973 rate.

2. *Labor cost increase.* Prior to the regulations adopted today, refiners were permitted to recover a "labor cost increase" equal to the ratio of the wage rates paid in the month of measurement to the wage rates paid in May 1973, multiplied by the May 1973 payroll, or "base labor cost," and multiplied by a "productivity offset factor" to adjust for the increase in labor productivity since May 1973. (§ 212.83(c)(2)(iii)(E)(11))

Refiners were thus permitted to reflect in prices average wage rate increases since May 1973. However, because the total amount of increased labor costs was computed as though the number of employees was the same as in May 1973, no increased costs resulting from increasing numbers of employees could be reflected. This method of "labor cost increase" computation was adopted on the theory that new employees were generally associated with increased refinery production, which would offset associated payroll increases through increased sales volumes. As indicated in the July 30 notice

> • • • it now appears that more complex refinery facilities, with desulfurization equipment and complicated pollution control equipment, require refiners now to have more employees than they had for an equivalent level of output in May 1973. (41 FR at 31866)

Also, as labor efficiency can generally be increased only by capital investments, the "productivity offset factor" may have discouraged such investment by precluding a full return of the costs thereof.

The regulations issued today adopt a method of computation based on the increase in labor costs per unit of output in the month of measurement over the May 1973 labor costs per unit of output and, accordingly, eliminate the "productivity offset factor" as unnecessary. As amended, the labor cost increase computation will reflect increases in the number of employees since May 1973, as well as wage rate increases.

IV. Allocation of Increased Costs To Exempt Products

Under current regulations either of two alternative volumetric cost allocation formulae is permitted to be used to compute the amount of increased costs of crude oil attributable to prices for particular products or product categories.

One formula, adopted initially by FEA, allocates such costs according to the relative sales volumes of the products concerned, including sales attributable to products purchased as well as to products refined by the refiner concerned. This method of allocation requires generally that the amount of increased costs allocable each month to prices for a particular product or product category be determined by multiplying the total amount of increased cost of crude oil for a month of measurement by a ratio that consists of the volume of the product or product category in question estimated to be sold in the current month ("V_i^u"), divided by the volume of all petroleum products estimated to be sold in the current month ("V^u"), or "V_i^u/V^u".

The allocation of increased cost of crude oil by sales volume pursuant to the "V_i^u/V^u" cost allocation formula has the virtue of being easily calculated and audited, but it also has the effect of allocating a greater proportion of increased crude oil costs to those products where a refiner supplements its production with product purchased for resale than would be allocated if the refiner made no such purchases.

Due in part to certain price distortions resulting from use of this cost allocator, FEA on January 7, 1976 proposed to amend the regulations to require the increased cost of crude oil to be allocated to products on the basis of the relative volumes of such products refined by the refiner concerned to be sold in the current month ("R_i^t/R^t"). (41 FR 1680, January 9, 1976)

A number of comments were received from refiners objecting to the proposed mandatory use of the proposed method. They opposed the added complexity the new method would introduce, stated that the difference between the results obtained under the two methods was negligible, or maintained that it was not possible to segregate sales volumes in a particular month according to source—whether refined or purchased. Other refiners, however, maintained that the sales volume method of allocation had a negative impact on their pricing policies.

Based on the comments received, FEA decided in the rulemaking proceeding initiated by the January 9, 1976 notice to afford refiners the option of allocating the increased cost of crude oil to prices for particular products or product categories either by sales volume in the current month or by volume refined in the month of measurement. The alternative volume refined method of allocation, as adopted, requires generally that the amount of increased cost of crude oil allocable each month to a particular product or product category be determined by multiplying the total amount of increased cost of crude oil for a month of measurement by a ratio that consists of the volume of the product or product category in question refined by the refiner in the month of measurement ("R_i^t") divided by the volume of all products refined by the refiner in the month of measurement ("R^t"), or "R_i^t/R^t." Refiners were required, beginning with the allocation of the increased cost of crude oil incurred in January 1976 (for purposes of determining maximum allowable prices in February 1976), to make a one-time choice between the two methods of cost allocation. (41 FR 5111, February 4, 1976).

As FEA stated in the January 9, 1976 and July 30, 1976 notices, use of the term "V_i^u/V^u" introduces a certain amount of distortion into the allocation of increased costs of crude oil among products, particularly for refiners which purchase relatively large volumes of refined products. The amount of product purchased for resale increases both the numerator and the denominator of the "V_i^u/V^u" cost allocator fraction, and has the effect of allocating a greater proportion of increased crude oil costs to those products where a refiner supplements its production with product purchased for resale than would be allocated if the refiner made no such purchases.

During the period before exemption from regulation of any refined petroleum products, whether the "R" or "V" term was used did not substantially affect the extent to which increased costs were allocated to covered products, as opposed to exempt products. However, because of the distortions inherent in the use of the "V_i^u/V^u" cost allocator, which were discussed by FEA in proposing and adopting the alternative "R_i^t/R^t" cost allocator,

and because the relative volume of exempt products to covered products in a refiner's output is now so great, in its July 30 notice FEA proposed to require that the allocation of increased crude oil costs and increased non-product costs to covered products produced by a refiner be computed only by use of the "R_i^t/R^t" cost alocated (that is, the total volume of a covered product category refined by the refiner from crude oil in the period "t" divided by the total volume of all covered products refined by the refiner from crude oil and all products other than covered products refined by the refiner from crude oil in the period "t").

As was generally proposed, the regulations adopted today will, as of March 1, 1977, require that the allocation of increased crude oil costs be computed only on the basis of the use of the volume refined, or the "R_i^t/R^t" cost allocation. This adoption of this allocator for increased crude oil costs will eliminate the distortions inherent in the allocation of crude oil costs by sales volume between covered products and an expanded list of exempt products which would otherwise result simply because a refiner purchases products for resale.

Increased non-product costs have been allocated only by the "V" factor since the adoption of the defined categories in December 1974. (39 FR 42368, December 5, 1974) FEA proposed the use of the "R" factor only for increased crude oil costs in January 1976 because increased costs of crude oil were the major share of all increased costs. However, FEA has concluded that the same allocator shall now be required to be used for increased non-product costs as is used for the increased cost of crude oil. Use of the "R" factor to allocate increased non-product costs as of March 1, 1976 will also eliminate distortions resulting from product purchases in allocating non-product costs between covered products and exempt products.

In order to facilitate the transition from the "V" to the "R" factor for product and non-product costs, refiners presently using the "V" allocator may continue to use that allocator through the month of February 1977, but may convert to the use of the "R" factor as of any time beginning with June 1976, when the first covered product was deregulated (residual fuel oil). This option to use the volume refined cost allocator as of June 1976 or thereafter, even if it were not chosen on February 1, 1976, is provided in order to insure that no refiner is precluded from allocating at least a pro rata volumetric share of its increased crude oil costs to the prices of products which remain under controls. Thus, to the extent that since June 1976 a refiner has purchased proportionately more exempt products than products which remain under controls, selection of the volume refined cost allocator will serve to avoid the disproportionate allocation of increased crude oil costs to exempt products which would otherwise result.

It was suggested that prices computed by the "R_i^t/R^t" cost allocator will be distorted by seasonal fluctuations in refinery output and by disruptions in refinery operations for maintenance or other reasons. The "R_i^t/R^t" cost allocator is adopted, however, in order generally to assure a more representative allocation of the increased cost of crude oil and to remove the artificial incentives for the purchase of products by refiners which are inherent in the use of a sales volume allocator. FEA believes that use of the volume refined allocator, together with the carryover of increased product and non-product costs provided for in § 212.83(e)(2), should serve generally to accomplish the allocation of such costs in a manner that should permit fairly uniform pricing practices to continue to be followed on a month-to-month basis, regardless of variations in refinery output or variations in sales volumes.

It was further suggested that the allocation of increased costs according to volumes of product refined does not allocate sufficient increased crude oil costs to higher value products, particularly gasoline, and therefore tends to distort historical pricing practices and inhibit recovery of increased costs. FEA finds merit in this suggestion. FEA has, however, proposed deregulation of gasoline. (41 FR 51832, November 24, 1976) If gasoline is not deregulated, FEA will consider issuance of a notice of proposed rulemaking to address this issue. Even if gasoline is deregulated, FEA will consider addressing this issue to be incorporated in the standby price regulations.

V. The Commonwealth of Puerto Rico Tax on Imported Crude Oil and Petroleum Products

On January 23, 1975, the President of the United States issued Proclamation 4341 that imposed supplemental import fees on crude oil and petroleum products imported into the United States. On March 27, 1975, the Commonwealth of Puerto Rico passed the Commonwealth of Puerto Rico Act No. 6 ("Act No. 6") that levied supplemental taxes substantially equivalent to the import fees provided by the United States Proclamation 4341. Both the import fees imposed by the United States Proclamation 4341 and the taxes imposed by Act No. 6 were in addition to a $.21 per barrel duty on crude oil and $.63 per barrel duty on petroleum products imposed on imports not brought in under duty free licences.

The Commonwealth of Puerto Rico decision to adopt Act No. 6, in the form of a "tax" based on the Commonwealth of Puerto Rico's constitutional powers to tax territorial business and consumption, was reached following a determination that license fees collected on imports into the Commonwealth of Puerto Rico pursuant to Presidential Proclamation 3279 could not lawfully be rebated to the Puerto Rican Treasury, as had been the case with respect to tariffs imposed by the United States on imports into the Commonwealth of Puerto Rico.

As stated in the July 30 notice, FEA regulations do not specifically address the passthrough by refiners of the Puerto Rican supplemental taxes. However, as long as the Puerto Rican supplemental taxes and the United States supplemental fees were concurrently in force, the Puerto Rican taxes "took the place of" the United States fees. During that time the Puerto Rican levies, although legally "taxes" and not import "fees," were treated for purposes of FEA price regulations as the equivalent of import "fees" and includable in the cost of crude oil and petroleum products under §§ 212.82 and 212.83.

The President of the United States repealed Proclamation 4341, effective December 21, 1975. However, on December 22, 1975 the Commonwealth of Puerto Rico enacted the Commonwealth of Puerto Rico Department of Treasury Resolution No. 4 ("Resolution No. 4") that extended the supplemental portion of the Puerto Rican tax as imposed by Puerto Rican Act No. 6. Accordingly, since December 21, 1975 the Puerto Rican supplemental tax, as extended by Resolution No. 4, has not taken the place of a commensurate United States import fee.

FEA has determined that from December 21, 1975 through December 31, 1976 the taxes extended by Resolution No. 4 shall be treated as a continuation of the import "fees" which they were intended to replace when first enacted. Therefore, during that period such tax costs are properly regarded as an inceased cost of crude oil or petroleum products under §§ 212.82 and 212.83, to refiners that have paid such taxes.

Beginning with February 1977, refiners may pass through increased tax costs incurred beginning in January 1977 as an increased non-product cost, under § 212.83(c)(2)(iii)(E) of the regulations as amended today.

FEA proposed in this proceeding that the Puerto Rican supplemental taxes be treated as special local taxes on local consumption, to be passed through only in the prices of crude oil and petroleum products sold in the Commonwealth of Puerto Rico. More generally, FEA also requested comments on whether the regulations should be modified to permit taxes levied in a locality to be passed through in prices charged in that locality. FEA has tentatively concluded that the Puerto Rican supplemental tax is essentially a tax on consumption similar to a sales tax and that it would be appropriate for the tax to be passed through in the Commonwealth of Puerto Rico. Adoption of such an amendment is, however, being deferred in light of the proposal to exempt gasoline from price controls which, if it becomes effective, would largely moot this issue, and because, as discussed below, no amendment to provide generally for local passthrough of local taxes is being adopted at this time. Instead, the passthrough of local taxes in local prices will continue to be handled on a case-by-case basis through the exceptions process.

FEA acknowledges the burden that would be placed upon Puerto Rican consumers by a local passthrough of the supplemental tax and recognizes the extent to which the Commonwealth of Puerto Rico has stated that it relies upon the continued receipt of the revenue engendered by the tax, as extended by Resolution No. 4. It appears that the allocation of the Commonwealth of Puerto Rico supplemental tax, as extended in Resolution No. 4, to the prices of all products produced by refiners which incur the Puerto Rican tax, including products sold in the United States and in the Commonwealth of Puerto Rico, would tend to result in mainland United States consumers bearing the burden of taxes imposed by the Commonwealth of Puerto Rico. However, as a general matter, FEA is still considering whether the price regulations should regulate the price of refinery products so as to restrict the extension of the territorial effect of taxes imposed by one jurisdiction unduly into other jurisdictions.

VI. Allocation to Local Prices of Increased Local Taxes

As noted above, in its July 30, 1976 notice FEA invited comments on whether the equal application rule in § 212.83(h) of the regulations should be modified to permit taxes levied by a locality to be passed through in prices charged in that locality (or in prices charged for all products produced in a facility in that locality). FEA has concluded that, although such an amendment may be appropriate, action on this matter will be deferred at least until a determination concerning the exemption of gasoline from FEA price regulations has been made. Since such an exemption would largely moot this issue, an amendment does not appear to be warranted at this time in light of audit and other difficulties which such an amendment would entail.

Also, during July 1976 FEA amended the equal application rule in § 212.83(h) to permit "regional pricing" of gasoline with a differential of up to three cents per gallon permitted among regions (41 FR 30021, July 21, 1976), and this amendment provides some flexibility in this regard.

VII. Allocation of Other Increased Non-Product Costs

FEA also requested comments on whether some or all increased non-product costs should be permitted or required to be allocated directly to the specific product or product category with respect to which they are incurred. Since gasoline is the only major product remaining subject to regulation, FEA issued a notice of proposed rulemaking which considers that issue separately for gasoline. (41 FR 54774, December 15, 1976).

(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.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations are amended as set forth below, effective January 1, 1977.

Issued in Washington, D.C., January 19, 1977.

David G. Wilson,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.83(c)(2) is amended by revising the formula for "A_i'" in paragraph (c)(2)(iii)(C) and the "N" factor in (c)(2)(iii)(E) to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(C) *The "A" factor.*

* * * * *

(I) Until March 1, 1977 but not thereafter:

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)\left(\frac{V_i^u}{V^u}\right)$$

and

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month prior thereto but not before June 1, 1976:

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o}\right)\left(\frac{R_i^t}{R^t}\right)$$

* * * * *

(E) *The "N" factor.*

$$N_i = N_i^t + N_i^s + N_i^r$$

"N_i" is, for i=1, i=2, i=3, and i=4, the increased nonproduct costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased non-product costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 in the period "t."

(I) Until March 1, 1977 but not thereafter:

$$N_i^t = E^t \left(\frac{V_i^u}{V^u}\right) + F_i^t$$

and

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month prior thereto but not before June 1, 1976:

$$N_i^t = E^t \left(\frac{R_i^t}{R^t}\right) + F_i^t$$

"N_i^t" is the total increased non-product costs attributable to the specific covered product or products of the type "i" incurred in the period "t."

Where:

E^t = the total increased non-product costs (excluding marketing cost increase, which is included in "F_i^t") incurred during the period "t"; provided that such costs are included only to the extent that such costs are attributable to refining operations during the period "t" under the generally accepted accounting procedures historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs. Costs paid or incurred periodically but less frequently than monthly must be charged as incurred over the entire period to which they apply in computing non-product costs for May 1973 and must be charged according to the generally accepted accounting practices historically and consistently applied by the firm concerned in computing month of measurement increased costs. Costs paid or incurred each month but in significantly different amounts independent of output variations must be charged over the entire period to which they apply in computing non-product costs for May 1973 and must be charged according to the generally accepted accounting practices historically and consistently applied by the firm concerned in computing month of measurement costs. Except for costs which are determined by FEA to typically occur at intervals of greater than one year, the costs treated as incurred during a firm's fiscal year shall not exceed the amounts of such costs actually paid or incurred during that fiscal year.

V_i^u = The total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u."

V^u = The total volume of all covered products (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil other than covered products estimated to be sold in the period "u."

R_i^t = The total volume of a specific product of the type "i" refined by the refiner from crude oil in the period "t."

R^t = The total volume of all products refined by the refiner from crude oil in the period "t."

As of January 1, 1977 refiners shall compute "E^t" (for costs incurred during January 1977 and thereafter and used in calculating maximum allowable prices during February 1977 and thereafter) by adding the amounts calculated by applying the following formula separately to § 212.83(c)(2)(iii)(E) paragraphs (I) through (X) below.

$$E_n^t = R^t \left(\frac{C_n^t}{R^t} - \frac{C_n^o}{R^o}\right)$$

E_n^t is the total increased non-product costs (excluding marketing cost increase, which is included in "F_i^t") of the type "n" incurred during the period "t"; provided that such costs are included only to the extent that such costs are attributable to refining operations during the period "t" under the generally accepted accounting practices historically and consistently applied by the firm concerned or as otherwise provided in this § 212.83(c)(2)(iii)(E) and are not included in computing May 15, 1973 prices or in computing increased product costs.

Where:

"n" references the particular types of increased non-product costs, and for purposes of paragraphs (I) through (X) is respectively refinery fuel, labor, additive, utility, interest, container, tax, maintenance, depreciation, and overhead cost increase.

R^t = The total volume of all products refined by the refiner from crude oil in the period "t."

R^o = The total volume of all products refined by the refiner from crude oil in the period "o."

C_n^t = The total dollar amount of the particular increased non-product cost of the type "n" incurred in the period "t."

C_n^o = The total dollar amount of the particular increased non-product cost of the type "n" incurred in the period "o."

(I) *Refinery fuel cost increase.* As of January 1, 1977 (for costs incurred during January 1977 and thereafter and used in calculating maximum allowable prices during February 1977 and thereafter) each refiner shall elect to compute the refinery fuel cost increase according to paragraph (I)(aa) below and depreciation cost increase according to paragraph (IX)(aa) below or to compute refinery fuel cost increase according to paragraph (I)(bb) below and depreciation cost increase according to paragraph (IX)(bb) below, *Provided*, That once such election of a computation method is made, such method shall continue to be used.

(aa) Refinery fuel cost increase for refiners that elect to include in the computation of total increased non-product costs the depreciation costs associated with capital investments which effect fuel conservation is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for refinery fuel.

(bb) Refinery fuel cost increase for refiners that elect to exclude from the computation of total increased non-product costs the depreciation costs associated with capital investments which effect fuel conservation is the base refinery fuel usage multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average refinery fuel cost rate in the month of measurement and the average refinery fuel cost rate in the month of May 1973, where:

"Average refinery fuel cost rate" means the weighted average cost of refinery fuel per unit of energy (e.g., dollars per million British Thermal Units (Btu)). If the calculation of refinery fuel costs is not feasible in energy units, a refiner may substitute a method that is more reasonably consistent with the data available. In such case, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the average refinery fuel cost rate;

"Base refinery fuel usage"" means the amount of refinery fuel, in units of energy (e.g., million Btu's) used per barrel of refinery throughput during the month of May 1973. If the calculation of refinery fuel costs is not feasible in energy units, the refiner may substitute a method that is more reasonably consistent with the data available. In such cases, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the base refinery fuel usage; and

"Throughput" means the volume of crude oil, unfinished oils, and natural gas liquids refined during the time period specified.

Refiners shall maintain records of the volume and cost of covered products purchased or landed that are consumed as refinery fuel.

(II) *Labor cost increase.* Labor cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the total dollar amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed at the refinery or those personnel directly involved in refinery operations, including that portion of the costs of any contract between a refiner and an outside entity attributable to personnel other than employees that perform such services. No amount included in maintenance cost increase may be included in labor cost increase. The calculation must be based on the historical accounting practices employed by the refiner and must be substantiated by a supporting document which summarizes the personnel considered in the calculation and the date of any remuneration increases.

(III) *Additive cost increase.* Additive cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the total dollar amount of costs incurred for materials and compounds, including catalyst and process chemicals which were not covered products as of May 31, 1976 and which are added to or blended with crude oil or covered products during the refining process.

(IV) *Utility cost increase.* Utility cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for utilities.

(V) *Interest cost increase.* Interest cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for interest.

(VI) *Container cost increase.* Container cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for containers, such as barrels, drums, tubes, cans, jars, or bottles, used by the refiner for storing or packaging products which were covered products as of May 31, 1976.

(VII) *Federal, state, and local tax cost increase.* (aa) Federal, state and local tax cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of federal, state, and local property, excise, franchise and other similar taxes incurred. Federal, state, and local income taxes are not includable in this amount.

(bb) The tax cost increase ("$E_n{}^t$") for taxes that are paid or incurred at greater than monthly intervals shall be computed as follows:

(AA) Taxes that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") and the month of measurement ("$C_n{}^t/R^t$").

(BB) Taxes that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") by adding all such taxes paid or incurred during the firm's fiscal year which includes May 1973 and dividing by the firm's output during that period. Taxes that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("$C_n{}^t/R^t$") according to the generally accepted accounting practices historically and consistently applied by the firm concerned.

(cc) The Commonwealth of Puerto Rico supplemental $2 tax shall be treated as a cost of crude oil or petroleum products under §§ 212.82 and 212.83 from December 21, 1975 through December 31, 1976.

(VIII) *Maintenance cost increase.* Maintenance cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the dollar amount of operating cost attributable to refinery maintenance operations. Maintenance cost increase includes the cost of contract maintenance. The maintenance cost increase for maintenance expenses that are paid or incurred at greater than monthly intervals shall be computed as follows:

(aa) Maintenance expenses that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated over an appropriate period shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") and the month of measurement ("$C_n{}^t/R^t$").

(bb) Maintenance expenses that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per propriate period, as permitted or required in unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") by adding all maintenance expenses paid or incurred during the appropriate period, as permitted or required in writing by the director of compliance for the FEA region in which each firm is located, and dividing by output during that period. Maintenance expenses that are paid or incured at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("$C_n{}^t/R^t$") according to the generally accepted accounting practices historically and consistently applied by the firm concerned.

(IX) *Depreciation cost increase.* (aa) Depreciation cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the cost attributable to the depreciation of refinery and storage capacity and equipment installed; provided that such costs are computed according to the generally accepted accounting practices historically and consistently applied by the firm concerned and are included only to the extent that such costs are not otherwise covered by this section. If Form 10–K is filed with the Securities and Exchange Commission or an analogous report is filed with a state regulatory agency, the amount computed for depreciation cost increase must be consistent with the figures used in preparing Form 10–K or such analogous report. Accounting procedures used to compute depreciation cost increase by refiners which do not file such form or report, or on whose behalf such form or report is not filed, must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in non-product costs as expenses; all such investments must be capitalized and depreciated and included in the computation of "$E_n{}^t$" for depreciation cost increase.

(bb) Refiners that elect to compute the refinery fuel cost increase according to paragraph (I) (bb) above shall compute depreciation cost increase according to paragraph (IX) (aa) above but must exclude from "$C_n{}^t$" the depreciation costs associated with capital investments which effect fuel conservation.

(X) *Overhead cost increase.* Overhead cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the dollar amount of costs of insurance, outside legal and accounting fees, and inter-refinery transportation costs directly attributable to refinery operations, provided that such costs are computed according to the generally accepted accounting practices and historically and consistently applied by the firm for certified annual reports.

* * * * *

[FR Doc.77-2432 Filed 1-21-77;11:48 am]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Pricing of Leaded and Unleaded Gasoline by Refiners

I. Introduction

On December 13, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 54774, December 15, 1976) in which the FEA proposed to amend the price regulations (10 CFR Part 212, Subparts E and H) regarding the pricing by refiners of leaded and unleaded gasoline. Twenty-three written comments were received in response to the notice of proposed rulemaking, and oral presentations were made by ten persons at the public hearing held on January 5, 1977. All of these comments and presentations were considered by the FEA, as well as other information available to the FEA, in arriving at the amendments adopted today, which become effective February 1, 1977.

Certain of the amendments which were proposed on the pricing of gasoline are being adopted and others are not. Those which are adopted are largely unchanged from the proposed amendments. The formula for calculating increased costs for gasoline, No. 2 oils and aviation jet fuel is being amended so it will conform to that used for general refinery products and will result in a total dollar amount of increased costs permitted to be recovered through sales of each product. The amendment to permit the total amount of increased costs attributable to gasoline to be allocated without restriction among types and grades of gasoline is also adopted.

The proposal with respect to a separate calculation of increased costs of purchased product for each type and grade of gasoline is not being adopted and action on the proposed amendment with respect to increased non-product costs attributable to unleaded gasoline is deferred.

Although the FEA continues to believe that the exemption of motor gasoline from the Mandatory Petroleum Allocation and Price Regulations represents the best solution to the problems in this area, these amendments should provide greater flexibility in the pricing of gasoline should an exemption not become effective. If an exemption does become effective, the amendments will form part of the stand-by regulatory framework.

II. Calculation of Prices for Gasoline

Application of the current pricing formula for No. 2 oils, gasoline and aviation jet fuel, found in § 212.83(c)(2)(i), results in a single per unit increment which may be applied in determining maximum allowable prices, rather than in a total dollar amount of increased costs which may be recovered through sales of the product, or product category, as is the case under the formula for general refinery products. One reason that the current formula for No. 2 oils, gasoline, and aviation jet fuel was originally written in this manner (for No. 2 oils and gasoline) was that, with the rule which then limited price increases for those products to one per month, a single application of the formula yielded the maximum lawful price for the product concerned for each month. Because that rule has since been deleted, the per unit increment formula is no longer appropriate on that basis.

A second reason for requiring a single per unit calculation of increased costs was that the products to which this formula applied each represented a single product to which the same per unit increment of increased costs was to be applied, rather than a group of products among which a total amount of increased costs could be freely allocated. With today's amendment to § 212.83(c)(1)(i)(B), discussed more fully below, which permits unrestricted allocation of increased costs among types and grades of gasoline, the category gasoline becomes analogous to the category of general refinery products, and increased costs for gasoline therefore should be calculated accordingly, as a total dollar amount.

The FEA therefore amends the pricing formula for No. 2 oils, aviation jet fuel, and gasoline found in § 212.83(c)(2)(i) to conform to the formula for general refinery products found in § 212.83(c)(2)(ii). This means that each covered product or group of covered products will be priced according to the same formula. A separate calculation will continue to be made for each product or group of products. Although increased costs will now be calculated according to the same formula for all products, the two separate sections (§§ 212.83(c)(2)(i) and 212.83(c)(2)(ii)) will be retained in order to avoid the need to redesignate existing cross-references in other sections of the regulations.

As noted above, the rule providing for equal application of increased costs as applied to the pricing of various types and grades of gasoline is also amended to permit a refiner to designate specific product categories within gasoline which reflect different types (unleaded gasoline as opposed to leaded gasoline) and grades (gasoline with different octane numbers) and to apportion increased costs among these categories of gasoline as it deems appropriate. This amendment will permit greater flexibility in gasoline pricing and should permit a restructing of gasoline pricing which is more consistent with today's market. The general provisions of the equal application rule in § 212.83(h) will continue to apply to each specific category of gasoline.

In this rulemaking proceeding, it was also proposed to amend § 212.83(c)(2)(iii)(D) to permit a separate calculation of increased costs for each type and grade of gasoline purchased by refiners. The purpose of this proposal was to more accurately reflect levels of increased costs where a shift in the product mix being purchased, from the mix that was being purchased in May 1973, might otherwise result in distortions. Comments received in the rulemaking proceeding, however, have led FEA to conclude that distortions resulting from use of the present formula are minimal, if any, and that adoption of the proposed amendment would have resulted in unwarranted additional complexity.

III. Pricing of Unleaded Gasoline

FEA also proposed two amendments which, taken together, would have replaced the current rule for the pricing of unleaded gasoline. The revised interim price rule now in effect provides, for refiners which did not sell unleaded gasoline on May 15, 1973 or within the 30-day period preceding that date, that for purposes of determining maximum allowable prices of unleaded gasoline, the weighted average price at which unleaded gasoline was sold to the class of purchaser concerned on May 15, 1973 is deemed to be not in excess of the weighted average price at which leaded gasoline of the same or nearest octane number had been sold to the same class of purchaser, plus one cent per gallon.

The FEA proposed to amend the refiner price regulations to fix the May 15, 1973 "imputed price" for unleaded gasoline at the weighted average price to the class of purchaser concerned of leaded gasoline of the same or nearest octane number. In addition, it was proposed to permit all of the increased non-product costs specifically attributable to the refining of unleaded gasoline to be allocated directly to gasoline prices. This, in conjunction with the proposal to permit free allocation of increased costs attributable to gasoline among types and grades of gasoline, would have permitted the price of unleaded gasoline to more accurately reflect the additional costs of refining unleaded gasoline.

Both the written comments and the oral presentations objected to the removal of the one cent per gallon increment in the imputed May 15, 1973 price for unleaded gasoline. The basis for the objection was that the proposal would reduce the historic profitability of gasoline, more particularly so in light of the continuing shift from premium gasoline, with its historically higher profit margin. The comments also brought out the fact that on May 15, 1973, some refiners were selling unleaded gasoline at prices equal to or less than the price of leaded regular gasoline because of pricing decisions involving test marketing considerations rather than cost data, while most refiners who were selling unleaded gasoline on May 15, 1973, were selling it at a price in excess of the price of leaded gasoline of the same or nearest octane number plus one cent.

There was widespread support for the proposal to permit the allocation to gasoline of increased non-product costs attributable to unleaded gasoline. Specific comments were also requested on whether increased non-product costs attributable to all types and grades of gasoline should be permitted to be allocated to gasoline, and there was also substantial support for this alternative.

However, opinion varied widely on the best mechanism for achieving this goal. Additionally, many of the comments suggested extending the reallocation of increased costs to gasoline to include reallocation of increased product costs; i.e., to increase the proportion of increased costs permitted to be allocated to gasoline.

Because of the importance and complexity of the issues raised, the FEA has determined not to adopt the proposed amendment, but instead to consider making it the subject of a further rulemaking in order that all of the issues concerning the allocation of increased costs to gasoline may be addressed directly.

Therefore, the imputed May 15, 1973 price for unleaded gasoline will remain at no more than one cent per gallon over the May 15, 1973 price of leaded gasoline of the same or nearest octane number, as that amount was initially chosen as an estimate of the additional costs associated with refining unleaded gasoline. However, that regulation is being modified to provide refiners the option of using this imputed May 15, 1973 price or their actual weighted average May 15, 1973 price to the class of purchaser concerned, in the interest of greater uniformity in the pricing of unleaded gasoline, and to remove the anomalies which have resulted for refiners that were test marketing unleaded gasoline in May 1973.

(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. 94-63, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II of Title 10 Code of Federal Regulations is amended as follows, effective February 1, 1977.

Issued in Washington, D.C., January 19, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.83(c)(1)(i) is renumbered § 212.83(c)(1)(i)(A) and a new § 212.83(c)(1)(i)(B) is added, paragraph (c)(2)(i) is amended, and (c)(2)(iii)(B) is amended as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *

(1) *Allocation of increased costs incurred in the period "t"-(i) No. 2 oils, aviation jet fuel and gasoline.* * * *

(i) * * *

(B) Notwithstanding any other provision of this Subpart, for purposes of this section, a refiner, upon notice to and unless and until disapproved by the FEA, may designate as categories within the product gasoline different types (unleaded gasoline as differentiated from leaded gasoline) and grades (differentiated by octane number), if the categories so designated by the refiner represent discrete gasoline types and grades that have been consistently and historically differentiated by that refiner. In apportioning the total amount of increased costs allocable to gasoline among categories of gasoline, a refiner may apportion amounts of increased costs to a particular category of gasoline in whatever amounts it deems appropriate. The notice required by this paragraph shall be sent to the Deputy Assistant Administrator for Compliance.

(2) *Formulae*—(i) *No. 2 oils, aviation jet fuel, and gasoline.* For No. 2 oils, aviation jet fuel, and gasoline (i=1, i=2, and i=3):

$$d_i^u = A_i + B_i + N_i - G_i^t \pm H_i^u$$

* * * * *

(iii) *Definitions* * * *

(B) *The "D" factors.*

d_i^u = The total dollar amount a refiner may apportion in the period "u" to No. 2 oils (i=1); aviation jet fuel (i=2); or gasoline (i=3). The formula for d_i^u must be computed separately for i=1, for i=2, and for i=3.

* * * * *

2. Section 212.112 (a) and (b)(1) are amended to read as follows:

§ 212.112 Unleaded gasoline.

(a) *Scope.* This section prescribes the method for calculating the maximum price which may be charged in sales of unleaded gasoline by all refiners, and by resellers, reseller-retailers and retailers which did not sell unleaded gasoline on May 15, 1973, or within the 30-day period prior thereto.

* * * * *

(b) *Rule.* * * *

(1) for purposes of determining the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973 in order to calculate the "maximum allowable price" as defined in § 212.82 a refiner shall use either a price not in excess of the weighted average price at which leaded gasoline of the same or nearest octane number was lawfully priced by it in transactions with that class of purchaser on May 15, 1973, computed in accordance with the provisions of § 212.83(a), plus 1 cent per gallon; or the weighted average price at which unleaded gasoline was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, computed in accordance with the provisions of § 212.83(a); and

[FR Doc.77-2431 Filed 1-21-77;11:47 am]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Emergency Amendment of Refinery Yield Control Program

The Federal Energy Administration ("FEA") hereby adopts on an emergency basis an amendment, effective immediately, to § 211.71 of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). The purpose of this amendment is to provide FEA the regulatory authority to require refiners that refine and supply kerosene-base jet fuel to areas of the country either experiencing or having the potential to experience shortages of No. 1 fuel oil to adjust their yield of kerosene-base jet fuel so as to reduce their allocation fraction for that product, thereby increasing their yields and supplies of No. 1 fuel oil. This authority would be exercised by FEA through the issuance of orders to specific refiners.

Severely cold weather conditions throughout the nation this winter have produced a record level demand for middle distillates, particularly No. 1 fuel oil, which is used primarily for heating homes equipped with outdoor fuel storage facilities exposed to cold temperatures and for blending with No. 2 fuel oil when temperatures are below 25° F. The industry's ability to respond to the heavy demand for No. 1 fuel oil, particularly in the North Central region, has been impeded by the freezing of the Mississippi and Ohio Rivers and Lake Michigan, which are the principal barge distribution routes; a shortage of railroad tank cars; and a reduction in Canadian exports of crude oil to the Northern Tier states. Stocks of No. 1 fuel oil in the affected region have been declining at a precipitous rate, causing or having the potential to cause spot shortages in some areas. The situation appears most acut in Minnesota, Wisconsin, Michigan and North Dakota, where temperatures have been eighteen percent colder than normal and thirty-three percent colder than last winter, requiring an earlier and faster drawdown of inventories. These states are potentially threatened with serious shortages of No. 1 fuel oil which FEA believes could create severe hardships for users of this product if the current colder than normal weather continues.

Due to this situation, the state energy offices in Minnesota, Wisconsin, Michigan and North Dakota have requested that FEA take action to increase the supply of No. 1 fuel oil in their areas. Additionally, FEA has received information from most refiners that supply the affected states with kerosene-base jet fuel, which may be substituted for No. 1 fuel oil, that, if ordered to reduce their production of kerosene-base jet fuel, the result would be an immediate increase in production and available supplies of No. 1 fuel oil.

Current FEA regulations do not authorize FEA to issue direct orders to specified refiners to increase their yields of a particular product to alleviate the type of supply conditions that have arisen this winter with respect to No. 1 fuel oil. This emergency amendment is, therefore, being promulgated to provide FEA with the additional authority needed to deal in the most effective manner with the serious situation which presently exists. In particular, this amendment will allow FEA to order a specific refiner to adjust its yield of kerosene-base jet fuel to a level that permits it to supply that product at a specified allocation fraction, thereby permitting an increase in its current production of light fuel oil.

FEA believes that civil air carriers and other users of kerosene-base jet fuel will

not, on balance, be adversely affected to any significant degree by the measures contemplated by this amendment because of their ability to purchase jet fuel in other geographical regions of the country not experiencing shortage conditions. Although minor short-term supply difficulties could occur, FEA believes that overall supply levels for users of kerosene-base jet fuel can be generally maintained so as to avert most problems, particularly in light of the substantially greater degree of flexibility as to supply sources available to these users compared to users of No. 1 fuel oil. In light of these considerations, FEA believes that this action is required to provide for the protection of the public health, safety and welfare, and to assure the equitable distribution of petroleum products among all regions and areas of the country and among all users.

FEA is adopting this emergency amendment pursuant to its authority to exercise direct controls on refinery operations under section 14 of Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), which was added to the EPAA by section 457 of the Energy Policy and Conservation Act (Pub. L. 94–163). Section 14 of the EPAA provides as follows:

> Sec. 14. The President may by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).

FEA is also considering the advisability of issuing regulations to extend its authority to cover refinery yield of No. 2 heating oil, under procedures similar to those made effective today as to No. 1 heating oil. In this connection, therefore, FEA requests that comments address whether further amendments in this regard would be appropriate to authorize FEA to meet any potential regional shortages of No. 2 heating oil for this heating season.

This amendment is being issued on an emergency basis so that FEA may respond expeditiously to the critical shortages or potential shortages of No. 1 fuel oil in certain areas of the nation. If this amendment were not adopted until after notice and a hearing, it could not be effective until after the coldest portion of the heating season, long after potential shortages of No. 1 fuel oil could have created hardships which could have been prevented or minimized by an immediate effective date. FEA therefore finds that strict compliance with the notice requirements of section 7(i)(1)(B) of the Federal Energy Administration Act of 1974, as amended ("FEAA"), Pub. L. 93–275, Pub. L. 94–385, could cause serious harm and injury to the public health, safety and welfare, and the notice requirements of that section are hereby waived.

Section 7(c)(1) of the FEAA provides that FEA shall, before promulgating proposed regulations affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency ("EPA") may provide written comments concerning the impact of such regulations on the quality of the environment. Such comments are required to be published concurrently with or as part of the notice of proposed rulemaking.

Under section 7(c)(2) of the FEAA, the prior review required by section 7(c)(1) may be waived for a period of 14 days if there is an emergency situation which requires taking action at a date earlier than would permit the EPA the five day opportunity for prior comment required under section 7(c)(1). Notice of any such waiver must be given to the EPA and filed with the FEDERAL REGISTER with the notice of proposed or final FEA action and must include an explanation of the reasons for such waiver together with supporting data and factual background information.

Pursuant to section 7(c)(2) of the FEAA, FEA hereby waives the requirements of section 7(c)(1) of the FEAA concerning prior review by EPA of the environmental impact of this emergency rulemaking. This waiver is based on an emergency situation which, as explained above, mandates that FEA be able immediately to act to divert production of kerosene-base jet fuel for use as No. 1 fuel oil in areas of the country experiencing severe or potentially severe shortages of that product. A copy of this emergency amendment has been sent concurrent with its issuance to the Administrator of the EPA for his comments.

In accordance with Executive Order 11821 and OMB Circular A–107, FEA is considering the inflationary impact of this proposal.

Because this amendment is being issued on an emergency basis, an opportunity for oral presentation of views is not possible prior to its implementation. A public hearing, however, will be held beginning at 9:30 a.m., e.s.t., on Tuesday, February 8, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., on Thursday, February 3, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. 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 which 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 Friday, February 4, 1977. Each person selected to be heard will be so notified by FEA before 5:30 p.m., e.s.t., Friday, February 4, 1977, and must submit 50 copies of his or her statement to the Office of Allocation Regulation Development, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 9:00 a.m., e.s.t., Tuesday, February 8, 1977.

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. 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. It 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.s.t., Monday, February 7, 1977. Any person who makes an oral statement and 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 time limitations permit it to be presented for response.

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 and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to this emergency amendment to Executive Communications, FEA, Box KT, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Refinery Yield of No. 1 Fuel Oil." Fifteen copies should be submitted. All comments received by Friday, February 11, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in accordance with the procedures stated in 10 CFR 205.9 (f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(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. 94–332 and 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; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., January 24, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

Section 211.71 is amended by adding a new paragraph (e) as follows:

§ 211.71 Mandatory refinery yield control program.

* * * * *

(e) *Adjustments in production levels of kerosene-base jet fuel and No. 1 fuel oil.* (1) Whenever FEA determines that No. 1 fuel oil is or potentially will be in short supply in any region or area of the United States, FEA may require one or more specified refiners, which produce kerosene-base jet fuel and supply or are capable of supplying No. 1 fuel oil in or into those regions or areas experiencing shortage conditions, to adjust their yields of kerosene-base jet fuel to levels that permit them to supply that product at an allocation fraction specified in such order or orders and to increase production and supplies of No. 1 fuel oil.

(2) Any such order may by its terms apply only to one or more refineries specified in the order and owned by the refiner to which the order is issued and shall be effective for the period specified in the order.

(3) The terms of any order issued under the authority of this paragraph shall be subject to review and comment by the refiner and the other principal parties affected thereby prior to the issuance thereof, if the FEA determines that the shortage situation in response to which the order is to be issued permits these review and comment procedures to take place without adversely affecting supplies of No. 1 fuel oil in the particular region or area. Any such order shall be appealable pursuant to Subpart H of Part 205 of this chapter.

[FR Doc.77-2632 Filed 1-24-77;11:39 am]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Emergency Amendment to Allocation Levels for Propane and Adoption of Special Rule No. 1 to Subpart D

The Federal Energy Administration ("FEA") hereby adopts on an emergency basis an amendment to the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, with respect to the allocation levels provided for residential use and plant protection use of propane. FEA also adopts on an emergency basis Special Rule No. 1 to Subpart D of Part 211 (the "Special Rule"), altering allocation levels and suppliers' method of allocation in certain emergency situations prior to March 31, 1977. The amendment and Special Rule adopted today are effective immediately.

BACKGROUND

In light of the severely cold winter weather that many parts of the nation are experiencing, FEA believes that the relatively low allocation levels currently accorded to residential use and plant protection use of propane are insufficient. In addition, gas utilities are faced with extremely large demand for natural gas and are encountering difficulties in meeting the requirements of their residential customers.

The amendments and the Special Rule adopted today are intended to assure maintenance of service at the highest possible level for essential human needs and for essential minimal protection against property loss. These rules apply to maintain these critical uses of propane regardless whether the purchasers are direct users of propane or are customers of gas utilities which use propane to supplement supplies of natural gas. However, increased allocations of propane for gas utilities are conditioned by FEA by the requirement that gas utilities may use any propane supplied under the Special Rule adopted today only for meeting specified high priority needs and that suppliers must provide an equivalent level of priority for direct users of propane for the same needs. In this manner, FEA believes that available supplies of propane will be most equitably distributed for the remainder of the current heating season.

ALLOCATION LEVELS FOR RESIDENTIAL AND PLANT PROTECTION USE

To accomplish these purposes, FEA is today adopting amendments to its propane allocation levels raising the allocation levels accorded residential use and plant protection fuel use to one hundred percent of current requirements subject to the supplier's allocation fraction. FEA has determined that the previous allocation levels of ninety-five percent of base period use and one hundred percent of base period use subject to an allocation fraction, respectively, are no longer appropriate because the severity of weather this heating season has made historical usage an inadequate level for these high priority uses. In particular, the facts that the base period of April 1, 1972—March 31, 1973 was significantly warmer than the current winter and that upward adjustments to base use levels have not been permitted since mid-1974 have caused these current allocation levels to bear little relationship to the needs of individual priority purchasers. Therefore, to avoid potential serious hardships these allocation levels are being changed to a current requirements basis. It should be noted that since these amendments provide current requirements for residential and plant protection use, purchasers under these allocation levels will be subject to the requirements of 10 CFR 211.21, requiring purchasers to certify to their suppliers that they have an energy conservation program in effect.

Since these amendments take effect in the middle of a period corresponding to a base period, suppliers may have to compute a new allocation fraction for the remainder of the base period. Suppliers should estimate their supply obligation according to 10 CFR 211.10(b)(2) using the new allocation levels for residential use and plant protection fuel use, and their allocable supply for the remainder of the base period to compute their applicable allocation fraction.

SPECIAL RULE NO. 1—EMERGENCY ALLOCATION LEVELS AND SUPPLIERS' METHOD OF ALLOCATION

Because the severe winter weather threatens natural gas service, FEA is also adopting Special Rule No. 1 to Subpart D (the "Special Rule") on an emergency basis. The Special Rule provides for an adjustment to base period use for peak shaving by gas utilities in certain emergency situations, for new priorities of allocation levels and for a new suppliers' method of allocation applicable when such an adjustment is granted. The Special Rule is effective through March 31, 1977.

The Special Rule provides that when a gas utility's need for propane for peak shaving to maintain gas service for essential human needs and property protection exceeds one hundred percent of its base period use or when a utility has no supplier or base period use, it may apply to the FEA National Office pursuant to Subpart G of Part 205, FEA's Administrative Procedures and Sanctions, for an assignment of supplier or adjustment to base period use. In its application the utility is required to state in full the circumstances surrounding its request for additional propane, including the names and addresses of its suppliers of propane and natural gas, its inventory levels of propane and natural gas, its requirements of propane and present and anticipated levels of curtailments in the absence of a grant of its application. The utility must also provide a description of the priority-of-service categories imposed for use during periods of curtailment by the State regulatory

body to whose jurisdiction the utility is subject.

FEA will evaluate the application in light of all surrounding circumstances, taking into account the most equitable means of distributing propane among direct users and utility customers for high priority needs, and may issue an order assigning a supplier and a base period use or an order adjusting the base period use of the utility, in order to specify, in effect, a volume of propane which the utility may purchase and use for the remainder of the current period corresponding to a base period. A copy of the order will be served immediately upon the utility's propane supplier.

A gas utility receiving increased supplies of propane under the Special Rule is required to certify to FEA within seven days of receiving increased supplies and every seven days thereafter the priority-of-use categories to which it delivered natural gas during the previous reporting period.

Upon receipt of an order to supply increased volumes of propane to a gas utility, the supplier must apply the emergency allocation levels and method of allocation provided in the Special Rule. The emergency allocation levels are divided into first and second priority categories. The first priority category includes agricultural production, Department of Defense use, the priorities currently set forth in 10 CFR 211.83(c)(1) (as amended by this rule to include residential and plant protection fuel use), synthetic natural gas plant feedstock use and the peak shaving allocation for the gas utility. The latter two uses are accorded an allocation level of one hundred percent of base period use, while all others are assigned an allocation level of one hundred percent of current requirements. All these allocation levels, while the Special Rule is in effect for that supplier, are subject to the allocation fraction.

In addition, for purposes of this Special Rule, FEA is amending the definition of peak shaving previously set forth in 10 CFR 211.83(c)(2)(v) to provide that peak shaving use of propane by gas utilities is accorded an allocation level of one hundred percent of base period use only if peak shaving occurs to maintain gas service to essential human needs and property protection. 10 CFR 211.82 is amended by addition of a definition of "gas service for essential human needs and property protection" as

> • • • distribution of natural gas to residential and small commercial users with no alternate fuel capability which use less than 50,000 cubic feet of natural gas on a peak day, to industrial plants for plant protection fuel, and to apartment buildings and medical and nursing buildings with no alternate fuel capability.

The supplier will estimate its allocable supply for the remainder of the period corresponding to a base period and using the first priority allocation levels provided in the Special Rule calculate a new allocation fraction. If the fraction is less than one, the supplier must supply only the first priority customers according to the fraction. If the fraction exceeds one, the supplier must supply first priority customers at an allocation fraction of one and using the volume represented by the portion of the fraction in excess of one calculate a second fraction for second priority purchasers. Those purchasers will then be supplied at the levels allowed by application of the second fraction for the remainder of the period corresponding to a base period.

These amendments are being issued on an emergency basis to ensure that gas utilities may acquire additional supplies of propane for peak shaving to maintain gas service for essential human needs and property protection during the current heating season, while providing equitable allocations to meet the same needs of direct users of propane. If these amendments were not adopted until after notice and a hearing, they would not be effective until after the coldest portion of the heating season, long after most of the requests for additional peak shaving material should have been acted upon. FEA therefore finds that strict compliance with the notice requirements of section 7(1)(1)(B) of the Federal Energy Administration Act of 1974, as amended ("FEAA"), Pub. L. 93-275, Pub. L. 94-385, will cause serious harm and injury to the public health, safety and welfare, and the notice requirements of that section are hereby waived.

Section 7(c)(1) of the FEAA provides that FEA shall, before promulgating proposed regulations affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency ("EPA") may provide written comments concerning the impact of such regulations on the quality of the environment. Such comments are required to be published concurrently with or as part of the notice of propsed rulemaking.

Under section 7(c)(2) of the FEAA, the prior review required by section 7(c)(1) may be waived for a period of 14 days if there is an emergency situation which requires taking action at a date earlier than would permit the EPA the five day opportunity for prior comment required under section 7(c)(1). Notice of any such waiver must be given to the EPA and filed with the FEDERAL REGISTER with the notice of proposed or final FEA action and must include an explanation of the reasons for such waiver together with supporting data and factual background information.

Pursuant to section 7(c)(2) of the FEAA, FEA hereby waives the requirements of section 7(c)(1) of the FEAA concerning prior review by EPA of the environmental impact of this rulemaking. This waiver is based on an emergency situation which, as explained above, mandates that FEA take immediate steps to ensure adequate supplies of propane to direct users for residential and plant protection use and to gas utilities for peak shaving in excess of their base period use to serve essential human needs and protection of property needs that might otherwise be curtailed. A copy of this emergency amendment has been sent concurrent with its issuance to the Administrator for his comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

Because this amendment is being issued on an emergency basis, an opportunity for oral presentation of views is not possible prior to its implementation. A public hearing, however, will be held beginning at 9:30 a.m., on Thursday, February 10, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., Friday, February 4, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. 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 which 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 Tuesday, February 8, 1977. Each person selected to be heard will be so notified by FEA before 5:30 p.m., e.s.t., Monday, February 7, 1977, and must submit 50 copies of his or her statement to Office of Allocation Regulation Development, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C. 20461, before 5:30 p.m., e.s.t, Wednesday, February 9, 1977.

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. 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. It 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.s.t., Wednesday, February 9, 1977. Any person who makes an oral statement and 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 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 and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to this emergency amendment to Executive Communications, Federal Energy Administration, Box KS, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Allocation Levels for Propane and Special Rule No. 1." Fifteen copies should be submitted. All comments received by Friday, February 11, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in accordance with the procedures stated in 10 CFR 205.9 (f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(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. 94-332 and 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; E.O. 11933, 41 FR 36641)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., January 24, 1977.

DAVID G. WILSON,
Acting General Counsel.

1. Section 211.82 is amended by adding, in the proper alphabetical order, a definition of "gas service for essential human needs and property protection," to read as follows:

§ 211.82 Definitions.

* * * * *

"Gas service for essential human needs and property protection" means distribution of natural gas to residential and small commercial users with no alternate fuel capability which use less than 50,000 cubic feet of natural gas on a peak day, to industrial plants for plant protection fuel, and to apartment buildings and medical and nursing buildings with no alternate fuel capability.

* * * * *

2. Section 211.83 is amended by revising paragraph (c) and by inserting before paragraph (a) as an introduction a phrase to read as follows:

§ 211.83 Allocation levels.

Except as provided in Special Rule No. 1 to this subpart—

* * * * *

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;
(ii) Energy production;
(iii) Sanitation services;
(iv) Telecommunications services;
(v) Passenger transportation services;
(vi) Medical and nursing buildings;
(vii) Aviation ground support vehicles and equipment;
(viii) Start-up, testing and flame stability of electrical utility plants;
(ix) Residential use; and
(x) Plant protection fuel use.

(2) One hundred (100) percent of base period use for:

(i) Petrochemical feedstock use;
(ii) Synthetic natural gas plant feedstock use;
(iii) Industrial use as a process fuel or where no substitute for propane is available;
(iv) Governmental use;
(v) Peak shaving for gas utilities. Unless directed by FEA upon application pursuant to Subpart G of Part 205 of this chapter, the use of propane for peak shaving by gas utilities during any consecutive twelve month period beginning after January 1, 1974, is limited to the volume of propane equal to one hundred (100) percent of that volume which a gas utility contracted for or purchased for delivery during the period April 1, 1972 through March 31, 1973, regardless of whether that volume was used during the period. Propane shall not be used for peak shaving as long as the gas utility continues service during such peak shaving usage to interruptible industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any non-residential customer who can use a fuel other than natural gas, propane or butane; and
(vi) Refinery fuel use.

(3) Ninety (90) percent of base period use for the following uses:

(i) Commercial use (The maximum volume which may be obtained for this use, however, is 210,000 gallons per year);
(ii) Standby volumes or any other industrial use;
(iii) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use propane as of December 27, 1973; and
(iv) Schools.

3. Subpart D is amended by adding as an appendix thereto Special Rule No. 1, to read as follows:

SPECIAL RULE NO. 1—EMERGENCY ALLOCATION LEVELS AND SUPPLIERS' METHOD OF ALLOCATION

(1) *Scope.* This Special Rule applies to the allocation of propane in certain emergency situations, as determined by FEA, upon application by a gas utility pursuant to paragraph (3) below. This Special Rule shall remain in effect through March 31, 1977.

(2) *Purpose.* This Special Rule provides new allocation levels and a special suppliers' method of allocation for use in emergency situations in order to assure both maintenance, at the highest possible level, of service by gas utilities for essential human needs and property protection, and equitable distribution of propane for the same end-uses as between direct users of propane and customers of gas utilities.

(3) *Application by a gas utility for increased allocations of propane.* (a) Whenever a gas utility's requirements for propane for peak shaving to maintain gas service for essential human needs and property protection exceed one hundred (100) percent of base period use as reduced by application of its supplier's allocation fraction, the gas utility may apply, pursuant to Subpart G of Part 205 of this chapter, to the FEA National Office for assignment of a supplier and establishment of a base period use or an adjustment to its base period use of propane for peak shaving use. In its application the gas utility shall provide FEA with the name and address of its base period supplier of propane, if any, and with a complete statement of the circumstances surrounding its application, which shall include:

(i) The current level of its propane and natural gas inventories;
(ii) The volume of propane required on a peak day to maintain gas service for essential human needs and property protection, as defined in § 211.82;
(iii) Its present and anticipated curtailment of customers under applicable state and federal laws in the absence of a grant of relief from FEA;
(iv) The names and addresses of its natural gas supplier(s);
(v) The names and addresses of its propane supplier(s), if any, and the volume(s) of propane which such supplier(s) can presently supply;
(vi) A description of the priority-of-service categories imposed for use during periods of curtailment by the State regulatory body to whose jurisdiction the utility is subject;
(vii) A certification of the accuracy of the application by the chief executive officer of the applicant or his duly authorized representative; and
(viii) A statement that any propane allocated pursuant to the application shall be used only for the purpose stated in the application, shall not be diverted to other uses, and that if the applicant's needs for propane to maintain gas service for essential human needs and property protection decline, the applicant shall immediately file an amended application for a downward adjustment to its base period use.

(b) In processing an application under paragraph (3)(a), FEA shall consider potential supply reductions to users of propane

for residential use, plant protection fuel and other priority uses and shall attempt to maintain the most equitable feasible distribution of propane for priority uses.

(c) Upon consideration of an application of a gas utility, filed pursuant to this Special Rule, and other relevant information received or obtained during the proceeding, the FEA may issue an appropriate order assigning a supplier or suppliers and/or adjusting the base period use of the utility. A copy of the order shall be served on the applicant and upon any supplier or suppliers required to supply propane pursuant to the order.

(d) Within seven days of receiving propane pursuant to an order issued under paragraph (3)(c) of this Special Rule and every seven (7) days thereafter until the expiration of the order, the gas utility shall certify to the FEA National Office the priority-of-use categories to which it has supplied natural gas for the previous reporting period and the volumes supplied to each such category.

(4) *Suppliers' emergency method of allocation.* Upon receipt of an order under paragraph (3)(c) of this Special Rule, a supplier shall supply its purchasers according to the emergency allocation levels as provided in paragraph (5) of this Special Rule. The supplier shall recalculate its allocation fraction for the remainder of the period corresponding to a base period by dividing its estimated remaining allocable supply by the estimated remaining allocation entitlements of the purchasers supplied under the first priority allocation levels listed in paragraph (5)(a) of this Special Rule at the allocation levels provided therein. If the supplier's allocation fraction is one (1.0) or less than one (1.0), it shall supply its first priority purchasers at that allocation fraction. If the supplier's allocation fraction exceeds one (1.0), it shall calculate a second allocation fraction for its purchasers supplied under the second priority allocation levels listed in paragraph (5)(b) using as its allocable supply volumes of propane not needed to supply its first priority purchasers and shall distribute its remaining supplies of propane accordingly.

(5) *Emergency allocation levels*—(a) *First priority allocation levels.* (i) One hundred (100) percent of current requirements subject to an allocation fraction for:

(A) Agricultural production;
(B) Department of Defense use;
(C) Residential use;
(D) Plant protection fuel use;
(E) Emergency services;
(F) Energy production;
(G) Sanitation services;
(H) Telecommunication services;
(I) Passenger transportation services;
(J) Medical and nursing buildings;
(K) Aviation ground support vehicles and equipment; and
(L) Start-up, testing and flame stability of electric utility plants.

(ii) One hundred percent of base period use subject to an allocation fraction for:

(A) Synthetic natural gas plant feedstock use; and
(B) Peak shaving use by gas utilities to maintain gas service for essential human needs and property protection, as assigned or adjusted by FEA.

(b) *Second priority allocation levels.* (i) One hundred (100) percent of base period use for:

(A) Petrochemical feedstock use;
(B) Industrial use as a process fuel or where no substitute for propane is available;
(C) Peak shaving use by gas utilities. Unless otherwise directed by FEA upon application pursuant to Subpart G of Part 205, the use of propane for peak shaving by gas utilities during any consecutive twelve month period beginning after January 1, 1974, is limited to the volume of propane equal to one hundred (100) percent of that volume which a gas utility contracted for or purchased for delivery during the period April 1, 1972 through March 31, 1973, regardless of whether that volume was used during the period. Propane shall not be used for peak shaving as long as the gas utility continues service during such peak shaving usage to interruptible industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any non-residential customer who can use a fuel other than natural gas, propane or butane; and
(D) Governmental use;
(E) Refinery fuel use.

(ii) Ninety (90) percent of base period use for:

(A) Commercial use (the maximum volume which may be obtained for this use, however, is 210,000 gallons per year)
(B) Standby volumes or any other industrial use;
(C) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use propane as of December 27, 1973; and
(D) Schools.

[FR Doc.77-2631 Filed 1-24-77;11:42 am]

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Exemption of Motor Gasoline From Mandatory Petroleum Allocation and Price Regulations

On January 19, 1977, the Federal Energy Administration ("FEA") issued two amendments exempting motor gasoline from 10 CFR Parts 210, 211 and 212, the General Allocation and Price Rules and the Mandatory Petroleum Allocation and Price Regulations (42 FR 4416, and 42 FR 4419, January 25, 1977). These amendments were transmitted to the Congress as Energy Actions Nos. 8 and 9 on January 19, 1977, in accordance with the procedures set forth in section 551 of the Energy Policy and Conservation Act, Pub. L. 94-163 ("EPCA").

Because of the pending change of Administration at the time the amendments were issued, FEA provided in the operative language thereof that the amendments would take effect March 1, 1977 unless disapproved by either House of Congress or withdrawn by the President prior to Congressional approval or disapproval during the 15-day period provided for Congressional review by the EPCA.

Notice was thereby given that these amendments were still subject to possible rescission before the completion of the 15-day review period. Thus, the rulemaking proceeding which FEA initiated on the exemption of motor gasoline from its regulations was, to this extent, continued in awareness of the fact that the new Administration might determine that further consideration would be necessary. The President has made such a determination and, therefore, FEA is now hereby rescinding the amendments issued January 19, 1977, and not yet approved or disapproved by the Congress. By this action, FEA has, in effect, withdrawn Energy Actions Nos. 8 and 9 from the process of Congressional review under section 551 of the EPCA.

Since this rescission is a continuation of a pending rulemaking proceeding, FEA is not required to provide prior notice and opportunity for comment with respect to this action. Requirements with respect to notice to the Administrator of the Environmental Protection Agency, evaluation of inflationary impact and providing an opportunity for oral comment likewise do not apply to this action because they were met in connection with the notice of proposed rulemaking and public hearing issued November 19, 1976 (41 FR 51832, November 24, 1976).

(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; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, the amendments to Parts 210, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, issued January 19, 1977 (42 FR 4416, 42 FR 4419, January 25, 1977), to exempt motor gasoline from price and allocation controls are hereby rescinded in their entirety, effective immediately.

Issued in Washington, D.C., January 24, 1977.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.77-2685 Filed 1-24-77;3:30 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-CE-22-AD; Amdt. 39-2817]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 200 Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) applicable to Beech Model 200 airplanes was published in the FEDERAL REGISTER on September 8, 1975 (40 FR 41537). The proposed AD, if adopted, would require replacement of presently installed circuit boards in the secondary low pitch stop amplifier with those of improved design to preclude unintentional propeller feathering.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No adverse comments were received.

Subsequent to the issuance of the proposal it has been determined that the secondary low pitch stop system may be removed from airplanes having a revised reversing system incorporated on Pratt and Whitney PT6A-27 and later model engines which are installed in Beech Model 200 airplanes. Accordingly, the

FAA believes that the Final Rule should permit removal of the secondary low pitch stop system as an alternate means of compliance.

With respect to the modification specified in the Notice of Proposed Rule Making the airplane manufacturer subsequently superseded and cancelled Service Instruction 0745–354 which covered this modification. However, the FAA considers airplanes modified in accordance with this service instruction airworthy and this modification is being retained in the Final Rule as an alternate means of compliance.

Finally, the FAA has been advised that Beech Model 200, Serial Numbers BB–3, BB–4 and BB–5 airplanes are special configuration military airplanes that are not expected to be presented for civil certification. Therefore these three airplanes are being deleted from the applicability statement in the Final Rule.

Although this amendment modifies the original proposal, it is relieving in nature and is in the interest of safety. Accordingly, no further notice and public procedure hereon are necessary.

NOTE.—The FAA 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.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Model 200 (Serial Numbers BB–2, BB–6 thru BB–18 and BB–20 thru BB–50) airplanes.

Compliance: Required within 100 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent unintentional feathering of a propeller due to failure of the secondary low pitch stop amplifier, accomplish either Paragraph A or B:

(A) Replace both P/N 101–364171–1 and P/N 101–364171–9 printed circuit board assemblies with P/N 101–364170–15 printed circuit board assemblies in accordance with Beechcraft Service Instruction No. 0745–354, notwithstanding its supersedence by Beechcraft Service Instruction No. 0808–247.

(B) Remove secondary low pitch stop system in accordance with Beechcraft Service Instruction No. 0808–247, or later approved revisions.

(C) Airplanes which have accumulated 100 hours' time in service after the effective date of this AD may be flown in accordance with FAR 21.197 to a place where a replacement or removal can be performed, providing the existing amplifiers have not malfunctioned.

(D) Any equivalent method of compliance with this AD, must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE.—The manufacturer has advised the FAA that sufficient replacement parts are available to accomplish Paragraph A of this AD.

This amendment becomes effective March 1, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)))

Issued in Kansas City, Missouri, on January 17, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77–2612 Filed 1–26–77;8:45 am]

[Docket No. 76–EA–79; Amdt. 39–2816]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA 36–285 type airplanes.

There has been a report that the wing front and rear spar attachment plates were found to have enlarged bolt holes and slight bearing load effects were observed on the bolts.

The foregoing constitutes a hazard and therefore an airworthiness directive is being issued, which will require a repetitive inspection and alteration if necessary.

Since the foregoing affects air safety, notice and public procedure hereon are impractical and good cause exists for making the directive 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.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new airworthiness directive as follows:

PIPER: Applies to Model PA–36–285, Serial Nos. 36–7360003 through 36–7560044 certificated in all categories except aircraft incorporating Piper Kit Part Number 760 933.

To prevent possible hazards in flight associated with elongation of bolt holes at the forward and/or aft wing attachment fittings, accomplish the following:

(a) Within the next 50 hours in service from the effective date of this AD or upon the attainment of 500 total hours in service which ever is later unless previously accomplished within the past 500 hours in service, and at intervals not to exceed 500 hours in service from the last inspection, inspect and alter, if necessary, the forward and/or aft wing attachment fittings in accordance with the instructions section of Piper Service Bulletin No. 471A dated July 16, 1976, or equivalent.

(b) Upon the incorporation of Wing Fitting Modification Kit, Piper Part Number 760 933 or equivalent, compliance with the requirements of this AD may be dispensed with.

(c) Equivalent inspections and repairs must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the inspection intervals specified in this AD.

NOTE.—The Federal Aviation Agency 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.

This amendment is effective January 28, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on January 14, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77–2613 Filed 1–26–77;8:45 am]

[Docket No. 75–NE–35, Amdt. 39–2814]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT8D Aircraft Engines

A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2099 (39 FR 7626), AD 75–05–06, as amended by Amendment 39–2604 (41 FR 19619) to require retorquing within 1500 hours time in service of all fuel manifold "B" nuts that have not been retorqued in service was published in the FEDERAL REGISTER on November 1, 1976 (41 FR 47947).

Interested persons have been afforded the opportunity to fully participate in the making of this amendment. Comments were received from the Air Transport Association (ATA) in response to the notice. The commentator suggested that the requirement to retorque, within 1500 hours time in service, all fuel manifold "B" nuts that had been quadruple torqued at manufacture is unreasonable and would impose an unnecessary burden and loss of service to the public. The ATA recommended a retroque at 2500 hours in lieu of the 1500 hours. The commentator based the recommendation on the improved failure statistics of the quadruple torqued "B" nuts (at manufacture) versus the single or double torqued "B" nuts, the success of the individual carrier inspection programs and finally the lack of evidence that safety of flight was affected.

Subsequent to the ATA comments on this subject, an operator experienced a "B" nut leak and resultant fire on an engine which was quadruple torqued at manufacture. The fire resulted in an inflight shutdown, and due to the severe nature of the fire, ground fire extinguishing assistance was required. The engine had been operating under a fuel flow monitoring inspection program.

Based on evaluation of the data submitted by the commentator and in view of the above cited incident, the proposed amendment will be issued as originally proposed, requiring retorque within 1500 hours time in service on affected engines.

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 and OMB Circular A-107.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2099 (39 FR 7626), A.D. 75-05-06, as amended by Amendment 39-2604 (41 FR 19619) is further amended as follows:

A. Delete the words "were single or double torqued at original manufacture and" from the applicability paragraph.

B. Delete the words "torque" from Paragraph 1, and "torqued" from Paragraph 2, and insert the words "retorque" and "retorqued" respectively.

C. Delete the words "the effective date of this A.D., unless already accomplished" from Paragraph 1, and insert the words March 12, 1976, for fuel manifolds with "B" nuts which were single or double torqued at original manufacture and within the next 1500 hours time in service after the effective date of this amendment for fuel manifolds with "B" nuts which were quadruple torqued at original manufacture, unless already accomplished.

Issued in Burlington, Mass., on January 14, 1977.

This amendment becomes effective February 24, 1977.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.77-2188 Filed 1-26-77;8:45 am]

[Airspace Docket No. 76-SO-101]

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

Designation of Control Zone

On November 18, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 50841), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Sanford, Fla., control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.M.T., April 21, 1977, as hereinafter set forth.

In § 71.171 (42 FR 355), the following control zone is added:

SANFORD, FLA.

Within a 5-mile radius of Sanford Airport (lat. 28°46'30" N., long. 81°14'25" W.); within 3 miles each side of the 259° bearing from the Sanford RBN (lat. 28°47'05" N., long. 81°14'36" W.), extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone is effective from 0800 to 2100 hours, local time, daily.

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

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

Issued in East Point, Ga., on January 17, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-2616 Filed 1-26-77;8:45 am]

[Docket No. 16423; Amdt. No. 1056]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending or canceling the following VOR-VOR/DME SIAPs, *effective March 10, 1977.*

South Lake Tahoe, CA—Lake Tahoe Arpt., VOR/DME-A, Amdt. 1
Greeley, CO—Weld County Municipal, VOR-A, Amdt. 4
Pocatello, ID—Pocatello Municipal, VOR Rwy 3, Amdt. 13
Pocatello, ID—Pocatello Municipal, VOR/DME Rwy 21, Amdt. 7
Brownwood, TX—Brownwood Municipal, VOR Rwy 17, Amdt. 6
Georgetown, TX—Georgetown Municipal, VOR/DME Rwy 35, Amdt. 3

* * * *effective March 3, 1977.*

Macomb, IL—Macomb Municipal, VOR/DME-A, Amdt. 1
Berkeley Springs, WV—Potomac Airpark, VOR Rwy 29, Amdt. 1
Cable, WI—Cable Union Arpt., VOR/DME-A, Amdt. 1
Superior, WI—Richard I. Bong Arpt., VOR Rwy 13, Amdt. 1

* * * *effective January 27, 1977.*

Pendleton, OR—Pendleton Municipal, VOR Rwy 7L, Amdt. 12

The FAA published amendments in Docket No. 16302, Amdt. No. 1050 to Part 97 of the Federal Aviation Regulations (31 FR 54166; December 13, 1976) under § 97.23, effective January 20, 1977, which are hereby amended as follows:

a. Orlando, FL—Orlando Jetport at McCoy, VOR Rwy 18L, Original is rescinded.
b. Orlando, FL—Orlando Jetport at McCoy, VOR Rwy 18L & 18R, Amdt. 3 cancellation is rescinded (Amdt. 3 remains in effect).

2. Section 97.25 is amended by originating, amending or canceling the following SDF-LOC-LDA SIAPs, *effective March 10, 1977.*

Bismarck, ND—Bismarck Municipal, LOC/DME(BC) Rwy 13, Amdt. 2
Harlingen, TX—Harlingen Industrial Airpark, LOC(BC) Rwy 35L, Amdt. 3

* * * *effective March 3, 1977.*

Elkins, WV—Elkins-Randolph County Jennings-Randolph Field, LDA-C, Amdt. 2

* * * *effective February 24, 1977.*

Hawthorne, CA—Hawthorne Municipal, LOC Rwy 25, Amdt. 1

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective March 10, 1977.*

Bismarck, ND—Bismarck Municipal, NDB Rwy 31, Amdt. 24
Brigham City, UT—Brigham City Arpt., NDB Rwy 26, Amdt. 5

* * * *effective March 3, 1977.*

Macomb, IL—Macomb Municipal Arpt., NDB Hwy 26, Amdt. 5
Sturgis, KY—Sturgis Muni Arpt., NDB Rwy 36, Original
Defiance, OH—Defiance Memorial Arpt., NDB Rwy 12, Amdt. 5
Cable, WI—Cable Union Arpt., NDB-B, Amdt. 5

* * * *effective January 27, 1977.*

Pendleton, OR—Pendleton Municipal Arpt., NDB-A, Amdt. 1

4. Section 97.29 is amended by originating, amending, or canceling the fol-

lowing ILS SIAPs, *effective March 10, 1977.*

Little Rock, AR—Adams Field, ILS Rwy 22, Amdt. 1
Bismarck, ND—Bismarck Municipal Arpt., ILS Rwy 31, Amdt. 25

* * * *effective March 3, 1977.*

Hagerstown, MD—Hagerstown Regional, ILS Rwy 27, Amdt. 1

* * * *effective January 27, 1977.*

Pendleton, OR—Pendleton Municipal, ILS Rwy 25R, Amdt. 16

* * * *effective January 13, 1977.*

Hillsboro, OR—Portland-Hillsboro Arpt., ILS Rwy 12, Amdt. 2

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, *effective March 3, 1977.*

Jackson, MS—Allen C. Thompson Field, RADAR-1, Amdt. 9

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, *effective March 3, 1977.*

Dayton, OH—James M. Cox-Dayton Municipal, RNAV Rwy 6R, Amdt. 2
Cable, WI—Cable Union Arpt., RNAV Rwy 34, Amdt. 1

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 14, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE. Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-2614 Filed 1-26-77;8:45 am]

[Docket No. 16435; Amdt. No. 1057]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective March 10, 1977.*

Middletown, DE—Summit Airpark, VOR-A, Amdt. 3
Freeport, IL—The Albertus Arpt., VOR Rwy 24, Amdt. 1
Pekin, IL—Pekin Municipal Arpt., VOR-A, Amdt. 2
Madison, IN—Madison Municipal Arpt., VOR/DME Rwy 3, Amdt. 2
Nappanee, IN—Nappanee Municipal Arpt., VOR-B, Original
Gaylord, MI—Otsego County, VOR Rwy 9, Amdt. 1
Gaylord, MI—Otsego County, VOR Rwy 27, Amdt. 5
Hallock, MN—Hallock Municipal Arpt., VORTAC Rwy 31, Amdt. 1
St. Charles, MO—St. Charles Arpt., VOR Rwy 9, Original
St. Charles, MO—St. Charles Arpt., VOR-B, Amdt. 1, cancelled
St. Joseph, MO—Rosecrans Memorial Arpt., VOR Rwy 17, Amdt. 10
Rocky Mount, NC—Rocky Mount-Wilson Arpt., VOR/DME Rwy 22, Amdt. 5
Shelby, OH—Shelby Community Arpt., VOR-A, Amdt. 2
Bartlesville, OK—Frank Phillips Arpt., VOR Rwy 17, Amdt. 8
Bartlesville, OK—Frank Phillips Arpt., VOR/DME Rwy 35, Amdt. 3
Ashland, WI—John F. Kennedy Memorial Arpt., VOR Rwy 2, Amdt. 1
Ashland, WI—John F. Kennedy Memorial Arpt., VOR Rwy 31, Amdt. 1
Oshkosh, WI—Wittman Field, VOR Rwy 27 Amdt. 1

* * * *effective January 12, 1977.*

Clinton, OK—Clinton-Sherman Airport, VOR Rwy 35L, Amdt. 3

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, *effective March 10, 1977.*

St. Joseph, MO—Rosecrans Memorial Arpt., LOC(BC) Rwy 17, Amdt. 4

* * * *effective January 12, 1977.*

Clinton, OK—Clinton-Sherman Airport, LOC (BC) Rwy 17R, Amdt. 3

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective March 10, 1977.*

Freeport, IL—The Albertus Arpt., NDB Rwy 24, Amdt. 5
Madison, IN—Madison Municipal Arpt., NDB Rwy 3, Amdt. 3
Alpena, MI—Phelps-Collins Arpt., NDB Rwy 18, Amdt. 10
Alpena, MI—Phelps-Collins Arpt., NDB Rwy 36, Amdt. 1
St. Joseph, MO—Rosecrans Memorial Arpt., NDB Rwy 17, Amdt. 5
St. Joseph, MO—Rosecrans Memorial Arpt., NDB Rwy 35, Amdt. 25
Rockingham, NC—Rockingham-Hamlet Arpt., NDB Rwy 31, Original
Ashland, WI—John F. Kennedy Memorial Arpt., NDB Rwy 2, Amdt. 5

* * * *effective February 24, 1977.*

Rocky Mount, NC—Rocky Mount-Wilson Arpt., NDB Rwy 4, Original

* * * *effective February 10, 1977.*

Magnolia, AR—Magnolia Municipal Arpt., NDB Rwy 35, Original

Rutherfordton, NC—Rutherford County Arpt., NDB Rwy 36, Original

* * * *effective February 3, 1977.*

Casey, IL—Casey Municipal Arpt., NDB Rwy 4, Original

* * * *effective January 12, 1977.*

Clinton, OK—Clinton-Sherman Airport, NDB Rwy 17R, Amdt. 3

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective March 10, 1977.*

Alpena, MI—Phelps-Collins Arpt., ILS Rwy 36, Amdt. 1
St. Joseph, MO—Rosecrans Memorial Arpt., ILS Rwy 35, Amdt. 25
Columbia, SC—Columbia Metropolitan Arpt., ILS Rwy 29, Amdt. 1

* * * *effective February 24, 1977.*

Rocky Mount, NC—Rocky Mount-Wilson Arpt., ILS Rwy 4, Amdt. 5

* * * effective January 12, 1977.

Clinton, OK—Clinton-Sherman Airport, ILS Rwy 35L, Amdt. 3

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, *effective February 10, 1977.*

Savannah, GA—Savannah Municipal Arpt., RADAR-1, Original
Savannah, GA—Savannah Municipal Arpt., RADAR-A, Amdt. 6, cancelled

6. Section 97.33 is amended by orginating, amending, or canceling the following RNAV SIAPs, *effective March 10, 1977.*

Pekin, IL—Pekin Municipal Arpt., RNAV Rwy 9, Amdt. 1
Burlington, IA—Burlington Municipal Arpt., RNAV Rwy 18, Amdt. 1
Parsons, KS—Tri City Arpt., RNAV Rwy 17, Amdt. 1

Parsons, KS—Tri City Arpt., RNAV Rwy 35, Amdt. 1
St. Joseph, MO—Rosecrans Memorial Arpt., RNAV Rwy 17, Amdt. 2

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on January 21, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-2615 Filed 1-26-77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1012—MEETINGS: ADVANCE PUBLIC NOTICE, PUBLIC ATTENDANCE, AND RECORDKEEPING

Interim Rules

CROSS REFERENCE: For interim rules governing the procedures for making a determination to open or close a meeting of the Commissioners, the provisions for public announcement of such meetings and the provisions regarding recordkeeping for such meetings, effective January 27, 1977, see FR Doc. 77-2579 published in the Proposed Rules section of this issue.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13190]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to Director of Division of Corporation Finance

The Commission today announced the amendment, effective immediately, of its regulations governing delegation of authority to the Director of the Division of Corporation Finance (17 CFR 200.30-1) with respect to the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)).

Section 3(a)(12) of the Exchange Act provides that the term "exempted security" or "exempted securities" includes, among others, "securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors." In accordance with the provisions of this section, the Secretary of the Treasury from time to time designates appropriate securities for exemption. Upon receipt of a letter from the Secretary of the Treasury, or from a Treasury Department official with delegated authority to act for the Secretary, designating securities as exempted securities under section 3(a)(12), the Commission authorizes publication of a release announcing the designation.

Inasmuch as these releases are of a routine nature and do not involve any policy considerations or novel questions, it is not necessary for the Commission to consider each Treasury Department designation announcement on an individual basis. Delegation of authority to the Director of the Division of Corporation Finance to issue these announcement releases will eliminate any delay caused by seeking Commission approval for release of the information and therefore will result in more timely notice to the public of the designation of a new exempted security.

To accomplish this delegation of authority, the Commission hereby amends 17 CFR 200.30-1 by adding a new paragraph (d)(9) to read as follows:

§ 200.30-1 **Delegation of authority to Director of Division of Corporation Finance.**

* * * * *

(d) * * *

(9) Upon receipt of a notification from the Secretary of the Treasury designating a security for exemption pursuant to section 3(a)(12), to issue public releases announcing such designation.

* * * * *

The Commission finds that the foregoing action relates solely to agency management and personnel and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary. This action, taken pursuant to Pub. L. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), becomes effective immediately.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 19, 1977.

[FR Doc.77-2678 Filed 1-26-77;8:45 am]

Title 19—Customs Duties

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

[T.D. 77-37]

PART 1—GENERAL PROVISIONS

Change in Customs Field Organization

In order to promote more efficient management within the Customs Service, it is desirable to transfer supervision over the Customs station at Los Ebanos, Texas, from the Hidalgo, Texas, Customs port of entry to the Rio Grande City, Texas, Customs port of entry.

Accordingly, § 1.3(d) of the Customs Regulations (19 CFR 1.3(d)) is amended by substituting "Rio Grande City." for "Hidalgo." in the column headed "Port of entry having supervision" in the list of Customs stations and ports of entry having supervision thereof.

(Sec. 1, 37 Stat. 434 (5 U.S.C. 301, 19 U.S.C. 1))

Because this amendment involves a matter relating to agency organization, it is exempt from the notice requirements of 5 U.S.C. 553.

Effective date: This amendment shall become effective February 28, 1977.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: January 17, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-2665 Filed 1-26-77;8:45 am]

[T.D. 77-38]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Information Required on Manifest

On February 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 7179), which proposed to amend § 4.93(c) of the Customs Regulations (19 CFR 4.93(c)) to permit empty vans, tanks, and barges, equipment for use with vans and tanks, empty instruments of international traffic, and stevedoring equipment and material to be manifested at the port of lading without including their identification numbers or symbols or other appropriate identifying data, provided the manifest includes a statement that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel listing the identifying numbers or symbols or other appropriate identifying data for the articles to be unladen at that port.

This amendment was proposed because the loading of such articles on a foreign vessel for movement from one coastwise port to a second coastwise port is the last action prior to sailing and it is difficult for the carrier to list timely the number and symbol of each article without delaying the vessel. Furthermore, when a number of identical articles are being transported to two or more coastwise ports, it is sometimes not known which specific article will be unladen at which port, and identification by number or symbol on the manifest by port of destination results in a cumbersome operation.

In addition, the notice proposed to further amend § 4.93(c) to provide that violation of the requirements set forth in that section would be subject to applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

Interested persons were given 30 days from the date of publication of the notice to submit data, views, or arguments with respect to the proposed amendment. After consideration of the comment received, it has been determined that the proposed amendment should be adopted as set forth in the notice of proposed rulemaking.

Accordingly, the proposed amendment is adopted as set forth below.

Effective date: This amendment shall become effective February 28, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 17, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

Paragraph (c) of § 4.93 is amended to read as follows:

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

* * * * *

(c) Any manifest required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, giving its identifying number or symbol, if any, or such other identifying data as may be appropriate, the names of the shipper and consignee, and the destination. The manifest shall also include a statement (1) that the articles specified in paragraph (a)(1) of this section are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handing his cargo in foreign trade; or (2) that the stevedoring equipment and material specified in paragraph (a)(2) of this section is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for his use in handling his cargo in foreign trade. If the district director at the port of lading is satisfied that there will be sufficient control over the coastwise transportation of the article without identifying it by number or symbol or such other identifying data on the manifest, he may permit the use of a manifest that does not include such information provided the manifest includes a statement, that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying number or symbol or other appropriate identifying data for the article to be unladen at that port. Applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed for violation of this paragraph.

(R.S. 251, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 883))

[FR Doc.77-2668 Filed 1-26-77;8:45 am]

[T.D. 77-36]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Late Filing of Generalized System of Preferences Certificate of Origin Form A

Pursuant to § 10.173(a) of the Customs Regulations (19 CFR 10.173(a)), the importer or consignee of a shipment of merchandise eligible for duty-free treatment under the Generalized System of Preferences, valued in excess of $250, is required to file with the district director of Customs at the time of entry a properly completed Certificate of Origin Form A (or an acceptable duplicate thereof) as evidence of the country of origin of the merchandise. If a properly completed Certificate of Origin Form A (or an acceptable duplicate thereof) is not produced at the time of entry, the entry will be accepted provided all other applicable requirements are met and the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the subsequent production of the Certificate of Origin.

However, pursuant to § 10.112 of the Customs Regulations (19 CFR 10.112), whenever a free entry or a reduced duty document, form, or statement required to be filed in connection with the entry is not filed at the time of the entry or within the period for which a bond was filed for its production, but failure to file it was not due to willful negligence or fraudulent intent, such document, form, or statement may be filed at any time prior to liquidation of the entry or, if the entry was liquidated, before the liquidation becomes final.

Inasmuch as § 10.112 of the Customs Regulations permits the late filing of other free entry and reduced duty documents, it has been concluded that the requirement that the Certificate of Origin be filed only at the time of entry or within the period for which a bond was filed for its subsequent production is unduly restrictive. Accordingly, it has been determined that the late filing provisions of § 10.112 of the Customs Regulations should be made applicable to the filing of the Certificate of Origin by amending § 10.173(a) of the Customs Regulations to provide that the certificate be filed in connection with the entry, rather than at the time of entry.

Pursuant to § 10.172 of the Customs Regulations (19 CFR 10.172), a written claim for duty-free entry is required to be filed on the entry document by placing the symbol "A" as a prefix to the Tariff Schedules of the United States Annotated item number for each article for which such treatment is claimed. In order to make it clear that the failure to properly place the symbol "A" on the entry document does not preclude the importer or consignee from filing the Certificate of the Origin subsequent to the time of entry in accordance with § 10.112 of the Customs Regulations, it has been determined that the late filing of the certificate in accordance with that section should constitute the written claim for duty-free entry.

Accordingly, Part 10 of the Customs Regulations (19 CFR Part 10) is amended in the following manner:

The second sentence of § 10.172 is amended to read as follows:

§ 10.172 Claim for exemption from duty under the Generalized System of Preferences.

* * * If duty-free treatment is claimed at the time of entry, a written claim shall be filed on the entry document by placing the symbol "A" as a prefix to the Tariff Schedules of the United States Annotated item number for each article for which such treatment is claimed. If duty-free treatment is claimed subsequent to the time of entry in accordance with § 10.112, the filing of the Certificate of Origin, or a duplicate thereof as described in § 10.173(a)(2), shall constitute the written claim.

The first sentence of paragraph (a)(1), and the first sentence of paragraph (a)(2) of § 10.173 are amended to read as follows:

§ 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of $250.*—(1) *Certificate of Origin.* Except as provided in paragraph (a)(5) of this section, the importer or consignee of a shipment of eligible merchandise valued in excess of $250 shall file with the district director in connection with the entry the Generalized System of Preferences Certificate of Origin Form A, as evidence of the country of origin. * * *

(2) *Duplicate Certificate of Origin.* In the event of the loss, theft, or destruction of a Certificate of Origin, the district director will accept in connection with the entry a duplicate Certificate of Origin issued by the appropriate governmental body in the country of origin and endorsed with the word "duplicate" in box 4. * * *

Inasmuch as the foregoing amendments merely relax present requirements and place no affirmative duty or burden on the public, prior notice and public procedure thereon is unnecessary and good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553.

Effective date: These amendments shall be effective January 27, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: January 17, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-2667 Filed 1-26-77;8:45 am]

[T.D. 77-35]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Reimbursement for Overtime Services

In accordance with section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), and section 451 of the Tariff Act of 1930, as amended (19 U.S.C. 1451), § 24.16 of the Customs Regulations (19 CFR 24.16) provides that parties requesting overtime services by Customs employees are required to reimburse Customs for the amount of overtime compensation paid to the employees performing the services. For Customs purposes, "overtime services" are those performed on Sundays or holidays, or on weekdays, before the hours of 8:00 a.m. or after 5:00 p.m., or between the corresponding weekday hours where the regular hours

for the transaction of Customs business are other than 8:00 a.m. to 5:00 p.m.

In the case of Customs services performed in connection with the arrival or departure of private vessels and aircraft, section 53(a) of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741(a)), limits the amount of reimbursements to $25.00. In the case of inspectional services performed as a consequence of the operation of aircraft generally, section 53(e) of that Act limits the amount of reimbursement for such services performed during regularly-established hours of service on Sundays or holidays to the amount that would have been charged had they been performed during regularly-established hours of service on weekdays. The provisions of section 53(e) will become effective on January 1, 1977.

As written, § 24.16 of the Customs Regulations does not reflect the provisions of section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Therefore, it is necessary to amend § 24.16 to provide that charges for Customs overtime services shall be made, where appropriate, in accordance with that Act, and in particular, that no such charges for overtime shall be made to owners or operators of aircraft for services performed on Sundays or holidays between the hours of 8:00 a.m. and 5:00 p.m. (effective January 1, 1977). Inasmuch as the latter services will be provided without charge, § 24.16 is also amended to provide that the required application for such services need not be accompanied by a cash deposit or bond.

Accordingly, § 24.16 of the Customs Regulations (19 CFR 24.16) is amended in the following manner:

§ 24.16 [Amended]

Paragraph (a) of § 24.16 is amended to read as follows:

(a) *General.* Customs services for which overtime compensation is provided for by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267),[3] or section 451, Tariff Act of 1930, as amended (19 U.S.C. 1451), shall be furnished only upon compliance with the requirements of those statutes for applying for such services and giving security for reimbursement of the overtime compensation, unless the compensation is nonreimbursable under the said section 451, or section 53 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1741). Reimbursements of overtime compensation shall be collected by the district director from the applicants for the services. Customs employees shall not receive overtime compensation for services performed on regular tours of duty at night, but no regular tour of duty shall embrace any part of a Sunday or holiday if the services performed are such that extra compensation would be payable if performed at the request of a private interest. Reimbursable overtime services shall not be furnished to an applicant who fails to cooperate with the Customs Service by filing a timely application therefor during regular hours of business when the need for the services can reasonably by foreseen, nor in any case until the maximum probable reimbursement is adequately secured.

Paragraph (c)(1) of § 24.16 is amended to read as follows:

* * * * *

(c) *Application and bond.* (1) Except as provided for in subparagraphs (2) and (4) of this paragraph, an application for services of Customs employees at night or on a Sunday or holiday, Customs Form 3171, supported by the required cash deposit or bond, shall be filed in the office of the district director of Customs before the assignment of such employees for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the district director or his authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the Customs employees, or the maximum amount which may be charged by law, whichever is less, in connection with the particular services requested. The bond to secure reimbursement shall be on Customs Form 7597 or 7599 and in an amount to be fixed by the district director, unless another bond containing a provision to secure reimbursement is on file. A bond given on Customs Form 7597 to secure the payment of overtime services rendered private aircraft and private vessels shall be taken without surety or cash deposit in lieu of surety, and the bond shall be modified to so indicate.

* * * * *

Paragraph (c)(3) of § 24.16 is amended by substituting "timely" for "seasonably" where it appears in the second sentence of that paragraph.

Paragraph (c) of § 24.16 is amended by the addition of a new subparagraph (4) to read as follows:

* * * * *

(c) * * *

(4) Inspectional services will be provided to owners or operators of aircraft without charge for overtime on Sundays and holidays between the hours of 8:00 a.m. and 5:00 p.m. Applications for inspectional services for aircraft during those hours shall be filed as set forth in subparagraph (1) of this paragraph, but without cash deposit or bond.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, (5 U.S.C. 301, 19 U.S.C. 66, 624))

Inasmuch as these amendments merely conform the Customs Regulations to provisions of the law limiting the reimbursement of certain Customs overtime charges, and because these amendments require no public initiative, notice and public procedure thereon is found to be unnecessary. In addition, with respect to the amendments to paragraphs (a) and (c) (1) and (3) of § 24.16, good cause is found for those amendments to become effective at the earliest possible date.

Effective date: The amendments to paragraphs (a) and (c) (1) and (3) of § 24.16 shall become effective January 27, 1977. The amendment to paragraph (c) (4) of § 24.16 shall become effective January 1, 1977.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: January 17, 1977.

JERRY THOMAS,
Undersecretary of the Treasury.

[FR Doc.77-2666 Filed 1-26-77;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-339]

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

Amendments of Definitions in Subparts A and B and Addition of New Subpart F (Prohibition Against the Use of Lead-Based Paint in Federal and Federally Assisted Construction of Residential Structures)

The Department of Housing and Urban Development (HUD) published as a final rule Subparts A through E of this Part on July 13, 1976, at 41 FR 28876–28881, in order to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, as amended, (42 U.S.C. 4801 et seq), hereinafter referred to as "the Act."

On June 23, 1976, section 501(3) of the Act (42 U.S.C. 4841(3)) was amended by the National Consumer Health Information and Health Promotion Act of 1976, Pub. L. 94–317, 94th Congress, to change the definition of Lead Based Paint, as follows:

[(c)(1) section 501(3) of such Act (42 U.S.C. 4841(3) is amended to read as follows:

(3)(A) Except as provided in subparagraph (B), the term 'lead based paint' means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.]

Pursuant to this provision, the Consumer Product Safety Commission ruled

on December 17, 1976 that "available scientific information is insufficient to support a finding that a level of lead in paint above 0.06 of 1 percent is safe." Consequently, the term lead-based paint will mean, with respect to paint which is manufactured after June 22, 1977, any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied or both.

In accordance with the statutory amendment and the Consumer Product Safety Commission's determination, the Department is hereby amending certain definitions in Subparts A and B to conform to the statutory definition. The two definitions affected are the definition of "Act" in Subpart A and the definition of "Lead-Based Paint" in Subpart B.

In addition, section 401 of the Act was amended by Pub. L. 94–317, to provide that the Secretary of Housing and Urban Development shall take appropriate action to prohibit the use of lead-based paint in Federal and Federally-assisted construction or rehabilitation of residential structures. The purpose of the amendment was to designate HUD to replace the Department of Health, Education and Welfare (HEW), which previously had this responsibility, and the new Subpart F implements this change in statutory designation.

These amendments to the definitions and the new Subpart F of Part 34 are hereby published as a final rule. No purpose would be served by publishing these provisions as proposed rulemaking since the only amendments are those necessary to incorporate definitional provisions of Pub. L. 94–317 and to specify that the Secretary of Housing and Urban Development will replace the Secretary of Health, Education and Welfare as the appropriate official to enforce Section 401 of the Lead-Based Paint Poisoning Prevention Act.

The Department has determined that an Environmental Impact Statement is not required with respect to this amended rule. A copy of the Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410.

NOTE.—The Department of Housing and Urban Development 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.

Accordingly, Part 35 of Title 24 is amended by incorporating the following changes in Subparts A and B and by adding a new Subpart F, as follows:

1. In Subpart A, § 35.3, Definitions, revise paragraph (a) to read:

§ 35.3 Definitions.

(a) "Act" means the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695, 84 Stat. 2078, as amended by Pub. L. 93–151 and Pub. L. 94–317 (42 U.S.C. 4801).

* * * * *

2. In Subpart B, § 35.12, Definitions, revise paragraph (a) to read:

§ 35.12 Definitions.

(a) "Lead-based paint" as defined in Section 501(3) of the Act as amended by Pub. L. 94–317 (42 U.S.C. 4801, et seq), the National Consumer Information and Health Promotion Act of 1976, means (i) any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or (ii) with respect to paint which is manufactured after June 22, 1977 lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

* * * * *

3. Add Subpart F to read as follows:

Subpart F—Prohibition Against the Use of Lead-Based Paint in Federal and Federally-Assisted Construction or Rehabilitation of Residential Structures

Sec.
36.60 Scope.
36.61 Definitions.
36.62 Federal construction; prohibition against use of lead-based paint.
36.63 Federally assisted construction; prohibition against use of lead-based paint.
36.64 Reports to the Secretary.
36.65 Authority for Subpart B of these regulations.

Subpart F—Prohibition Against the Use of Lead-Based Paint in Federal and Federally-Assisted Construction or Rehabilitation of Residential Structures

§ 36.60 Scope.

The regulations of this Subpart are promulgated to implement Section 401 of the Lead-Based Paint Poisoning Prevention Act, as amended, which directs the Secretary of Housing and Urban Development to take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form. The regulations are applicable to all Federal agencies.

§ 35.61 Definitions.

The definitions contained in § 35.3 shall apply to this Subpart F and in addition the following definitions are applicable to this Subpart F:

(a) "Federal Agency" means the United States or any executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies or instrumentalities.

(b) "Agency Head" means the principal official of a Federal Agency and includes those persons duly authorized to act in his behalf.

(c) "Lead-based paint" as defined in Section 501(3) of the Act as amended by Pub. L. 94–317 (42 U.S.C. 4801 et seq), the National Consumer Information and Health Promotion Act of 1976, means (1) any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or (2) with respect to paint which is manufactured after June 22, 1977 lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

§ 36.62 Federal construction; prohibition against use of lead-based paint.

No Federal agency shall, in any residential structure constructed or rehabilitated by such agency, use or permit the use of lead-based paint on applicable surfaces.

§ 36.63 Federally assisted construction: prohibition against use of lead-based paint.

(a) Each Agency Head shall issue regulations and take such other steps as in his or her judgment are necessary to prohibit the use of lead-based paint on applicable surfaces of any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to which such Federally assisted construction or rehabilitation is performed, prohibiting such use of lead-based paint, and shall include provisions for enforcement of that prohibition.

§ 36.64 Reports to the Secretary.

(a) To assist the Secretary in fulfilling her responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this Subpart F, Part 35.

(b) Each Federal agency shall submit such additional reports on its activities in the implementation of this part as may be deemed necessary by the Secretary.

§ 36.65 Authority for Subpart B of these regulations.

On or after the effective date of these amended regulations, Subpart F will serve as the authority for Subpart B of these regulations.

(Pub. L. 91–695, 84 Stat. 2078, as amended by Pub. L. 94–317 (42 U.S.C. 4801 et seq.);

sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Effective date: February 25, 1977.

Issued at Washington, D.C., January 19, 1977.

JOHN B. RHINELANDER,
Under Secretary of Housing and Urban Development.

[FR Doc.77-2700 Filed 1-26-77;8:45 am]

[Docket No. R-77-241]

PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Eligibility for Relocation Payments—Section 8 of the United States Housing Act of 1937, as Amended

On February 20, 1975, revised guidelines amending Part 42 of the regulations of the Department of Housing and Urban Development implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 were published at 40 FR 7206. These regulations became effective on March 31, 1975. § 42.55(d)(3) of those regulations, pertaining to basic eligibility conditions for persons displaced as a result of the Section 8 Housing Assistance Payments Program authorized by the United States Housing Act of 1937, as amended (50 Stat. 88; U.S.C. 1401 et seq.) provides that persons who, on or after the date of execution of an Annual Contributions Contract (ACC), move from a dwelling acquired by a public housing agency and satisfy the other eligibility criteria of the regulations in that Part, shall qualify for relocation payments. It has been brought to the attention of the Department that a more pertinent date for establishing Federal recognition of a HUD-assisted project for purposes of creating eligibility for relocation payments is the date of notification to the public housing agency that the final proposal is approved.

The Secretary has determined that it is impractical, unnecessary and contrary to the public interest to follow a notice of proposed rulemaking procedure and that good cause for making the revision effective on the date of publication exists.

In connection with the environmental review of the proposed revision to the regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1. 38 FR 19182. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410.

NOTE.—It is hereby certified that the economic and inflationary impacts of this revision have been carefully evaluated in accordance with OMB Circular No. A-107.

This revision is issued under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

In consideration of the foregoing, 24 CFR 42.55(d)(3) is revised to read as follows:

§ 42.55 Basic eligibility conditions.

* * * * * *

(d) * * *

(3) Housing assistance payments program: If such person moves from real property on or after the date of notification to the public housing agency that the final proposal is approved: *Provided,* That eligibility under the regulations in this Part shall be limited to cases in which a public housing agency itself acquires real property from such person is displaced.

Effective date: This revision shall be effective January 26, 1977.

JOHN B. RHINELANDER,
Under Secretary of Housing and Urban Development.

[FR Doc.77-2699 Filed 1-26-77;8:45 am]

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION)

SUBCHAPTER A—GENERAL

[Docket No. R-77-450]

PART 200—INTRODUCTION

Redelegation With Respect to Fund Reservations Under Section 202 of the Housing Act of 1959, as Amended

The Department of Housing and Urban Development has determined that it would be more efficient and effective for both HUD and program applicants if field offices were redelegated authority to increase fund reservations for approved applications under section 202 of the Housing Act of 1959, as amended (12 USC 1701q). Therefore, §§ 200.109(a)(5), 200.118(e)(1), and 200.128 are amended to read as follows:

§ 200.109 Regional Administrators, Deputy Regional Administrators and Assistant Regional Administrator Housing Production and Mortgage Credit (Region VIII, Denver).

* * * * * *

(a) * * *

* * * * * *

(5) To make reservations of funds and to approve or disapprove loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 and to make contracts and execute documents in connection therewith and, with respect to project applications for mortgage insurance under section 236 of the National Housing Act, to determine feasibility under section 236, issue commitments for mortgage insurance under section 236, insure such mortgases pursuant to such commitments, including approval of insured advances during construction, and in connection with section 202 loans to be converted to insured mortgages under section 236, to assign and deliver such mortgages to the permanent lender.

§ 200.118 Area Director and Deputy Area Director.

* * * * * *

(e) * * *

(1) To make reservations of funds and to approve or disapprove loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 and to make contracts and execute documents in connection therewith.

§ 200.128 Director and Deputy Director of the Insuring Offices.

To the position of Director, and under his general supervision to the position of Deputy Director, of each Insuring Office listed below, with respect to the production of housing units within the jurisdiction of the Insuring Office, there is redelegated the authority to perform the functions and exercise the authorities set forth in § 200.118 (c) and (e)(1).

Phoenix, AZ	Albuquerque, NM
Fresno, CA	Albany, NY
Sacramento, CA	Cincinnati, OH
Santa Ana, CA	Cleveland, OH
Denver, CO	Providence, RI
Springfield, IL	Memphis, TN
Des Moines, IA	Houston, TX
Topeka, KS	Salt Lake City, UT
Shreveport, LA	Spokane, WA
Grand Rapids, MI	Charleston, WV
Helena, MT	

Effective date: These amendments shall be effective as of January 17, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing — Federal Housing Commissioner.

[FR Doc.77-2692 Filed 1-26-77;8:45 am]

[Docket No. R-77-421]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

On November 23, 1976 a notice of proposed rulemaking was published in the FEDERAL REGISTER, 41 FR 51614, proposing amendments to Subtitle B of Title 24 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 201, "Property Improvement and Mobile Home Loans."

The amendments require that mobile homes financed with loans under this part meet the requirements of the National Mobile Home Construction and Safety Standards Act of 1974 (Pub. L. 93-383, 42 U.S.C. 5401, et seq.) in effect at the time the mobile home is manufactured and revoke provisions of the regulations concerning factory inspection and private testing laboratories as these activities are now covered by the above standards.

Interested persons were invited to submit written data, views or statements not later than December 22, 1976.

Two comments were received. Both commenters indicated approval of the amendments. One of the commenters indicated that there might be some confusion by the public between these reg-

ulations and the regulations implementing the National Mobile Home Construction and Safety Standards Act of 1974. These regulations are solely concerned with the eligibility of mobile home loans under the National Housing Act and have no effect on regulations promulgated under the National Mobile Home Construction and Safety Standards Act of 1974.

A Finding of Inapplicability pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, has been made with regard to these proposed regulations in accordance with HUD Handbook 1390.1. A copy of the Finding of Inapplicability is available for public inspection at the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 201 is amended to read as follows:

1. Section 201.520(b) Structural design and standards is amended to read as follows:

§ 201.520 Structural design and standards.

* * * * *

(b) The requirements of paragraph (a) of this section shall be satisfied by a certification by the manufacturer that the mobile home conforms to all applicable Federal construction and safety standards in effect on the date the mobile home was manufactured. The certification shall be in the form of a label or tag affixed to the mobile home as prescribed in Section 616 of the National Mobile Home Construction and Safety Standards Act of 1974, Pub. L. 93-383, 42 U.S.C. 5401, 5415.

* * * * * *

§ 201.521 [Revoked]

§ 201.522 [Revoked]

2. In consideration of the foregoing, § 201.521 Factory Inspection and § 201.522 Private testing organizations, are revoked.

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246 (12 U.S.C. 1703), as amended by Pub. L. 93-383.)

Effective date: This regulation shall be effective on February 28, 1977.

NOTE.—The Department of Housing and Urban Development 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.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-2686 Filed 1-26-77;8:45 am]

[Docket No. R-77-405]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Insurance of Financial Institutions

On August 3, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER, 41 FR 32564-32567 stating that HUD was considering an amendment to subtitle B of Title 24 of the Code of Federal Regulations, Chapter II, subchapter B, Part 201, "Property Improvement and Mobile Home Loans", adding a new subpart D, "Combination and Mobile Home Lot Loans." The new subpart implements 309 (b)(2) and (d) of the Housing and Community Development Act of 1974, Pub. L. 93-383 which amended Title I of the National Housing Act, 12 U.S.C. 1703, to provide for insurance of financial institutions that make loans to finance the purchase of mobile home lots by present owners of mobile homes, and loans for the purchase of a mobile home lot and a mobile home in combination.

COMMENTS ON PROPOSED REGULATIONS

Interested persons were invited to submit written data, views, or statements. Twenty-one comments were received in response to this request. The majority of the comments related to the limitations on maximum terms. The 1974 amendments to Title I of the National Housing Act as amended (12 U.S.C. 1703) provide for a maximum term of 15 years and 32 days for a single-wide mobile home and a lot, and 20 years and 32 days for a mobile home consisting of two or more modules and a lot. The proposed regulations limited maxima for these loans to 12 years and 32 days, and 15 years and 32 days respectively. After taking into consideration the views and statements submitted, a determination has been made to set the maximum terms for these loans at the limits permitted under the Act.

Several commenters also objected to the exclusion of furniture from the financing package, and one commenter suggested that the regulations should contain a definition of furniture. After careful consideration, it was determined that the exclusion of furniture from financing is proper and necessary in view of the relatively long terms to be permitted under the program. A definition of furniture has been included in the regulations to make clear that wall-to-wall carpeting, major household appliances, stoves and air conditioners may be included in the financing package and will not be considered furniture.

A commenter questioned the definition of a mobile home (eligible for financing) which requires that a mobile home be at least 40 body feet or more in length, and 10 body feet or more in width, pointing out that the definition of a mobile home in the Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, 5402, provides for dimensions of 8 body feet or more in width and 32 body feet or more in length. The Mobile Home Construction and Safety Standards Act applies to all mobile homes without regard to whether or not they are to be used as permanent residences. Title I of the National Housing Act, as amended, 12 U.S.C. 1703, imposes a statutory requirement that mobile homes financed pursuant to this part must be the permanent residence of the borrower. In implementing this requirement it is deemed necessary to exclude the financing of smaller mobile homes under the program. The final regulations provide for a minimum width of 12 body feet.

Several commenters suggested that a minimum size should be prescribed for a mobile home lot eligible for financing under this part. The lot must be acceptable to the Secretary as a mobile home site. Where local sanitary and zoning codes require minimum lot size, the lot must meet such code requirements in addition to the Secretary's requirements.

A suggestion was made that lots subject to a condominium agreement should be eligible. This requires further study to determine the conditions necessary for protection of the consumer and those factors affecting long term value. Accordingly, the prohibition of lots subject to a condominium agreement has been retained.

Several comments were made recommending that the maximum permissible interest rate be raised to permit a higher annual percentage rate. After careful study it was determined that an increase in the interest rate would not be warranted at this time.

A commenter suggested that in § 201.1512(a)(3)—now § 201.1512(b)—which deals with a purchase of a mobile home lot by the present owner of a mobile home, and requires that the borrower shall certify that he or she will place his or her mobile home on the lot acquired within six months after the date of the loan, the word "placed" be changed to "erected". Section 2(b) of Title I of the National Housing Act as amended (12 U.S.C. 1703(b)) provides that, "A mobile home lot loan may be made only if the owner certifies that he will place his mobile home on the lot acquired with such loan within six months after the date of such loan." In view of the use of the term "place" in the Act, that term has been retained in the regulations.

SUMMARY OF FINAL PROVISIONS

The final regulations provide for a maximum loan for the purchase of an undeveloped mobile home lot of $5,000. The maximum term for repayment would be 10 years and 32 days. The maximum loan for the purchase of a single-wide mobile home and a developed lot is $20,000 with a maximum term of 15 years and 32 days.

The maximum dollar amount allocated for the purchase of a developed mobile home lot is $7,500; the maximum term for repayment is 10 years and 32 days.

The maximum insurable loan for the purchase of a mobile home consisting of two or more modules and a developed lot is $27,500 with a maximum term of 20 years and 32 days. Mobile homes acquired pursuant to this subpart will be required to be built in accordance with the standards required by the regulations and procedures implementing the National Mobile Home Construction and Safety Standards Act of 1974, Pub. L. 93-383, 42 U.S.C. 5401, et seq.

Mobile home lots purchased will be appraised by an agent of the Secretary and insured lending institutions will be required to determine that marketable

title is vested in the borrower or borrowers.

Insured lenders will be required to obtain a first lien on the mobile home and the mobile home lot where both are secured with proceeds of the loan. When only the acquisition of a mobile home lot is being financed by a present owner of a mobile home, with a loan to be insured under the regulations being promulgated, the first lien need only be on the lot. The first lien on the mobile home and the mobile home lot, where state law permits, may be obtained in a single instrument. Where a chattel security and a real estate mortgage are necessary to obtain the requisite first lien or security interest both instruments will be required. For purposes of these regulations, where more than one legal instrument is necessary in order to effect a first lien on a mobile home and a mobile home lot, the transaction will nevertheless be considered to be a single loan transaction for purposes of this subpart.

The maximum interest rate eligible for insurance is 10½ percent per annum.

Insurance afforded to lending institutions under the promulgated regulations is subject to co-insurance as required by Title I of the National Housing Act. The Secretary's insurance liability is limited to 90 percent of the insured lender's loss on an individual loan up to the amount in the insured lender's general insurance reserve.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 201 is amended to read as follows:

1. In Part 201, § 201.12 paragraph (b) is amended to read as follows:

§ 201.12 Insurance reserve.

* * * * *

(b) There shall be maintained for each insured a general insurance reserve which shall equal 10 percent of the aggregate amount advanced on all eligible loans originated by such insured pursuant to the provisions of the regulations in Subpart A, B,*, D * * * of this part on or after March 1, 1950, and prior to the expiration of the Secretary's authority to insure under the provisions of this Act, less the amount of all claims approved for payment by the Secretary in connection with such loans and less the amount of any adjustment made pursuant to paragraph (c) of this section.

* * * * *

2. In Part 201 a new subpart D is added to read as follows:

Subpart D—Combination and Mobile Home Lot Loans

Sec.

Authority: Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246 (12 U.S.C. 1703), as amended by Pub. L. 93-383, and Pub. L. 94-173.

Subpart D—Combination and Mobile Home Lot Loans

§ 201.1500 Incorporation by reference.

All of the provisions of Subpart B of this part concerning insurance of institutions making mobile home loans shall be applicable to insurance of institution making mobile home lot loans and combination loans pursuant to this subpart except the following provisions:

Sec.

201.501(b)(1)(j) and (1) Definitions.
201.505 Purpose of subpart.
201.525 Mobile home location standards.
201.530 Maximum loan amount.
201.535 Borrower's minimum investment.
201.540 Financing charges.
201.625 Rate of insurance.
201.560 Maturity provisions.
201.585 Refinancing.
201.595(e) Dealer investigation approval and control.
201.665 Claim application.
201.675 Insurance reserve.
201.900 Amendment and effect.

§ 201.1501 Purpose.

The provisions of this subpart contain the requirements under which an approved financial institution may obtain insurance of combination loans (mobile home and lot) and mobile home lot loans.

§ 201.1502 Definitions.

As used in the regulations in this subpart the term—

(a) "Combination loan" means a loan for the purchase of a mobile home and a mobile home lot, in a single transaction.

(b) "Mobile home lot" means a parcel or portion of land acceptable to the Secretary as a mobile home site. The mobile home lot may be unplatted, or may be in a mobile home park, a recorded or unrecorded subdivision or planned unit development, but may not be subject to a condominium agreement.

(c) "Repossession" means a lawful foreclosure, recovery or acquisition of title to property (pursuant to provisions of a security agreement or mortgage) such as to enable the insured lender to convey marketable title to a third party.

(d) "Borrower" means a natural person who applies for and receives a loan for the purchase of a mobile home and a developed or undeveloped lot, or only for a developed or undeveloped mobile home lot.

(e) "Owner" means (1) a borrower who owns a mobile home at the time of application for a loan to finance, under this subpart, the purchase of a lot upon which to place that mobile home, or (2) a borrower who is purchasing a mobile home and a lot, under the provisions of this subpart.

(f) "Developed lot" means a lot with water and utility connections, sanitary facilities, appropriate driveways, concrete parking pad, slab, or masonry foundation, provisions for anchoring, and other improvements which are necessary to make the lot acceptable to the Secretary as a mobile home site.

(g) "Undeveloped lot" means a lot with water and utility connections, sanitary facilities, ingress and egress to the property.

(h) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge, pursuant to which a payment is applied first to the accumulated finance charge, and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(i) "Manufacturer's invoice" means a document which is officially issued by the manufacturer stating the true wholesale price of a mobile home and its equipment, excluding furniture. The document shall be on a form which is in general use in the industry.

(j) "Mobile home" means a transportable structure which is twelve body feet or more in width and is forty body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Where a mobile home is composed of two or more modules or sections, each module or section shall have a minimum floor space area of at least 400 square feet.

(k) "Furniture" means movable articles of personal property such as bed, bedding, chairs, sofas, divans, lamps, tables, television, radio or stereo sets, and other similar items of personal property; but furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, dishwashers, clothes

dryers, heating or cooling equipment or other similar appliances.

LOAN REQUIREMENTS

§ 201.1503 Eligibility requirements.

Loans shall be made only for financing, in combination, the purchase of a mobile home and a developed or undeveloped mobile home lot or a developed or undeveloped mobile home lot by the owner of a mobile home which mobile home is the principal residence of that owner. Furniture may not be included in the loan, or financed with the proceeds of the loan.

§ 201.1504 Maximum loan amounts and terms.

(a) Maximum insurable loan amounts and terms shall not exceed:

(1) $17,500 for 15 years and 32 days for the purchase of a single-wide mobile home and an undeveloped lot (but not to exceed $12,500 for the mobile homes).

(2) $20,000 for 15 years and 32 days for the purchase of a single-wide mobile home and a developed lot (but not to exceed $1 ,500 for the mobile home).

(3) $25,000 for 20 years and 32 days for the purchase of a mobile home composed of two or more modules and an undeveloped lot (but not to exceed $20,000 for the mobile home).

(4) $27,500 for 20 years and 32 days for the purchase of a mobile home composed of two or more modules and a developed lot (but not to exceed $20,000 for the mobile home).

(b) Maximum permissible loan amounts and terms for the purchase of a mobile home lot shall not exceed:

(1) $5,000 for 10 years and 32 days for the purchase of an undeveloped lot on which to place a mobile home owned by the borrower.

(2) $7,500 for 10 years and 32 days for the purchase of a developed lot on which to place a mobile home owned by the borrower.

(c) A loan may not exceed the Secretary's estimate of the value of the property purchased.

§ 201.1505 Combination loans for the purchase of a mobile home and a developed or undeveloped lot.

(a) A loan to purchase a mobile home and a developed or undeveloped lot on which such mobile home is placed shall be eligible for insurance: If,

(1) The borrower acquires title to such lot, which meets the requirements of § 201.1507;

(2) The loan is secured by a first lien;

(3) The lot is determined by the Secretary to be an acceptable mobile home site;

(b) Notwithstanding that the borrower's obligation for purchase or acquisition of the lot is evidenced and secured separately from his obligation for the purchase of the mobile home, the instrument evidencing both obligations shall constitute one loan for the purposes of this part.

(c) Any portion of the cost of the home and lot and the cost of improvements to the home or lot which will not be paid from the proceeds of the loan must be paid by the borrower in cash from his or her own resources.

§ 201.1506 Loans for the purchase or acquisition of a lot.

(a) A loan to finance the purchase by the borrower of a lot on which to place a mobile home owned by the borrower shall be eligible, *Provided*, That:

(1) The borrower acquires title to such lot, which meets the requirements of § 201.1507;

(2) The loan is secured by a first lien;

(3) The cost of the purchase of the lot, which will not be paid from the proceeds of the loan, is paid by the borrower in cash from his or her own resources;

(4) The borrower certifies that he or she owns a mobile home which is the borrower's principal residence;

(5) The borrower certifies that he or she will place his or her mobile home on the lot within six months after the date the loan is made;

(b) For the purposes of this subpart, purchase of a mobile home lot includes:

(1) The refinancing of the balance owed by the borrower as purchaser under an existing real estate installment purchase contract; or

(2) The refinancing of existing mortgage loans or other liens which are secured of record on a mobile home lot owned by the borrower.

§ 201.1507 Title and lien requirements.

(a) The interest in the realty constituting a mobile home lot purchased by the borrower wholly or in part with the proceeds of a loan, shall not be less than a fee simple estate;

(b) The title to the realty shall be a marketable title such as is generally acceptable to informed buyers, title companies, and attorneys in the community in which the property is situated.

(c) It shall be the responsibility of the lender to assure that the borrower obtains or has an estate in the land constituting the mobile home lot that meets the requirements of this section and § 201.1508.

(d) The lender shall obtain from the borrower an agreement that the home will not be moved from the lot while the loan is outstanding.

§ 201.1508 Waived title objections.

Title shall not be objected to by reason of the following matters:

(a) Violation of a restriction based on race, color or creed, even where such restrictions provide for a penalty of reversion or forfeiture of title or a lien for liquidated damage;

(b)(1) Customary easements for public utilities, party walls, driveways, and other purposes;

(2) Easements for public utilities along one or more of the property lines and extending not more than 10 feet therefrom or for drainage or irrigation ditches along the rear 10 feet of the property, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property;

(c) Easements for underground conduits which are in place and which do not extend under any buildings on the subject property;

(d) Mutual easements for joint driveways constructed partly on the subject property and partly on adjoining property, provided the agreements creating such easements are of record;

(e) Encroachments on the subject property by improvements on adjoining property where such encroachments do not exceed 1 foot, provided such encroachments do not touch any buildings or interfere with the use of any improvements on the subject property;

(f) Encroachments on adjoining property by eaves and overhanging projections attached to improvements on subject property where such encroachments do not exceed 1 foot;

(g) Encroachments on adjoining property by hedges, wooden or wire fences belonging to the subject property;

(h) Encroachments on the adjoining property by driveways belonging to subject property where such encroachments do not exceed 1 foot, provided there exists a clearance of at least 8 feet between the building on the subject property and the property line affected by the encroachment;

(i) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property and do not involve a deficiency of more than 2 percent with respect to the length of any other lines;

(j) Encroachments by garages or improvements other than those which are attached to portion of the main dwelling structure over easements for public utilities, provided such encroachment does not interfere with the use of the easement or the exercise of the rights of repair and maintenance in connection therewith;

(k) Violations of cost or set-back restrictions which do not provide a penalty of reversion or forfeiture of title, or a lien for liquidated damages which may be superior to the lien or the insured mortgage. Violations of such restrictions which do provide for such penalties, provided such penalty rights have been duly released or subordinated to the lien of the insured mortgage, or provided that the borrower has been furnished with a policy of title insurance expressly insuring the borrower against loss by reason of such penalties.

(l) Customary building and use restrictions which:

(1) Are coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the borrower; or

(2) Are not coupled with a reversionary clause and have not been violated to a material extent.

(m) Outstanding oil, water or mineral rights (or damage caused by the exer-

cise of such rights) which are customarily waived by prudent lending institutions and leading attorneys in the community.

§ 201.1509 Fees and charges for origination or loan.

(a) The Secretary will charge the insured a fee of $45 for appraisal of the mobile home lot.

(b) Fees and charges incident to the origination of a loan which may be paid by the borrower shall be limited to reasonable and customary amounts for the following:

(1) Appraisal fees charged by the Secretary.

(2) Recording fees and recording taxes.

(3) Credit report.

(4) That portion of taxes, assessments, and other similar items for the current year chargeable to the borrower and his initial deposit (lump-sum payment) for a tax and insurance escrow account.

(5) Survey, if required, by the lender or borrower.

(6) Title examination and title insurance, if any.

(7) Such other items as may be authorized in advance by the Secretary as appropriate for inclusion under this paragraph.

(c) Fees and charges specfied in this section may not be included in the loan.

§ 201.1510 Borrower's minimum investment.

The borrower shall make a minimum cash down payment of at least 5 percent of the first $10,000 of purchase price of the mobile home and lot plus 10 percent of any amount in excess of $10,000. Where only a mobile home lot is being financed, the borrower shall make a minimum cash down payment of at least 10 percent of the purchase price of the mobile home lot.

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with a combination mobile home and lot loan or mobile home lot loan transaction shall not exceed:

(1) 10½ percent per annum.

(2) No points or discounts of any kind may be assessed or collected in connection with the loan transaction.

Finance charges on individual loans shall be made in accordance with tables of calculation issued by the Secretary.

(b) *Prepayment rebate.* If an obligation is paid in full prior to maturity, the insured shall rebate the full unearned charge according to the actuarial method, where such rebate is $1 or more.

§ 201.1512 Mobile home lot certification.

(a) Prior to disbursement of loan proceeds for the purchase of a mobile home lot, the insured shall obtain a certificate on a form prescribed by the Secretary, signed by the seller and borrower, establishing that:

(1) The lot meets the requirements established by the Secretary, and has been appraised by the Secretary or his designated agent.

(2) The borrower has not been paid or offered, as an inducement for consummation of the transaction, any cash payment or rebate, nor has it been represented to the borrower that he or she will receive a cash bonus payment or commission on future sales;

(b) If the loan is solely for the purchase of a mobile home lot by the present owner of a mobile home, which is the principal residence of the borrower, the borrower shall certify that he will place his mobile home on the lot acquired with such loan within six months after disbursement of the loan proceeds.

(c) If the insured has information to the contrary with regard to the statements in the certification required by paragraph (a) or (b) of this section, he shall not disburse the loan proceeds. In the absence of such contrary information, he may disburse the loan proceeds in reliance upon the statements in the certification.

INSURANCE REQUIREMENTS

§ 201.1513 Insurance reserve.

All of the provisions of § 201.12 with respect to the maintenance for each insured lender of a general insurance reserve shall apply with respect to loans reported for insurance under this subpart. The aggregate amount of loans advanced by an insured lender, for the purposes of determining its general insurance reserve, shall include loans reported for insurance under all subparts of this part.

§ 201.1514 Rate of insurance charge.

The insured shall pay to the Secretary an insurance charge equal to fifty-four one hundredths (0.54) of 1 per cent per annum of the net proceeds of any eligible loan reported and acknowledged for insurance. In computing the insurance charge, no charge shall be made for a period of 14 days or less, and a charge for a month shall be made for a period of more than 14 days.

DEFAULT UNDER MOBILE HOME OBLIGATION

§ 201.1515 [Reserved]

§ 201.1516 Default.

For the purposes of this subpart, the lender shall not consider the borrower(s) to be in default until 30 days after:

(a) The first uncorrected failure to perform any duty under the mobile home lot mortgage; or

(b) The first failure to make a monthly payment which is not covered by subsequent payments made by the borrower where such subsequent payments are applied to the overdue monthly payments in the order in which they became due.

(c) If after default and prior to completion of foreclosure or repossession proceedings the borrower shall cure the default, the lender shall reinstate the loan as if a default had not occurred, provided the borrower pays to the insured lender such expenses as the lender has incurred in connection with the foreclosure or repossession proceedings.

§ 201.1517 Notice of default.

The insured lender shall, within 60 days after the date of default as defined in this part, give written notice thereof to the Secretary on a form prescribed by him, unless such default has been cured or unless the Secretary has been notified of a previous default which remains uncured.

§ 201.1518 Acquisition of property.

At any time within one year from the date of default, or such additional period of time as may be approved by the Secretary, the lender, at its election, shall either:

(a) Commerce foreclosure or repossession; or

(b) Acquire possession of, and title to, the mortgaged property by means other than foreclosure.

§ 201.1519 Notice of foreclosure.

The insured lender shall give written notice to the Secretary on a form prescribed by him within 30 days after the institution of foreclosure or repossession proceedings and shall exercise reasonable diligence in prosecuting such proceedings to completion.

§ 201.1520 Deed in lieu of foreclosure.

(a) In lieu of instituting or completing a foreclosure or repossession, the lender may acquire property by voluntary conveyance from the mortgagor. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(1) The loan is in default at the time the deed is executed and delivered.

(2) The credit instrument is cancelled and surrendered to the mortgagor;

(3) The mortgage and security agreement are satisfied of record as a part of the consideration for such conveyance; and

(4) The deed from the borrower contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him and conveys good marketable title.

§ 201.1521 Notice of acquisition of title.

The lender shall give written notice to the Secretary, on a form prescribed by him, of acquisition of good marketable title to the property, within 15 days of such acquisition.

§ 201.1522 Disposition of property.

(a) The insured lender shall take possession of, preserve and repair the property, and shall sell the property for the best price obtainable, within six months after the date of acquisition of marketable title. Repairs shall not exceed those required by local law. No other repairs shall be made without the specific advance approval of the Secretary.

(b) The insured lender shall not enter into a contract for the preservation, repair or sale of the property with any

officer, employee, owner of ten percent or more interest in the insured lender or with any other person or organization having an identity of interest with the insured lender or with any relative of such officer, employee, owner or person.

CLAIMS

§ 201.1525 Claim application.

(a) *How to file.* Claim for reimbursement for loss on any eligible loan shall be made on a form provided by the Secretary and executed by a qualified officer of the insured lender. The claim shall be accompanied by the insured lender's complete file, including copies of appraisals made by appraisers acceptable to the Secretary, pertaining to the transaction. Where the insured is required by law to keep an original document in its possession, a copy of the original document shall be deemed acceptable.

(b) *Where to file.* Claim shall not be filed by the insured lender until after default, repossession, and resale of the mobile home and lot or mobile home lot. Where a mobile home and lot have been financed, the mobile home and lot shall be sold in a single transaction. The mobile home may not be removed from the lot without the prior approval of the Secretary. Claim shall be filed no later than 12 months and 31 days after the due date of the earliest fully unpaid installment provided for in the obligation, unless an extension is requested and approved by the Secretary.

§ 201.1526 Amount of claim.

An insured lender may be reimbursed for losses on loans made in accordance with the regulations under this part, up to the amount of its general insurance reserve. The amount of reimbursement is determined by following the computation steps prescribed in paragraph (a), (b) and (c) of this section.

(a) Deduct from the unpaid amount of the obligation (net unpaid principal and the earned portion of the financing charge, calculated according to the actuarial method), at the time of default:

(1) The actual sales price obtained after lawful repossession and resale of the mobile home and lot, or mobile home lot, or the appraised value, whichever amount is the greater. The appraised value shall be determined by an appraiser acceptable to the Secretary;

(2) All amounts received by the lender on account of the loan from any source relating to the property on account of rent or other incomes after deducting reasonable expenses incurred in handling the property;

(3) All cash retained by the lender including amounts held or deposited for the account of the borrower or to which the lender is entitled under the loan transaction that has not been applied in reduction of the borrower's indebtedness.

(b) Add to 90 percent of the amount determined under paragraph (a) of this section 90 percent of the interest at 7 percent per annum on the amount determined under paragraph (a) of this section computed from the date of default:

(1) To either the date of claim application or for a period of 12 months and 31 days following such default date, whichever period of time is lesser, or:

(2) To the date of certification of the claim for payment in a case where an otherwise eligible claim has been held without payment by the Secretary pending a determination of the eligibility for insurance of other claims or loans, or by an investigation of the insured's loan or claim activities.

(c) Add to the amount obtained under paragraph (b) of this section 90 percent of the following allowances for expenditures made by the insured:

(1) Taxes, ground rent and water rates, which are liens prior to the mortgage, prorated to the date of disposition of the property;

(2) Special assessments, which are noted on the application for insurance or which become liens after the insurance of the mortgage, prorated to the date of disposition of the property;

(3) Hazard insurance on the mortgaged property, prorated to the date of disposition of the property;

(4) Taxes imposed upon any deeds or other instruments by which said property was acquired by the mortgagee;

(5) Foreclosure costs, or costs of acquiring the property otherwise, actually paid by the insured lender and approved by the Secretary, in an amount not in excess of two-thirds of such costs or $75, whichever is the greater.

(6) Reasonable payments made by the insured lender for:

(i) Preservation and maintenance of the property;

(ii) Repairs required by local law, and such additional repairs as may be specifically approved in advance by the Secretary;

(iii) Expenses in connection with the sale of the property including a sales commission at the rate customarily paid in the community;

(iv) Appraisal fee not to exceed $45.00.

§ 201.1527 Incontestability of claim payment.

Any payment for loss made to an insured lender shall be final and incontestable after two years from the date the claim was certified for payment in the absence of fraud or misrepresentation on the part of the lender, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two year period.

EXTENSION OF TIME

§ 201.1528 Action to be taken by insured lender.

The Secretary may extend any time period respecting any action required by an insured which is prescribed by this subpart.

AMENDMENTS

§ 201.1530 Effect of amendment.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the insurance coverage of a lender under its contract of insurance on any loan previously made or in the process of being made.

NOTE.—The Department of Housing and Urban Development 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.

Effective date: This regulation shall be effective on February 28, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-2689 Filed 1-26-77;8:45 am]

SUBCHAPTER E—SUBCHAPTER H [RESERVED]

SUBCHAPTER I—HUD OWNED PROPERTIES

[Docket No. R-77-448]

PART 290—DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS

Interim Regulations

Notice is hereby given that the Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations by adding a new Subchapter I, "HUD-Owned Properties," a new Part 290, "Disposition of HUD-Owned Multifamily Projects," Subpart A, "General Provisions," Subpart B, "Formerly Subsidized Projects," and Subpart C, "Projects Not Formerly Subsidized," on an interim basis.

Subpart A would set forth general provisions. The term "disposition" is used throughout the Part to denote the sale as well as the demolition of HUD-Owned projects. The disposition of HUD-Owned multifamily projects shall be carried out, to the extent feasible to reduce the inventory of HUD-Owned projects in such a manner as to ensure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities, and to protect the financial interests of the government by obtaining a satisfactory return based on the project's present market value and anticipated future use, and to maintain through a rental subsidy, or otherwise, rents at levels low- to moderate-income families can afford if the project was intended to serve low- to moderate-income groups. Disposition must be expedited, since HUD's ownership of projects is on an interim basis, and the Department is without a mandate to hold these projects on a long term ownership basis.

Subpart B would be applicable to the disposition of formerly subsidized projects, i.e., those with tenants who received the benefit of a rental subsidy before title to the project was acquired by HUD. The term "formerly subsidized project," refers to a project with rental subsidies provided by the following HUD programs: (1) Below-market interest rate mortgages insured under section 221(d)(3) of the National Housing Act; (2) In-

terest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act; (3) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965; (4) Direct loans at below-market interest rates pursuant to section 202 of the Housing Act of 1959; (5) Direct loans at below-market interest rates pursuant to sections 401 and 404(b)(3) of the Housing Act of 1950; (6) Direct loans made under section 312 of the Housing Act of 1964; and (7) Housing assistance payments pursuant to (i) section 8 of the United States Housing Act of 1937, or (ii) section 23 of the United States Housing Act of 1937 in effect prior to January 1, 1975.

Subpart B sets forth a disposition process consisting of three decision points: the Initial Determination, the Disposition Recommendation and the Final Disposition Program. The Initial Determination would be made by the HUD field office Director promptly after HUD's acquisition of title and would constitute a preliminary decision as to whether the project could or could not be disposed of with a subsidy (Section 290.20). The Disposition Recommendation would also be prepared by the HUD field office Director and consists of a detailed physical and financial analysis of the project, a statement of the estimated price obtainable and a recommendation as to the nature of the disposition program (§ 290.30). Consideration would be given to the feasibility of:

1. Sale with a subsidy designed to maintain the project's low-to-moderate income character;

2. Sale as rental housing without a subsidy;

3. Conversion to other uses, including forms of home ownership; and

4. Partial or complete demolition.

The Disposition Recommendation is then submitted for approval and authorization to the appropriate Property Disposition Committee which would either accept the Disposition Recommendation or modify it, and then issue a Final Disposition Program for the project (§ 290.40). In some instances, the Final Disposition Program may provide for the payment of out-of-pocket moving costs by HUD (§ 290.45). In the case of disposition in connection with certain subsidy programs, the Final Disposition Program is authorized by the HUD field office Director.

At all three decision points, careful consideration would be given to the need for units of low-to-moderate-income housing and the feasibility of providing the benefits of a HUD rental subsidy program in connection with the disposition.

If at any time in the decision making process HUD would propose a disposition program which does not include a rental subsidy program, then HUD would provide a notice and comment procedure for eligible tenants (§ 290.35). This notice and comment procedure provides for: (1) notification to tenants of the Secretary's intent to adjust rents or to dispose of or demolish the project; (2) a 30-day period for written comments to be submitted to HUD; and (3) written notification to tenants of HUD's disposition decision.

The regulation also addresses itself to rental policy during the period in which HUD has title (§ 290.25). Promptly after title is taken, HUD would establish a maximum rental rate schedule for each unit in the project based upon a survey of the rents for comparable housing in the locality. Once a determination is made in any case to dispose of a project without a rental subsidy, rents payable by tenants would be adjusted to the level of the maximum rental rate schedule. These adjustments, however, would be implemented in phases, if necessary, to avoid financial hardships. No rent adjustments for eligible tenants would be implemented until a 30-day notice and comment procedure has been completed. When a determination is made to dispose of a project with a subsidy, however, rents to be charged eligible tenants (i.e., those eligible for a rental subsidy) would be established through income recertification procedures, in accordance with the applicable rental subsidy program proposed to be utilized in connection with the disposition.

Subpart B also sets forth the rules governing methods of sale, which are basically a codification of rules contained in HUD Handbook 4315.1, and currently followed by HUD. Except for stated exceptions, all sales would be by competitive offering. Negotiated sales would be permitted only where the sale is to an agency of the Federal, state or local government or where the project is converted to a cooperative or other form of conversion to homeownership.

Subpart C would be applicable to all multifamily projects other than formerly subsidized ones. There are two basic differences between Subparts B and C. First, no Initial Determination would be prepared under Subpart C. However, the procedures for the preparation of the Disposition Recommendation and authorization of the Final Disposition Program would be fully applicable to Subpart C and would be incorporated therein by reference. Second, the notice and comment procedure would not be applicable to Subpart C. The provisions on methods of sale also are fully applicable to Subpart C and would be incorporated therein by reference.

In some cases, the goal of maintaining project rents at levels affordable to the low-to-moderate-income families for whom the project was intended will require an explicit subsidy, such as Section 8 assistance. While the regulation generally contemplates that property be sold at market prices, there may be some instances in which a sale for low-to-moderate-income housing will produce a return to the insurance funds which is less than the return which would be realized by an unrestricted sale. These can be considered instances of implicit subsidies. The Department has made a decision that, in proper cases, subsidies for this purpose represent an appropriate utilization of public resources. The Department is particularly interested in public comments on its policy decision to devote resources, in the form of both programmatic and impliict insurance fund subsidies, to the preservation of HUD subsidized rental housing as a resource for the low-to-moderate-income families for whom those projects were originally intended.

In order to provide, as quickly as possible, a procedure for instituting due process and to conform HUD policy with recent judicial determinations with regard to tenant actions, and to defer further litigations arising out of alleged procedural deficiencies in this regard, the Department finds that it is impractical to provide for public comment in advance of the effective date of this Part, and good cause therefore exists for making this interim rule effective upon publication. However, interested persons are invited to submit written comments, suggestions, or data regarding the regulations to the Rules Docket Clerk, Room 10141, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should make reference to the above docket number and title. All relevant material received on or before February 28, 1977, will be considered before adoption of the final rule, which the Department intends to promulgate by May 1, 1977. A copy of each communication submitted will be available for public inspection during business hours at the above address.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A Finding of Inapplicability with respect to an Inflation Impact Statement has also been made in accordance with HUD procedures. Copies of these findings are available for public inspection at the above address.

Accordingly, the Department proposes to amend its Chapter II of Title 24 by reserving Subchapter E through Subchapter H and adding a Subchapter I, Part 290, on an interim basis, as follows:

Subpart A—General Provisions

Subpart B—Formerly Subsidized Projects

Subpart C—Projects Not Formerly Subsidized

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 290.1 Purpose and scope.

The purpose of this Part is to prescribe the basic policies which govern the disposition of HUD-owned multifamily projects by the Deparement of Housing and Urban Development.

§ 290.5 Definitions.

(a) *Disposition.* The sale of a HUD-owned multifamily project, or any portion thereof, including the demolition of structures and transfer of title to the vacant land.

(b) *Disposition recommendation.* The HUD field office Director's disposition recommendation, with supporting data and analysis, setting forth his firm disposition program for the project.

(c) *Eligible tenant.* Any tenant currently residing in a formely subsidized project who was eligible for and received the benefits of a rental subsidy prior to HUD acquiring title to the project, and is determined to be eligible for a rental subsidy upon recertification of income in accordance with the procedure under the applicable subsidy program in force prior to HUD acquiring title to the project.

(d) *Final disposition program.* The disposition program authorized by the Property Disposition Committee, or the HUD field office Director, as appropriate.

(e) *Formerly subsidized project.* A multifamily project, the tenants of which, prior to the acquisition of title by HUD, received the benefit of a rental subsidy in the form of:

(1) Below-market interest rates mortgages insured under section 221(d)(3) of the National Housing Act;

(2) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

(3) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(4) Direct loans at below-market interest rates, pursuant to section 202 of the Housing Act of 1959, sections 401 and 404(b)(3) of the Housing Act of 1950, or section 312 of the Housing Act of 1964;

(5) Housing assistance payments pursuant to section 8 of the United States Housing Act of 1937, or section 23 of the United States Housing Act of 1937 in effect prior to January 1, 1975.

(f) *HUD.* The Department of Housing and Urban Development.

(g) *HUD determination.* The Initial Determination, the disposition recommendation, or the final disposition program.

(h) *Initial determination.* The determination by the HUD field office Director, promptly after HUD's acquisition of the title to a previously subsidized project, as to whether the project should be disposed of with or without a rental subsidy program.

(i) *Multifamily project or projec's.* Any rental property, or combination of rental properties, consisting of 5 or more living units, acquired by the Secretary as the result of a default under a mortgage insured by the Secretary pursuant to the National Housing Act, or under a program involving a loan guarantee or a direct loan by the Secretary.

(j) *Property disposition committee.* The designated group of HUD officials redelegated the authority to authorize disposition programs for HUD-owned multifamily projects, pursuant to 41 FR 26946, June 30, 1976.

(k) *Rental subsidy.* A HUD rental assistance program for multifamily projects with eligible tenants who, because of insufficient income, are unable to pay the market rent for their rental unit without HUD assistance.

§ 290.10 Objectives.

The disposition of HUD-owned multifamily projects shall be carried out, to the extent feasible, in accordance with the following objectives:

(a) To reduce the inventory of HUD-owned projects in such a manner as to ensure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities, and to protect the financial interests of the Government by obtaining a satisfactory return based on the project's present market value and anticipated future use.

(b) To maintain through a rental subsidy, or otherwise, rents at levels low-to-moderate-income families can afford, if the project was intended to serve low-to-moderate-income groups.

Subpart B—Formerly Subsidized Projects

§ 290.15 Applicability.

This subpart applies to all multifamily projects where the tenants, prior to acquisition of title by HUD, received the benefit of a rental subsidy.

§ 290.20 Initial determination.

(a) *Factors considered.* Promptly after acquiring title to a multi-family project, each HUD field office Director shall make an Initial Determination as to whether it is feasible to dispose of the project with a rental subsidy program. The following factors shall be considered:

(1) Whether or not rental subsidy funds can be made available to the project after disposition of the project.

(2) The eligibility for HUD rental subsidy of each eligible tenant in occupancy at acquisition, based upon income recertification.

(3) The availability of comparable (subsidized or unsubsidized) housing or housing assistance programs in the general area.

(4) The feasibility of making available to the eligible tenants comparable (subsidized or unsubsidized) housing or obtaining housing assistance for them.

(5) The availability of rental counseling.

(b) *Initial determination—disposition with subsidy.* An Initial Determination that a project will be sold under a rental subsidy program will be made whenever the following two conditions are both satisfied:

(1) A determination is made that a rental subsidy program is available and can be utilized after the sale of the project; and

(2) A determination is made that tenants would be adversely affected by a sale without a rental subsidy program because other comparable housing units or other comparable housing assistance is not available.

(c) *Initial determination—disposition without subsidy.* An Initial Determination that a project will be sold without a rental subsidy program shall be made when:

(1) A determination is made that a rental subsidy program cannot be utilized in the disposition of the project; or

(2) Comparable housing units or comparable housing assistance is available which will allow disposition without a rental subsidy, without adversely affecting eligible tenants. Promptly after issuance of an Initial Determination providing for the disposition of the project without a rental subsidy, HUD shall implement the notice and comment procedure prescribed by § 290.35. Whenever it is proposed that rental schedules be adjusted in accordance with the standards prescribed in § 290.25(a), the notice served under § 290.35 shall also include adequate information on the proposed adjustment in rents and shall specifically elicit comment on this.

§ 290.25 Rental rates.

(a) *Establishment of maximum rental rate schedule.* Following acquisition of a project, HUD will establish a maximum rental rate schedule for each unit in the project, comparable to the rates charged for comparable rental housing accommodations in the area, uniform to the extent feasible, based on unit size, location, services, amenities provided, and conducive to attracting high occupancy. This maximum rental rate schedule shall be reviewed and updated periodically, to assure current comparability. The rules set forth in paragraph (b) will govern the extent to which individual tenants will be charged rents in accordance with the maximum rental rate schedule or a lesser rent. Whenever rent increases are to be accomplished in accordance with this section, adjustments will be made in phases if necessary to avoid any substantial financial impact on the tenants or to prevent a substantial number of tenants from terminating their leases.

(b) *Rents payable by tenants*—(1) *Non-eligible tenants.* All tenants who are not eligible tenants, as defined in § 290.5 (c), including all tenants who obtain occupancy after HUD acquires title, shall pay rent in accordance with the standards prescribed in paragraph (a) of this section.

(2) *Eligible tenants.* (i) Prior to the issuance of the Initial Determination, eligible tenants in occupancy at the time HUD acquires title shall pay the same rents which were payable under the Lease in effect prior to HUD acquiring title.

(ii) If the Initial Determination provides for the sale of the project with a rental subsidy program, rental rates for eligible tenants shall be established in accordance with the income recertification procedures applicable to the subsidy program proposed to be utilized in the sale.

(iii) If the Initial Determination provides for sale without a rental subsidy program, rents for eligible tenants will be adjusted in accordance with the standards prescribed in paragraph (a) of this section: *Provided,* That no increase in rents shall be put into effect until the notice and comment procedure has been implemented pursuant to §§ 290.20(c) and 290.35.

(iv) Whenever an Initial Determination providing for a sale with a subsidy is later modified by a Disposition Recommendation or a Final Disposition Program which provides for a sale without a subsidy, the HUD field office Director may adjust rents in accordance with the standards prescribed in paragraph (a): *Provided,* That no adjustment in rents shall be put into effect until the notice and comment procedure under § 290.35 has been completed.

§ 290.30 Preparation of disposition recommendation.

After the Initial Determination is made pursuant to § 290.20, the HUD field office Director shall prepare a Disposition Recommendation for presentation to the Property Disposition Committee for approval and authorization. This Disposition Recommendation shall consist of analyses as well as a recommendation for the disposition of the project as follows:

(a) *Physical and financial analysis.* A physical and financial analysis shall be made of the property, including an estimate of the price obtainable if the property were sold on the current market with no restrictions on use. In arriving at this price, generally accepted methods of appraising real property shall be used. The analysis shall consider, but need not be limited to, the following factors:

(1) The design, utility and facilities of the project;

(2) The location and accessibility of public transportation, schools, shopping, medical facilities, and other necessary public and private facilities;

(3) The need for rehabilitation or repairs, due to deferred maintenance or curable obsolescence, and estimated costs of such work;

(4) Local housing market conditions;

(5) Local economic conditions;

(6) Real estate tax assessments on the property;

(7) Availability of public or private financing;

(8) The history of the project and the factors which contributed substantially to the default;

(9) The impact of the disposition upon the racial composition of the neighborhood in which the project is located, as well as the neighborhoods to which the tenants may be relocated;

(10) The cost of paying out-of-pocket moving costs to eligible tenants, if the Property Disposition Committee should so authorize;

(11) Compliance with HUD requirements implementing the National Environmental Policy Act of 1969, as amended; and

(12) Compliance with the National Historic Preservation Act (Pub. L. 89-665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800, and such other statutes as may be enacted which impact upon the disposition of a multi-family project.

(b) *Conversion to homeownership.* The Disposition Recommendation shall give appropriate consideration to the feasibility of conversion of a multifamily project to a condominium, and subsequent sale of the individual units; sale to a cooperative; and conversion and sales as individual dwellings. Whenever the HUD field office Director determines that one of these homeownership programs will produce a greater price than that estimated from a sale as rental property, such a program may be given favorable consideration. In the case of a multifamily project intended to be occupied by low-to-moderate-income families, favorable consideration also may be given to any of the ownership programs which will produce a disposition price which is at least equal to that estimated from a sale as rental property, and in which homeownership would assist in preserving and maintaining residential areas and communities, and could be accomplished within a time frame similar to that found in a sale as rental housing. The Disposition Recommendation also shall evaluate the insurance risk to HUD of the various financing programs pursuant to paragraph (e)(1) of this section, and the additional holding costs to HUD, if any, of such a disposition program.

(c) *Appropriateness for Use as Low-to-moderate-income housing.* The Disposition Recommendation shall also consider, but need not be limited to, the following factors:

(1) The availability of comparable (subsidized or unsubsidized) housing in the area and the feasibility of making such housing available to eligible tenants;

(2) The need in the area for units of low-or-moderate-income housing of the type contained in the project;

(3) The comments of the eligible tenants;

(4) The feasibility of providing the benefits of a HUD rental subsidy program to the project, in consideration of the following:

(i) Satisfaction of the eligibility requirements governing the currently available HUD rental subsidy program(s) for property disposition;

(ii) Expressions of interest by a public housing agency or other government entity, and the probability that an acceptable proposal will be submitted;

(iii) Availability to the HUD field office of contract authority and budget authority for a rental subsidy program;

(iv) The feasibility of obtaining the benefit of a rental subsidy under a state or local housing program;

(v) The extent, if any, to which a disposition plan providing for a rental subsidy program will affect the disposition price;

(vi) If the disposition recommendation involves the insurance of a mortgage or the taking back of a purchase money mortgage by HUD, the extent, if any, that such disposition plan will increase the risk to be assumed by the mortgage insurance funds beyond that which would be assumed under a disposition plan not involving a rental subsidy program. For all projects, whether or not they were previously insured by HUD, sale with HUD insurance will require that the project meet HUD's current underwriting criteria.

(d) *Demolition.* Whenever the analysis under paragraph (a) of this section (1) indicates that the project's monthly operating expenses exceed monthly income, (2) the project has little or no occupancy, (3) is functionally or economically obsolescent, (4) presents a danger to the safety of the neighborhood and its residents, (5) or is contributing to a general deterioration of the neighborhood, consideration may be given to a plan to demolish the project after acquisition of title by HUD. In arriving at a determination as to whether demolition will be recommended, careful consideration shall be given to all the factors enumerated in paragraphs (a), (b), and (c) of this section. In addition, consideration shall be given to the following:

(i) The economic feasibility of rehabilitation and sale.

(ii) Probable short and long term impacts of the demolition on the neighborhood. both in terms of physical structures and the residents of the neighborhood.

(iii) The extent to which the current and projected use of the land is consistent with local, state, and regional land use planning.

(iv) Availability of comparable (subsidized or unsubsidized) alternative housing for the residents and payments of out-of-pocket moving costs, if such payments are authorized by the Property Disposition Committee.

(e) *Methods of financing.* (1) HUD shall, in its discretion and in accordance with the objectives of the disposition policy under § 290.10, select one of the following methods of financing:

(i) All cash.

(ii) Sale with purchase money mortgage taken back by HUD.

(iii) Sale subject to a mortgage insured by HUD.

(2) Sales in accordance with paragraphs (e)(1)(ii) and (iii) of this section may contain a requirement that the purchaser rehabilitate the project. Where the sale is subject to a mortgage insured by HUD, the mortgage may include provisions for insured advances for major

rehabilitation. All sales subject to paragraphs (e)(1)(ii) and (iii) of this section shall require that the purchaser execute a HUD Regulatory Agreement, which provides for certain contractual management controls between the purchaser and HUD during the life of the mortgage.

§ 290.35 Notice to eligible tenants.

(a) *General.* If the Initial Determination pursuant to § 290.20, the Disposition Recommendation pursuant to § 290.30, or the Final Disposition Program pursuant to § 290.40, proposes a disposition program which does not include a rental subsidy program, or which includes a rental subsidy program which is not comparable to the one in effect prior to HUD's acquisition of the title to the project, HUD shall promptly carry out the notice and comment procedure set forth in this section. Once this procedure is completed however, there is no requirement that it be repeated at a later stage of the disposition process.

(b) *Notification.* A notice shall be delivered directly or by mail to each eligible tenant, and shall be posted in a conspicuous place adjacent to the project office, within 5 days after the date of the HUD Determination. The notice shall summarize very briefly the nature of the HUD Determination, the eligibility requirements for the payment of moving costs by HUD (only if applicable and authorized), the names, addresses and telephone numbers of HUD-approved counseling agencies; and that: (1) Comments are invited for a 30-day period from the date of the issuance of the notice;

(2) The HUD Determination, including supporting material, shall be available for inspection and copying at the HUD field office and at the project office;

(3) The HUD Determination shall be reviewed with respect to the comments received, and revised if necessary before subsequent HUD action is taken;

(c) *Inspection and copying.* During the 30-day period following the issuance of the notice required pursuant to paragraph (a) of this section, a copy of the HUD Determination shall be available to eligible tenants for inspection and copying at the HUD field office with jurisdiction over the project, and at the project office. Reasonable requests from eligible tenants for a waiver of the fees charged for copying under the provisions of 24 CFR 15.14 will be honored.

(d) *Waivers.* In the case of any proposed demolition, the provisions of paragraphs (a) and (b) of this section, governing notice and comments, may be waived in whole or in part upon a determination by HUD that continued occupancy for all or a portion of the time required by the notice and comment procedure presents a substantial risk to the health or safety of the residents or other persons or property.

(e) *Consideration.* All comments received shall be carefully reviewed and due consideration given in connection with all future HUD actions in connection with the disposition of the project.

§ 290.40 Final disposition program.

(a) The Property Disposition Committee shall authorize a Final Disposition Program, which shall include the Disposition Recommendation together with such supplementary material as may be necessary, after due consideration is given to the HUD field office Director's Disposition Recommendation and any comments received pursuant to section 290.35. The Property Disposition Committee may modify any recommendation from a HUD field office Director or return it to the HUD field office Director for review, updating, and/or revision, as may be necessary.

(b) Subsidized Disposition. Disposition of projects under a rental subsidy program shall be in accordance with HUD regulations issued pursuant thereto. For those subsidized disposition programs which do not require Property Disposition Committee approval, the HUD field office Director shall authorize the disposition, pursuant to to 41 FR 13652, March 31, 1976, or 41 FR 16604, April 20, 1976.

(c) When the Property Disposition Committee authorizes a disposition without a rental subsidy, where disposition with a rental subsidy was recommended by the HUD field office Director, or demolition where demolition was not recommended, the procedures set forth in § 290.35 shall be immediately implemented.

(d) Copies of the Final Disposition Program shall be available for eligible tenants at the HUD field office with jurisdiction over the project and at the project office. However, where the project will be advertised with no stated minimum price, all references in the Final Disposition Program to the unstated minimum price shall be deleted. Reasonable requests for a waiver of the fees charged for copying under 24 CFR 15.14 shall be honored.

§ 290.45 Payment of moving costs.

(a) *Eligibility.* The Final Disposition Program may include a determination to pay out-of-pocket moving costs to eligible tenants, in the amount prescribed in paragraph (b) of this section:

(1) Where the proposed disposition would adversely affect eligible tenants, and

(2) Where such payments would expedite the disposition, and

(3) Where the payment of such moving costs is considered sound business judgment.

(b) *Amount of payment.* Tennants eligible under paragraph (a) of this section shall be paid an amount by HUD which may not exceed the average out-of-pocket moving costs per family or individual determined by the HUD field office from a survey of the local market.

§ 290.50 Method of sale.

(a) *Competitive offering.* Except as provided in paragraph (b) and (c) of this section, the disposition of HUD-owner multifamily projects shall be by competitive offering.

(1) Interested bidders shall be invited to submit sealed bids in accordance with bidding instructions issued by HUD. Offerings shall be publicized by advertisement and distribution of a prospectus.

(2) Bids must be posted, or delivered by other means, so as to be received by the addressee not later than the return date specified in the advertisement. The bidding instructions shall govern the submission of mailed bids, late bids and modifications or withdrawal of bids. Bids shall be opened publicly.

(3) The contract shall be awarded to the highest responsive, responsible bidder; *Provided*, That HUD reserves the right, in its discretion, to reject all bids. No bids shall be considered which does not meet the terms established by HUD. In determining whether a bidder is responsible, HUD shall evaluate the bidder's experience, and financial ability requisite to reasonable assurance of satisfactory performance. In the case of sales other than cash sales, a bidder must be approved under the Previous Participation Review and Clearance procedures in 24 CFR 200.210 et seq. in order to qualify as responsible. The Previous Participation Review and Clearance procedures shall not be applicable to cash sales.

(b) *Negotiated disposition.* Disposition by negotiation with one or more selected purchasers, without resorting to competitive bidding, is permitted only in the following cases:

(1) Disposition to an agency of the Federal, state or local government.

(2) Sales to a nonprofit cooperative organization pursuant to a recommendation under § 290.30.

(3) Sales of individual condominium units and of individual homes pursuant to a program of conversion under § 290.30(b).

(4) Where disposition programs are pursuant to paragraphs (b)(2) and (3) of this section, the contracts for the legal and organizational work necessary for the conversion of the project to the new form of ownership, and the marketing costs of individual units or shares, shall be awarded by competitive bidding.

(c) *Nursing homes and hospitals receiving Public Health Service Act grants.* Whenever HUD acquires a nursing home or hospital which has received a grant under Title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the sale shall be limited to public or nonprofit entities which agree to operate the property as a health facility in accordance with the Public Health Service Act and the regulations adopted thereunder. If an acceptable bid is not received, requests shall then generally be made by HUD to the Secretary of Health, Education and Welfare to waive this condition pursuant to 42 U.S.C. 291i and 42 CFR 53.135. If this waiver is issued, the property may then be offered a second time without the condition set forth in the first sentence of paragraph (c) of this section.

Subpart C—Projects Not Formerly Subsidized

§ 290.55 Applicability.

This subpart applies to all multifamily projects not formerly subsidized.

§ 290.60 Incorporation by reference.

The provisions of §§ 290.1, 290.5, 290.10, 290.25(a) and (b)(1), 290.30, 290.40(a), and § 290.50 apply with full force and effect to multifamily projects described in section 290.55 and are hereby incorporated by reference.

Issued at Washington, D.C., January 19, 1977.

NOTE.—It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with OMB Circular A-107.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-2690 Filed 1-26-77;8:45 am]

Title 25—Indians

CHAPTER IV—NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

PART 700—COMMISSION OPERATIONS AND RELOCATION PROCEDURES

Internal Operations; Correction

On November 12, 1976 in 41 FR 49982, FR Doc. 76-33269 filed 11-11-76 § 700.14 is hereby corrected as follows: "delete the word Monday and substitute the word Thursday."

Issued January 20, 1977.

HAWLEY ATKINSON,
Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc.77-2660 Filed 1-26-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 682-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart C—Office of the Deputy Attorney General

AGENCY: Department of Justice
ACTION: Final rule
SUMMARY: Under 22 U.S.C. 263(a), the Attorney General is authorized to accept and maintain membership in the International Criminal Organization (INTERPOL), on behalf of the United States, and to designate those departments and agencies which may participate in the United States' representation with INTERPOL.

The purpose of this rule is to assign the responsibility for the establishment and implementation of policy related to INTERPOL within the Department of Justice to the Office of the Deputy Attorney General. Additionally, the Departments of Justice and Treasury have reached an understanding providing for alternating representation and joint participation in INTERPOL.

EFFECTIVE DATE: January 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Office of Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-739-5361).

By virtue of the authority vested in me by 5 U.S.C. 301, 22 U.S.C. 263(a), and 28 U.S.C. 509 and 510, Section 0.15 of Subpart C of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by renumbering pararaph (b)(8) of § 0.15 to be paragraph (b)(9) and by adding a new paragraph (b)(8) to read as follows:

§ 0.15 Deputy Attorney General.

* * * * *

(b) * * *

(8) Establish and direct the implementation of policy related to the participation of the United States in the International Criminal Police Organization (22 U.S.C. 263(a)).

Dated: January 18, 1977.

EDWARD H. LEVI,
Attorney General.

[FR Doc.77-2601 Filed 1-26-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

Miscellaneous Amendments

This change to the General Services Administration Procurement Regulations (GSPR) provides guidelines for assisting minority business enterprises in achieving increased participation in Government procurements; updates procedures applicable to the procurement of prison-made products and products of the blind and other severely handicapped; prescribes new contract clauses; revises procedures applicable to the review of procurements not set aside for small business; imposes restrictions on waiving requirements to furnish bid samples; revises forms and exhibits; and makes miscellaneous minor editorial changes.

PART 5A-1—GENERAL

The table of contents for Part 5A-1 is amended to add the following new entries:

Subpart 5A-1.13—Minority Business Enterprises

Sec.	
5A-1.1310	Subcontracting with minority business enterprises.
5A-1.1310-50	Minority Business Subcontracting Program.
5A-1.1310-51	Marketing, management, and technical assistance.

Subpart 5A-1.7—Small Business Concerns

Section 5A-1.706-50(f) is revised as follows:

§ 5A-1.706-50 Documentation and review of procurements not set aside for small business.

* * * * *

(f) Preparation of GSA Form 2689 is not repetitively required for procurements which clearly have no potential to be set aside for small business concerns, provided the procuring director, the local regional Director, Business Service Center (for Central Office procurement divisions and national commodity centers in Washington, DC, only, the Director, Socio-Economic Policy Division in lieu of the Director, Business Service Center), and the SBA procurement center representative agree that periodic reviews of such procurement actions will satisfy the requirements of §§ 1-1.705, 1-1.706, and 5A-1.706. For example, procurements of FSC 2310, Passenger motor vehicles—ambulances, sedans, station wagons, buses, limosines, hearses, ambulances (truck mounted), and FSC 2320. Trucks and truck-tractors (except armored cars and mobile health, dental, and X-ray clinic trucks) could logically be processed under such arrangements.

Subpart 5A-1.13—Minority Business Enterprises

New Subpart 5A-1.13 is added as follows:

§ 5A-1.1310 Subcontracting with minority business enterprises.

§ 5A-1.1310-50 Minority Business Subcontracting Program.

(a) Contracting officers shall send a letter as shown in (c), below, to all contractors awarded contracts valued at $500,000 or more. A copy of each letter shall be furnished to the Socio-Economic Policy Division (FCH). Contracting officers shall forward to FCH copies of related correspondence and reports received from the contractor.

(b) Any visits to contractor facilities for purposes of this subcontracting program must be cleared in advance with the contracting division.

(c) Letter format.

GENTLEMEN: You were awarded contract No. ---------- for ----------. This letter is to emphasize and call to your attention your obligation to utilize minority-owned businesses in your subcontracting program as provided by the terms of this contract.

The clause of your contract titled "Minority Business Enterprises Subcontracting Program," included in GSA Form 1790, Subcontracting Programs, requires you to "establish and conduct a program which will enable minority business enterprises * * * to be considered fairly as subcontractors and suppliers under this program." Basically, this involves designating one of your officials to ensure that minority firms are identified and encouraged to compete for your subcontracts. You are required to maintain certain records and submit reports prescribed by the contracting officer concerning your minority subcontracting program. For your convenience we are enclosing a copy of GSA Form 1790, Subcontracting Programs.

We may, at some later date, contact you to arrange a visit to discuss the program. In the meantime, if you have any questions

concerning the program you may contact the Socio-Economic Policy Division (FCH), GSA, Washington, DC 20406.

Sincerely,

Contracting Officer.

Enclosure—GSA Form 1790.

(End of Sample Letter Format)

§ 5A–1.1310–51 Marketing, management, and technical assistance.

Contracting officers becoming aware of minority business enterprises in need of marketing, management, or technical assistance shall refer such concerns to the appropriate Business Service Center for assistance. When appropriate, the Business Service Center will coordinate the matter with the Socio-Economic Policy Division (FCH).

PART 5A–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A–2.2—Solicitation of Bids

1. Section 5A–2.201–70(e)(2) is revised as follows:

§ 5A–2.201–70 Forms to be used.

* * * * *

(e) * * *

(2) GSA Form 1246, GSA Supplemental Provisions (AID Procurement), Aug. 1976, shall be incorporated by reference in each solicitation for offers under the AID buying program by using the following provision:

GSA Form 1246, GSA Supplemental Provisions (AID Procurement), Aug. 1976, receipt of which is acknowledged by the bidder, is hereby incorporated by reference. A copy of GSA Form 1246, if not enclosed, is available upon request.

* * * * *

2. Section 5A–2.202–4 is amended to add paragraph (k) as follows:

§ 5A–2.202–4 Bid samples.

* * * * *

(k) If the Federal specification and/or item purchase description card has changed from the previous bid solicitation, waiver of bid samples is not authorized without the written approval of the Assistant Commissioner for Standards and Quality Control (FM).

Subpart 5A–2.4—Opening of Bids and Award of Contract

1. Section 5A–2.402(1) is revised as follows:

§ 5A–2.402 Opening of bids.

* * * * *

(1) When bids are received in more than one copy, the bid opening official shall verify the entries on all copies. If there is a discrepancy between the copies of a bid, the contracting officer shall direct the bidder's attention to the suspected mistake and shall follow the procedures set forth in FPR §§ 1–2.406 and 5A–2.406 concerning mistakes in bids.

* * * * *

2. Section 5A–2.407–84 is amended as follows:

§ 5A–2.407–84 Notification of proposed substantial awards and awards involving Congressional interest.

(a) *Applicability.* This section applies to notification of proposed awards resulting from either advertised or negotiated solicitations including modifications and renewals (1) when the dollar value exceeds or is estimated to exceed $250,000, except as shown in (b), below, and (2) when there is Congressional interest regardless of dollar value.

* * * * * *

(b) Notification of proposed awards exceeding or estimated to exceed $250,000 is not required for products whose points of origin are not readily identifiable or which involve foreign production points.

* * * * * *

(f) * * *

(1) Regional and Central Office procurement activities shall transmit notifications as determined by the Director (or his equivalent) of the Central Office or regional procurement activity directly to the Director of Congressional Affairs (AK), by telephone (566–1250) followed by a completed GSA Form 2932 annotated confirming notification.

* * * * * *

PART 5A–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

The table of contents for Part 5A–5 is revised as follows:

Subpart 5A–5.4—Procurement of Prison-Made Products

A new Subpart 5A–5.4 is added as follows:

§ 5A–5.406 Procurement procedures.

§ 5A–5.406–50 Use of forms.

GSA stock item purchases from the Federal Prison Industries shall be recorded on GSA Form 1584, Contract Summary, in accordance with § 5A–5.6001.

§ 5A–5.408 Clearances.

§ 5A–5.408–50 Federal Prison Industries clearance numbers.

Clearance numbers issued by the Federal Prison Industries shall be cited in the solicitation for offers and all subsequent award documents.

Subpart 5A–5.8—Procurement of Products of the Blind and Other Severely Handicapped

Subpart 5A–5.8 is revised as follows:

§ 5A–5.805 Procurement procedures.

(a) When the Committee for Purchase from the Blind and Other Severely Handicapped (hereafter referred to as the Committee) undertakes evaluation of an item, the item is included on a Proposed List. This list is forwarded to the Socio-Economic Policy Division (FCH) with a request for pertinent information, including procurement history, anticipated requirements, and the following details from the current production plan; (1) Date solicitation is to be released for printing; (2) solicitation issuance date; (3) bid opening date; and (4) contract award date. The appropriate procuring activity will in turn be contacted by FCH, and shall furnish the requested information within 15 working days. The response to FCH shall include identification, by NSN, of any items which are currently set aside for small business.

(b) FCH and the procuring activity must closely coordinate the procurement of all items for which addition to the Procurement List is anticipated. Under certain circumstances the Committee may request that procurement actions be canceled or delayed. FCH shall coordinate through FP all such requests prior to action by the procuring activity. To keep these requests to a minimum, the contracting officer shall, prior to issuance of a solicitation, request from FCH the status of any item in which he is aware that the Committee has indicated interest.

§ 5A–5.805–2 Allocations and orders.

In addition to the requirements set forth in § 1–5.805–2, requests for alloca-

tions and orders shall indicate the packaging, packing, or marking required if they are other than the standard required by the specification cited or otherwise provided in the Procurement List. Pricing of these non-standard requirements is covered in § 1–5.805–10(e).

§ 5A–5.805–3 Purchase exceptions.

Purchases from commercial sources pursuant to § 1–5.805–3 shall cite the purchase exception number issued by the central nonprofit agency (CNA) in the solicitation for offers and all subsequent award documents.

§ 5A–5.805–50 Administration of delinquent delivery orders.

(a) Delinquent orders require prompt and vigorous action on a continuing basis until the problems are resolved. Administration shall be in accordance with § 1–5.805–6 and the Procurement List issued by the Committee for Purchase from the Blind and Other Severely Handicapped (see 41 CFR 51–5.1–2(1) and 51–5.7).

(1) Efforts to negotiate an adjustment to the delivery schedule shall not include a request for price adjustment.

(2) Records of delinquencies, regardless of whether the delivery schedule was adjusted, shall be maintained in the procurement file.

(b) In delinquency situations where the requirements will not permit further delay and the items are available from commercial sources and may be obtained in significantly less time than from the workshop, the contracting officer will request that the central nonprofit agency issue a purchase exception for the required quantities. In the event that problems arise in negotiations, including a delay or refusal to grant a clearly justified purchase exception, the contracting officer shall request the assistance of the Socio-Economic Policy Division (FCH) in resolving the problem. FCH, if unable to effect an immediate solution with the central nonprofit agency, shall refer the matter to the Committee. If the Committee fails to provide a prompt solution, particularly where backorders or other exigency requirements exist, the appropriate procuring director shall refer the problem to the Assistant Commissioner for Procurement or to the cognizant national commodity center director, as applicable.

§ 5A–5.805–51 Use of forms.

GSA stock item purchases from the central nonprofit agencies (CNA) (blind and other severely handicapped), shall be recorded on GSA Form 1584, Contract Summary, in accordance with § 5A–5.6001.

Subpart 5A–5.50—Government Sources of Supply

Subpart 5A–5.50 is revised to read as follows:

§ 5A–5.5000 Scope of subpart.

This subpart sets forth policies and procedures regarding the use of certain government sources of supply, including the Government Printing Office, Defense Supply Agency, District of Columbia Government—Department of Corrections, and District of Columbia Government term contracts.

§ 5A–5.5001 GSA sources.

Items covered by the GSA Stock Catalog, Federal Supply Schedule contracts, and GSA consolidated procurement programs shall be acquired in accordance with instructions contained in the Federal Property Management Regulations Subchapter E—Supply and Procurement, §§ 101–26.3, 101–26.4, and 101–26.5.

§ 5A–5.5002 Government Printing Office.

Procurement of items for use within the District of Columbia which are listed in the GPO Catalog and Price List shall be from GPO. Procurement of these items from commercial sources is prohibited unless a waiver is granted by the Public Printer through Printing and Publications Division, Region 3, authorizing such purchases. When so authorized, the GPO waiver number shall be shown in the contract and/or purchase order. Acquisition from GPO of such items for use outside the District of Columbia is not mandatory. See FPMR 101–26.703 regarding marginally punched continuous forms.

§ 5A–5.5005 Department of Defense contracts.

The Defense Supply Agency, Defense Fuel Supply Center, Cameron Station, Alexandria, Virginia 22314, and the Defense General Supply Center, Richmond, Virginia 23219 prepare annual contracts for lubricating oils, greases, gear lubricants, packaged petroleum products, gasoline, fuel oil (diesel and burner), kerosene, solvents, and coal. Electronic items are available from the Defense Electronic Supply Center, Dayton, Ohio 45401.

§ 5A–5.5005–1 Lubricating oils, greases, and gear lubricants.

See FPMR 101–26.602–1.

§ 5A–5.5005–2 Packaged petroleum products.

See FPMR 101–26.602–2.

§ 5A–5.5005–3 Gasoline, fuel oil (diesel and burner), kerosene, and solvents.

See FPMR 101–26.602–3.

§ 5A–5.5005–4 Coal.

See FPMR 101–26.602–4.

§ 5A–5005–5 Electronic items.

See FPMR 101–26.603.

§ 5A–5.5006 District of Columbia Government—Department of Corrections.

The Commissioners of the District of Columbia are authorized to sell industrial products and services to Federal agencies. A listing of their commercial products and services is available from:

District of Columbia, Department of Corrections, Industries Division, Lorton, Virginia 22079.

Except as otherwise provided in paragraphs (a) and (b) of this § 5A–5.5006, these supplies and services may be procured on an optional basis.

(a) Laundry services for Federal agencies in the Washington, DC metropolitan area should be obtained from the Department of Corrections except when that department issues clearance for procurement from another source.

(b) Official U.S. Government tags for use on motor vehicles shall be acquired in accordance with FPMR 101–38.3.

§ 5A–5.5007 District of Columbia Government term contracts.

The District of Columbia places term contracts for sand, gravel, premixed concrete, Portland cement, slag and slag screenings, and road salt which may be used on an optional basis in the Washington, DC area. Details of these contracts may be obtained from the Purchasing Officer, DC Government, 613 G St. NW, Room 1002, Washington, DC 20001, or telephone 629–4811.

Subpart 5A–5.60—Procurement Procedures and Forms

New Subpart 5A–5.60 is added as follows:

§ 5A–5.6001 Use of GSA Form 1584, Contract Summary.

Contractual arrangements with (1) Federal Prison Industries (FPI), and (2) central nonprofit agencies (CNA) operating under the auspices of the Committee for Purchase from the Blind and Other Severely Handicapped shall be summarized on GSA Form 1584. The form shall be prepared in accordance with § 5A–16.950–1584–1 and the applicable instructions in this Subpart 5A–5.60.

(a) A separate GSA Form 1584 shall be prepared for each addressee (block 5).

(1) For CNA items, the appropriate CNA alpha code shall be inserted following the addressee (block 5).

(2) Currently applicable alpha codes are:

IB—National Industries for the Blind.
SH—National Industries for the Severely Handicapped, Inc.

(b) Each GSA Form 1584 shall be assigned a separate contract number in accordance with § 5A–1.352.

(c) At a minimum, blocks 1, 2, 4, 5, 6, 9, 10, 11, and 15 through 18 of GSA Form 1584 shall be completed. Blocks which are not applicable shall be annotated "N/A". Necessary information not available from the FPI Schedule or the CNA Procurement List shall be obtained by letter or telephone.

(1) When shipment FOB origin is specified, the shipping container weight shall be shown in block 17(h).

(2) For CNA items:

(i) Block 17(b)—include statement that copy of each purchase order is to be furnished to the appropriate CNA (see alpha code in block 5).

(ii) Block 17(c)—enter "ADO" instead of the price.

(d) If not otherwise provided, copies of GSA Form 1584 forwarded to the Quality Control Division shall include or

be accompanied by adequate information regarding specifications, including packing and marking requirements, to enable that activity to perform inspection of the supplies.

(e) Each GSA Form 1584 issued for the procurement of stock items from FPI or CNA may be renewed for two successive periods provided no significant change has occurred. After two renewals, a new GSA Form 1584 shall be issued and a new contract number assigned. Renewal information shall be forwarded to 10FPN 20 calendar days prior to expiration of the currently effective period.

(f) When items are designated by a CNA as "allocated", GSA Form 1584 shall be prepared showing the CNA address in block 5 to enable the ADO system to provide a printed request that the inventory manager obtain an allocation number and workshop address from the CNA. At a minimum, entries are required in blocks 2, 4, 5, 16, 17(a) and 17(b). Block 17(b) shall include the caption allocated item(s). Each purchase order issued for allocated items shall include one of the following:

(1) Applicable specification.

(2) Applicable item purchase description and date.

(3) Reference to (1) or (2) when appropriate.

(g) Distribution of GSA Form 1584 shall be in accordance with § 5A–76.201 (b) or (c), with an additional copy to FPI or CNA as applicable.

PART 5A–7—CONTRACT CLAUSES

Subpart 5A–7.1—Fixed Price Supply Contracts

1. Section 5A–7.102–4 is amended as follows:

§ 5A–7.102–4 Variation in quantity.

* * * * *

(b) The Variation in Quantity clause set forth above is included in GSA Form 1424, GSA Supplemental Provisions, solely for the purpose of administrative convenience in avoiding the need to amend contracts or purchase orders when an overshipment or an undershipment within prescribed limits is determined to be acceptable. This standard clause is in no way intended to establish a general policy with respect to the extent to which FSS or the agencies it serves will accept variations in quantity. If experience indicates that a different variation percentage should be used in a particular procurement or class of procurements, due to the particular industry practices involved, the contracting officer may determine that a variation percentage, other than the 3 percent normally called for in the Variation in Quantity clause, shall be used. In this regard, based on Central Office studies, it has been determined that (i) a 5 percent variation shall be specified when procuring printing stationery paper, (ii) a 10 percent variation shall be specified when procuring aluminum foil items, (iii) a full pallet quantity be specified when the solicitation requires palletization, and (iv) a 10 percent variation shall be specified when purchasing special paint when the purchase is for 500 gallons or less, particularly if it is of an unusual type or color or a specialty item (e.g., gray or olive drab baking enamel for metal equipment).

(c) When other than a 3 percent variation is to be specified, the following clause shall be used:

VARIATION IN QUANTITY (ENTER ITEM DESCRIPTION)

Article 4, Variation in Quantity, of GSA Form 1424, GSA Supplemental Provisions, is hereby deleted in its entirety and the following substituted: A variation in quantity when caused by the conditions specified in Article 4 of Standard Form 32 will be accepted: *Provided*, That (1) such variation is not in excess of (Percent[1]) of the quantity ordered, or (2) the variation results in a full-pallet quantity. If ½ or less, ship to the next low pallet quantity. If over ½, ship to the next higher pallet quantity.

* * * * *

2. Section 5A–7.103–56 is revised as follows:

§ 5A–7.103–56 Minimum order limitation.

(a) When bidders are reluctant to accept small orders and will increase prices to cover additional costs for handling the orders, the following provisions shall be included in solicitations for requirements contracts for stock items.

MINIMUM ORDER LIMITATION

(a) No ordering office will be obligated to order and no Contractor will be obligated to make any delivery amounting to less than (Percent[1]), but such deliveries may be ordered by the Government subject to acceptance by the Contractor. Failure on the part of the Contractor to return the order by mailing or otherwise furnishing it to the ordering office within 5 working days after receipt shall constitute acceptance whereupon all other provisions of the contract shall apply to such order.

(b) Where either Government Standard Packing or Commercial Standard Packing is specified in the contract, orders shall be placed only in the specified standard pack quantity or multiples thereof.

(b) Where the unit of issue is a high dollar value item (i.e., procurement of tools), the following provision is authorized:

MINIMUM ORDER LIMITATION

(a) No ordering office will be obligated to order and no Contractor will be obligated to make any delivery amounting to less than (Percent[1]), but such deliveries may be ordered by the Government subject to acceptance by the Contractor. Failure on the part of the Contractor to return the order by mailing or otherwise furnishing it to the ordering office within 5 working days after receipt shall constitute acceptance whereupon all other provisions of the contract shall apply to such order.

(b) Notwithstanding the foregoing, where either Government Standard Pack or Commercial Standard Pack (shipping container) is specified in the contract, orders shall be placed by the Government in shipping container quantity except as set forth in paragraph (c), below.

(c) The Government may at its option place orders for less than a shipping container quantity, providing such quantity equals a unit, intermediate pack, or multiples thereof, up to a shipping container quantity. Such orders shall be packed in accordance with the applicable packaging and packing specification.

*Enter the minimum economical quantity in terms of dollar amount, pounds, gallons, drums, packages, dozens, etc.; coinciding with unit(s) of issue specified in the contract. Contracting officers shall consider the compatibility between the minimum order limitation and the normal standard pack.

[1] Enter appropriate percentage.

PART 5A–14—INSPECTION AND ACCEPTANCE

Subpart 5A–14.2—Acceptance

Section 5A–14.206–1 is amended as follows:

§ 5A–14.206–1 Acceptance of nonconforming supplies or services.

* * * * *

(b) If the contracting officer or his authorized representative determines that acceptance of supplies or services is in the Government's best interest, recommendations for deviation shall be referred to the appropriate specification manager.

(c) Recommendations for deviation shall contain (1) a copy of the solicitation (or contract), (2) the reasons why the item does not conform to contract requirements, (3) a statement as to whether or not a similar deficiency was the basis for rejection of an otherwise low bid received on the same solicitation, and (4) the reasons why it is in the best interest of the Government to accept the non-conforming item. If urgency of acceptance is a factor, recommendations for deviation shall be handled on an expedited basis. When stock items are involved, the contracting officer shall coordinate with the appropriate national inventory manager to determine urgency of need.

(d) Where the recommendation for deviation is concurred in by the appropriate specification manager, he shall furnish the contracting officer with an estimate of the savings in costs which will accrue to the contractor. The contracting officer shall be guided by the estimate in negotiating an equitable price reduction (including direct and indirect costs, plus profit) for the deviation and shall annotate the contract file with a statement justifying the adequacy and reasonableness of the price reduction.

(e) For nonstock items (see § 1–14.206), the approval of the requiring activity must be obtained in all cases involving acceptance of nonconforming supplies or services.

* * * * *

PART 5A–16—PROCUREMENT FORMS

Subpart 5A–16.9—Illustrations of Forms

§§ 5A–16.950–1246, 5A–16.950–1584A, 5A–16.950–1790 and 5A–16.950–1584–1 [Amended]

Sections 5A–16.950–1246, 5A–16.950–1584, 5A–16.950–1584A, and 5A–16.950–1790 are revised to illustrate new editions of forms, and § 5A–16.950–1584–1 is revised to show updated instructions for completion of new GSA Form 1584.

PART 5A–19—TRANSPORTATION

The table of contents for Part 5A–19 is amended to add § 5A–19.170, Receipt of improperly loaded shipments.

Sec.
5A–19.170 Receipt of improperly loaded shipments.

Subpart 5A–19.1—General

Section 5A–19.170 is added as follows:

§ 5A–19.170 Receipt of improperly loaded shipments.

Once damaged material is accepted and unloaded by the Government, the contracting officer has only limited authority to take action against the contractor. However, if material is accepted and unloaded and the receiving activity later notifies the contracting officer of improper loading, the contracting officer shall attempt to collect from the contractor any additional costs incurred. In addition, he shall take whatever action is deemed necessary to prevent a recurrence.

PART 5A–53—CONTRACT ADMINISTRATION

The table of contents for Part 5A–53 is amended to change the title of § 5A–53.471–2 as follows:

Sec.
5A–53.471–2 Nonstock (including Improved Federal Supply Schedule Program contracts) and stock direct delivery orders.

Subpart 5A–53.1—General

Section 5A–53.103(b) is revised as follows:

§ 5A–53.103 Authority and responsibility.

* * * * *

(b) The contract administration responsibilities of the inventory management centers and order processing and order control activities include (1) issuing definite quantity stock replenishment and stock and nonstock direct delivery orders from established sources, (2) issuing amendments to the above delivery orders (limited to editorial and other routine ordering problem corrections) and (3) the coordination and processing of transportation and shipping-type discrepancies, directing of proper disposition of rejected material, including arrangements for replacement or repair actions with the contractor, and the processing of charges for the failure of contractors to mark shipments in accordance with contract requirements.

* * * * *

Subpart 5A–53.4—Contract Performance

1. Section 5A–53.470 is revised as follows:

§ 5A–53.470 Monitoring.

Monitoring is the performance of all actions necessary to exercise effective control over individual supply transactions while they are being processed through the entire supply system. The inventory management center is responsible for monitoring stock replenishment orders. The order processing and order control activities are responsible for performing this function for direct stock and nonstock direct delivery orders, excluding those orders issued by the Special Programs Division (FPZ) and the Automotive Procurement Division (FYP).

2. Section 5A–53.471 is revised as follows:

§ 5A–53.471 Expediting.

§ 5A–53.471–1 General.

Expediting is the performance of all necessary actions required to obtain delivery to satisfy customer needs and consists of delivery status inquiries, ensuring "on time" deliveries, and accelerating or moving back delivery schedules. Expediting between the Government and contractor should only be made by the contracting officer or his authorized representative pursuant to this § 5A–53.471.

§ 5A–53.471–2 Nonstock (including Improved Federal Supply Schedule Program contracts) and stock direct delivery orders.

(a) *Source inspection.* (1) Requests for expediting source inspected orders shall be made to the regional Quality Control Division (QCD) responsible for inspection. The regional QCD shall take prompt action in accordance with the request and expeditiously reply to the requester.

(2) Requests for alteration of delivery schedules which may require contract modifications shall be sent directly to the contracting officer by the requester. The contracting officer shall take prompt action on the request and reply to the requester. Requests shall be processed within 5 workdays after receipt of the request.

(b) *Destination inspection.* The office issuing delivery orders requiring destination inspection shall expedite those orders which are late or anticipated to be late. Expediting by the order processing and order control activities shall be limited to requests for delivery status. Delivery arrangements requiring a contract/order modification shall be made only by the contracting officer.

§ 5A–53.471–3 Stock replenishment orders.

Requests for delivery status or accelerated delivery involving stock replenishment orders placed against national or zonal contracts shall be processed as follows:

(a) Requests for delivery status information shall be made to the responsible regional QCD (for source inspected orders) or the responsible inventory management center (for destination inspected orders). Prompt action shall be taken by the regional QCD and inventory management center, and an expeditious reply made to the requester. In addition to determining delivery status, the regional Quality Control Division and inventory manager may request specific shipping order precedence for items contained in the same order. However, any delivery arrangement requiring a contract/order modification shall be made only by the contracting officer.

(b) Requests for accelerated delivery: Requests for accelerated delivery shall be processed through the responsible inventory management center to the contracting officer. Upon receipt of the request for accelerated delivery, the contracting officer shall proceed in accordance with § 5A–72.106(a).

§ 5A–53.471–4 Stock availability improvement assistance.

The inventory management center has responsibility for ensuring that the contractor meets the delivery due dates specified in stock replenishment orders requiring inspection at destination. If problems arise in obtaining delivery, a request for assistance should be submitted to the contracting officer. Upon receipt of request, the contracting officer shall take appropriate action and respond promptly.

PART 5A–72—PROCUREMENT OF STOCK ITEMS

Subpart 5A–72.1—General Policies for Stock Replenishment

1. Section 5A–72.106(c)(3) is revised as follows:

§ 5A–72.106 Accelerated deliveries and public exigency purchases.

* * * * *

(c) * * *

(3) See § 5A–76.301(a) and (b) for formats to assist contracting officers in the preparation of findings and determination for negotiated exigency procurements. These formats are samples and modifications may be necessary to suit individual cases.

* * * * *

2. Section 5A–72.107–1(b) is revised as follows:

§ 5A–72.107–1 Contracts with guaranteed minimums.

* * * * *

(b) If no timely notification regarding any open balances is received from the contractor within the time specified in the Guaranteed Minimum Quantity clause (see § 5A–7.103–80), but the contract administration file indicates that unordered balances may exist, the following actions shall be taken:

* * * * *

Subpart 5A–72.2—Requirements Contracts for Stock Replenishment

Section 5A–72.202 is amended to add subparagraph (f) as follows:

§ 5A–72.202 Specifications.

* * * * *

(f) Requests from contractors for specification deviations should be in accordance with § 5A–14.206–1. If the deviation concerns preparation for delivery (packaging, packing, marking, and/or palletizing), the contracting officer should consider any impact on the supply distribution facility. Close liaison with the affected depots is essential.

PART 5A–76—EXHIBITS

The table of contents for Part 5A–76 is amended to delete §§ 5A–76.324, 5A–76.325, and 5A–76.326; and to show revised entries for Subparts 5A–76.2 and 5A–76.4, as follows:

Subpart 5A–76.2—Distribution of Documents

Sec.	
5A–76.201	Distribution of contractual and related documents.
5A–76.201–1	Purchase/delivery order forms.
5A–76.201–2	Term contracts for stock items.
5A–76.201–3	Term contracts for nonstock items where GSA issues delivery orders.
5A–76.201–4	Federal Supply Schedule contracts and term contracts against which other agencies may place orders.
5A–76.201–5	Definite quantity contracts.
5A–76.201–6	Transportation and related services contracts.
5A–76.201–7	Purchase/delivery orders for stock replenishment.
5A–76.201–8	Purchase/delivery orders for direct delivery (DDO's).

Subpart 5A–76.4—Procurement Assignments

5A–76.401	General.
5A–76.402	Listing of assignments.
5A–76.403	Service contracts.
5A–76.403–1	National-scope service schedules.
5A–76.403–2	Regional-scope service schedules.
5A–76.404	U.S. Forest Service special items.

Subpart 5A–76.2—Distribution of Documents

Subpart 5A–76.2 is revised to update instructions applicable to the distribution of contracts, contract summaries, and purchase orders.

Subpart 5A–76.3—Miscellaneous Exhibits

§ 5A–76.301 [Amended]

1. Section 5A–76.301 is revised to change the format for a findings and determination.

§ 5A–76.306 [Amended]

2. Section 5A–76.306 is revised to update information and internal procedures regarding the bidders mailing list system.

Subpart 5A–76.4—Procurement Assignments

Subpart 5A–76.4 is revised to reflect updated procurement assignements and to recodify various portions under new headings.

NOTE.—Copies of the forms illustrated in Part 5A–16 and copies of the exhibits shown in Part 5A–76 are filed with the original document.

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

Effective date: These regulations are effective on the date shown below.

Dated: December 23, 1976.

JAY H. BOLTON,
Acting Commissioner,
Federal Supply Service.

[FR Doc.77–2485 Filed 1–26–77;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION, MATERIALS TRANSPORTATION BUREAU

[Docket No. HM–147; Amdt. No. 173–103]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Carbon Dioxide Transported Aboard Aircraft

The purpose of this amendment to Part 173 of the Department's Hazardous Materials Regulations is to except from the coverage of those regulations carbon dioxide in solid form, when used as a refrigerant to preserve materials for medical diagnostic or treatment purposes. Regulations applicable to all carbon dioxide in solid form were published in the FEDERAL REGISTER on April 15, 1976 (41 FR 15972) under Docket HM–103/112. No comments were received which objected to the requirements imposed by this docket publication. Recently, the Materials Transportation Bureau has become concerned that these regulations may be disrupting certain shipments of essential medical supplies and specimens for critical medical diagnoses since carbon dioxide in solid form is used extensively for the preservation of materials being shipped by aircraft for medical diagnostic and treatment purposes. The Bureau recognizes that certain hazards are associated with carbon dioxide when shipped by air. It was for this reason that carbon dioxide in solid form was placed under regulation. It is the Bureau's opinion that on balance the benefits which accrue from the rapid movement of these materials outweigh the limited risks involved. Therefore, to the extent the regulations restrict the timely performance of essential medical services and treatment, some adjustment to the regulations is called for.

This Bureau plans to review the total effect of its regulations as they apply to carbon dioxide in solid form. Meanwhile, in consideration of the desirability of not disrupting the movement of these materials by aircraft, the regulations are amended in that regard. Because this action does not impose any burden on the general public, public proceedings are unnecessary.

In consideration of the foregoing, Part 173 of Title 49 Code of Federal Regulations is amended as follows:

In § 173.615 paragraph (e) is added to read as follows:

§ 173.615 Carbon dioxide, solid (dry ice).

* * * * *

(e) Carbon dioxide, solid (Dry ice) is excepted from the shipping paper and certification requirements of this subchapter if the requirements of paragraphs (a) and (d) of this section are complied with and the package is marked "Carbon dioxide, solid" or "Dry ice" and marked with an indication that the material being refrigerated is used for diagnostic or treatment purposes (e.g. Frozen medical specimens).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e)).

Effective date: This amendment is effective on January 19, 1977.

NOTE.—The Materials Transportation Bureau 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.

Issued in Washington, D.C. on January 19, 1977.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.77–2406 Filed 1–26–77;8:45 am]

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR–2; Notice 5]

PART 218—RAILROAD OPERATING RULES

Protection of Trains and Locomotives

On August 9, 1973, the Federal Railroad Administration (FRA) published an advance notice of proposed rulemaking (ANPRM) stating that it was studying possible courses of action to address the safety problems highlighted by those accident cause codes generally categorized by FRA as "human factor" accidents.

In the advance notice of proposed rulemaking, FRA requested comments relative to four specific operating rules included in the Standard Code of Operating Rules of the Association of American Railroads (AAR). These rules were: Rule 34, Calling of Signals; Rule 93, Operation of Trains within Yard Limits; Rule 99, Protective Flagging; and Rule 291, Stop-and-Proceed Signals. After analysis of the comments received in response to the ANPRM, Rule 291 was developed in a separate notice of proposed rulemaking. Rules 34, 93 and 99 were referred to the Railroad Operating Rules Advisory Committee (RORAC). The RORAC was a group established by the FRA to provide expert advice and assistance in the study and development of railroad operating rules. The group was made up of representatives of railroad management, labor organizations, and State agencies with jurisdiction over railroads. Suggested revisions to the language of the AAR Standard Code version of each of these

regulations were developed by the RORAC through lengthy discussions, and approved by a majority of the Committee members. While these revised versions reflect the practical experience of those who deal with rules on a daily basis, the FRA does not wish to infer that they constitute a final statement of the official positions of all the organizations represented by the RORAC members. These revisions were utilized by the FRA in its development of the notice of proposed rulemaking published on March 30, 1976 (41 FR 13369).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments by May 14, 1976; or by appearing and presenting oral comments at a hearing conducted on May 14, 1976. After considering all of the comments, the FRA has decided to issue a final rule in this proceeding which differs somewhat from the proposals included in the NPRM. The changes determined to be necessary are set forth in the following discussion of each of the proposed rules.

COMMUNICATION OF SIGNAL INDICATIONS (SECTION 218.33, AAR RULE 34)

This proposed rule would require all railroad employees located in the operating compartment of a locomotive to call out loud the name or aspect of each signal governing the movement of their train, and to take appropriate action to ensure safety in the event that the engineer fails to operate in accordance with signal indications or is incapacitated while controlling the movement of a train.

The basic purpose of Rule 34 of the AAR Standard Code is to assure that all crew members in the cab of the locomotive maintain a vigilant lookout for signals affecting the operation of their train. The weakness of the Standard Code version was in its ambiguous language and failure to give crew members explicit direction as to their responsibility for the safety of their train and the action to be taken whenever that safety was in jeopardy. The revised version developed by RORAC was a great improvement over the Standard Code version in that it clearly assigned responsibility for safety to all crew members and designated the engineer as the individual responsible for assuring that crew members in the cab of the locomotive complied with the signal calling requirement. In addition, the revised rule clearly sets forth the responsibility of crew members to take positive action to control the movement of their train to ensure safety whenever the engineer fails to do so or is incapacitated. The rule explicitly authorizes any employee, under such circumstances, to stop the train by operation of the emergency brake valve.

The RORAC revised rule, which is basically the same as the proposed rule in the NPRM, was submitted to the AAR and its Operating Rules Committee for review. The revised language was approved by the Committee and adopted by the AAR as the official version to be incorporated into the Standard Code as Rule 34. Following this action by the AAR and the Rules Committee, many of the major rail carriers revised their own rule books so as to conform with the revised Rule 34 version.

On review and further consideration of the purpose of this regulation, the FRA has determined that this particular area of railroad operating rules is not an appropriate one for Federal regulation. The policies of the President concerning regulatory reform, and of the Secretary of Transportation concerning a full assessment of the impact of Federal regulatory actions, require careful evaluation of the effectiveness of such actions in accomplishing their intended purpose. FRA has concluded that it will be virtually impossible for its inspectors in the field to monitor compliance with such a rule or to establish the existence of a violation for purposes of enforcing a penalty where appropriate. Although crew members in the cab of a locomotive might comply when an FRA inspector was present, there would be no way of assuring that they are routinely complying with the regulation.

Two commenters to this proceeding expressed the opinion that operating rules can best be formulated and administered through the joint efforts of management and labor as has traditionally been the case in the railroad industry. The FRA believes that this rule provides a prime example of a case in which the traditional mechanisms of rules enforcement, through efficiency testing and rules instruction, is the more effective method of assuring that operating train crews are vigilant in their actions to assure the safe movement of their trains. Consequently, the FRA has decided to terminate this portion of this proceeding without the issuance of a final rule.

OPERATIONS WITHIN YARD LIMITS (SECTION 218.35, AAR RULE 93)

This proposed rule would require all railroads to adopt a uniform procedure to govern train operations within yard limits. The basic purpose of AAR Rule 93 was to establish controls to coordinate train movements on high speed main tracks and other movements on yard tracks. The rule granted yard movements the right to occupy segments of the main track within a designated area defined as "yard limits", provided the main track was cleared so as not to interfere with through movements of preferential trains of a designated class which retained a superior privilege to occupy the main track. All train or yard movements other than the designated class or classes thus became "inferior" and were required to observe vigorous speed restrictions (being able to stop short of another movement) since they could expect to find the main track occupied at any location by other "inferior" train movements operating under the same restrictions.

The FRA recognizes this historical use of the "yard limits rule", and fully intended to preserve the basic concepts of this type of operation through the rule proposed in § 218.35 of the NPRM. That proposed rule attempted to paraphrase, in standard Code of Federal Regulations format, the revised rule 93 developed by RORAC. Comments submitted by several commenters suggested that the changes in traditional terminology associated with widely used operating rules which were included in the NPRM would result in unnecessary confusion. Several of these commenters suggested that FRA adopt the revised version of rule 93 exactly as proposed by RORAC as the final rule in this proceeding.

As a result of these comments, FRA has decided to redraft the final rule in a format which will comply with the standard Code of Federal Regulations style, and yet preserve, to the maximum extent possible, the more traditional operating rule format and verbatim language recommended by RORAC. Section 218.35 has been revised accordingly. In order to clarify the following discussion of the comments, reference will be made to the relevant section of the NPRM, and the corresponding provision of the final rule.

Subsection (a) of the NPRM required each railroad to designate its yard limits by yard limit signs, timetable, train order, or special instructions, and its superior and inferior trains.

Three commenters stated that they believed that, in all cases, yard limits should be designated by appropriate yard limit signs, covered with a luminous reflective substance, in addition to being identified in various written sources such as train orders or timetables. The FRA believes that the presence of a physical reminder that yard limit territory is being entered will provide the engineer, and other members of the crew in the cab of the locomotive, with a visible reminder that movement beyond that point must be restricted according to the yard limits rule, and that they must maintain a particularly vigilant lookout for other movements on the track. Many carriers already use such signs to designate "yard limits". Yard limit designations given only in written form in train orders, timetables, or special instructions can be forgotten or confused. Therefore, FRA has revised § 218.35(a) so that yard limit signs must be used to designate the territory within which the rule is to apply. While the FRA believes that the presence of yard limit signs will enhance the effectiveness of the rule, we have no data to show that an additional requirement that such signs be constructed of a reflectorized substance is justified, nor did the commenter provide any such data. For this reason, FRA has decided at this time not to include specifications for the type of signs which must be used.

The provision of the NPRM requiring each railroad to designate its superior and inferior trains was criticized by several commenters as ambiguous and confusing. According to these commenters, superiority can be conveyed by right, by class or by direction. Right is conferred by train order and is superior to either class or direction which are conveyed by

timetable. The intent of rule 93 was to identify a superior class or classes of trains—such as first class trains or first and second class trains—which have a preferential authority to occupy the main track. These commenters suggested use of the RORAC version which clearly indicated that it was concerned with superiority conveyed by class, and provided the railroad with the option of designating what class or classes were appropriate for designation as superior movements based on the peculiarities of its operation. FRA has included the RORAC language in subsections (b) (1) and (b) (2) of § 218.35. In addition, subsection (c) requires the railroad to designate what class or classes of trains are to be given superiority on the main track within yard limits. All other train movements must operate subject to the requirement to clear the main track and the restrictions on speed.

Subsection (b) of the NPRM provided that yard movements could occupy the main track only when that track could be cleared for a superior train. If the track was not cleared by the prescribed time, the yard movement was required to provide flag protection as defined in § 218.37 (rule 99).

Two commenters criticized the manner in which this section was written because they felt it created the inference that the purpose of the rule was to restrict use of the main track, when in fact the purpose is to permit use of that track by all types of yard movements. They felt the positive, permissive language of the AAR Standard Code, which was preserved in the RORAC version, was a preferable statement of the rule. The FRA recognizes that the changes in language incorporated into the NPRM have caused confusion, although the change was not intended to alter the right of yard movements to use the main track. We have, therefore, decided to base the final rule on the RORAC version as suggested, and subsections (b) (1) and (2) set forth the basic authority for a yard movement to occupy the main track, as well as the conditions under which such a movement must be conducted.

Four commenters suggested that the proposed subsection (b) be revised by the substitution of the term "first class" for "superior" trains. FRA's decision to revert to the RORAC version of the rule has eliminated the problem and potential confusion which may have resulted from the different bases of superiority cited earlier in this discussion. Under the final rule, a railroad must designate the superior class, and may do so by extending the privilege of superiority to more than a single class of trains.

One commenter expressed the opinion that the provision exempting the crew of the yard movement from a protective flagging requirement in automatic block signal territory might be unsafe since the crew could not be insured of having two block signals in the direction of an approaching movement. The FRA believes that this commenter was chiefly concerned with protection for a movement moving onto the main track. The FRA believes that each operating crew will have at least two members, the conductor and engineer, who are sufficiently qualified on the physical characteristics of the railroad to be knowledgeable as to the location of signals. This knowledge, when combined with other generally applicable operating rules which require a movement to wait a specified interval after a switch is thrown before moving to the main track or across the main track, provides adequate protection for such movements.

One commenter thought there was confusion as to when protective flagging would be required. With the adoption of the RORAC version, FRA does not believe there should be such confusion. Flagging is required only when a yard movement cannot clear the main track in time for an approaching superior class train in non-automatic block signal territory.

Another commenter inquired if flagging on the main track would still be required if no class of trains was designated as superior. If no class of trains has been identified as being superior, then all movements within the yard limit territory must operate subject to the restrictions as to speed and stopping within one-half the range of vision requirements; therefore, flagging protection is not required.

Subsection (c) of the NPRM provided that, except where a block signal indicates the track to be clear, inferior train movements on the main track within yard limits must be made prepared to stop within one-half the range of vision, but not exceeding 30 miles per hour.

Once again, several commenters suggested that the final rule be expressed in terms of the Standard Code or RORAC version of the specific operating restrictions, rather than those of the proposed rule. This has been done in section (b) (2) of the rule. FRA believes the effect of this provision to be the same as was intended by the NPRM, with the exception of the maximum authorized speed within yard limits. Two commenters expressed the opinion that the 30 m.p.h. maximum speed was excessive and suggested the use of a maximum speed of 15 m.p.h. FRA has reviewed copies of the various versions of operating rule 93 which are presently in effect on most railroads. That review revealed a common range of speeds up to 20 m.p.h. The FRA believes that a 15 m.p.h. speed limit would unnecessarily restrict yard movements, and that a 20 m.p.h. maximum speed limit is more proper particularly when that maximum speed is coupled with a requirement to be able to stop within ½ the range of vision and, therefore, would be used only under the most ideal visibility situations. Subsection (b) (2) of § 218.35 has been revised accordingly.

Another commenter suggested that the requirement that the movement be able to "stop within one-half the range of vision" be deleted, and that the rule be changed to read "prepared to stop short of a train, engine, car, stop signal, derail, switch improperly lined or other obstruction." In its criticism of the Standard Code version of Rule 93, the National Transportation Safety Board (NTSB) noted that the traditional terminology of "stop short" did not provide adequate protection. The NTSB, as well as RORAC cited the problems posed by such a standard, particularly when it was applied to train movements in opposing directions. For this reason, RORAC recommended, and FRA agrees, that the "½ range of vision" standard will provide improved protection.

Subsection (d) of the NPRM provided that movements against the current of traffic could not be made unless authorized and protected by train order, yardmaster, or other railroad official.

Two commenters suggested that the authority for such a movement against the current of traffic should be in written form. The FRA believes that such a provision would be impractical and unnecessarily burdensome. Yard assignments are accustomed to operating under verbal authority from the yardmaster. Responsibility for providing the necessary protection lies with the yardmaster. We do not see that the issuance of written orders would add to the safety of yard movements against the current of traffic. This aspect of the rule has been adopted in subsection (b) (3) as recommended by RORAC.

One commenter suggested that the word "official" in subsection (d) of the NPRM be replaced with the word "authority". This commenter stated that such a change would permit a movement against the current of traffic to be authorized by signal indication or flag protection, and not necessarily by a person. The FRA believes that the term "official" is more proper. Even if a signal were available to give a clear indication, the official would still be required to authorize its use to govern the movement against the current of traffic.

One commenter felt that this provision should specifically state that movements against the current of traffic, when authorized, must be made subject to "yard speed." The FRA agrees that the proposed language, which is identical to the RORAC version adopted in this final rule, is ambiguous as to whether the other operating restrictions of the section apply. The final rule has been amended to indicate clearly that movements against the current of traffic must be made prepared to stop within one-half the range of vision, not to exceed 20 m.p.h.

One commenter suggested that this section merely require that provision be made for protection of the movement, without specific reference to the source of authority or type of protection. The FRA believes that such a rule would be ambiguous, and that a rule which specifies how authority and protection are to be obtained is preferable.

One commenter suggested a requirement of a five minute interval after a switch is lined for movement to or across the main track and before the move-

ment proceeds in order to establish block signal protection. This type of protection is now provided by rules such as Rule 513 of the Consolidated Code of Operating Rules. The FRA recognizes that operating rules are part of an overall code of procedures which govern train movements, and that there are many interrelated rules which might in some manner affect movements within yard limits. The FRA does not intend that the rule established in this proceeding should be the sole requirement governing such movements. We intend only that this rule will establish a uniform minimum standard as to the traditional provisions of rule 93. We expect that other related carrier rules will continue in effect as before, and be applied in conjunction with this revised rule 93 in order to assure the safety of yard movements. Therefore, no additional provisions have been added to this rule.

PROTECTIVE FLAGGING (SECTION 218.37, AAR RULE 99)

This proposed rule identified the circumstances in which protective flagging was required, and specifically defined the manner in which such flag protection was to be provided.

Among the various general comments submitted on the NPRM version of rule 99, the major issue concerned the question of whether or not flagging should be required in automatic block signal territory. Several commenters expressed the opinion that only a live flagman could provide adequate backup protection. On the other hand, other commenters cited statistics which demonstrate the reliability of signal systems such as automatic block signals, centralized traffic control, and automatic train control. The FRA believes that the provision which exempts train crews operating in automatic block signal territory from providing flag protection is safe, realistic and practical. Automatic block signal systems and other methods of train control cited above provide reliable train separation and when complied with fully assure a safe operation. In addition, the FRA has recently issued a final rule in response to the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94-348) which will require trains to be equipped with highly visible marking devices which will provide an additional, backup warning system for an engineer if, for whatever reason, he has passed a signal displaying a stop indication (42 FR 2321). The FRA believes that a regulation that would require the provision of a second "backup" warning system in addition to the primary safety system of the signals would not result in so significant an increase in safety as to justify the additional costs involved. The final rule retains the exemption for operations within automatic block signal territory.

Again, several commenters suggested the revision of this section so as to incorporate the revised rule 99 as drafted by RORAC. With some minor reorganization to accommodate Federal regulatory format, FRA has adopted this suggestion.

Another commenter stated that he believed that the proposed rule was a significant improvement over the existing Standard Code Rule 99, but that its effective application still depended upon the judgment of individual employees. In its criticism of the traditional Standard Code Rule 99, the NTSB noted the use of ambiguous terms such as "sufficient distance". The NTSB believed that such terms did not assist the employee in exercising his judgment so as to properly perform his duties. The FRA recognizes that the proposed rule, and the final rule, do rely upon some degree of judgment on the part of operating employees. We believe, however, that this rule will greatly assist the employee in exercising that judgment correctly by identifying for him some of the significant factors which he must consider in determining what actions will provide adequate protective flagging. In addition, the rule will require each carrier to specify a specific distance at which flag protection must be provided. The FRA does not believe all judgment can be eliminated from any rule, but feels that the specific definition of how protective flagging is to be provided which is given by this rule is far more helpful for a train crew than the traditional instructions based on "a sufficient distance" and similar ambiguous terms which have been used traditionally in rule 99.

One commenter stated that he preferred having no Federal regulation, and felt that the one proposed was inadequate. He noted the experience in one State which has in effect what he believed to be a stricter rule. He stated that in all cases of rear end collisions in automatic block signal territory, the proposed rule would not have applied. He would prefer that regulation in this area be left to the various States. As stated above, the FRA believes that there are adequate provisions for the safety of train movements within automatic block signal territory without the addition of protective flagging. Safe train operations are dependent upon the train crew's strict compliance with all signal indications, operating rules and other instructions governing the movement of their train. The FRA believes that this rule provides an adequate degree of safety in a reasonable manner. With respect to this commenter's preference for State regulation as opposed to Federal regulation, the policy of the Federal Railroad Safety Act of 1970, as expressed in section 205 (45 U.S.C. 434), has committed FRA to promoting uniform national regulation to the extent practicable. The FRA, as well as NTSB, has noted the need for revision of rule 99. We cannot assure that all States will adopt a regulation, and even if all did, we cannot assure that all 50 would be uniform. The necessity of complying with a multitude of rules is not only burdensome to carriers, but also confusing to operating employees. The FRA believes, therefore, that a single uniform Federal regulation is preferable to a multitude of different State regulations.

Another commenter asked that the final regulation specifically provide that more stringent State rules or laws would take precedence over a less stringent Federal regulation. The relationship between Federal regulations issued under the Federal Railroad Safety Act and State regulations governing the same subject matter is governed by section 205 of that Act. That statutory provision prescribes the preemption of all State laws, rules, regulations, orders and standards concerning the same subject matter as a Federal regulation, except where such a State provision addresses an essentially local safety hazard and is not incompatible with the Federal provision. In light of this statutory provision, FRA does not have the authority to amend the rule as requested by this commenter.

Several commenters thought that the exception in subsection (a) of the NPRM which would permit a railroad to designate, by train order or special instruction, that flag protection was not required is a serious defect in the rule. One of these thought it irresponsible to "delegate" to the carrier the authority to determine that flag protection was not required. The FRA has reviewed this provision in light of these comments and continues to believe that some such flexibility is justified. We recognize that train orders and special instructions have been used traditionally to relieve a train crew of unnecessary flagging in order to expedite a train movement under certain conditions without sacrificing safety. We have no reason to believe that continued use of this means of operation will lead to abuse or total disregard for the safety of the movement. With respect to the use of train orders, protection for the train movement is not eliminated. Rather, the responsibility for the protection of the train movement is transferred from the train crew (where it would be if flagging were required) to the dispatcher who issues the train order. Once such a "no-flagging" order has been issued, the dispatcher must assure that no other movement is permitted to operate in such a way as to endanger the movement. The FRA does not now believe that a similar degree of safety can be expected from the use of a special instruction as there is no corresponding single individual responsible for providing alternate protection for each movement so exempted. Therefore, while the train order exemption has been retained in the final rule, the special instruction provision has been eliminated.

Two commenters contended that the exemption from flagging in automatic block signal territory would eliminate the "backup protection" provided by the live flagman. As stated earlier, the signal system provides the primary safety system. In the rare situation where a signal malfunction results in a "false proceed", the requirement for highly visible marking devices as required in Part 221 of this chapter already provides a backup warning system. To require flagging in addition, as a backup to a backup system would be unjustifiably redundant protection.

Two commenters asked for a clear definition of "interlocking limits". FRA has included a definition in the final rule which should eliminate confusion over the meaning or intended scope of the term.

Several commenters questioned whether the term "block signal" as used in the exemption in subsection (a) of the NPRM was intended to include other systems of train control such as cab signals. The FRA fully intended the term "block signal" to be used in its broadest sense to include a cab signal which is in fact a fixed signal governing entrance to and passage through a block even though the signal is mounted in the cab of the locomotive rather than along the right-of-way.

One commenter thought there was a discrepancy between subsection (a), and subsections (b) and (c) of the NPRM with respect to flagging in automatic block signal territory—he believed that under (a) it was not required, but under (b) and (c) it was. This is an incorrect reading. Subsection (a) outlined the conditions under which flagging was not required (this provision has been redesignated as subsection (a)(2) of the final rule). Subsections (b) and (c) define the manner in which flagging is to be provided wherever it is required (these provisions have been redesignated as subsections (a)(1)(i) and (a)(1)(ii) of the final rule). There is no discrepancy.

Another commenter suggested that the requirement of protection by two block signals should be replaced by a requirement that the rear of the train is protected by a "block signal system". The FRA and the RORAC versions of the rule require the two block signals since the presence of those signals will assure that a following train movement will be operating under restrictive conditions prepared to stop short of a train ahead. The broader term "block signal system" could be interpreted as a single signal to the rear, and as such would not provide adequate assurance of safety.

Another commenter stated that a relatively new or inexperienced flagman would not necessarily know that there were two signals to the rear of his train. This commenter noted that employees are not usually required to be that qualified on the physical characteristics of the railroad until they become conductors. The FRA does not believe that this provision places an unreasonable burden on an inexperienced flagman. Generally speaking, each carrier's operating rules specify that the conductor and the engineer are responsible for the protection and safety of their train, as well as rules compliance by subordinate crew members. As noted by the commenter, the conductor is familiar enough with the physical characteristics of the railroad to provide adequate instruction to an inexperienced flagman.

Another commenter felt that acceptable distances between the signals ought to be stated in the rule. The design of signal systems is a complex operation which must take into consideration a variety of factors which are peculiar to the specific location. Signal spacing can be affected by the geography, grade, curvature, visibility, density of traffic, type of traffic, length of trains. These factors are too variable to permit the specification of a uniform signal spacing requirement, and in any event, FRA does not believe that such a requirement is necessary in relation to an effective rule 99.

One commenter thought that a passenger train making a scheduled stop should be exempt from the flagging requirement. FRA finds no justification for such an exemption as there are no special procedures that assure protection for the rear of the train while it is stopped.

A commenter inquired whether the meaning of the exemption based on two block signals meant that they must be two "clear" signals, or if two restricting signals would suffice. This provision is intended to require the presence of two signals capable of displaying an aspect which indicates the condition of block occupancy so as to enable a following train to stop short of the rear of the train ahead. The actual indication shown by those signals at any given time is not critical. Stop-and-proceed or grade signals are well established and effective means of controlling a train's movement and therefore can be counted in determining the presence of the necessary two signals.

One commenter noted that the NPRM reflected a drastic departure from the flagging rule now in effect on the Alaska Railroad which is operated by FRA. This rule was not intended to codify the existing practice of any railroad. Rather, it is intended to establish a minimum rule which, once this regulation becomes effective, will be adopted and applied by all carriers to more specifically state the conditions under which flagging is required and the manner in which it is to be provided.

A commenter suggested that the final rule should be no less strict than that contained in the Uniform Code of Operating Rules used by Canadian railroads. The FRA believes that the language of the final rule is as strict as that used by the Canadian railroads. This revision of the Standard Code Rule 99 is sufficiently specific to enable an employee to determine what action is expected of him under given operating conditions so that he is assisted in exercising his judgment as to how to provide for the safety of his train. It also requires each railroad to specify flagging distances for individual segments of its lines which take into consideration all the various factors necessary to define a "sufficient distance" for that territory.

Subsections (b) and (c) of the NPRM set forth the conditions under which flagging protection was to be provided. A number of commenters took exception to the judgment factors involved in a flagman's determination of when the conditions of subsection (b) or (c) existed. They contended that the flagman was not in a position to know with a fair degree of accuracy whether the train was moving at less than ½ the maximum authorized speed. The FRA does not agree that a flagman is incapable of making such a judgment with a reasonable degree of accuracy. Railroad employees have for years been taught how to estimate the speed of a train with the aid of passing mileposts and a standard railroad watch. Using this time honored method, a flagman can reasonably be expected to determine when the train is moving at less than ½ its maximum authorized speed.

In addition, these same commenters contended that the flagman was not in a position to determine such factors as the relative speed of his train to a following train in order to judge whether he was operating under circumstances in which he might be overtaken, even though moving at more than ½ the maximum speed for that track. The list of factors included in the proposed rule (subsection (b)) and the final rule (subsection (a)(1)(ii)) is intended as a guideline of factors to be considered by the flagman in exercising his judgment. Under such conditions, he must assume that the following train is moving at the maximum authorized speed for that territory, unless he has reliable information to the contrary such as by radio communication between his train and the following train and can ascertain the actual speed.

One commenter did note that a provision should be added to the rule providing for the use of radio. While radio may be used to communicate between trains so as to determine more accurately whether a train "may be overtaken", the FRA believes that the use of radio in over-the-road operation is still subject to too many variables in terms of reliability and coverage to be incorporated into this rule as a mandatory requirement. Those railroads that are well equipped with radios will be able to utilize them as an additional tool to assist the flagman in exercising his judgment as to when protection should be provided under subsection (a)(1)(ii).

One commenter characterized these two subsections as being overly wordy, difficult to understand, and difficult to teach to crew members. The FRA believes that the language of the RORAC version incorporated in the NPRM and final rule is far clearer than the traditional rule based on ambiguous terms such as "sufficient distance", "proper intervals", and the like. The inclusion of a list of factors to be considered in providing protection and the specific definition of how to flag will assist the flagman in exercising a more informed and proper judgment and will provide the specificity called for by NTSB. For this reason, this rule should be easier to comprehend and to teach.

One commenter thought the provisions of these two subsections ((a)(1)(i) and (a)(1)(ii)) would apply in automatic block signal territory, and were in that case illogical. These provisions were not intended to apply where automatic protective systems provide for the safety

of the movement. They would apply in territory which does not meet one of the criteria set forth in subsection (a)(2).

One commenter inquired whether a carrier that wished to retain a flagging requirement in territory which was exempted under subsection (a)(2) of this rule, would have to conduct that flagging in accordance with the provisions of the rule. The answer to this question is no. In an operation such as on a heavy commuter line, entirely controlled by automatic block signals, a carrier would not be required to flag under the rule. If he wished to maintain a flagging requirement of his own that differs from the procedure established in this regulation, he could do so.

One commenter suggested the substitution of the words "for any train at that location" for the proposed language "including slow order limits" which is used to define what is meant by maximum authorized speed. The FRA believes the proposed language is the better of the two phrases since it more accurately and explicitly defines what is to be considered maximum authorized speed.

Another commenter thought the ½ maximum speed concept would create difficulties for heavy trains leaving a yard where it would take some time to attain that speed. While FRA recognizes that heavy weight trains coming out of yards will take some time to attain a speed which exceeds ½ maximum speed, and will, therefore, be required to protect to their rear, this is not unlike present rule 99 requirements. To this extent, this rule will merely reinforce current practice, and assure that it is uniformly applied.

A number of commenters expressed the opinion that the required use of fusees was excessive and might also result in danger of fire, particularly on bridges, in tunnels and at stations, or of increased personal injuries. In order to insure full protection during the speed intervals identified in the regulation, lighted fusees must be dropped off in the manner prescribed in the RORAC rule so as to assure that the following train will encounter a lighted fusee. An exception to the rule is provided where a Federal, State or local regulation prohibits the use of fusees because of the danger of fire under certain weather conditions. Under such conditions, the carrier will be required to put into effect alternate operating procedures to ensure full protection. This may be done, for example, by use of an absolute block. Existing carrier rules cover the use of fusees in locations such as bridges, tunnels and stations. These may require revision and special instruction of employees so as to assure the degree of protection intended by this rule. With respect to the question of personal injury, the FRA recognizes that fusees have been used for years and that their safe use is one of the items stressed in safety instructions issued to both new and veteran employees.

A commenter also questioned the provision of the NPRM requiring fusees to be dropped from the rear of the train. The FRA agrees that fusees need not be dropped from the rear of the train. The manner in which the fusees are dropped can be determined by the carrier in its operating rules.

Subsection (d) of the NPRM defined the specific manner in which flagging is to be accomplished. One commenter suggested that the subsection be revised to require torpedoes to be placed "at least" 100 feet apart, rather than the specific "100 feet apart" as was proposed. The FRA agrees with this suggestion and has made the appropriate change for protection to the rear and to the front of a train (subsection (a)(1)(iii) and (a)(1)(iv)).

A commenter thought the phrase "flagman's signals" awkward and suggested the term "flagging signals" instead. The FRA believes the term "flagman's signals" is the better term in that it is the term presently used in the operating rules of many railroads and does not confine the meaning to train service alone.

Several commenters criticized the provision requiring each railroad to designate the specific distance which the flagman was required to go back in a given territory in order to provide flag protection. Some suggested that the final rule should revert to the "sufficient distance" terminology, while others contended that the proposed rule would result in nonuniformity. The FRA feels that the phrase "sufficient distance" is specifically the type of ambiguity and weakness in the present rule which was criticized by NTSB. The requirement that each railroad designate a safe flagging distance for each segment of its line based on speed and other operational characteristics will provide a more precise and effective rule.

One of these commenters suggested alternate language which would require the flagman to go back "a sufficient distance to insure full protection against a train approaching at twice the speed it was expected to operate." The FRA believes that adoption of a rule such as that would be unrealistic, would be burdensome for a flagman to comply with and could invite intentional operating speed violations. Operating rules presently included in railroad rule books that use indefinite terms such as "sufficient distance" will have to be revised to conform with the requirements of § 218.37.

The FRA does not believe that the "non-uniformity" resulting from the provision requiring each railroad to specify a specific distance for establishing flagging protection will in any way weaken the rule. In this case, the rule on each railroad will comply with the minimum standard included in this regulation in terms of the conditions in which flagging must be provided, as well as the manner in which it is provided. In these overall terms, the rules will create a uniform procedure. There is both a rational and practical basis for allowing the specific designation of a particular flagging distance since as was pointed out earlier in this discussion, so many variables are involved in defining a safe distance at any given location.

One commenter suggested the addition of a requirement which would provide that a flagman could not return to his train if he could see or hear a train approaching, but should wait until the train stops or acknowledges his signal. The FRA does not believe that such an additional provision is necessary to assure the safety of the operation. The following train will have already been warned by the two torpedoes and lighted fusee.

One commenter thought that subsection (e) of the NPRM, which provided for flag protection of the front of a train, should specify the conditions under which such protection is required. The rule as proposed provided that front end protection against opposing movements must be provided whenever required under the railroad's operating rules. The FRA believes this to be the sounder approach as this will minimize confusion resulting from a Federal regulation conflicting with a multitude of other carrier operating rules and procedures. Carriers now prescribe conditions under which front end protection is required, and these may vary depending upon the type of operation involved. FRA has no reason to believe that a continuation of the present practice will adversely affect the safety of train operations.

The FRA has reviewed the rules included in this proceeding in accordance with the policies of the Department of Transportation as stated in the FEDERAL REGISTER (41 FR 16200, April 16, 1976), and has concluded that the expected regulatory impact of these rules will be minimal since they do not differ significantly from present good operating practices and will merely assure that such good practice becomes the minimum standard for the industry.

The environmental impact of the rules has also been assessed in compliance with section 102(2)(C) of the National Environmental Policy Act. Since the Federal rule will serve only to assure that existing procedures are applied uniformly throughout the industry, FRA has determined that this action will not significantly affect the quality of the human environment.

In light of the foregoing discussion, Part 218 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising the table of contents for Part 218 to read as follows:

Subpart A—General

Subpart B—Blue Signal Protection of Workmen

AUTHORITY: Secs. 202, 84 Stat. 971, (45 U.S.C. 431), Sec. 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

2. By adding new paragraphs (e), (f) and (g) to § 218.5 to read as follows:

§ 218.5 Definitions.

* * * * *

(e) "Interlocking limits means the tracks between the opposing home signals of an interlocking.

(f) "Flagman's signals" means a red flag by day and a white light at night, and a specified number of torpedoes and fusees as prescribed in the railroad's operating rules.

(g) "Absolute block" means a block in which no train is permitted to enter while it is occupied by another train.

3. By adding a new Subpart C to Part 218 which reads as follows:

Subpart C—Protection of Trains and Locomotives

§ 218.31 Scope.

This subpart prescribes minimum operating rule requirements for the protection of railroad employees engaged in the operation of trains, locomotives and other rolling equipment.

§ 218.33 [Reserved]

§ 218.35 Yard limits.

(a) After August 1, 1977, yard limits must be designated by—

(1) Yard limit signs, and

(2) Timetable, train orders, or special instructions.

(b) After August 1, 1977, each railroad must have in effect an operating rule which complies with the requirements set forth below:

(1) The main tracks within yard limits may be used, clearing the time an approaching designated class train is due to leave the nearest station where time is shown. In case of failure to clear the time of designated class trains, protection must be provided as prescribed by § 218.37. In yard limits where main tracks are governed by block signal system rules, protection as prescribed by § 218.37 is not required.

(2) Trains and engines, except designated class trains, within yard limits must move prepared to stop within one-half the range of vision but not exceeding 20 m.p.h. unless the main track is known to be clear by block signal indications.

(3) Within yard limits, movements against the current of traffic on the main tracks must not be made unless authorized and protected by train order, yardmaster, or other designated official and only under the operating restrictions prescribed in 218.35(b)(2).

(c) Each railroad shall designate in the operating rule prescribed under paragraph (b) of this section the class or classes of trains which shall have superiority on the main track within yard limits.

§ 218.37 Flag protection.

(a) After August 1, 1977, each railroad must have in effect an operating rule which complies with the requirements set forth below:

(1) Except as provided in subparagraph (2) of this paragraph, flag protection shall be provided—

(i) When a train is moving on the main track at less than one-half the maximum authorized speed (including slow order limits) in that territory, flag protection against following trains on the same track must be provided by a crew member by dropping off single lighted fusees at intervals that do not exceed the burning time of the fusee.

(ii) When a train is moving on the main track at more than one-half the maximum authorized speed (including slow order limits) in that territory under circumstances in which it may be overtaken, crew members responsible for providing protection will take into consideration the grade, curvature of track, weather conditions, sight distance and relative speed of his train to following trains and will be governed accordingly in the use of fusees.

(iii) When a train stops on main track, flag protection against following trains on the same track must be provided as follows: A crew member with flagman's signals must immediately go back at least the distance prescribed by timetable or other instructions for the territory, place at least two torpedoes on the rail at least 100 feet apart and display one lighted fusee. He may then return one-half of the distance to his train where he must remain until he has stopped the approaching train or is recalled. When recalled, he must leave one lighted fusee and while returning to his train, he must also place single lighted fusees at intervals that do not exceed the burning time of the fusee. When the train departs, a crew member must leave one lighted fusee and until the train resumes speed not less than one-half the maximum authorized speed (including slow order limits) in that territory, he must drop off single lighted fusees at intervals that do not exceed the burning time of the fusee.

(iv) When required by the railroad's operating rules, a forward crew member with flagman's signals must protect the front of his train against opposing movements by immediately going forward at least the distance prescribed by timetable or other instructions for the territory placing at least two torpedoes on the rail at least 100 feet apart, displaying one lighted fusee, and remaining at that location until recalled.

(v) Whenever a crew member is providing flag protection, he must not permit other duties to interfere with the protection of his train.

(2) Flag protection against following trains on the same track is not required if—

(i) The rear of the train is protected by at least two block signals;

(ii) The rear of the train is protected by an absolute block;

(iii) The rear of the train is within interlocking limits; or

(iv) A train order specifies that flag protection is not required.

(b) Each railroad shall designate by timetable or other instruction for each territory the specific distance which a crew member providing flag protection must go out in order to provide adequate protection for his train.

(c) Whenever the use of fusees is prohibited by a Federal, State or local fire regulation, each railroad operating within that jurisdiction shall provide alternate operating procedures to assure full protection of trains in lieu of flag protection required by this section.

This amendment is effective August 1, 1977. Earlier compliance with these regulations is authorized as of January 27, 1977.

Issued in Washington, D.C., on January 19, 1977.

ASAPH H. HALL,
Administrator.

[FR Doc.77-2585 Filed 1-26-77;8:45 am]

[Docket No. RSOR-5, Notice No. 3]

PART 220—RADIO STANDARDS AND PROCEDURES

Final Rule

On August 11, 1975, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER (40 FR 33682) a notice of proposed rulemaking (NPRM) stating that FRA was considering the issuance of a new Part 220, Radio Standards and Procedures. This new part would prescribe mandatory procedures governing the use of radio communications in connection with railroad operations. A technical correction to the proposed rule was published in the FEDERAL REGISTER on August 21, 1975 (40 FR 36575).

Interested persons were invited to participate in the rulemaking proceeding by submitting written comments before September 24, 1975. The notice also scheduled a public hearing which was held on September 25, 1975, in Washington, D.C. The written comments filed in response to the NPRM, and the comments submitted at the public hearing have been considered. FRA has determined, after reviewing and analyzing all of these comments, that several changes are necessary. These changes, which are discussed below, affect the following sections: § 220.1 Scope; § 220.5 Definitions; § 220.29 Statement of letters and numbers; § 220.43 Communication consistent with rules; § 220.49 Switching, backing or pushing; and § 220.61 Transmission of train orders by radio.

The Administrator has evaluated the adoption of this new part in accordance with the regulatory reform policies of the Department of Transportation, which were stated in the public notice published on April 16, 1976 in the FEDERAL REGISTER (41 FR 16200). These policies require an evaluation of the economic impact of regulations. The main economic impact to the railroad industry would be due to the instruction of employees in the proper use of radio communication, and the additional time used in connection with transmitting by radio in compliance with these rules. This time would involve listening to ensure a channel is clear before transmitting, properly identifying the station when transmitting or receiving, repeating a transmission when necessary, and copying and disseminating train orders received by radio. The costs which will be incurred as a result of these activities will be minimal. In the two accidents cited by the National Transportation Safety Board (NTSB) in recommending that FRA adopt rules for the use of radio, there were three fatalities, three injuries and over two million dollars in property damage. Since the adoption of these rules can prevent such accidents FRA has determined that the benefits outweigh the slight costs to the railroad industry.

A summary of the contents of the comments and FRA's responses to these comments, including any action taken as a result, are discussed below:

SUBPART A—GENERAL

Section 220.1. This section provides that the rules in this part shall govern the use of radio communications in connection with railroad operations. Several commenters asked for clarification concerning what modes of communication are to be governed by these rules. These rules apply only to voice communications between railroad employees by way of radio and are not applicable to communications by modes such as telephone, telegraph, automatic audio signalling devices, or the transmitting of recorded messages by radio. To clarify the intended scope of these rules, the following language has been added to this section regarding the term "radio communications": "The term 'radio communications' refers to the transmission and reception of voice communications by radio." In addition, the scope of these rules is limited to the use of radio communications in connection with railroad operations, as defined in this part.

This section also permits railroads to adopt more stringent requirements so long as the minimum requirements of this part are met. One commenter felt that the standards and procedures that railroads may adopt should be submitted to FRA prior to implementation and made subject to the penalty provisions. FRA believes that these measures would be counterproductive in that they would discourage railroads from adopting and observing more stringent requirements.

Section 220.3. This section states that this part applies to railroads that operate trains or other rolling equipment on standard gage track which is part of the general railroad system of transportation. This section also exempts rapid transit railroads and railroads that operate only on track inside an installation which is not part of the general railroad system of transportation. One commenter opposed the exemption in paragraph (b)(2) for rapid transit railroads. The commenter felt that any railroad subject to the Federal Railroad Safety Act of 1970 should be subject to these rules. In view of the many operational differences between rapid transit systems and the general railroad system of transportation, the application of identical radio rules and procedures would be inappropriate. FRA believes that radio rules for rapid transit railroads should be addressed separately and will continue to analyze and review the situation for future action. This section remains as proposed.

Section 220.5. This section defines terms used in this part. As a result of comments received a change has been made in the wording of one definition. The definition of the term "train order" in paragraph (c) has been revised to read as follows: "'Train order' means any mandatory directive issued as authority for the conduct of a railroad operation which is transmitted by radio." This new definition, which applies only to the rules in this part, reflects two changes from the proposed definition. The first is the elimination of the requirement that for a directive to qualify as a train order it must be conveyed in written form pursuant to the railroad's operating rules. The elimination of this provision is designed to broaden the scope of the definition to include those directives which have the same force and effect as train orders, such as movement orders, but which are not required by a railroad's operating rules to be reduced to writing by the recipient. The second is the addition of the requirement that for a directive to be considered a train order, for the purposes of this part, that it must also be transmitted by radio. Since these rules are not intended to govern the use of directives which are not transmitted by radio, such as timetables, this provision has been added to prevent their inclusion under the definition of train order.

FRA is aware that certain railroads are presently conducting operations by unique directives which serve as substitutes for train orders and which are not transmitted in accordance with these rules. An August 1, 1977, effective date has been established for these rules, which will enable railroads that desire to continue using such directives to petition FRA for waivers, pursuant to the provisions of 49 CFR Part 211, Rules of Practices (41 FR 54181, December 13, 1976).

Section 220.7. This section prescribes a civil penalty of at least $250 but not more than $2,500 for each violation of a provision of this part. One commenter noted that the Federal Communication Commission (FCC) regulations prescribe a monetary penalty for failure to observe proper station identification procedures. The commenter believed that this section might expose railroads to "double jeopardy" in that they may also be liable to FRA for violating § 220.37, which prescribes station identification procedures to be observed when using radio in connection with railroad operations. A violation of the FCC regulation would result from the failure to comply with a standard governing radio communications generally, while failure to comply with a rule in this part would constitute a violation of a railroad safety standard involving the use of radio. If a railroad uses identification procedures which do not comply with either FRA or FCC rules, that railroad may be liable to both agencies. However, this would not constitute "double jeopardy". Double jeopardy occurs when one is prosecuted more than once for the same offense, not when one is prosecuted for different offenses resulting from a single act. Here a railroad would be subject to two penalties for two different offenses, resulting from a single act. This section remains as proposed.

SUBPART B—RADIO PROCEDURES

Section 220.21. This section prescribes filing requirements for railroads using or intending to use radio communications in connection with their operations. Under this subpart, each railroad is required to adopt rules which conform with the minimum standards prescribed herein and to submit them to the Federal Railroad Administrator at least 30 days before implementation. Each amendment to these rules must be filed within thirty days after it is issued. One commenter suggested that this section be revised to require the filing of amendments thirty days prior to implementation. FRA believes that a thirty day advance filing requirement for amendments would have an unnecessarily restrictive affect upon the use of radio. These rules, which constitute the initial step in the regulation of a technical and expanding subject area, do not provide guidelines for all the exigencies which may occur in the course of using radio to conduct railroad operations. Occasions may arise where the expeditious amendment of the radio operating rules of a railroad may be needed to provide for unanticipated situations. These filing requirements will give railroads the necessary degree of flexibility to effectively manage in such situations. However, as stated before, any amendments adopted by a railroad must be as stringent as the standards prescribed in this part. In addition, individual railroads will be expected to exercise prudent judgment in amending their radio rules.

Another commenter favored eliminating the filing requirements since railroads are currently required to file their operating rules under 49 CFR Part 217. FRA believes that these new procedures, which are unique to radio-train operations, require detailed attention. The

separate filing of radio rules will enable both railroads and the FRA to focus their attention on problems peculiar to these new operations. Accordingly, FRA has decided to retain these filing requirements. This section remains as proposed.

Section 220.23. This section requires railroads using radio in connection with their operations to publish information concerning the locations and hours of operation of their stations. One commenter suggested that FRA require railroads to publish this information in their timetables. FRA feels this is not necessary. The manner of publication should be left to the discretion of the railroads. However, all employees required to use radio in connection with train operations must be provided with a copy of the publication that is used.

One commenter noted that FCC regulations define a "base station" as "a land station in the land mobile service carrying on a service with land mobile stations" (47 CFR 93.7). This commenter pointed out that under this definition it was possible for a base station to be no more than the site of a transmitter and therefore unmanned. This would also be true for wayside stations. The commenter also stated that a literal interpretation of the last sentence of this section would result in the publication of a list of base and wayside stations that were never attended, but were functional because their "control points" were attended. It was suggested that the term "control point," which is defined in the FCC regulations as "an operational station which is used to control the emissions or operations of another station * * *" be used in lieu of the term "base and wayside stations." FRA believes that the use of the term "control point," in these rules, would cause confusion because it does not have a commonly recognized meaning in the railroad industry. A number of railroads use the term in lieu of station names to designate specific locations for the issuing of written orders, while others use it to designate remote control signal installations at outlying points. The terms "base" and "wayside" were chosen because they have commonly understood meanings in the railroad industry, even though those meanings may not be in accord with FCC definitions. On those railroads utilizing radio, a "base" station is generally understood to be the main receiving and transmitting terminal where the train dispatcher's office is located. The term "wayside" station is commonly understood as indicating an intermediate station between terminals. Thus, a dispatcher in a base station can code into his phone circuit a number of intermediate wayside radio installations to increase the range of his set to reach trains that are out of the range of his base station, but which are within the reception range of a wayside station. Based on the foregoing, FRA believes that the proposed terminology is more suitable for the railroad industry.

Another commenter thought that in publishing information concerning the hours of operation of base and wayside stations, railroads should only be required to indicate when they are "usually attended or in operation" as opposed to when they are in fact "attended or in operation." FRA believes that the use of the suggested language would present a safety hazard because it may cause unwarranted reliance upon a station being in operation. This section remains as proposed.

Section 220.25. This section requires those railroads using radio to educate and instruct their employees in the proper use of radio. This section remains as proposed.

Section 220.27. This section prescribes procedures to be employed for the identification of those receiving and transmitting communications by radio. One commenter felt the use of short identification tags should be permitted after initial transmissions. The language of paragraph (a)(1) permits the use of "an abbreviated name or initial letters" when identifying the railroad. In addition, paragraph (a)(2) permits the use of a "unique designation" when identifying a station. FRA believes that those provisions give sufficient latitude to permit the shortening of transmissions without resorting to the casual use of name tags, which do not provide adequate identification.

Two commenters felt that the requirements of paragraphs (a)(2) and (a)(3) were redundant and time consuming since both would result in the transmission of information concerning the location of stations. It was suggested that this section be revised to require compliance with either subparagraph, but not both. The location of a station is extremely important for identification purposes. Since most stations are designated by location, compliance with paragraph (a)(2) will usually satisfy the requirements of (a)(3). Paragraph (a)(3) provides for those cases where the name of a station does not indicate its location. FRA believes that safety will be enhanced by requiring compliance with the provisions of both subparagraphs. This section remains as proposed.

Section 220.29. This section prescribes minimum requirements for maintaining clarity and understanding when pronouncing letters and numbers during radio transmissions. Several commenters raised questions concerning the use of the phonetic alphabet in Appendix A. Paragraph (a) requires the use of a phonetic alphabet when pronouncing letters or numbers during radio transmissions. The phonetic alphabet in Appendix A is only recommended; therefore, any railroad presently using a different phonetic alphabet may continue to do so.

One commenter suggested that paragraph (a) be revised to begin with the phrase "If necessary for clarity", to eliminate the need for using the phonetic alphabet for terms such as "a.m." (ante meridiem) or "p.m." (post meridiem). FRA concurs with this suggestion and the language of this section has been revised accordingly.

Section 220.31. This section prescribes procedures for initiating radio transmissions. It is designed to ensure that a uniform and proper identification format is used. Since no comments were received regarding this section, it remains as proposed.

Section 220.33. This section prescribes the procedures for receiving transmissions. It provides a uniform format to ensure proper identification and repetition of messages. Several commenters felt that adherence to the requirements of this section would require the repetition of messages not involving railroad operations, such as transmissions between security forces, and lead to the overcrowding of channels. This section requires the repetition of all transmissions involving railroad operations to ensure safety. The exceptions contained in paragraph (c) are designed to eliminate the repetition of nonessential messages to avoid overcrowding channels. Thus, transmissions involving security forces and other personnel not involved in railroad operations are not subject to the rule. This section remains as proposed.

Section 220.35. This section prescribes procedures for terminating transmissions. The only comment received regarding this section suggested changes in the language of paragraphs (a) and (b), so that they would conform with more general provisions in the FCC regulations. This section is designed to ensure reception of the entire contents of messages before the termination of transmissions. FRA believes that these paragraphs, as proposed, more precisely convey that intent. This section remains as proposed.

Section 220.37. This section requires railroads to test the functional quality of equipment used for radio transmissions or receptions in connection with railroad operations. One commenter requested a clarification of the term "found not to be functioning properly", located in paragraph (b). A radio is not functioning properly when it is not capable of either receiving or transmitting communications clearly because of a mechanical malfunction or the deterioration of its power source. When a radio is used at a location which is within its normal operating range and the quality of its receptions and transmissions is so impaired as to render them unreliable, or the radio is totally incapable of either receiving or transmitting, then that radio is not functioning properly and must be removed from service until repaired. There may be instances where interference or fluctuation are encountered when a radio which is functioning properly is being used near or beyond the periphery of its normal operating range. In such instances the radio being used is not required to be removed from service. However, it should be noted that under § 220.45 of this part, any communications which are not fully understood or completed may not be acted upon and must be treated as if not sent.

One commenter felt that it would be impractical for the crews of multiple unit electric trains to comply with the provisions of paragraph (c), which requires that all crew members be notified when a radio is removed from service. In order to effectuate the purposes of this rule, the crews of all trains within the scope of these regulations must comply with the provisions of paragraph (c).

Section 220.39. This section requires that radio equipment be maintained so that it will be ready to receive transmissions whenever the engine or caboose is manned. This section remains as proposed.

Section 220.41. This section prescribes the procedures to be followed in reporting the failure of an engine or caboose radio that occurs while en route. Two commenters suggested that this section be revised to require the filling of a written report. This report, which would be submitted at the final terminal, would contain information identifying the point at which the failure was discovered. FRA believes that the regulation, as proposed, which requires that a radio failure be reported as soon as practicable, assures that radio failures will receive prompt attention. Individual railroads may adopt rules to require their employees to also file written reports, provided such rules are consistent with this part. This section remains as proposed.

Section 220.43. This section prohibits the use of radio communications in a manner inconsistent with the requirements of 49 CFR Part 220, the operating rules of individual railroads, and with FCC regulations. The proposed rule did not contain the reference to FCC regulations. Several commenters suggested that FRA also refer to the FCC regulations to avoid implying that this part preempted those regulations. These rules are not intended to preempt FCC regulations and to avoid that inference FRA has added language to that effect.

Language has also been added to this section to prohibit the use of citizen band radios in connection with railroad operations. The virtually unlimited public access to these radios has made their usage widespread. This usage presents serious problems because many users consistently fail to observe FCC identification procedures. In drafting these rules, FRA was careful to prescribe stringent identification procedures to ensure that employees using radio in connection with railroad operations properly identified themselves. FRA believes that the purposes of this part would be undermined if railroads were permitted to use citizen band radios, in that railroad employees, who must rely upon radio communications, would be subjected to serious safety hazards by unidentified and uncontrolled transmissions from public users.

Section 220.45. This section prohibits railroad employees from acting in response to radio communications unless those communications are understood or completed in accordance with the requirements of this part and the railroad's operating rules. Since no comments were received regarding this section, it remains as proposed.

Section 220.47. This section prescribes procedures governing emergency radio transmissions involving railroad operations. Two commenters suggested that the international distress call "May Day" be substituted for the word "emergency". FRA believes that the present language not only adequately conveys the intent of this section, but also is commonly used throughout the railroad industry. This section remains as proposed.

Section 220.49. This section prescribes guidelines for certain train movements made in response to radio communications. One commenter was uncertain whether this section was also applicable to operations on mainlines. It was noted that the title of this section, as proposed ("Yard movements, switching, backing"), implied that it was applicable only to switching and backing in yards. This confusion was compounded by the fact that the text of this section referred to switching, backing or pushing, and did not mention either yard movements or mainline operations. FRA intends this section to apply to switching, backing or pushing at all locations. To clarify this intent, the title of this section has been revised to read as follows: "Switching, locking or pushing". The text of this section remains as proposed. With this revision the title and the text of the section are in accord and the inference that the application of this section is limited to yard movements is eliminated.

One commenter felt that the word "and" should be substituted for "or" in the first sentence, to require both complete instructions and continuous radio contact. Continuous radio contact is necessary to maintain control of a switching, backing or pushing movement when instructions are incomplete. FRA believes that when complete instructions have been given for an entire movement, continuous radio contact is not necessary.

One commenter suggests that this section also require that radio equipped engines and cabooses be provided with portable radios, as auxiliary devices, to prevent a total loss of communication at a critical moment. Requiring railroads to equip each engine and caboose with a portable radio for emergency situations is unnecessary since the rule already requires the immediate cessation of movements when instructions are not understood or continuous radio contact is lost. FRA believes that the rule, as proposed, provides sufficient safeguards to assure safety when radio contact is lost.

Section 220.51. Paragraph (a) of this section restricts the use of radio in transmitting information concerning the position or aspect displayed by a fixed signal. This language is designed to prohibit the use of radio to transmit information in advance concerning the aspect of a signal, when the train receiving this information has not arrived at that signal. The practice of predicting the aspect of a signal may cause unwarranted reliance and presents a substantial safety hazard. This paragraph proscribes such a practice.

Paragraph (b) allows the use of radio to convey instructions which would have the effect of overriding the indication of a fixed signal in automatic block territory, if permitted by the railroad's operating rules. Commenters were concerned whether under paragraph (b) railroads were permitted to use radio to authorize trains to move under less restrictive conditions than a signal indicates. They also inquired as to whether radio may be used to require trains to move under more restrictive conditions. In promulgating this rule, FRA was concerned with preventing the casual use of radio to override signal indications in automatic block signal territory. The provisions of paragraph (b) permit the use of radio to authorize trains to either proceed from an automatic block signal displaying a "stop" indication, or to stop at a signal displaying a "proceed" indication, if such action is taken in accordance with the procedures contained in the operating rules of the railroad. Radio merely serves as an alternate method of communication.

SUBPART C—TRAIN ORDERS

Section 220.61. This section prescribes procedures governing the use of radio to transmit train orders when authorized by the operating rules of the railroad. Several commenters felt that it was dangerous for crew members to attempt to receive train orders in moving engines. One of these commenters expressed apprehension regarding the clarity of reception in a moving engine because of the high noise levels. Another commenter was concerned with the difficulty of legibly copying train orders while in a moving engine. The language of paragraph (b)(2) requires the stopping of trains to receive train orders when it is deemed necessary by a conductor, engineer, or train dispatcher. In addition, the rule is structured around a system of "checks and balances", which requires that train orders be copied by the receiving crew member and repeated to the dispatcher for verification. FRA believes that adherence to these procedures will provide adequate protection against the possibility of misunderstanding train orders.

Paragraph (b)(3) of this section has been amended to require that all train orders be reduced to writing. FRA believes that all instructions which fall under the definition of train order, as used in this part, should be reduced to writing so that there will be a written record substantiating the content of a transmission, which can be referred to by crew members implementing those instructions. This revision is intended to eliminate the dangers inherent in requiring a crew member to rely on his recollection of the content of a train order.

As a result of comments received, two changes have been made in the wording of paragraph (b)(4). The first change is the elimination of the requirement that train orders be repeated in accordance

with the railroad's operating rules, and the substitution of the requirement that train orders be immediately repeated in their entirety. This change is intended to prevent the use of abbreviated responses, such as the "X response", when an employee is called upon to repeat the contents of a train order.

The second change is the addition of the requirement that after the dispatcher has stated "complete", the employee copying the train order must then acknowledge by repeating "complete". FRA believes that the addition of this procedure will enhance safety by providing a uniform and more complete format for the termination of transmissions involving train orders.

One minor change has been made in the language of paragraph (b)(6). The term "or which" has been substituted for "and" in the first sentence to prohibit employees from acting upon train orders which have not been completed "or which" do not comply with the requirements of the railroad's operating rules. Failure to comply with either of these requirements may present a safety hazard and this change is intended to prevent the use of train orders which are not both complete and in compliance with the railroad's operating rules.

One commenter suggested that this entire section be eliminated because it repeats what is already contained in the operating book of rules of most carriers. FRA is cognizant of the fact that this section reiterates many procedures already utilized by many carriers. However, to establish uniform and standard procedures throughout the entire railroad industry, FRA has decided to retain the provisions of this section.

In consideration of the foregoing, Chapter II of Title 49 of the Code of Federal Regulations is amended by adding a new Part 220, Radio Standards and Procedures, to read as set forth below. These rules become effective August 1, 1977.

Issued in Washington, D.C., on January 19, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

Subpart A—General

Sec.
220.1 Scope.
220.3 Application.
220.5 Definitions.
220.7 Penalty.

Subpart B—Radio Procedures

220.21 Railroad operating rules; radio communications.
220.23 Publication of radio information.
220.25 Instruction of employees.
220.27 Identification.
220.29 Statement of letters and numbers.
220.31 Initiating a transmission.
220.33 Receiving a transmission.
220.35 Ending a transmission.
220.37 Voice test.
220.39 Continuous monitoring.
220.41 Notification on failure of train radio.
220.43 Communication consistent with rules.
220.45 Communication must be complete.
220.47 Emergencies.
220.49 Yard movements, switching, backing.
220.51 Signal indications.

Subpart C—Train Orders

220.61 Transmission of train orders by radio.

AUTHORITY: Sec. 202 and 209, 84 Stat. 971, 975 (45 U.S.C. 431, 438), and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Subpart A—General

§ 220.1 Scope.

This part prescribes minimum requirements governing the use of radio communications in connection with railroad operations. The term "radio communications" refers to the transmission and reception of voice communications by radio. So long as these minimum requirements are met, railroads may adopt additional or more stringent requirements.

§ 220.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate trains or other rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to:

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation; or

(2) A rapid transit railroad that operates only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

§ 220.5 Definitions.

As used in this part, the term:

(a) "Employee" means any person who is authorized by a railroad to use its radio facilities in connection with railroad operations.

(b) "Railroad operation" means any movement of a train, engine, on-track equipment, or track motor car, single or in combination with other equipment, on the track of a railroad.

(c) "Train Order" means any mandatory directive issued as authority for the conduct of a railroad operation which is transmitted by radio.

§ 220.7 Penalty.

Each railroad to which this part applies that violates any requirement prescribed in this part is liable to a civil penalty of at least $250 but no more than $2500.

Subpart B—Radio Procedures

§ 220.21 Railroad operating rules; radio communications.

(a) After August 1, 1977, the operating rules of each railroad with respect to radio communications shall conform with the requirements of this part.

(b) Before November 1, 1977 or 30 days before it commences to use radio communications in connection with railroad operations, whichever is later, each railroad shall file with the Federal Railroad Administrator, Washington, D.C. 20590, one copy of its operating rules with respect to radio communications. Each amendment to these rules shall be filed with the Federal Railroad Administrator within 30 days after it is issued.

§ 220.23 Publication of radio information.

Each railroad shall designate its territory where radio base stations are installed, where wayside stations may be contacted, and designate appropriate radio channels by publishing them in a timetable or special instruction. The publication shall indicate the periods during which base and wayside radio stations are attended or in operation.

§ 220.25 Instruction of employees.

Each employee who is authorized to use a radio in connection with a railroad operation, shall be:

(a) Provided with a copy of the railroad's operating rules governing the use of radio communication in a railroad operation.

(b) Instructed in the proper use of radio communication as part of the program of instruction prescribed in § 217.11 of this chapter.

§ 220.27 Identification.

(a) Except as provided in paragraph (c) of this section, the identification of each wayside, base or yard station shall include at least the following minimum elements, stated in the order listed:

(1) Name of railroad. An abbreviated name or initial letters of the railroad may be used where the name or initials are in general usage and are understood in the railroad industry;

(2) Name of office or other unique designation of the station; and

(3) Location of the station.

(b) Except as provided in paragraph (c) of this section, the identification of each mobile station shall consist of the following elements, stated in the order listed:

(1) Name of the railroad. An abbreviated name or initial letters of the railroad may be used where the name or initial letters are in general usage and are understood in the railroad industry;

(2) Train name (number), if one has been assigned, or other appropriate unit designation; and

(3) The word "engine", "caboose", "motorcar", "pakset" or other word which indicates to the listener the precise mobile transmitting station, unless identical to the requirement of paragraph (b)(2) of this section.

(c) If positive identification is achieved in connection with switching, classification, and similar operations wholly within a yard, fixed and mobile units may use short identification after the initial transmission and acknowledgement consistent with applicable Federal Communication Commission regulations governing "Station Identification".

§ 220.29 Statement of letters and numbers.

(a) If necessary for clarity, a phonetic alphabet shall be used to pronounce any letter used as an initial, except initial letters of railroads. See Appendix "A", of this part for the recommended phonetic alphabet.

(b) A word which needs to be spelled for precision or clarity shall first be pronounced, and the word shall then be spelled. If necessary, the word shall be spelled again, using a phonetic alphabet.

(c) Numbers shall be spoken by digit, except that exact multiples of hundreds and thousands may be stated as such. A decimal point shall be indicated by the word "decimal". (See Appendix B to this part, for a recommended guide to the pronunciation of numbers.)

§ 220.31 Initiating a transmission.

Before transmitting by radio, an employee shall:

(a) Listen to insure that the channel on which he intends to transmit is not already in use;

(b) Identify his station in accordance with the requirements of § 220.27; and

(c) Verify that he has made radio contact with the person or station with whom he intends to communicate by listening for an acknowledgement. If the station acknowledging his transmission fails to identify itself properly, the employee shall require a proper identification before proceeding with the transmission.

§ 220.33 Receiving a transmission.

(a) Upon receiving a radio call from another station, an employee shall promptly acknowledge the call, identifying his station in accordance with the requirements of § 220.27 and stand by to receive. An employee need not attend the radio, however, if this would interfere with other immediate duties relating to the safety of railroad operations.

(b) An employee shall acknowledge receipt of all transmissions directed to him or his station.

(c) An employee who receives a transmission shall repeat it to the transmitting party unless the communication:

(1) Relates to yard switching operations;

(2) Is a recorded message from an automatic alarm device; or

(3) Is general in nature and does not contain any information, instruction or advice which could affect the safety of a railroad operation.

§ 220.35 Ending a transmission.

(a) At the close of each transmission to which a response is expected, the transmitting employee shall say "over" to indicate to the receiving employee that the transmission is ended.

(b) At the close of each transmission to which no response is expected, the transmitting employee shall state his identification followed by the word "out" to indicate to the receiving employee that the exchange of transmissions is complete.

§ 220.37 Voice test.

(a) Each radio which is used in connection with a railroad operation outside yard limits shall be tested at the point where the train is originally made up. At least once during each tour of duty, the engineer and conductor shall be responsible for the testing of the radio to verify that the radio is operating properly on the engine and caboose. The tests shall consist of an exchange of voice transmissions with another station. The other station shall advise the station conducting the test of the quality and readability of its transmission.

(b) Any radio found not to be functioning properly shall be removed from service until it has been repaired.

(c) When a radio is removed from service, each crew member of the train and the train dispatcher or other employee designated by the railroad shall be so notified.

§ 220.39 Continuous monitoring.

Engine and caboose radios must be turned on to the appropriate channel as designated in § 220.23 with the volume adjusted to receive communications while the engine or caboose is manned.

§ 220.41 Notification on failure of train radio.

The failure of an engine or caboose radio en route shall be reported as soon as practicable to the train dispatcher or other employee designated by the railroad by any alternate means of communication available.

§ 220.43 Communication consistent with rules.

Radio communication may not be used in connection with a railroad operation in a manner which conflicts with the requirements of this Part 220, Federal Communication Commission regulations or the railroad's operating rules. The use of citizen band radios for railroad operating purposes is prohibited.

§ 220.45 Communication must be complete.

Any radio communication which is not fully understood or completed in accordance with the requirements of Part 220 and the operating rules of the railroad, shall not be acted upon and shall be treated as though not sent.

§ 220.47 Emergencies.

(a) An emergency transmission shall be preceded by the word "emergency", repeated three times. An emergency transmission shall have priority over all other transmissions and the frequency or channel shall be kept clear of non-emergency traffic for the duration of the emergency transmission.

(b) Emergency transmissions shall be used to report derailments, collisions, storms, wash-outs, fires, obstructions to tracks, and other hazardous conditions which could result in death or injury, damage to property or serious disruption of railroad operations. Emergency transmissions shall describe as completely as possible the nature, degree and location of the hazard.

§ 220.49 Switching, backing or pushing.

When radio communication is used in lieu of hand signals in connection with the switching, backing or pushing of a train, engine, or car, the employee directing the movement shall give complete instructions or keep in continuous radio contact with the employees receiving the instructions. When backing or pushing a train, engine or cars, the distance of the movement must be specified, and the movement must stop in one-half the remaining distance unless additional instructions are received. If the instructions are not understood or continuous radio contact is not maintained, the movement shall be stopped immediately and may not be resumed until the misunderstanding has been resolved, radio contact has been restored, or communication has been achieved by hand signals or other procedures in accordance with the operating rules of the railroad.

§ 220.51 Signal indications.

(a) No information may be given by radio to a train or engine crew about the position or aspect displayed by a fixed signal. However, radio may be used by a train crew member to communicate information about the position or aspect displayed by a fixed signal to other members of the same crew.

(b) Except as provided in the railroad's operating rules, radio communication may not be used to convey instructions which would have the effect of overriding the indication of a fixed signal in automatic block territory.

Subpart C—Train Orders

§ 220.61 Transmission of train orders by radio.

(a) Train orders may be transmitted by radio only when authorized by railroad's operating rules and must be transmitted in accordance with the railroad's operating rules and the requirements of this Part 220.

(b) The procedures for transmission of train orders by radio are as follows:

(1) The dispatcher or operator shall call the addressees of the train order and state his intention to transmit the train order.

(2) Before the train order is transmitted, the employee to receive and copy the train order shall state his name, identification or call sign, location, and that he is prepared to receive a train order. Train orders may not be received and copied by an employee operating the controls on an engine of a moving train. Train orders may not be transmitted to the crew of a moving train when, in the judgment of either the conductor, the engineer, or the train dispatcher, the train order cannot be received and copied without impairing the safe operation of their train.

(3) Train orders shall be copied in writing by the receiving employee in the format prescribed in the railroad's operating rules.

(4) After the train order has been received and copied, it shall be immediately repeated in its entirety. After verifying the accuracy of the repeated train order, the dispatcher shall then state "complete" and the initials of the employee designated by the railroad. Employees copying train orders must then acknowledge by repeating "complete" and the time.

(5) Before a train order is acted upon, both the conductor and engineer must have a written copy of the train order and make certain that the train order is read and understood by other members of the crew.

(6) A train order which has not been completed or which does not comply with the requirements of the railroad's operating rules, may not be acted upon and must be treated as though not sent. Information contained in a train order may not be acted upon by persons other than those to whom the train order is addressed.

APPENDIX A—RECOMMENDED PHONETIC ALPHABET

A	ALFA	N	NOVEMBER
B	BRAVO	O	OSCAR
C	CHARLIE	P	PAPA
D	DELTA	Q	QUEBEC
E	ECHO	R	ROMEO
F	FOXTROT	S	SIERRA
G	GOLF	T	TANGO
H	HOTEL	U	UNIFORM
I	INDIA	V	VICTOR
J	JULIET	W	WHISKEY
K	KILO	X	XRAY
L	LIMA	Y	YANKEE
M	MIKE	Z	ZULU

The letter "ZULU" should be written as "Z" to distinguish it from the numeral "2."

APPENDIX B—RECOMMENDED PRONUNCIATION OF NUMERALS

To distinguish numbers from similar sounding words, the word "figures" should be used preceding such numbers. Numbers should be pronounced as follows:

Number:	*Spoken*
0	ZERO
1	WUN
2	TOO
3	THUH-REE
4	FO-WER
5	FI-YIV
6	SIX
7	SEVEN
8	ATE
9	NINER

(The figure ZERO should be written as "0" to distinguish it from the letter "O". The figure ONE should be underlined to distinguish it from the letter "I". When railroad rules require that numbers be spelled, these principles do not apply.)

The following examples illustrate the recommended pronunciation of numerals:

Number:	*Spoken*
44	FO-WER FO-WER
500	FI-YIV HUNDRED
1000	WUN THOUSAND
16000	WUN SIX THOUSAND
14899	WUN FO-WER ATE NINER NINER
20.3	TOO ZERO DECIMAL THUR-REE

[FR Doc.77-2584 Filed 1-26-77;8:45 am]

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

[OST Docket No. 44; Notice 77-3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

This notice amends Standard No. 208, *Occupant Crash Protection*, to extend indefinitely the current occupant crash protection requirements for passenger cars.

In a notice published June 14, 1976 (41 FR 24070), I proposed five alternative courses of action for future occupant crash protection requirements under Standard No. 208 (49 CFR 571.208). Based on an analysis of comments received, a decision was reached to call upon the automobile manufacturers to join the Federal government in conducting a large-scale demonstration program to exhibit the effectiveness of passive restraint systems. The reasoning that underlies that decision is contained in a December 6, 1976, document ("The Secretary's Decision Concerning Motor Vehicle Occupant Crash Protection") that is hereby incorporated by reference in this notice. The effect of that decision on Standard No. 208 is to require the continuation of the current requirements for passenger cars, as proposed in the first of the five alternative courses of action.

The first alternative was written as a three-year extension (to August 31, 1979), although the preamble discussion made clear that the length of the extention was open to discussion. It is now apparent that a continuation of the existing requirements is best effectuated by a deletion of any termination date. This action accords with the intent of the first alternative to maintain current occupant crash protection requirements for the indefinite future. Because this action represents a continuation of existing manufacturing practices, it is the Department's finding that no new significant economic or environmental impacts result from this amendment.

I have directed the National Highway Traffic Safety Administration (NHTSA) to propose comparable changes in the requirements for multipurpose passenger vehicles and light trucks. The NHTSA has also been directed to take final action on the substantive changes to Standard No. 208 that were proposed in its notice of July 19, 1976 (41 FR 29715).

The Department hereby closes OST Docket No. 44, which is transferred to the NHTSA's docket on occupant crash protection. I want to make it clear, however, that by closing OST Docket No. 44 and amending Standard No. 208 to extend indefinitely the current occupant crash protection requirements for passenger cars, I have not in any way foreclosed a future Secretary or Administrator of NHTSA from instituting at any time a rulemaking to amend Standard No. 208 either to place a termination date on Standard No. 208 or to mandate passive restraints on some or all passenger cars.

In consideration of the foregoing, the heading and text of S4.1.2 of Standard No. 208 (49 CFR 571.208) are amended in part to read as follows:

S4.1.2. *Passenger cars manufactured on or after September 1, 1973.* Passenger cars manufactured on or after September 1, 1973, shall meet the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3. * * *.

Effective date: January 19, 1977.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407).)

Issued on January 19, 1977.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.77-2567 Filed 1-26-77;8:45 am]

Title 7—Agriculture

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

[Orange Reg. 75, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Size Regulation

This amendment, effective January 21, 1977, lowers the minimum size requirements applicable to fresh shipments of Murcott Honey oranges, grown in the production area in Florida, to $2^{6}/_{16}$ inches in diameter (size 176). The specification of such lower minimum size for Florida Murcott Honey oranges is necessary to satisfy the current and prospective demand for such oranges. The amended regulation recognizes the size distribution of much of the Murcott Honey oranges currently available for fresh shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon available information, including an informal poll of the Growers Administrative Committee and Shippers Advisory Committee, established under the aforesaid amended marketing agreement and order, it is hereby found that less restrictive requirements applicable to shipments of Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) This amendment reflects the Department's appraisal of the current and prospective demand for fresh Murcott Honey oranges by domestic and export market outlets. Less restrictive size requirements for such fruit are consistent with the size composition and available

supply of such oranges in the production area.

(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 amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of Murcott Honey oranges grown in Florida.

Order. 1. The provisions of paragraph (a) (8) and paragraph (b) (8) of § 905.564 (Orange Regulation 75; 41 FR 42177, 49474, 51029, 53007, 54917) are amended to read as follows:

§ 905.564 Orange Regulation 75.

(a) * * *

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 6/16 inches in diameter except that a tolerance for Murcott Honey oranges smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines;

* * * * *

(b) * * *

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 6/16 inches in diameter, except that a tolerance for Murcott Honey oranges smaller than such minimum diameter shall be permitted as specified in § 51.1818 of the United States Standards for Grades of Florida Tangerines;

* * * * *

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

Dated, January 21, 1977, to become effective January 21, 1977.

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

[FR Doc.77–2639 Filed 1–26–77;8:45 am]

[Navel Orange Reg. 398]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Jan. 28–Feb. 3, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.698 Navel Orange Regulation 398.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part 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 Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information. It is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has become very active on all grades and sizes. Prices f.o.b. averaged $3.40 a carton on a reported sales volume of 934 carlots last week, compared with $3.46 per carton on sales of 623 carlots a week earlier. Track and rolling supplies at 487 cars were up 147 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel 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, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 25, 1977.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 28, 1977, through February 3, 1977, are hereby fixed as follows: (i) District 1: 1,230,000 cartons; (ii) District 2: 270,000 cartons; (iii) District 3: Unlimited movement."

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

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

Dated: January 26, 1977.

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

[FR Doc.77–2949 Filed 1–26–77;12.38 pm]

[Amdt. 2]

PART 966—TOMATOES GROWN IN FLORIDA

Handling Regulation

This amendment relieves certain restrictions on the handling of Florida tomatoes from the effective date herein through February 6, 1977.

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended, regulating the handling of tomatoes grown in the production area, and based upon current information received by the Department, it is hereby found that the Handling Regulation, § 966.315 (41 FR 43909, 50264), should be further amended to reduce the minimum size requirement. This program is effective under the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Information has been received from both the Florida Tomato Committee, established pursuant to said Marketing Agreement and Order, and from other sources including field representatives of the Agricultural Marketing Service that freezing weather conditions in the production area during the week of January 17 have resulted in substantial damage to the tomato crop. The committee has unanimously recommended that the minimum size restriction be lowered to $1^{28}/_{32}$ inches in order to be able to ship all remaining supplies. Continuation of the current size provisions of this regulation would no longer tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This amendment relieves restrictions on the handling of tomatoes grown in the production area, (2) information regarding this recommendation has been made available to producers and handlers in the production area, and (3) this amendment will not require any special preparation by handlers which cannot be completed by the effective date.

The amendment is as follows:

Paragraph (a)(2)(i) is hereby amended to read as follows:

§ 966.315 Handling regulation.

* * * * *

(a) * * *

(2) *Size.* (i) Tomatoes shall be at least $2^{4}/_{32}$ inches in diameter and be sized in accordance with § 51.1859 of the U.S. tomato standards except that from the effective date herein through February 6, 1977, tomatoes shall be at least $1^{28}/_{32}$ inches in diameter.

* * * * *

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

Dated January 25, 1977, to become effective January 25, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-2882 Filed 1-26-77;8:45 am]

[Amdt. 2]

PART 980—VEGETABLES: IMPORT REGULATIONS: TOMATOES

Minimum Size Requirements

Findings. Pursuant to the requirements of § 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1), Tomato Import Regulation § 980.211, as amended (41 FR 43910, 50266), is hereby further amended to lower the minimum size requirement of this section from the effective date herein through February 6, 1977.

It is hereby found that good cause exists for not postponing the effective date of this amendment beyond that herein specified (5 U.S.C. 553) in that (1) the requirements of 8e of the act make such amendment mandatory upon amendment of the corresponding regulation applicable to shipments of domestic tomatoes; (2) this amendment corresponds with the amendment of regulations on shipments of domestic tomatoes under Marketing Order No. 966, as amended (7 CFR Part 966); and (3) this amendment relieves restrictions on the importation of tomatoes.

The amendment is as follows:

Paragraph (a)(1) is hereby amended to read as follows:

§ 980.211 Tomato import regulation.

* * * * * *

(a) *Minimum grade and size requirements.* (1) At least U.S. No. 3 grade and at least $2^{4}/_{32}$ inches in diameter except that from the effective date herein through February 6, 1977, the minimum diameter shall be $1^{28}/_{32}$ inches.

* * * * * *

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

Dated January 25, 1977, to become effective January 25, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-2883 Filed 1-26-77;8:45 am]

proposed rules

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-EA-97]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Beaver Falls, Pa., control zone.

A new non-Federal airport traffic control tower to be established at Beaver County Airport, Beaver Falls, Pa., will provide the weather observation reporting and communications required for designation of a part-time control zone at that airport.

We propose to establish a part-time control zone to coincide with the planned hours of operation of the airport traffic control tower. The control zone will provide additional controlled airspace protection for IFR arrivals and departures at the airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before February 28, 1977, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Beaver Falls, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by designating a Beaver Falls, Pa., Control Zone as follows:

BEAVER FALLS, PA.

Within a 5-mile radius of the center, 40°46'21" N., 80°23'37" W., of Beaver County Airport, Beaver Falls, Pa., within 1.5 miles each side of the Ellwood City, Pa., VORTAC 248° radial, extending from the 5-mile radius zone to 1.5 miles west of the VORTAC. This control zone is effective from 0900 to 2100 hours, local time daily June 1, through August 31, and from 0900 to 1700 hours, local time daily September 1, through May 31.

NOTE.—The Federal Aviation Agency 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.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 6, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-2618 Filed 1-26-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-EA-98]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Corry, Pa., transition area (41 FR 476).

A new VOR RWY 32 original, instrument approach procedure developed for Lawrence Airport, Corry, Pa., requires alteration of the transition area to provide additional controlled airspace protection for aircraft executing the procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before February 28, 1977, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Corry, Pa. proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Corry, Pa., 700 foot floor transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 41°54'30" N., 79°38'30" W. of Lawrence Airport, Corry, Pa.; within 3 miles each side of the 305° bearing from the Corry RBN (41°54'44" N., 79°38'54" W.), extending from the 5.5-mile radius area to 8.5 miles northwest of the RBN; and within 5 miles each side of the Tidioute, Pa., VORTAC 319° radial, extending from 5.5-mile radius area to the VORTAC.

NOTE.—The Federal Aviation Agency 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.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 6, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-2617 Filed 1-26-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 923]

COASTAL ZONE MANAGEMENT PROGRAM

State Administrative Grants; Extension of Comment Period

On December 30, 1976, the National Oceanic and Atmospheric Administration (NOAA) published proposed regulations in the FEDERAL REGISTER (41 FR 57004) amending coastal zone management state administrative grant regulations pursuant to sections 306 and 312

of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. section 1451 et seq. NOAA requested that comments on the proposed regulations be submitted on or before February 3, 1977.

Subsequently, NOAA has concluded that an extension of the comment period is warranted. Written comments may be submitted to the Office of Coastal Zone Management, U.S. Department of Commerce, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235, on or before March 15, 1977.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

JANUARY 21, 1977.

[FR Doc.77-2648 Filed 1-26-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 456]

ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

Notice That Presiding Officer's Summary, Findings and Conclusions With Respect to Proposed Trade Regulation Rule Has Been Made Public

The Presiding Officer's Report, required by 16 CFR 1.13(f) of the Commission's rules of practice consisting of his Summary, Findings and Conclusions with regard to the proposed rule and to those issues designated by the Presiding Officer and such other findings and conclusions as he has seen fit to make, has been made public and a copy placed on the public record of the proceeding. The staff's analysis of the rulemaking record and its recommendations to the Commission upon completion will also be made public.

The Presiding Officer's Report has not been reviewed or adopted by the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof. The sixty-day period which the rules of practice provide for public comment on both the report by the Presiding Officer and the report of the staff will not commence until the staff's report required by § 1.13(g) of the rules of practice has been made public and placed on the record of this proceeding. Therefore, comment on the Presiding Officer's report alone would be considered premature at this time.

Issued: January 27, 1977.

MARGERY WAXMAN SMITH,
Acting Director,
Bureau of Consumer Protection.

[FR Doc.77-2610 Filed 1-26-77;8:45 am]

[16 CFR Part 600]

FAIR CREDIT REPORTING ACT

Reporting of Undesignated Information From a Spouse's File: Permissible Purposes for Consumer Reports on Nonapplicant Spouses; Proposed Interpretations and Request for Comments

The Federal Trade Commission announces two proposed interpretations of the Fair Credit Reporting Act pursuant to § 1.73 of its Procedures and rules of practice (36 FR 9293, 16 CFR 1.71–1.73) in order to afford interested persons and groups a chance to comment on the proposed interpretations.

The Commission's rules provide for issuance of interpretations of the Fair Credit Reporting Act (Pub. L. 91–508, 84 Stat. 1127–1136, 15 U.S.C. 1681 et seq.) when it appears that guidance as to the legal requirements of the Act would be in the public interest and would serve to bring about more widespread compliance with the Act. The interpretations are not substantive rules and do not have the force or effect of statutory provisions. They are guidelines intended as clarification of the Fair Credit Reporting Act, and, like industry guides, are advisory in nature. Failure to comply with such interpretations may result in corrective action by the Commission under applicable statutory provisions. These interpretations are published in order to obtain comments from the public. Publication should not be construed as an indication of how the Commission will ultimately resolve these issues. These interpretations will not become final until further notice by the Commission.

There are two proposed interpretations:

I. Interpretation § 600.7(a)—Reasonable Procedures to Assure Maximum Possible Accuracy of Information Concerning Individuals—Undesignated Information (Interprets 15 U.S.C. 1681e (1970)).

II. Interpretation § 600.8—Permissible Purposes for Reports on Nonapplicant Spouses in Consumer Credit Transactions. (Interprets 15 U.S.C. 1681b (1970)).

BACKGROUND

The lack of accessible credit history for women has severely restricted their ability to obtain credit.[1] This lack of credit history resulted from a variety of practices, most of which involved overt discrimination against women and helped cause the passage of the Equal Credit Opportunity Act. For example, before the Equal Credit Opportunity Act, some creditors would issue a credit card to an individually creditworthy married woman only in the name of her husband.[2] Often, when a single woman married, her credit cards would be withdrawn and reissued in the name of her husband even though her individual creditworthiness was unaffected by the marriage.[3] More importantly, where a married woman was jointly contractually liable for a credit obligation, the history of the account would almost never be reported in any name other than that of her husband. As a result many women presently have no credit identity separate from that of their spouse even though they have been joint obligors or users of several credit accounts. When a divorce or separation occurs, the credit history from the marriage has continued to be attibuted to the husband and not to the wife, thus requiring the wife to re-establish her credit history.[4]

The Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. 1691–1691g (Supp V 1975), and its implementing regulation, Regulation B, 12 CFR Part 202 (1976), prohibit discrimination against credit applicants on the basis of sex or marital status. The regulation, which conclusively interprets the act, seeks to remedy the problems resulting from past information gathering processes in a number of ways. Section 202.6 of the regulation requires that, as of June 1, 1977, creditors must report to credit bureaus the histories of accounts on which both spouses are contractually liable (joint accounts) in a manner which will enable the credit bureaus to provide access to the information about the account in the name of each spouse.[5] The same requirement is imposed for accounts on which one spouse is contractually liable and the other is a user (user accounts). Section 202.5(j)(1) of the regulation requires creditors to give as much weight to credit histories concerning joint accounts or user accounts designated pursuant to § 202.6 as they would to the credit histories of other accounts.[6] Finally, § 202.5(j)(2) requires creditors to consider the credit history of any account reported in the name of the applicant's spouse or former spouse which the applicant can demonstrate accurately reflects the applicant's willingness or ability to repay.[7]

Creditors, credit bureaus and consumers have expressed concern that the Fair Credit Reporting Act can be interpreted to substantially limit a creditor's access to credit history information needed to evaluate married or formerly married women applying for separate accounts during the initial stages of implementation of the Equal Credit Opportunity Act. At the same time these groups share a common interest in (1) assuring that creditworthy women can obtain credit and (2) maintaining the integrity of the credit information system. The proposed interpretations are designed to minimize the impact of the Fair Credit Reporting Act on the goals of the Equal Credit Opportunity Act.

In addition, the interpretations will clarify for consumer reporting agencies and creditors their responsibilities under the Fair Credit Reporting Act. Note that neither Regulation B nor the Equal Credit Opportunity Act specifically regulates the conduct of consumer reporting agencies. They impose obligations only on creditors, properly leaving regulation of the credit reporting system to the Fair Credit Reporting Act.

See footnotes at end of document.

I. Interpretation §600.7(a) Concerning "Undesignated Information"

Need for Interpretation

For many years most credit history of joint accounts or user accounts was reported to credit bureaus only in the name of the husband. The information was stored in a file under the identifier: "John Doe, spouse: Mary". The file could be accessed only by the husband's name ("John Doe") while the wife's name ("Mary") served as an identifier to distinguish John Doe from others of the same name in the same manner as his street address, birthdate and social security number. In some instances the files were termed "joint files," but the practical effect of the storage systems appears to have been the merger of all credit history from the marriage into the husband's file.

Section 202.6 of Regulation B addresses itself to this problem by requiring creditors after June 1, 1977 to report account information to credit bureaus in a manner which will reflect the participation of both spouses in the accounts and which will enable the agencies to provide access to the information in the name of each spouse.[8] In addition, the regulation requires that creditors ascertain whether accounts established prior to and in existence on June 1, 1977 are joint or separate accounts and adjust their reporting of these accounts accordingly.[9] This determination can be made either from the creditor's records or by mailing of the notice provided by the regulation. For accounts opened after June 1, 1977, creditors are required to determine how the credit history is to be reported when the accounts are opened.[10] Finally, § 202.5(j)(2) requires creditors to consider the credit history of any account reported in the name of the applicant's spouse or former spouse which the applicant can demonstrate accurately reflects the applicant's ability or willingness to repay.[11]

Regulation B does not resolve the problem of how credit history not designated by the § 202.6 procedure is to be treated. In most automated credit reporting systems this information is currently reported in the name of only one spouse, usually the husband, and retrievable only in his name even if the information reflects the history of a joint account or an account on which the wife was a user. The resulting lack of affirmative credit history can render the wife uncreditworthy as effectively as derogatory information. Some major credit grantors, for example, award points for each line of credit history in a report in their point scoring systems and many other credit grantors give weight to affirmative credit history in making their credit decisions. Such criteria are also employed in various prescreening programs used by creditors for solicitation purposes.

Ultimately, the undesignated information problem will be resolved prospectively by the operation of § 202.6, which will establish separate credit histories for married women. For the next few years however, unavailability of undesignated information could restrict the ability of women to obtain credit.

Recognizing this potential problem the largest credit reporting industry association, Associated Credit Bureaus, requested a Commission staff interpretation which would allow credit bureaus to automatically report all "undesignated information" [12] from a "joint file" when a separate report on either spouse is requested. Other credit bureaus have also requested clarification of this question.

The obvious objection to the proposed reporting of undesignated information is that some or much of it may not relate to the applicant spouse. Thus the question raised is whether use of a presumption that all undesignated information relates to both members of a marriage is "a reasonable procedure" designed to ensure the maximum possible accuracy of the information concerning the individual about whom the report relates, as required by section 607(b) of the Fair Credit Reporting Act.[13]

There appear to be two possible solutions to the problem presented by the current reservoir of undesignated information. The first solution is to allow a credit bureau to automatically incorporate undesignated information from the file of the applicant's spouse in its report on the applicant and rely on the Fair Credit Reporting Act's correction mechanism to remove information which does not reflect the applicant's credit history. This could be accomplished either by allowing the creditor to make a separate request for undesignated information in the spouse's file or by using an automated system which would automatically incorporate the undesignated information in a separate file on the applicant. Use of either of these two alternatives would result in automatic reporting of all undesignated information in the file of the applicant spouse.

The second solution is to prohibit the reporting of undesignated information from the file of the applicant's spouse unless the consumer reporting agency has some indication that the information in fact relates to the applicant other than the mere "undesignated" status of the particular information in the spouse's file. Such an approach would include setting up separate files on request of the consumer using undesignated information and, possibly, allowing creditors to verify by telephone that particular accounts listed on an application are reported as undesignated information in the spouse's file. This approach would, in effect, require many women who wish to avail themselves of "undesignated" information in their husband's file to arrange an interview with the credit bureau and have a separate file established.

Argument for Automatic Reporting of Undesignated Information

When there has been only one marriage it is reasonable to assume that most undesignated information in the files of married individuals relates to either joint accounts or user accounts. The majority of credit history information is positive information, that is, it reflects hte history of accounts paid as agreed. Thus, the proposed automatic reporting of undesignated information would benefit married women as a class by creating a separate credit history for them without requiring them to individually contact the credit bureau and, therefore, serve as a remedy to the effects of past credit practices. To the extent that erroneous information is included in the consumer's file because of this procedure, consumer injury can be mitigated through traditional Fair Credit Reporting Act correction procedures. However, in most instances it will be unnecessary for the consumer to correct erroneous information unless it results in the denial of credit.

Automatic incorporation of all undesignated information will also make more positive information avalable to women than would a procedure providing for verification by the credit bureau of the spouse's participation in each account included in the report, since many creditors will not have retained documents which reflect this information. Proponents of this interpretation believe that the possible harm to consumers from this procedure will be greatly outweighed by the benefits derived.

Argument Against Automatic Reporting of Undesignated Information

There are at least four major arguments against automatic inclusion of undesignated information from a nonapplicant spouse's file when making a consumer report on the applicant spouse. First, while most "undesignated information" may relate to both spouses, some will not. This problem will be aggravated in instances in which the nonapplicant spouse had a previous marriage, or where there has been a recent divorce or separation, since many credit bureaus apparently have no practical means of ascertaining when a divorce or separation has occurred. Given the more than 1 million divorces which occurred in 1975, this flaw could produce a substantial inaccuracy problem.[14] Under the proposed automatic reporting there would also be, for example, instances in which adverse credit information which predates the marriage will be reported from the spouse's file including instances in which adverse credit information from the spouse's prior marriage would be included in the consumer's file.[15]

Second, the privacy of the nonapplicant spouse may be invaded. Information concerning some separate accounts held by the spouse will inevitably be incorporated in the other spouse's file. In addition, in certain instances, financial information from a divorced or separated consumer's file will fortuitously become available to his or her former spouse.

Third, the proposal would have the maximum adverse impact on married or formerly married women who have established their own credit history since their spouse's and former spouse's file

See footnotes at end of document.

may at least initially be mixed in with theirs. Finally, the interpretation would not be applicable in cases in which a divorce or separation was recorded with the credit bureau because the undesignated information could no longer be presumed to relate to both spouses. Thus, a significant number of women will still be required to contact the credit bureau to set up a separate file.

I. INTERPRETATION § 600.7—REASONABLE PROCEDURES TO ASSURE MAXIMUM POSSIBLE ACCURACY OF INFORMATION CONCERNING INDIVIDUALS—UNDESIGNATED INFORMATION (INTERPRETS 15 U.S.C. 1681e (1970)).

A consumer reporting agency may report information contained in the file of spouse A when spouse B applies for a separate extension of credit if such information relates to accounts on which spouse B was either a joint user or contractually liable. Conversely, however, a consumer reporting agency may not report information from spouse A's file that relates only to his or her individual credit history when spouse B applies for credit, unless it otherwise has a permissible purpose for the report under section 604[1] of the Fair Credit Reporting Act.

While this principle is simple to state, it is difficult to apply since most credit grantors have in the past reported the credit history of accounts on which two spouses are jointly liable or on which one is liable and the other a user, only in the name of one spouse and in most instances in the name of the husband. Although § 202.6 of Regulation B, which interprets the Equal Credit Opportunity Act,[2] is designed to provide a prospective solution to this problem, it appears to be commercially impracticable for consumer reporting agencies to reinvestigate all existing information to determine whether it reflects the participation of both spouses. Consumer reporting agencies are thus faced with a choice of either reporting all "undesignated information"[3] in the husband's file on the assumption that most of it relates to both spouses or initiating procedures to reinvestigate undesignated information upon the request of the consumer and establish separate files in those instances in which the consumer's participation can be verified.

The Commission believes a credit bureau which responds to a request for information on a consumer by supplying all undesignated information from the file of the consumer's spouse would not be in compliance with section 607(b)[4] of the Fair Credit Reporting Act, since some or all of the information reported may not relate to both spouses.

An acceptable alternative method of ensuring access by both spouses to undesignated information would be for credit bureaus to allow married or divorced individuals who wish undesignated information to be segregated to contact the credit bureau in order to have a separate file created. This procedure, currently in use by some credit bureaus, should ensure greater accuracy and protection of the privacy of individual spouses than automatic reporting of undesignated information. Such a procedure affords the credit bureau some additional indication, through the individual's own word plus any reinvestigation the credit bureau deems it advisable to conduct, that the undesignated information belongs to the consumer. The credit bureau would not be relying on the mere undesignated status of that information in the file of the consumer's spouse.

Finally, the Commission believes that credit bureaus, consistently with this interpretation, must adopt some procedure to ensure that undesignated information can be accessed in the name of either spouse who wishes to rely on it. If such a procedure is not adopted by credit bureaus, creditors who rely on information supplied by those bureaus may be subject to challenge under the general prohibition of discrimination against applicants on the basis of sex or marital status that is contained in § 202.2 of Regulation B.[5] A credit bureau's failure to create a separate file on request as described in the preceding paragraph may render its data base discriminatory and unusable by creditors unless the bureau can satisfy the Commission that it has a nondiscriminatory justification for its practice.

II. INTERPRETATION § 600.8 CONCERNING PERMISSIBLE PURPOSES FOR CONSUMER REPORTS

NEED FOR INTERPRETATION

The provisions of the Equal Credit Opportunity Act creates a right to a separate credit identity for married women. The creation of this separate credit identity has produced uncertainty concerning the requirements of section 604 of the Fair Credit Reporting Act[17] which limits the distribution of consumer reports on "individuals" to specified permissible purposes. Specifically, the question is whether a creditor has a permissible purpose to obtain a consumer report on a applicant's spouse in instances in which the creditor is allowed under Regulation B to consider information about the spouse. This question did not arise previously because a married woman's credit identity was merged with that of her husband and their accounts were usually in the husband's name.

Although the Equal Credit Opportunity Act creates a separate credit identity for married women, there are still four specified instances in which Regulation B recognizes that information on the nonapplicant spouse may be considered by a credit grantor.[17] In each of these four instances a question arises as to whether the Fair Credit Reporting Act allows creditors to gain access to the information through credit bureaus, the normal sources of such information.

Section 604 provides in relevant part:

A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

* * * * *

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe—

(A) Intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to * * * the consumer; or

* * * * *

(E) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

The legislative history of this section indicates that its purpose was to ensure that reports were made only to those having legitimate business need for them. Its passage was spurred, in part, by a television program which suggested that almost anyone could obtain reports from credit bureaus.[18] There is no expressed intention in the legislative history to limit access to information by those having a legitimate business need for the information in connection with a business transaction involving the consumer.[19]

A narrow interpretation of section 604 (3) would prevent the creditor from obtaining a consumer report about the nonapplicant spouse without that individual's written permission.[20] This interpretation does not seem to be required by the policies which section 604 is designed to further and would appear to contradict the policies of the Equal Credit Opportunity Act by requiring the applicant spouse to obtain the written permission of the non-applicant spouse in order to apply for credit in those instances listed in section 205(b)(1)(i–iv) of Regulation B. Moreover, this position would be inconsistent with prior staff opinions allowing creditors to gain access to consumer reports on nonapplicant spouses.[21]

The proposed interpretation allows creditors to obtain consumer reports on nonapplicant spouses where consideration of such information is permitted by Regulation B, with certain exceptions. Thus, for example, in a state with a community property law which grants the applicant spouse the power to commit the property and income of the nonapplicant spouse, a creditor may, under Regulation B, consider any information about the nonapplicant spouse which it can about the applicant, if the applicant is relying on community property as the basis for repayment of the credit. Under the proposed interpretation a permissible purpose would also exist for a creditor to obtain a consumer report on the nonapplicant spouse, since the creditor has a legitimate business need for the information in connection with a business transaction involving (tangentially) the nonapplicant spouse. Section 604(3)(E).

It is also arguable that the transaction, in effect, involves an extension of credit to the nonapplicant spouse and therefore a consumer report may be obtained under section 604(3)(A) as well. While this rationale is most clearly applicable in community property states it would also be

See footnotes at end of article.

true under other state laws which grant the applicant spouse the implied or express authority to open a joint account in the name of both spouses, thus, effectively making both spouses applicants or otherwise subjecting the nonapplicant spouse to contractual or other liability on the account. Compare § 202.5(b)(1)(ii) of Regulation B.

Similarly the proposed interpretation provides that, where the nonapplicant spouse is an intended user of the account, a permissible purpose to obtain a consumer report on the nonapplicant spouse exists. Compare § 202.5(b)(1)(i) of Regulation B.

II. INTERPRETATION § 600.8—PERMISSIBLE PURPOSES FOR REPORTS ON NONAPPLICANT SPOUSES IN CONSUMER CREDIT TRANSACTIONS (INTERPRETS 15 U.S.C. 1681b (1970))

Because of the many types of accounts offered by creditors which contemplate reliance by the creditor on the resources of both spouses, a question arises as to when a creditor has a permissible purpose to access the consumer report of the nonapplicant spouse.[1]

Whether a creditor would have a permissible purpose to access the consumer report of the nonapplicant spouse turns on the extent of that spouse's involvement in the credit transaction. In order to make such a determination it is appropriate to look to § 202.5(b)(1) of Regulation B which implements the Equal Credit Opportunity Act.[2] That Section governs the circumstances under which a creditor may consider information about the applicant's spouse. The Commission interprets section 604(3)(A) and (E)[3] of the FCRA to permit a creditor to access the consumer report of the applicant's spouse in those cases in which §§ 202.5(b)(1)(i), (ii) and (iii)[4] permit the creditor to consider information about the spouse.

In our view, a creditor may access the consumer report of the applicant's spouse when the applicant is applying for an account which the spouse will be permitted to use (see 12 CFR 202.5(b)(1)(i) (1976)) or an account for which the spouse will be contractually liable (see 12 CFR 202.5(b)(1)(ii) (1976)). In these instances a creditor would have a permissible purpose to access the nonapplicant spouse's report because, as to those two types of accounts the creditor "intends to use the information in connection with a credit transaction involving an extension of credit to the consumer" (see 604(3)(A) of the FCRA, 15 U.S.C. 1681b(3)(A)(1970)). Since the nonapplicant spouse in both situations is receiving, in effect, an extension of credit, the creditor has a permissible purpose to receive the consumer report of both the applicant and nonapplicant spouse.

Where the applicant is relying on community property or the spouse's income as a basis for repayment of the obligation, the situation described under § 202.5(b)(1)(iii) of Regulation B,[5] the creditor would also have a permissible purpose under section 604(3)(E)[6] of the FCRA to obtain the consumer report of the nonapplicant spouse. In that situation, although the transaction may not involve an extension of credit to the applicant's spouse, the creditor does have a legitimate business need for the information in connection with a business transaction involving the applicant's spouse. The connection between the applicant's spouse and the creditor is established by reason of the creditor's reliance on the resources of that spouse in the transaction involving the applicant. This interpretation is based on the assumption that the applicant is acting as an agent for his or her spouse in committing either the community property or the spouse's income as a basis for establishing creditworthiness.

The rationales described above do not apply to the situation set forth in § 202.5(b)(1)(iv)[7] of Regulation B. The fact of a marriage, or previous marriage standing alone, is not sufficient to establish a permissible purpose to obtain a consumer report nor does a permissible purpose exist under section 604 to obtain a report on a former spouse. Although § 202.5(b)(1)(iv)[8] allows the creditor to consider information on a former spouse where the applicant is relying on alimony or child support, a former spouse cannot be deemed to have consented to the distribution of information as can a participant in an ongoing marriage. Where a spouse is legally separated or has otherwise indicated an intent to legally disassociate with the marriage the Commission believes that no permissible purpose exists.

Finally it should be noted that a permissible purpose for making a consumer report on a nonapplicant spouse can never exist under section 604(3)[9] of the Fair Credit Reporting Act when the consideration of the information is prohibited by Regulation B. It is clear that where Regulation B prohibits consideration of the information a "legitimate" need for it can never exist.

* * * * *

The Commission requested comments on the following subjects:

(1) The arguments for and against the proposed undesignated information interpretation. The Commission is specifically seeking submission of data which will allow the Commission to assess the negative impact of the proposed interpretation and balance this impact against the need for an expanded interpretation authorizing automatic reporting of undesignated information. Examples of such data include: (A) The percentage of women who currently have separate credit files, (B) the percentage of credit information which is positive, (C) the percentage of denials of credit which are currently caused by (i) inadequate information or (ii) derogatory information, (D) the procedures or safeguards which would lessen the impact of an interpretation authorizing automatic reporting of undesignated information on (i) privacy and (ii) accuracy, (E) the additional costs to consumer reporting agencies contrasted to costs to consumers. Also, the Commission requests views on whether FCRA procedures would be adequate to correct any inaccuracies created by automatic reporting of undesignated information under the spouse's name.

(2) The present practices of consumer reporting agencies with respect to opening separate credit files on married or divorced women including descriptions of the types of information which would be placed in or transferred to the file, the steps necessary to initiate such action the costs to the consumer of such services, and the costs to the credit bureau.

(3) Whether the Commission should issue an interpretation placing an affirmative duty under section 607(b) of the Fair Credit Reporting Act on consumer reporting agencies to create separate credit files concerning joint accounts and user accounts in the file of the consumer's spouse or former spouse upon request. What nondiscriminatory reasons, if any, can be advanced to justify refusals to create separate credit files? Would such a duty create the possibility that consumers could distort their own credit histories by, for example, identifying only favorable undesignated information for inclusion in their files? If a danger of distortion exists, how serious is it? What safeguards, if any, could minimize or eliminate inaccuracy of this kind?

(4) The extent to which one party to an on-going marriage expects his or her individual credit history to be withheld from the other party.

(5) The privacy considerations involved in both proposed interpretations and their alternatives, the weight to be accorded to them, and possible steps to minimize the adverse impact of the interpretations on personal privacy.

(6) The impact on creditors and consumers of requiring a written authorization from a nonapplicant spouse before a consumer report is furnished on him or her in connection with an extension of credit to the other spouse.

Comments on the proposed interpretations may be submitted to the Secretary of the Commission Federal Trade Commission 20580 within 45 days from the date of this notice and should be titled "Comment FCRA Interpretations". The proposed interpretations will not become final until further notice by the Commission.

Dated: January 27, 1977.

By direction of the Commission.

JOHN F. DUGAN,
Acting Secretary.

FOOTNOTES

[1] See, e.g., Utah Advisory Committee to United States Commission on Civil Rights, "Credit Availability to Women in Utah" 94 (1975) (Hereinafter Utah Report).

[2] S. Rep. No. 93-278, 93rd Cong., 1st Sess. 16 (1973).

[3] Id.

[4] Id.; "Utah Report" at 85.

See footnotes at end of article.

[9] 12 CFR 202.6(b) (1976), as amended 41 FR 38759 (Sept. 13, 1976).
[6] 12 CFR 202.5(j)(1) (1976).
[7] 12 CFR 202.5(j)(2) (1976).
[8] 12 CFR 202.6(a)(2) (1976).
[9] 12 CFR 202.6(b) (1976), as amended 41 FR 38759 (Sept. 13, 1976).
[10] 12 CFR 202.6(a)(1) (1976), as amended 41 FR 38759 (Sept. 13, 1976).
[11] 12 CFR 202.5(j)(2) (1976).
[12] The term "undesignated information" refers to all credit history information in a married consumer's file which was not reported to the consumer reporting agency with a designation indicating that the information relates to either the consumer's joint or individual credit experience. This would include most file informatoin compiled up to June 1, 1977 (when the Regulation B designation requirement goes into effect) and most information reported to credit bureaus after that date which relates to pre-June, 1977 accounts that have not been designated either by the creditor, through the process set forth in Section 202.6 of Regulation B, or by the consumer's direct request to the credit bureau.
[13] 15 U.S.C. 1681e (1970).
[14] In 1975 there were 1,026,000 divorces in the United States. HEW, "Vital Statistics Report, Annual Summary For the United States 1975" at 12 (June 1976). In 1975, 10 percent of all ever married persons 25 to 54 years old were reported as either divorced (and not remarried) or separated. Dept. of Commerce, "Marital Status and Living Arrangements: March 1975" at 2-4 (Dec. 1975).
[15] Recent trends indicate that 4 out of 5 divorced individuals can be expected to remarry. Norton & Glick, "Marital Instability: Past, Present, and Future", 32 J. Social Sci. 5, 8 (1976); Dept. of Commerce, "Population Characteristics" 3 (Oct. 1976).

FOOTNOTES FOR INTERPRETATION I.

[1] 15 U.S.C. 1681b (1970). See also, Proposed Interpretation § 600.8, infra.
[2] 12 CFR 202.6 (1976), as amended 41 FR 38759 (Sept. 13, 1976).
[3] For purposes of this interpretation, the term "undesignated information" refers to all credit history information in a married consumer's file which was not reported to the consumer reporting agency with a designation indicating that the information relates to either the consumer's joint or individual credit experience. This would include most file information compiled up to June 1, 1977 (when the Regulation B designation requirement goes into effect) and most information reported to credit bureaus after that date which relates to pre-June, 1977 accounts that have not been designated either by the creditor, through the process set forth in § 202.6 of Regulation B, or by the consumer's direct request to the credit bureau.
[4] 15 U.S.C. 1681e(b) (1970).
[5] 12 CFR 2022 (1976). See also proposed amendments at 41 FR 29870, 29880 n. 7 (July 20, 1976).

* * * * *

[16] 15 U.S.C. 1681b (1970).
[17] 12 CFR 202.5(b)(1)(i-iv) (1976)

(b) *Information about a spouse or former spouse.* (1) A creditor may request and consider any information concerning an applicant's spouse (or former spouse under (iv) below) which may be considered about the applicant of:

(i) The spouse will be permitted to use the account; or

(ii) The spouse will be contractually liable upon the account; or

(iii) The applicant is relying on community property or the spouse's income as a basis for repayment of the credit requested; or

(iv) The applicant is relying on alimony, child support or maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

[18] S. Rep. No. 91-517 91st Cong., 1st Sess. 4 (1969).
[19] Id. at 5; 116 Cong. Rec. 35941 (1970) (remarks of Senator Proxmire).
[20] See 604(2). 15 U.S.C. 1681b(2) (1970).
[21] See, Clontz, "Fair Credit Reporting Act Manual" 554, 626,634 (1975 Cum. Supp.)

FOOTNOTES FOR INTERPRETATION II.

[1] The term "nonapplicant spouse" is used here for identification purposes and refers to a spouse not actually signing or otherwise completing the application.
[2] Pub. L. 93-495, 88 Stat. 1521 (1974), as amended Pub. L. 94-239 (1976). 12 CFR 202.5(b)(1) (1976).
[3] 15 U.S.C. 1681b(3)(A) and (E) (1970).
[4] 12 CFR 202.5(b)(1)(i), (ii) and (iii) (1976).
[5] 12 CFR 202.5(b)(1)(iii) (1976).
[6] 15 U.S.C. 1681b(3)(E) (1970).
[7] 12 CFR 202.5b(1)(iv) (1976).
[8] Id.
[9] 15 U.S.C. 1681b(3) (1970).

[FR Doc.77-2611 Filed 1-26-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1012]

MEETINGS: ADVANCE PUBLIC NOTICE, PUBLIC ATTENDANCE AND RECORDKEEPING

Proposed and Interim Amendments To Implement Government in the Sunshine Act

• The purpose of this document is to propose amendments to the Consumer Product Safety Commission's meetings policy, (16 CFR 1012) to implement the Government in the Sunshine Act ("Sunshine Act") Pub. L. 94-409. The Commission solicits public comment on the proposal until February 28, 1977. The Sunshine Act requires the Commission to issue final regulations effective by March 12, 1977. Howeve, the Commission wishes to begin to comply with the Sunshine Act prior to the effective date. The first meeting of the Commissioners to which the Commission expects to apply the provisions set forth in this document is planned for February 24, 1977. Therefore, until final regulations are issued, the procedures for making a determination to open or close a meeting of the Commissioners, the provisions for public announcement of such meetings and the provisions regarding recordkeeping for such meetings are effective upon publication of this document in the FEDERAL REGISTER. •

BACKGROUND

In the FEDERAL REGISTER of November 4, 1975 (40 FR 51360), the Commission issued a policy regarding its requirements for advance public notice, public attendance and recordkeeping for meetings that are of substantial interest to the public involving Commissioners or Commission staff and outside parties (hereinafter "Part 1012"). In developing the policy, the Commission followed the principle that the public interest is best served when regulatory affairs are open to the fullest extent practicable. The Commission therefore, provided for advance public notice and public attendance at meetings between its members or its staff and outside parties, subject to narrow exceptions. The Commission remains committed to this principle and will continue to provide for advance public notice and public attendance at such meetings. In addition, as described below, the Commission proposes to revise its policy with regard to meetings of the Commissioners held to conduct official agency business in order to comply with the requirements of the Sunshine Act.

PROPOSED REVISIONS TO IMPLEMENT THE SUNSHINE ACT

The requirements of the Sunshine Act regarding meetings apply only to meetings of members of the collegial body heading the agency. The Commission therefore proposes to revise § 1012.2, containing definitions, to incorporate the definition of "meeting" as used in the Sunshine Act. Meetings to which the Sunshine Act applies, meetings of the Commissioners held to conduct official agency business, are referred to as "Commission meetings." Other meetings to which Part 1012 applies, which are not covered by the Sunshine Act, are referred to as "Agency meetings" and include meetings between Commissioners or agency staff and outside parties, hearings, staff meetings and advisory committee meetings.

The proposed amendments to Part 1012 to implement the Sunshine Act, involve chiefly a revision and expansion of former § 1012.4(b) (renumbered § 1012.4 in this document) relating to Commission meetings; and a revision and expansion of former § 1012.5 (renumbered § 1012.6 in this document) relating to recordkeeping requirements for the various types of meetings covered by the policy.

Proposed § 1012.4 follows closely the relevant provisions of section 3 of the Sunshine Act (5 U.S.C. 552b) and sets forth requirements for announcement of meetings of the Commission, requirements for attendance by the public and exceptions to the requirement of open meetings, and procedures to be followed by the Commission in closing a meeting and in reconsidering its decision to open or close a meeting.

Proposed § 1012.5 retains the provisions relating to Agency meetings proviously set forth in § 1012.4(a), (c), (d) and (e). Proposed § 1012.6 sets forth requirements for recordkeeping and procedures for making meeting records available to the public. Requirements are set forth separately for Commission meetings and Agency meetings. Proposed § 1012.6(b) (formerly § 1012.5(b)) regarding recordkeeping requirements for Commission meetings retains the existing provisions relating to documentation, by use of "Commission minutes", of de-

cisions of the Commission made at Commission meetings or by ballot vote. However, in order to avoid confusion with the minutes provided for in § 1012.6(a)(1), which are detailed summaries of Commission meetings, the term "Record of Commission Action" is substituted for the term "Commission minute." Records of Commission Action summarize the issues presented, indicate the vote of each Commissioner and are signed by each Commissioner voting.

In considering these regulations, the Commission discussed the impact of section 6(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(1)) on Commission meetings to be conducted pursuant to these regulations. Section 6(b)(1) requires that prior to the public disclosure of any information about a consumer product that would permit the public to identify the manufacturer or private labeler of the product, the Commission must provide 30 days notice and a summary of the information to the manufacturer or private labeler in order to afford the interested party an opportunity to submit comments on the information. The purpose of the notice requirement is to assure that information which is publicly disclosed is accurate, fair, and reasonably related to effectuating the purposes of the Consumer Product Safety Act. The provision also requires the Commission to retract information that is publicly disclosed about the safety of a consumer product or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products if the Commission determines that the information is inaccurate or misleading.

The particular question raised was whether a Commission discussion of information covered by section 6(b)(1) in a meeting open to the public, would constitute "public disclosure" of such information.

The Commission previously decided (on October 6, 1975) that the term "public disclosure" in section 6(b)(1) means the affirmative and widespread dissemination of information. The mere discussion of information at a public meeting would not, in the Commission's view, constitute a "public disclosure" which would invoke the notice or retraction requirements of section 6(b)(1).

Accordingly, in view of the provisions of the Sunshine Act regarding the bases for closing meetings and the Commission's interpretation of section 6(b)(1) of the Consumer Product Safety Act, the Commission's position is that section (b)(1) does not apply to discussions at Commission meetings and will not be invoked as a basis for closing any Commission meeting.

Accordingly, pursuant to the provisions of the Sunshine Act requiring agencies to promulgate implementing regulations (sec. 3(g), Pub. L. 94-409, 5 U.S.C. 552b(g), the Commission proposes to revise Part 1012 of Title 16, Chapter II, Subchapter A to read as follows:

Sec.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 92-573, 86 Stat. 1207 (15 U.S.C. 2051-81); Pub. L. 90-189, 81 Stat. 568 (15 U.S.C. 1191-1204); Pub L. 86-613, 74 Stat. 372, as amended by Pub. L. 89-756, 80 Stat. 1303, and Pub. L. 91-113, 83 Stat. 187 (15 U.S.C. 1261-74); Pub. L. 91-601, 84 Stat. 1670 (15 U.S.C. 1471-76) and the Act of Aug. 7, 1956, 70 Stat. 953 (15 U.S.C. 1211-14).

§ 1012.1 General policy considerations.

(a) In enacting the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552b), the Congress stated the policy that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. The purpose of the Government in the Sunshine Act is to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities. Accordingly, when the Commissioners of the Consumer Product Safety Commission hold meetings for the purpose of jointly conducting or disposing of Commission business, the meetings shall be held in accordance with the provisions of the Government in the Sunshine Act.

(b)(1) In order for the Consumer Product Safety Commission to properly carry out its mandate to protect the public from unreasonable risks of injury associated with consumer products, the Commission has determined that it must involve the public to the fullest possible extent in its activities.

(2) To guarantee public confidence in the integrity of Commission decisionmaking, the Agency will, to the fullest possible extent, conduct its business in an open manner which is free from any actual or apparent impropriety.

(3) To achieve the goals set forth in paragraphs (b)(1) and (2), the Commission believes that, wherever practicable, it should notify the public in advance of all Agency meetings involving matters of substantial interest held or attended by its personnel and permit the public to attend such meetings. Furthermore, to ensure the widest possible exposure of the details of such meetings, the Agency will keep records of them which are freely available for inspection by the public.

§ 1012.2 Definitions.

As used in this Part 1012, the following terms shall have the meanings set forth:

(a) *Agency.* The entire organization which bears the title Consumer Product Safety Commission (CPSC).

(b) *Agency staff.* Employees of the Agency other than the five Commissioners.

(c) *Commissioner.* An individual who belongs to the collegial body heading the CPSC.

(d) *Commission.* The Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(e) *Majority of the Commission.* Three or more of the Commissioners.

(f) *Commission meeting.* The joint deliberations of at least a majority of the Commission where such deliberations determine or result in the joint conduct or disposition of official Agency business. This term does not include meetings required or permitted by § 1012.4(e)(1) (to determine whether a meeting will be open or closed), meetings required or permitted by § 1012.4(b)(2) (to change the subject matter of a meeting or the determination to open or close a meeting after the public announcement) or meetings required or permitted by § 1012.4(a)(2) (to dispense with the one week advance notice of a meeting).

(g) *Agency meeting.* Any face-to-face encounter, other than a Commission meeting as defined in paragraph (f) of this section, in which one or more employees, including Commissioners, discuss any subject relating to the Agency or any subject under its jurisdiction.

(h) *Outside party.* Any person not an employee, not under contract to do work for the Agency, or not acting in an official capacity as a consultant to the Consumer Product Safety Commission, such as advisory committee members or offeror personnel. Examples of persons falling within this definition are representatives from industry, consumer groups and other government bodies. Members of the news media are not considered to be outside parties when acting in a news-gathering capacity. (See also § 1012.7.)

(i) *Substantial interest matter.* Any matter, other than that of a trivial nature, that pertains in whole or in part to any issue that is likely to be the subject of a regulatory or policy decision by the Commission. Pending matters, i.e., matters before the Agency in which the Agency is legally obligated to make a decision, automatically constitute substantial interest matters. Examples of pending matters are: scheduled administrative hearings; matters published for public comment; petitions under consideration; and mandatory standard development activities. The following examples do not constitute substantial interest matters: inquiries concerning the status of a pending matter; discussions relative to general interpretations of existing laws, rules, and regulations; inspection of nonconfidential CPSC documents by the public; negotiations for contractual services; and routine CPSC activities such as recruitment, training,

meetings involving consumer deputies, or meetings with hospital staff and other personnel involved in the National Electronic Injury Surveillance System.

(j) *Public announcement.* A matter is publicly announced when it is entered on the master calendar or public calendar, or both.

§ 1012.3 Forms of advance public notice of meetings; public calendar/master calendar and "Federal Register."

Advance notice of Agency activities is provided to the public so that it may know of and participate in these activities to the fullest extent possible. Where appropriate, the Commission uses the following types of notices for both Agency meetings involving substantial interest matters and Commission meetings.

(a) *Public calendar/master calendar.* (1) The printed public calendar and the master calendar maintained in the Office of the Secretary are the principal means by which the Agency notifies the public of its day-to-day activities. The public calendar and/or master calendar provide advance notice of public hearings, Commission meetings, Agency meetings with outside parties involving substantial interest matters, selected staff meetings, advisory committee meetings, and other events such as speeches, and participation in panel discussions, regardless of the location. The public calendar also lists recent CPSC FEDERAL REGISTER issuances and Advisory Opinions of the Office of the General Counsel.

(2) Upon request in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, any person or organization will be sent the public calendar on a regular basis free of charge. In addition, interested persons may contact the Office of the Secretary to obtain information from the master calendar which is kept current on a daily basis.

(3) The master calendar, supplemented by meeting summaries, is intended to serve the requirements of section 27(j)(8) of the Consumer Product Safety Act (15 U.S.C. 2076(j)(8)).

(4) Commissioners and Agency staff are responsible for reporting meeting arrangements for Agency meetings to the Office of the Secretary so that they may be published in the printed public calendar or entered on the master calendar at least seven days before a meeting, except as provided in § 1012.5(b)(1). Such reports shall include the following information:

(i) Probable participants and their affiliations;

(ii) Date, time and place of the meeting;

(iii) Subject of the meeting (as fully and precisely designated as possible);

(iv) Who requested the meeting;

(v) Whether the meeting involves matters of substantial interest;

(vi) Notice that the meeting is open or reason why the meeting or any portion of the meeting is closed (e.g., discussion of trade secrets); and

(vii) Name and telephone number of the CPSC host or contact person.

(5) The Secretary of the Commission is responsible for preparing and making public the announcements and notices relating to Commission meetings that are required in § 1012.4(a) and (b).

(b) FEDERAL REGISTER. The FEDERAL REGISTER is the publication through which official notifications, including formal rules and regulations of the Agency, are made. Because the public calendar and/or master calendar are the primary devices through which the Agency notifies the public of its routine, daily activities, the FEDERAL REGISTER will be utilized only when required by the Government in the Sunshine Act (as provided in § 1012.4 (a) and (b)) or other applicable law, or when the Agency believes that the additional coverage which the FEDERAL REGISTER can provide is necessary to assist in notification to the public of important meetings.

§ 1012.4 Commission meetings; requirements for advance public notice and attendance by the public.

Commission meetings are held for the purpose of jointly conducting the formal business of the Agency, including the rendering of official decisions. The following provisions regarding announcement of meetings and attendance by the public shall apply to Commission meetings that determine or result in the joint conduct or disposition of official Agency business. Requirements as to other types of meetings Commissioners may attend (Agency meetings) are contained in § 1012.5.

(a) *Announcement of meetings.* (1) The Agency shall announce each Commission meeting in the public calendar or master calendar at least one week (seven calendar days) before the meeting. The Agency shall concurrently submit the announcement for publication in the FEDERAL REGISTER. The announcement and the FEDERAL REGISTER notice shall contain the following information:

(i) The date, time, and place of the meeting;

(ii) The subject matter of the meeting;

(iii) Whether the meeting will be open or closed to the public;

(iv) The name and phone number of the official who responds to requests for information about the meeting.

(2) If a majority of the Commission determines by recorded vote that Agency business requires calling a meeting earlier than 7 calendar days in advance, announcement shall be made in the public calendar or master calendar at the earliest practicable time and the Agency shall transmit the announcement concurrently for publication in the FEDERAL REGISTER.

(b) *Changes after public announcement.* (1) When necessary and at the direction of the Chairman, the Secretary shall change the time of a meeting after the announcement in the public calendar or master calendar. Such change shall be entered on the master calendar and such other notice shall be given as is practicable.

(2) The Commission may change the subject matter of a meeting or the decision to open or close a meeting or portion thereof to the public, after announcement in the public calendar or master calendar only if a majority of the Commission determines by recorded vote that Agency business so requires and that no earlier announcement of the change was possible. The Commission shall announce the change in the public calendar or master calendar at the earliest practicable time before the meeting and shall concurrently submit the announcement for publication in the FEDERAL REGISTER. (See also § 1012.4(f) for requirements for Commission reconsideration of a decision to open or close a meeting to the public.)

(c) *Attendance by the public.* Every portion of every Commission meeting shall be open to public observation, except as provided in paragraph (d) of this section. Notwithstanding paragraph (d) of this section, Commission meetings or portions thereof may be open to public observation if the Commission determines that the public interest so requires. The number of public observers shall be limited only by availability of space. Attendance by the public shall be limited to observation and shall not include participation.

(d) *Exceptions to the requirement of openness.* The requirement in paragraph (c) of this section that all Commission meetings be open to public observation shall not apply to any Commission meeting or portion thereof for which the Commission has determined, in accordance with the procedures for closing meetings set forth in paragraph (e) of this section, that such meeting or portion thereof is likely to—

(1) Disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and in fact properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Agency action. This provision does not apply in any instance where the Agency has already disclosed to the public the content or nature of its proposed action, or where the Agency is required by law to make such disclosure on its own initiative pior to taking final agency action on such proposal; or

(10) Specifically concern the Agency's issuance of a subpoena, or the Agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(e) *Procedure for closing meetings of the Commission.* The following procedure shall be followed in closing a Commission meeting or portion thereof to public observation:

(1) A majority of the Commission must vote to close a meeting or portion thereof to public observation pursuant to paragraph (d) of this section. A separate vote of the Commission shall be taken for each matter with respect to which a Commission meeting is proposed to be closed to public observation. Each such vote may, at the discretion of the Commission, apply to that portion of any meeting held within the following thirty days in which such matter is to be discussed. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Any person, whose interest may be directly affected if a portion of a meeting is open, may request in writing to the Office of the Secretary that the Commission close that portion on the basis of paragraph (d) (5), (6) or (7) of this section. The Commission shall vote on such requests if at least one Commissioner desires to do so.

(3) Within one day of a vote in accordance with paragraph (d) (1) or (2) of this section to close a Commission meeting or portion thereof, the Secretary shall make available to the public a notice setting forth:

(i) The results of the vote reflecting the vote of each Commissioner;

(ii) A full explanation of the action of the Commission closing the meeting or portion thereof, including reference to the specific basis for such closing (see paragraph (d) of this section) and an explanation, (without disclosing exempt information), of why the Commission concludes on balance, (taking into account the relative advantages and disadvantages to the public of conducting the meeting in open or closed session) that the public interest would best be served by closing the meeting;

(iii) A list of all persons (other than Commissioners) expected to attend the meeting and their affiliations; and

(iv) A certification by the General Counsel that in his or her opinion, the meeting may properly be closed to the public.

(4) The public release of the written statement required by paragraph (d) (3) of this section may be delayed upon a determination by the Commission, by recorded vote, that such a notice, or portion thereof, would disclose information which may be withheld in accordance with paragraphs (d) (1) through (10) of this section.

(f) *Reconsideration of a decision to open or close a meeting.* The Commission may, in accordance with the procedures in paragraph (b) (2) or (e) (2) of this section, reconsider its determination to open or close a Commission meeting when it finds that the public interest so requires.

§ 1012.5 Agency meetings: requirements for advance public notice and attendance by the public.

For the purpose of implementing the Agency's meetings policy, meetings which involve Agency staff or the Commissioners, other than Commission meetings, shall be classified in the following categories and shall be held according to the procedures outlined within each category.

(a) *Hearings.* Hearings are public inquiries held by direction of the Commission for the purpose of fact finding or to comply with statutory requirements. The Office of the Secretary is responsible for providing transcription services at the hearings. Where possible, notice of forthcoming hearings will be published in the public calendar and the FEDERAL REGISTER at least 30 days before the date of the hearings.

(b) *Meetings between Commissioners or Agency staff and outside parties.* The following requirements shall apply to Agency meetings between Commissioners or Agency staff and outside parties whether hosted or attended at Agency premises or at the premises of outside parties, or at any other location:

(1) *Notice.* (i) (A) Notice of Agency meetings with outside parties involving substantial interest matters shall be published in the public calendar at least 7 calendar days in advance of the meeting. Any Agency employee planning to host or attend such a meeting must notify the Office of the Secretary as provided in § 1012.3(a) (4). Once notification has been made, Commission employees subsequently desiring to attend the meeting need not notify the Office of the Secretary.

(B) When there is no opportunity to give 7 days advance notice of a meeting, Agency staff (other than the personal staff of Commissioners) who desire to hold or attend such meeting must obtain the approval of the Office of the Chairman. Personal staff of Commissioners must obtain the approval of their respective Commissioners. If such approval is obtained, the Office of the Secretary must be notified in advance of the meeting to record the meeting on the master calendar. The Office of the Secretary shall publish notice of the meeting as an addendum to the succeeding public calendar. Because it could unduly compromise the indepedence of individual Commissioners, they need not obtain the permission of the Chairman to hold or attend an emergency unscheduled meeting. Listing of the meeting in the master calendar is still required.

(ii) *Exceptions.* The notice requirement shall not apply to:

(A) Meetings with outside parties not involving substantial interest matters (although such meetings should be listed where the public interest would be served).

(B) Meetings regarding initial notifications pursuant to section 15(b) of the Consumer Product Safety Act. However, subsequent meetings are not excepted from the notice requirement.

(C) Meetings held during the normal course of field surveillance, inspection or investigation of a person or company, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act. However, advance notice is required for any negotiation meetings leading to settlement of individual cases.

(D) Meetings or discussions with or at the request of members of Congress and their staffs, or Office of Management and Budget personnel relating to legislation or appropriation matters.

(E) Meetings with Department of Justice employees regarding litigation matters.

(F) Routine speeches given by CPSC personnel before outside parties. However, personnel are encouraged to submit advance notice of these speeches to the Office of the Secretary for inclusion in the public calendar, for information purposes.

(2) *Attendance by the public.* (i) Any person or organization may attend any Agency meeting listed in the master calendar unless that meeting has been listed as a closed meeting. Generally, all meetings between Agency employees and outside parties are open to the public for the

purpose of observation or participation, subject only to space limitations. Participation by the public may be permitted by the meeting chairperson. When feasible, a person or organization desiring to attend should give at least one day advance notice to the employee holding or attending such meeting.

(ii) The following Agency meetings are not open to the public:

(A) Meetings, or, if possible, portions of meetings where the Office of the General Counsel has determined that proprietary data are to be discussed in such a manner as to imperil their confidentiality.

(B) Meetings held by outside parties at which limits on attendance are imposed by lack of space, provided, that such meetings are open to the press or other news media.

(C) Meetings regarding initial notifications pursuant to section 15(b) of the Consumer Product Safety Act. All subsequent meetings shall be open to the public.

(D) Meetings held during the normal course of field surveillance, inspection, or investigation of a person or company, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act. However, the public may attend any negotiation meetings leading to settlement of individual cases.

(E) Meetings held with other government officials when they request that the meeting be closed, and, in the opinion of the Agency employees, extraordinary circumstances warrant closing the meeting.

(F) Meetings between Agency staff (other than Commissioners and their personal staff) and an outside party, when, by majority vote of the Commission, it is determined that extraordinary circumstances require that the meeting be closed. In such a case, the reasons for closing the meeting or a portion of the meeting shall be detailed in the public calendar.

(G) Meetings between a Commissioner, his or her personal staff, and an outside party, when in the opinion of the Commissioner extraordinary circumstances require that the meeting be closed. In such a case, the reasons for closing the meeting or a portion of the meeting shall be detailed in the public calendar.

(H) Meetings or discussions with members of Congress and their staffs or Office of Management and Budget personnel relating to legislation or appropriation matters.

(I) Meetings with Department of Justice employees regarding litigation matters.

(3) *Recordkeeping.* Any Commission employee who holds or attends an Agency meeting involving a substantial interest matter must prepare a meeting summary as described in § 1012.6(c)(1). However, only one meeting summary is required for each meeting, even if more than one CPSC employee holds or attends the meeting.

(c) *Staff meetings.* Staff meetings are attended only by members of the Agency as a general rule. At the discretion of the participants, such meetings may be listed on the public calendar and attendance by the public may be permitted. Recordkeeping is at the discretion of the participants.

(d) *Advisory committee meetings.* Meetings of the Agency's advisory committees are scheduled by the Commission. Notice will be given in both the public calendar and the FEDERAL REGISTER. Advisory committee meetings serve as a forum for discussion of matters relevant to the Agency's statutory responsibility with the objective of providing advice and recommendations to the Commission. The Agency's advisory committees are the National Advisory Committee for the Flammable Fabrics Act, the Product Safety Advisory Council, and the Technical Advisory Committee on Poison Prevention Packaging. The Office of the Secretary is responsible for the recordkeeping for such meetings. All meetings of advisory committees are open to the public as provided in the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409, 5 U.S.C. App. I) and the Commission's regulations under that Act (16 CFR Part 1018; 41 FR 45821, October 18, 1976).

§ 1012.6 Recordkeeping requirements.

(a) *Commission meetings*—(1) *Maintenance of transcripts, recordings or minutes.* (i) The Agency shall maintain a complete transcript or electronic recording of each Commission meeting, whether open or closed, except that in the case of a meeting, or portion thereof, closed to the public pursuant to paragraph (10) of § 1012.4(d), the Agency may elect to maintan a set of minutes instead of a transcript or a recording. Minutes shall:

(A) Fully and clearly describe all matters discussed, and

(B) Provide a full and accurate summary of any actions taken and the reasons therefor; including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(ii) The transcript, recording or minutes of closed Commission meetings shall include the certification by the General Counsel required by § 1012.4(e)(3)(iv) and a statement by the presiding Commissioner setting forth the date, time and place of the meeting and the persons present.

(iii) The transcript, recording or minutes of any Commission meeting may include attachments such as Commission opinions, briefing papers, or other documents presented at the meeting.

(iv) The transcript and accompanying material shall be maintained by the Secretary for a period of at least two years after the meeting, or until one year after the conclusion of any Agency proceeding with respect to which the meeting, or portion thereof, was held, whichever occurs later.

(2) *Availability of transcripts, recordings or minutes.* The Agency shall make available to the public, the transcript, recording or minutes of Commission meetings. However, unless the Commission finds that the public interest requires otherwise, any portion of the transcript, recording or minutes of a closed meeting which is determined to contain information which may properly be withheld from the public on the basis of paragraphs (1) through (10) of § 1012.4(d) need not be made available to the public.

(3) *Procedure for making available transcripts, recordings or minutes.* Meeting records will be made available for inspection or copies will be furnished, as requested, in accordance with the following procedures.

(i) *Requests.* Requests for inspection or copies shall be in writing addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. A request must reasonably describe the meeting, or portion thereof, including the date and subject matter and any other information which may help to identify the requested material.

(ii) *Responses to requests.* The responsibility for responding to requests for meeting records is vested in the Secretary of the Commission. In any case where the Secretary or designee of the Secretary in his/her discretion determines that a request for an identifiable meeting record should be initially determined by the Commission, the Secretary or designee may certify the matter to the Commission for decision. In that event, the Commission decision shall be made within the time limits set forth in paragraph (a)(3)(iii) of this section and shall be final.

(iii) *Time limitations on responses to requests.* The Secretary or designee of the Secretary shall respond to all written requests for copies of meeting records within ten (10) working days. The time limitations on responses to requests shall begin to run as of the time a request for records is received and date stamped by the Office of the Secretary.

(iv) *Responses: Form and content.* When a requested meeting record has been identified and is available for disclosure, the requester shall either be informed as to where and when the records will be made available for inspection or supplied with a copy. A response denying a written request for a meeting record of a closed meeting shall be in writing signed by the Secretary and shall include:

(A) A reference to the specific exemptions under the Government in the Sunshine Act (5 U.S.C. 552b(c)) authorizing the denial; and

(B) A statement that the denial may be appealed to the Commission pursuant to paragraph (a)(3)(v) of this section.

(v) *Appeals to the Commissioners.* (A) When the Secretary or designee of

the Secretary has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Commissioners of the Consumer Product Safety Commission by writing to the attention of the Chairman, Consumer Product Safety Commission, Washington, D.C. 20207.

(B) The Commission will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal begin to run as of the time an appeal is received by the Office of the Chairman and date stamped.

(C) The Commission's action on appeal shall be in writing, signed by the Chairman of the Commission if the appeal is denied and shall identify the Commissioners who voted for a denial. A denial in whole or in part of a request on appeal for records of a closed meeting shall set forth the exemption relied on and a brief explanation (without disclosing exempt information) of how the exemption applies to the records withheld. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review as specified in 5 U.S.C. 552b(h).

(vi) *Fees.* (A) Fees shall be charged for copies of transcripts, recordings, transcriptions of recordings or minutes in accordance with the schedule contained in paragraph (a)(3)(vi)(C) of this section.

(B) There shall be no fee charged for services rendered in connection with production or disclosure of meeting records unless the charges, calculated according to the schedule below, exceed the sum of $25.00. Where the charges are calculated to be an amount in excess of $25.00, the fee charged shall be the difference between $25.00 and the calculated charges.

(C) The schedule of charges for furnishing copies of meeting records is as follows:

(*1*) Reproduction, duplication or copying of transcripts or minutes: 10 cents per page.

(2) Reproduction of recordings: Actual cost basis.

(3) Transcription (where meeting records are in form of recording only): Actual cost basis.

(*4*) Postage: Actual cost basis.

(b) *Records of Commission action.* Records of Commission Action, summarizing the issues presented to the Commission for decision and indicating the vote of each Commissioner, document the decisions of the Commission, whether made at open or closed meetings or by ballot vote. The Commission's final Record of Commission Action constitutes the official means of recording the decisions of of the Commission and the votes of individual Commissioners when filed with the Office of the Secretary.

(c) *Agency meetings.* The types of records required for Agency meetings depends on the type and purpose of the meeting. Following is a list of the types of and requirements for the categories of recordkeeping utilized by the Agency for Agency meetings.

(1) *Agency Meeting Summaries.* (i) Meeting summaries are written records setting forth the issues discussed at all Agency meetings with outside parties involving substantial interest matters. Any Commission employee who holds or attends an Agency meeting involving a substantial interest matter must prepare a meeting summary. However, only one meeting summary is required for each meeting, even if more than one CPSC employee holds or attends the meeting. A meeting summary should detail the essence of all substantive matters relevant to the Agency, especially any matter discussed which was not listed on the public calendar and should describe any decisions made or conclusions reached regarding substantial interest matters. A meeting summary should also indicate the date and the identity of persons at the meeting.

(ii) A meeting summary or a notice of cancellation of the meeting must be submitted to the Office of the Secretary within twenty (20) calendar days after the meeting for which the summary is required. The Office of the Secretary shall maintain a public file of the meeting summaries in chronological order.

(2) *Transcripts.* Transcripts are generally taken at public hearings and certain Agency meetings when complex subjects indicate verbatim records are desirable. The transcript may also include exhibits submitted to be part of the formal record of an Agency meeting. Copies of such transcripts are placed on file for public inspection in the Office of the Secretary.

§ 1012.7 Agency meetings: The news media.

The Agency recognizes that the news media occupy a unique position relative to informing the public of the activities of the Agency. It is believed that the inherently public nature of the news media requires that their activities be exempt from the requirements of this Part whenever Agency meetings are held with the news media for the purpose of informing them about Agency activities. Such Agency meetings are not exempt in the event that any representative of the news media attempts to influence any Agency employee on a substantial interest matter.

§ 1012.8 Agency meetings: Telephone conversations.

Telephone conversations present special problems regarding Agency meetings as set forth in this Part. It is recognized that persons outside the Agency have a legitimate right to information and to present their views regarding Agency activities. It is further recognized that such persons may not have the financial means to travel to meet with Agency employees. However, because telephone conversations, by their very nature, are not susceptible to attendance or participation by the public, care must be taken to ensure that they are not utilized to circumvent the provisions of this Part. Two basic rules apply to telephone conversations:

(a) Any telephone conversation in which substantial interest matters are discussed with outside parties must be detailed in a meeting summary which meets the requirements of § 1012.6(c)(1). A summary detailing telephone conversations must be submitted by the CPSC employee involved to the Office of the Secretary within 20 calendar days after the telephone call for which a summary is required. The Office of the Secretary shall maintain a public file of telephone call summaries in chronological order.

(b) All agency personnel must exercise sound judgment in discussing substantial interest matters during a telephone conversation and in the exercise of such discretion, should not hesitate to terminate a telephone conversation and insist that the matters being discussed be postponed until an Agency meeting with appropriate advance public notice may be scheduled or until the matter is presented to the Agency in writing if the outside party is financially or otherwise unable to meet with the Agency employee.

Interested persons are invited to submit on or before February 28, 1977, written comments regarding this document. Comments received after this date will be considered to the extent practicable.

Comments should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments may be seen in the Office of the Secretary, 3rd Floor, 1111 18th Street, N.W., Washington, D.C. during working hours Monday through Friday.

Dated: January 21, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-2579 Filed 1-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13195; File No. S7-672]

PERSONS DEEMED NOT TO BE BROKERS

Proposed Rulemaking

The Securities and Exchange Commission today announced for public comment a proposal to adopt Securities Exchange Act Rule 3a4-1 (17 CFR 240.3a4-1). Proposed Rule 3a4-1 would provide that, under certain circumstances, persons who are associated with an issuer of securities and who participate in a distribution of the issuer's securities shall be deemed not to be brokers, as that term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78c(a)(4)). The rule is proposed to be adopted pursuant to the Act, particularly sections 3, 15 and 23 thereof (15 U.S.C. 78c, 78o and 78w).

Section 3(a)(4) of the Act provides: "The term 'broker' means any person engaged in the business of effecting trans-

actions in securities for the account of others, but does not include a bank." Where an issuer of securities elects not to use a registered broker or dealer to effect a distribution of securities and instead effects the distribution through its own regular officers and employees, the Act has customarily been interpreted not to require the issuer itself to register as either a broker or a dealer; the issuer would not be effecting transactions for the account of others nor, generally, would it be engaged in the business of both buying and selling securities for its own account.[1] At the same time, the persons acting on behalf of the issuer in distributing its securities may, depending on the circumstances, be either brokers or dealers within the meaning of Section 3(a)(4) or 3(a)(5) of the Act.

If the definition of the term "broker" in section 3(a)(4) of the Act were interpreted to cover all officers, employees, or other persons associated with an issuer who assisted the issuer in distributing its securities, such persons would have to register as broker-dealers under Section 15(a)(1) of the Act unless an exemption were available.[2] By interpretation, however, the Commission's staff has attempted over the years to distinguish between the circumstances in which persons distributing securities for issuers are deemed not to be "brokers" within the meaning of section 3(a)(4) and circumstances in which such persons should be deemed to be brokers. The rule the Commission has today proposed is intended to address that interpretive distinction.

Questions concerning broker-dealer registration have frequently arisen in circumstances where an entity, that characterizes itself as an issuer and proposes to distribute its securities through its officers and employees, or other persons associated with it, has itself repeatedly been involved in securities distributions or is controlled or managed by those who have. On the one hand, a securities distribution effected by persons associated with an issuer, viewed in isolation, would not generally raise questions as to whether the persons effecting the distribution were engaged in the business of effecting transactions in securities. On the other hand, the repetitive or continuous involvement of persons in effecting transactions for a series of "issuers," or even a single issuer, may indeed suggest that the persons engaged in that distribution process are doing so as part of a regular business and are therefore brokers within the meaning of section 3(a)(4).

Proposed Rule 3a4–1 would provide guidance to issuers in determining whether their officers, employees and other associated persons would be acting as brokers if they effected transactions in the issuer's securities. In the past the Commission has called attention in general terms to the applicability of the broker-dealer registration requirements of Section 15(a)(1) of the Act to persons selling certain securities, for example, condominium programs involving investment contracts.[3] It appears, however, that further guidance would be useful particularly to promoters of, for example, real estate syndications and oil and gas drilling programs (and other oil and gas ventures) who have in the past often sought to distribute securities.

The proposed rule would provide a "safe harbor" within which persons associated with an issuer would be deemed not to be brokers. The term "person associated with an issuer" would be defined in paragraph (b) of the rule and would exclude, among others, associated persons of an issuer or other entity which is itself a registered broker or dealer. Paragraph (a) of the rule would provide that the safe harbor to be afforded by the rule would not be available to any person who is subject to a "statutory disqualification," as that term is defined by section 3(a)(39) of the Act, 15 U.S.C. 78c(a)(39).

The safe harbor is available to an associated person in any one of three ways: by confining his participation to the types of transactions enumerated in paragraph (a)(1), or by being a bona fide employee of the issuer meeting the criteria set forth in paragraph (a)(2), or by restricting his activities in the manner described in paragraph (a)(3).

Paragraph (a)(1) would be available to those effecting certain kinds of transactions which have not generally raised substantial problems of investor protection. The transactions described in paragraph (a)(1)(i) involve the issuer on one side and a financial intermediary on the other. The inclusion of that exemption is premised on the belief that the types of financial intermediaries included will generally be capable of protecting their own interests without the need for further Commission regulation. The transactions described in paragraph (a)(1)(ii) are those in which an issuer sells its securities to the public through a registered broker or dealer. In that case, it is assumed, the activities of the issuer's associated persons in arranging for the offering would not appear to raise problems of investor protection so long as only the registered broker or dealer is involved in making sales to the public. The transactions described in paragraphs (a)(1)(iii) and (iv) are included because they do not currently seem likely to offer substantial inducements to improper selling tactics.

Paragraph (a)(2) would cover bona fide employees of an issuer meeting all three tests enumerated. The test set forth in paragraph (a)(2)(i) is designed to limit paragraph (a)(2) to employees who are not repetitively involved in the distribution process and thus not "in the business" of distributing securities. Any involvement in distributing or selling securities within the preceding two years would disqualify a person from relying on paragraph (a)(2) regardless of the nature of the involvement (e.g., whether or not it would come within paragraphs (a)(1) or (a)(3)) and regardless of whether it was for the current employer or a different one. The (a)(2)(ii) test is aimed, in turn, at limiting paragraph (a)(2) to employees who are regularly and primarily engaged in the issuer's business, outside the securities distribution process. It would, for example, exclude people hired to be securities salesmen. At the same time, it might be available under appropriate circumstances to the bona fide employees of a start-up company whose regular business operations involving such employees will not for the most part be undertaken until the completion of the offering. The (a)(2)(iii) test would exclude persons compensated on a commission basis or any other basis, whatever its designation, that varied directly with the volume or number of securities transactions. For example, a system of salary increases or bonuses that was in fact designed to pay the equivalent of commissions on securities sales would confer "remuneration based on transactions in securities." The test in paragraph (a)(2)(iii) is based in large part on the assumption that the payment of commissions and other transaction-related remuneration not only raises questions as to whether the recipient is "engaged in the business" of effecting transactions but also is somewhat more likely than other compensation schemes to induce high pressure sales tactics and to engender other problems of investor protection customarily associated with unsupervised and unregulated brokerage activities.

Paragraph (a)(3) is designed to cover persons associated with an issuer whose participation in the securities distribution process is essentially passive. Those qualifying under paragraph (a)(3) may not engage in any activities with respect to securities distributions other than those listed. For example, their participation in selling securities may not extend to "cold" calls to those who have not initiated an inquiry. A person's participation in transactions covered by paragraph (a)(1) would not, however, be considered in determining whether paragraph (a)(3) was available for his participation in other transactions.

[1] Section 3(a)(5), 15 U.S.C. 78c(a)(5), provides that the term "dealer" means any person engaged in the business of buying and selling securities for his own account but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

[2] Section 15(a)(1), 15 U.S.C. 78o(a)(1), generally provides that it shall be unlawful for any broker or dealer (other than one whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless the broker or dealer is registered in accordance with Section 15(b) of the Act, 15 U.S.C. 78o(b).

[3] *See* Securities Act Release No. 5347 (Jan. 4, 1973).

Only unusual circumstances would be expected to support a conclusion that persons who do not come within the provisions of the proposed rule are not brokers within the meaning of section 3(a)(4).

The text of the proposed rule is as follows:

§ 240.3a4–1. Associated persons of an issuer deemed not to be brokers.

(a) A person associated with an issuer of securities shall be deemed not to be a broker, as that term is defined in section 3(a)(4) of the Act, solely by reason of his participation in the distribution or sale of securities of such issuer if such person is not subpect to a statutory disqualification, as that term is defined in section 3(a)(39) of the Act, and if:

(1) His participation is confined to transactions in securities:

(i) Involving offers and sales of securities to a registered broker or dealer, a registered investment company (or separate account), an insurance company, a bank or a trust for which a bank or registered investment adviser is the trustee or is authorized in writing to make investment decisions; or

(ii) Made through a registered broker or dealer; or

(iii) Exempted by reason of section 3(a)(7) or 3(a)(9) of the Securities Act of 1933 from the registration provisions of that Act; or

(iv) In connection with a reclassification, merger or consolidation or transfer of assets within the meaning of Rule 145 under the Securities Act of 1933; or

(2) He is a bona fide employee of the issuer who:

(i) Has not participated, within the preceding two years, in the distribution or sale of any securities; and

(ii) Primarily performs, or is intended primarily to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer otherwise than in connection with transactions in securities; and

(iii) Is compensated on a basis other than the direct or indirect payment of commissions or other special remuneration based on transactions in securities; or

(3) He restricts his participation to any one or more of the following:

(i) The delivery of a prospectus or other communication described in Rule 134 under the Securities Act of 1933;

(ii) Responding to inquiries concerning the offering of securities; and

(iii) The ministerial and clerical work of effecting any transaction.

(b) When used in this section, the term "person associated with an issuer" means any natural person who is a partner, officer, director, or employee of the issuer and who is not an associated person of a registered broker or dealer.

* * * * *

All interested persons are invited to submit three copies of written views, data and arguments on proposed Rule 3a4–1 to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than March 21, 1977. Reference should be made to File No. S7–672. All submissions will be made available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 21, 1977.

[FR Doc.77–2734 Filed 1–26–77;8:45 am]

DEPARTMENT OF STATE

[22 CFR Part 93]

[Docket No. SD–125]

FOREIGN SOVEREIGN IMMUNITIES

Proposed Service on Foreign State Regulations

Correction

In FR Doc. 76–36776, appearing at page 54495 in the issue, make the following changes:

1. In the second column, "Subpart J—Legal And Related Service", should read "Subchapter J—Legal and Related Service".

2. In the third column, in the "annex" material, "6. Date of default judgment (if any):" should be added just below the information for number "5".

OVERSEAS PRIVATE INVESTMENT CORPORATION

[22 CFR Part 707]

SUNSHINE REGULATIONS

Proposed Rulemaking

Pursuant to the Government in the Sunshine Act, 5 U.S.C. 552b, and to implement the provisions of such Act, the Corporation proposes to amend Title 22, Chapter VII of the Code of Federal Regulations by adding a new Part 707.

The purpose of the proposed regulations is to state the policy for open meetings, exemptions to the open meeting rule, procedures for transcribing meetings closed to public observation and for making the non-exempt portions of the transcripts available to the public, and procedures for the public announcement of meetings open or closed to public observation. These proposed regulations will implement subsections (b) through (f) of the Government in the Sunshine Act.

Interested parties are invited to submit their comments on these proposed regulations to the Secretary, Overseas Private Investment Corporation, 1129 20th Street, N.W. Washington, D.C. 20527, not later than February 20, 1977. Written comments will be placed in the Corporation's public files and will be available for public inspection at the Office of Secretary of the Corporation.

JANUARY 24, 1977.

OVERSEAS PRIVATE INVESTMENT CORPORATION,
ELIZABETH BURTON,
Corporate Secretary.

The proposed regulations are as follows:

PART 707—SUNSHINE REGULATIONS

Sec.
707.1 Purpose and applicability.
707.2 Open meeting policy.
707.3 Scheduling of a meeting.
707.4 Public announcement.
707.5 Closed meetings.
707.6 Records of closed meetings.

AUTHORITY: 5 U.S.C. 552b.

§ 707.1 Purpose and applicability.

The purpose of this part is to effectuate the provisions of the Government in the Sunshine Act. This part applies to the deliberations of a quorum of the Directors of the Corporation required to take action on behalf of the Corporation where such deliberations determine or result in the joint conduct or disposition of official Corporation business, but does not apply to deliberations to take action to open or close a meeting or to release or withhold information under § 707.5. Any deliberation to which this part applies is hereinafter in this part referred to as a meeting of the Board of Directors.

§ 707.2 Open meeting policy.

(a) It is the policy of the Corporation to provide the public with the fullest practicable information regarding the decisionmaking process of the Board of Directors of the Corporation while protecting the rights of individuals and the ability of the Corporation to carry out its responsibilities. In order to effect this policy, every meeting of the Board of Directors shall be open to public observation and will only be closed to public observation if justified under one of the provisions of § 707.5. The public is invited to observe and listen to all meetings of the Board of Directors, or portions thereof, open to public observation, but may not participate or record any of the discussions by means of electronic or other devices or cameras. Documents being considered at meetings of the Board of Directors may be obtained subject to the procedures and exemptions set forth in § 706.31 of this chapter.

(b) Directors of the Corporation shall not jointly conduct or dispose of agency business other than in accordance with this part. This prohibition shall not prevent Directors from considering individually business that is circulated to them sequentially in writing.

(c) The Secretary of the Corporation shall be responsible for assuring that ample space, sufficient visibility, and adequate acoustics are provided for public observation of meetings of the Board of Directors.

§ 707.3 Scheduling of a meeting.

A decision to hold a meeting of the Board of Directors should be made as provided in the By-laws of the Corporation and at least eight days prior to the scheduled meeting date in order for the Secretary of the Corporation to give the public notice required by § 707.4. However in special cases, a majority of the

Directors may decide to hold a meeting less than eight days prior to the scheduled meeting date if they determine by a recorded vote that Corporation business requires such meeting at such earlier date. After public announcement of a meeting of the Board of Directors under the provision of § 707.4, the subject matter thereof, or the determination to open or close a meeting, or portion thereof, may only be changed if a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change is possible.

§ 707.4 Public announcement.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 707.5, in the case of each meeting of the Board of Directors, the Secretary shall make public announcement at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the Directors determines by a recorded vote that Corporation business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Corporation to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this section only if (1) a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each Director upon such change at the earliest practicable time: *Provided*, That individual items which have been announced for consideration at a meeting of the Board of Directors may be deleted without notice.

(c) The "earliest practicable time", as used in this subsection, means as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

(d) The Secretary shall use reasonable means to assure that the public is fully informed of the public announcements required by this subsection. Such public announcements may be made by posting notices in the public areas of the Corporation's headquarters and mailing notices to the persons on a list maintained for those who want to receive such announcements.

(e) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting shall also be submitted by the Secretary for publication in the FEDERAL REGISTER.

§ 707.5 Closed meetings.

(a) Meetings of the Board of Directors will be closed to public observation where the Corporation properly determines, according to the procedures set forth in paragraph (c) of this section, that such portion or portions of the meeting or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final Corporation action on such proposal; or

(9) Specifically concern the Corporation's issuance of a subpoena, or the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal Corporation adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Meetings of the Board of Directors shall not be closed pursuant to paragraph (a) of this section when the Corporation finds that the public interest requires that they be open.

(c) (1) Action to close a meeting, or portion thereof, pursuant to the exemptions defined in paragraph (a) of this section may be initiated by the President or any Director of the Corporation by presentation of a request for closure to the Board of Directors. The person initiating the request for closure shall give the Board of Directors a statement specifying the extent of the proposed closure, the relevant exemptive provisions and the circumstances pertinent to such request. Such statement shall also be given to the General Counsel of the Corporation to serve as a basis for the certification the General Counsel may determine can be issued in accordance with § 707.6. The General Counsel's determination shall be given to the Board of Directors. Action to close a meeting, or portion thereof, shall be taken only when a majority of the entire membership of the Board of Directors votes to take such action. A separate vote of the Board of Directors shall be taken with respect to each meeting and of the Board of Directors portion or portions of which are proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Director participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Corporation close such portion to the public

for any of the reasons referred to in paragraph (a)(5), (a)(6), or (a)(7) of this section, the Corporation, upon request of any one of its Directors, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (c)(1) or (c)(2) of this section, the Secretary shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting to be closed to the public, the Secretary shall, by the close of the business day next succeeding the day of the vote taken pursuant to paragraph (c)(1) or (c)(2) of this section, make publicly available a full written explanation of the Corporation's action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this subparagraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of paragraph (a) of this section.

§ 707.6 Records of closed meetings.

(a) For every meeting of the Board of Directors closed pursuant to § 707.5, the General Counsel of the Corporation shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary as part of the transcript, recording, or minutes required by paragraph (b) of this section.

(b) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to § 707.5(a)(9), the Secretary shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote (reflecting the vote of each member on the question). All documents considered in connection with any Corporation action shall be identified in such minutes.

(c) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of the proceeding of the Board of Directors with respect to which the meeting or portion was held, whichever occurs later.

(d) Within ten days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Corporation shall make available to the public, in the Office of Secretary of the Corporation, Washington, D.C., the transcript, electronic recording, or minutes (as required by paragraph (b) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Secretary determines to contain information which may be withheld under § 707.5. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(e) The determination of the Secretary to withhold information pursuant to paragraph (d) of this section may be appealed to the President of the Corporation, in his or her capacity as administrative head of the Corporation. The President will make a determination to withhold or release the requested information within twenty days from the date of receipt of the request for review (excluding Saturdays, Sundays, and legal public holidays).

[FR Doc.77-2622 Filed 1-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[23 CFR Part 1204]

[OST Docket No. 44; Notice 77-2]

HIGHWAY SAFETY PROGRAMS STANDARDS

Termination of Proceeding

• *Purpose.* The purpose of this notice is to terminate the rulemaking proceeding on motor vehicle occupant crash protection insofar as it concerns the possible issuance of a highway safety program standard to cause the States to increase safety belt usage. •

In a notice published June 14, 1976 (41 FR 24070), I proposed five alternative courses of action for future occupant crash protection requirements under Federal Motor Vehicle Safety Standard (FMVSS) No. 208 (49 CFR 571.208). Based on an analysis of comments received, a decision was reached to call upon the automobile manufacturers to join the Federal Government in conducting a large-scale demonstration program to exhibit the effectiveness of passive restraint systems. The reasoning that underlies that decision is contained in a December 6, 1976, document ("The Secretary's Decision Concerning Motor Vehicle Occupant Crash Protection") that is hereby incorporated by reference in this notice. The effect of that decision on FMVSS 208 is to require the continuation of the current requirements for passenger cars, as proposed in the first of the five alternate courses of action.

The second alternative was written as a requirement that States adopt and enforce safety belt usage laws or otherwise achieve a usage level much higher than is being experienced today. As discussed above and in a final rulemaking document published elsewhere in today's FEDERAL REGISTER, I have decided not to impose such a requirement upon the States. I want to make it clear, however, that in terminating the subject rulemaking, I have not in any way foreclosed a future Secretary or Administrator of the National Highway Traffic Safety Administration from instituting at any time a rulemaking proceeding concerning possible issuance of a highway safety program standard to cause States to increase safety belt usage or any other type of rulemaking proceeding on the subject of future occupant crash protection requirements.

In consideration of the foregoing, the subject proceeding is hereby terminated.

Issued in Washington, D.C., on January 19, 1977.

(Sec. 101, Pub. L. 85-564, 80 Stat. 731, (231 U.S.C. 402).)

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.77-2518 Filed 1-26-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[24 CFR Part 235]

[Docket No. R-77-449]

MOBILE HOME LOAN INSURANCE ASSISTANCE PAYMENTS FOR HOMEOWNERSHIP

Proposed Subsidized Ownership Program

The Department of Housing and Urban Development proposes to amend 24 CFR Part 235 to establish a mobile home subsidized ownership program, as authorized by the Housing Authorization Act of 1976 (90 Stat. 1067). The proposed program would be carried out by providing interest subsidies under section 235 of the National Housing Act and loan insurance for private lenders under Section 2 of Title I of the National Housing Act, as amended.

Program Summary. This program makes it possible for a lower income family to purchase as its principal residence a mobile home consisting of two or more modules and a lot on which it is or will be placed. To be eligible, a family must have an adjusted annual income at the time of initial occupancy of no more than 95 percent of the median income for the area, with adjustments for smaller and larger families, and must have paid in cash 5 percent of the first $10,000 of the purchase price plus 10 percent of the purchase price in excess of $10,000. Maximum permissible loan amounts and terms shall not exceed $25,000 for 20 years and 32 days in the case of a mobile home and an undeveloped lot or $27,500 for 20 years and 32 days in the case of a mobile home and a developed lot. The purchase price of the property may not exceed 120 percent of these loan amounts.

Monthly assistance payments will be made on behalf of an eligible family to a financial institution making a loan under this program or purchasing an obligation representing the loan. The amount of assistance will vary with the family's income and the total amount of the loan payment at the market rate of interest. Assistance payments will be made to reduce the borrower's effective interest costs to as low as seven percent if the borrower cannot afford the full loan payment with 20% of his or her income.

A loan under this program is subject to co-insurance where a share of the potential loss is borne by the lender. The insurance obligation of the Secretary with respect to any lender cannot exceed either (1) 10 percent of the total amount of loans made by the lender, or (2) 90 percent of the loss on any individual loan. Primary responsibility for loan processing is placed upon the insured lending institution.

The Department expects that this program will aid in support of industry efforts to produce economical quality housing for lower income families who, without a subsidy, might be unable to become home owners.

Wherever possible these proposed regulations were drafted to conform with the section 235 regulations published on January 6, 1976, at 41 FR 1168. Arguments in defense of existing § 235 regulations will not be reiterated here; instead an effort will be made to point out how those regulations were modified, when they were, to meet the special needs of this program.

Eligibility: Families owning homes. As under the existing § 235 program, a family which already owns a home may purchase a new mobile home and lot under this program, but will be required to sell its present home when it is no longer the family's residence. The family will not be permitted to rent that property out to another and occupy the subsidized unit.

Counseling. As under the existing section 235 program, insured lenders will be required to certify that the borrower received a package of written counseling material which will be provided by the Department. The regulations also provide that mobile home owners may be required to accept further counseling when it is needed and available from local agencies having requisite capabilities.

Eligibility: Mobile home and lot. Loans will be made only for financing in combination the purchase of a mobile home consisting of two or more modules and a lot on which the mobile is or will be placed. Furniture may not be included in the loan or financed with the proceeds of the loan. The mobile home lot must be acceptable to the Secretary as a mobile home site. As under the existing section 235 program, lots for use under this program cannot exceed one acre unless more than one acre is needed to comply with local code requirements or to provide for a safe and adequate water supply and sewage drainage system. Lots cannot be smaller than required by local sanitary and zoning codes.

Eligibility: Location and concentration. Several regulations applicable to units assisted under the existing section 235 program are extended to this program. They are the limitation on concentration of assisted units in a subdivision, the provision for preliminary reservation of contract authority for interest reduction payments, and local government comment procedures. Unlike the existing program, however, a developer or seller of 13 or more units in a subdivision is not required to apply for a preliminary reservation of contract authority. The regulation providing for local government comment has been altered to reflect this change. It now provides that with respect to any request for a contract for assistance payments involving 13 or more units in a locality with an approved housing assistance plan, the procedures for soliciting local government comment must be observed. The purpose of this change is to provide developers and sellers with greater flexibility while continuing to assure that local governments will be afforded opportunity to comment in appropriate cases.

Assistance payments and income recertification. The provisions for assistance payments and income recertification are essentially the same as under the existing section 235 program, except for those governing termination of the subsidy.

Termination of the subsidy. Assistance payments will be terminated when the mobile home owner ceases to occupy or sells the property. The Department recognizes that some advantages would flow from a rule that would extend the subsidy to subsequent purchasers. Continuation of the payment would enhance marketability and reduce the likelihood of default in situations where a mobile home owner could not otherwise find a purchaser. However, continuation of the subsidy would not contribute to a major purpose of the program—stimulating housing production—and would add to the total and long term costs of the program.

Limitation on use of assistance payments. The Housing Authorization Act of 1976 provides that periodic assistance payments to families acquiring a mobile home and lot under this part shall not be made with respect to more than 20 percent of the total number of units with respect to which assistance is approved under section 235 after January 1, 1976.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, and arguments with respect to this proposal. Communications should be identified by the above docket number and title, and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

All relevant materials received on or before February 28, 1977, will be considered before adoption of a final rule. Copies of comments submitted will be available for public inspection during normal business hours at the above address.

A Finding of Inapplicability pursuant to Section 102(2)(c) of the National Environmntal Policy Act of 1969, has been made with regard to these proposed regulations in accordance with HUD Handbook 1390.1. A copy of the Finding of Inapplicability is available for public inspection at the above address.

Accordingly, it is proposed to amend Title 24, Part 235, by adding new Subparts G and H to read as follows:

Subpart G—General Eligibility Requirements—Mobile Home Ownership for Lower Income Families

Sec.

Subpart H—Assistance Payments—Mobile Home Ownership for Lower Income Families

Sec.

AUTHORITY: Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246 (12 U.S.C. 1703) as amended by Pub. L. 93-383, Pub. L. 94-173, and Pub. L. 94-375.

Subpart G—General Eligibility Requirements—Mobile Home Ownership for Lower Income Families

§ 235.1001 Incorporation by reference.

(a) All of the provisions of subparts B and D of Part 201 of this chapter concerning insurance of institutions making mobile home loans and mobile home lot loans shall be applicable to loans assisted

under subparts G and H of this part except the following provisions:

Sec.	
201.501 (b), (l), (k), and (l)	Definitions.
201.505	Purpose of subpart.
201.510	New or used mobile homes.
201.520(d)	Minimum size.
201.525	Mobile home location standards.
201.530	Maximum loan amount.
201.535	Borrower's minimum investment.
201.540	Financing charges.
201.555	Payment provisions.
201.625	Rate of insurance.
201.560	Maturity provisions.
201.570	Late charges.
201.585	Refinancing.
201.595(e)	Dealer investigation approval and control.
201.665	Claim application.
201.675	Insurance reserve.
201.900	Amendment and effect.
201.1500	Incorporation by reference.
201.1501	Purpose.
201.1502 (d), (e), (j)	Definitions.
201.1503	Eligibility requirements.
201.1504	Maximum loan amount and terms.
201.1505	Combination loans for the purchase of a mobile home and a developed or undeveloped lot.
201.1506	Loans for the purchase or acquisition of a lot.
201.1510	Borrower's minimum investment.
201.1512(b)	Mobile home lot certification.
201.1530	Effect of amendments.

(b) For purposes of these subparts all references in Part 201 of this chapter to Section 2, of Title I of the National Housing Act, as amended, shall be construed to refer to section 235 of the Act.

§ 235.1005 Basic program outline.

This part authorizes assistance to aid lower income families to acquire ownership of a mobile home and a lot upon which the home is placed.

(a) Assistance will be in the form of monthly payments by the Secretary to the insured lender to reduce effective interest costs to a home owner to as low as seven percent if the home owner cannot afford the full loan payment with 20 percent of his income.

(b) The amount of subsidy will vary according to the family's income and the total amount of the payment at the market rate of interest. Family income and mortgage limits are established for eligibility in each locality.

(c) Assistance will be limited to borrowers who purchase for use as their principal residence a new mobile home, consisting of two or more modules and a lot on which such mobile home is sited.

(d) The borrower must have paid in cash 5 percent of the first $10,000 of the purchase price plus 10 percent of the purchase price in excess of $10,000.

(e) Assistance payments will be terminated upon sale of the property.

§ 235.1010 Definitions used in this subpart.

As used in this subpart, the following terms shall have the meaning indicated:

(a) "Borrower" means a natural person or persons who apply for and receive a loan for the purchase of a new mobile home and lot under this part, and who is a member of a family as defined under this part.

(b) "Mobile home" means a structure, consisting of two or more modules, which structure is erected on a lot, where each module measures twelve body feet or more in width and forty body feet or more in length, which is built on a permanent chassis, and is designed to be used as a dwelling with or without a permanent foundation, when connected with the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

(c) "Adjusted annual income" means the annual family income remaining after making certain exclusions from gross annual income. The following items shall be excluded, in the order listed, from family gross annual income:

(1) Five percent of such gross annual income, in lieu of amounts to be withheld (social security, retirement, health insurance, etc.) regardless of the actual amount of such withholdings;

(2) Any unused income or temporary income, such as overtime pay which will be discontinued, income of a secondary wage earner which will terminate, unemployment compensation which does not occur regularly, or other income of a temporary nature which will be or has been discontinued;

(3) The earnings of each minor in the family who is living with such family plus the sum of $300 for each such minor.

(d) "Family" means (1) two or more persons related by blood, marriage or operation of law, who occupy the same unit; (2) a handicapped person who has a physical impairment which is expected to be of continued duration which substantially impedes his ability to live independently, and which would be improved by more suitable housing; or (3) a single person 62 years of age or older.

(e) "Gross annual income" means the total income, before taxes and other deductions, received by all members of the mortgagor's household. There shall be included in this total income all wages, social security payments, retired benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items as the Secretary considers appropriate.

(f) "Minor" means a person under the age of 21. As used in this subpart, minor shall not include a borrower or his or her spouse.

(g) "Assistance payment" means that portion of a mobile home owner's monthly payment which the Secretary becomes obligated to pay under an assistance payment contract.

§ 235.1015 Eligible borrowers.

(a) To be eligible under this subpart, the borrower shall have an adjusted annual income, which shall not exceed at the time of initial occupancy 95 percent of the median income for the area, with adjustments for smaller and larger families, as determined by the Secretary, except that the Secretary may establish income ceilings which are higher based upon the Secretary's determination that such higher ceilings are necessary because of unusually low median family incomes or such other factors as the Secretary may deem appropriate to carry out the purpose of this part. The percentage of median income for smaller and larger families shall be as follows:

Persons per family:	*Percent of median family income*
1	67
2	76
3	85
4	95
5	101
6	107
7	113
8 or more	119

(b) In addition to the income limitations set forth in paragraph (a) of this section, a borrower must establish that his or her income is and will be adequate to meet his or her portion of the periodic payments required. Only that part of the mobile home owner's income which can reasonably be expected to continue for approximately the first five years of the loan term will be considered effective income for the purpose of determining the adequacy of the mobile home owner's income.

(c) The mobile home owner shall agree to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income whenever one of the following events take place:

(1) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Secretary;

(2) No more than 30 days after:

(i) The mobile home owner or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification.

(ii) The family income (except income of minors) increases at least $50 per month.

(3) At such other times as the Secretary may require.

(d) Assistance payments for the purchase of a new mobile home and lot may be used to assist a family already owning a home at the time of application; however, the family must sell the home when it ceases to be its residence and may not rent it and occupy the subsidized unit.

§ 235.1020 Home ownership counseling.

The Secretary will make available a counseling information package to lenders, reservation recipients, and sellers participating in this program, who will be required to distribute the package to potential purchasers. Material will include information on mobile home purchase procedures, property maintenance, and other mobile home ownership responsibilities. A certification by the reservation recipient, seller or lender that the prospective mobile home owner has received the counseling information package must accompany each application. In addition, some field office jurisdictions are served by HUD approved agencies offering counseling. Where such counseling is available, and if the applicant has never owned a home, or where in the

opinion of the Secretary the applicant will benefit from counseling, successful completion of mobile home ownership counseling may be required before the Secretary will undertake to make assistance payments.

§ 235.1025 Eligibility requirements.

(a) Loans shall be made only for financing in combination the purchase of a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated. Furniture may not be included in the loan or financed with the proceeds of the loan.

(b) Marketable title in the mobile home and lot shall be vested in the borrower.

(c) The mobile home lot shall be acceptable to the Secretary as a mobile home site.

§ 235.1030 Lot size.

Home ownership assistance payments may not be used to permit acquisition of land in excess of requirements for an adequate residential site, even though the cost of land may be cheaper in outlying areas. Accordingly, lots for use under the program authorized by this part shall not exceed one acre unless more than one acre is needed to comply with local code requirements or to provide for a safe and adequate water supply and sewage drainage system.

§ 235.1035 Loan provisions.

(a) The security instrument or instruments shall be a first lien upon the mobile home and lot. The entire principal amount of the loan shall have been disbursed to the borrower or to the creditors for the borrower's account and with the borrower's consent.

(b) *Loan multiples.* The loan shall involve a principal obligation in multiples of $50.

(c) *Payments.* Payments shall be due on the first of the month.

§ 235.1040 Maximum loan amount and terms.

Maximum permissible loan amounts and terms shall not exceed:

(a) $25,000 for 20 years and 32 days in the case of a mobile home composed of two or more modules and an undeveloped lot (but not to exceed $20,000 for the mobile home).

(b) $27,500 for 20 years and 32 days in the case of a mobile home composed of two or more modules and suitably developed lot (but not to exceed $20,000 for the mobile home).

(c) The amount specified under paragraphs (a) and (b) of this section or the actual sales price of the mobile home and lot, except that the maximum loan amount attributable to the mobile home shall not exceed the lesser of 113 percent of the total price of the mobile home as stated in the manufacturer's invoice, plus the Secretary's estimate of the appraised value of the mobile home lot.

§ 235.1045 [Reserved]

§ 235.1050 Limitation on concentration of units in a subdivision.

No subdivision or substantially contiguous group of subdivisions which constitute or will constitute a single residential area, shall have over 40 percent of the homes therein assisted under this Part. The 40 percent rule shall not be applied to limit the number of subsidized units below 25 in any single residential area. The 40 percent ratio is applicable to the relationship of section 235 applications to the sum of vacant lots within a residential land development tract under centralized control. In defining residential areas for purposes of this paragraph, the Secretary will exercise appropriate discretion in order to meet the objective of limiting the concentration of subsidized units but not unduly restricting efficient and good subdivision planning and land utilization. Further, within a single residential area to assure sound underwriting which requires an assurance of a future market for resales without subsidy, the Secretary will limit, to the extent practicable, the percentage of subsidized units in a block or contiguous group of blocks to 40 percent.

§ 235.1055 Reservations of contract authority.

(a) Preliminary reservations of contract authority for interest reduction payments may be issued by the Secretary to a developer or seller specifically identified with sites in a particular subdivision or project or for a specific mobile home and lot not in a subdivision. Developers or sellers may submit a request to the Secretary for a preliminary reservation of contract authority. If contract authority is available, it will be reserved if the project in which the units will be located meets project selection, affirmative marketing, environmental, underwriting, feasibility and other applicable requirements. A preliminary reservation is an advance commitment that contract authority will be available for assistance payments when the homes are sold to families who qualify for assistance. Applications for preliminary reservation may be made as early as desired but not before filing of the request for subdivision approval or other appropriate applications.

(b) If a request for a preliminary reservation is approved, either for the amount requested or for an amount determined by the Secretary, the Secretary will reserve the contract authority. The reservation is a commitment by HUD that the contract authority for the transaction has been reserved.

(c) A preliminary reservation will expire six months after the date of issue.

(d) Periodic assistance payments pursuant to this subpart shall be limited to no more than 20 percent of the total number of units with respect to which assistance is approved under section 235 after January 1, 1976.

§ 235.1060 Local government comment procedures.

(a) With respect to any request for assistance payments involving 13 or more units in a locality with an approved housing assistance plan, the following procedures must be followed: Within 10 working days of the receipt of such a request, the Secretary shall, for purposes of compliance with Section 213 of the Housing and Community Development Act of 1974, forward a copy of the request to the chief executive officer of the unit of general local government in which the assisted housing is to be located, requesting comments and objections, if any. The unit of general local government shall have 30 days from receipt of the letter and copy of the request to object or otherwise submit comments as the response to the Secretary. Alternatively, the individual or organization making the request for assistance payments may include with the request a statement of "no objections" or other comment from the unit of general local government, obtained in advance by the individual or organization. The unit of local government may object to the request on the grounds that it is inconsistent with the housing assistance plan. If such an objection is filed, the Secretary may not approve the request unless the Secretary determines that the request is consistent with the housing assistance plan. If the Secretary determines that the request is consistent with the plan, the Secretary shall notify the chief executive officer of the unit of general local government, giving his reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, the Secretary shall so notify the individual or organization making the request for assistance payments, stating the reasons therefor in writing.

(b) With respect to a request for assistance payments involving 13 or more units in a locality that does not have an approved housing assistance plan, assistance under this Part may not be approved unless the Secretary determines that there is a need for such assistance, taking into consideration any applicable State housing plan, and that there is or will be in the area public facilities and services adequate to serve the housing assisted. Within 10 working days of receipt of such a request, the Secretary will forward a copy of the request to the chief executive officer of the unit of general local government in which the proposed assisted housing will be located with a letter requesting comments on matters relevant to the determination required in this paragraph. The unit of general local government shall have 30 days from receipt of the letter and copy of the assistance payments request to submit any comments it wishes to make to the Secretary. Any relevant comments received will be considered in connection with the Secretary's determination. As in the case of

requests subject to paragraph (a) of this section, individuals or organizations submitting assistance payments requests subject to the provisions of this paragraph (b) of this section may satisfy the comment requirements of this section by obtaining a statement of the local government on the application in advance and submitting that statement with the assistance payments request to the Secretary.

§ 235.1065 Late charge.

The note may provide that a late charge may be collected by the lender for each payment more than 15 days in arrears, but such charge shall not exceed 4 percent of each dollar of the borrower's share of the monthly payment. Such charge shall be separately billed to and collected from the borrower and shall not be deducted from any aggregate monthly payment. Such charge shall not be included in the assistance payment.

§ 235.1070 Cancellation of property insurance.

(a) The property shall have been covered by fire insurance at the time the loan was made.

(b) If the fire insurance company shall have later cancelled or refused to renew the policy, in order for the loan to be eligible for insurance benefits, the lender shall have notified the Secretary within 30 days (or within such further time as the Secretary may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the lender that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates and that it will continue its efforts to obtain adequate fire insurance coverage at competitive rate.

Subpart H—Assistance Payments—Mobile Home Ownership for Lower Income Families

§ 235.1101 [Reserved]

§ 235.1105 Contract for assistance payments.

This subpart shall constitute the contract between the lender and the Secretary for assistance payments pursuant to section 235 of the National Housing Act.

§ 235.1110 Execution of assistance payment contract.

Mobile home owners. The acceptance of a loan report pursuant to § 201.650 shall also constitute the execution of the assistance payment contract with respect to the insurance granted to the lending institution reporting the loan.

§ 235.1111 Qualified mobile home owners.

To qualify for assistance payments, the mobile home owner's income at the time of application for assistance shall be within the limitations provided in § 235.1015, and insurance covering the mobile home owner's loan under Section 2 of Title I of the National Housing Act as amended, shall have been granted to the lending instituton which made the loan.

§ 235.1115 Limitation of sales price.

To qualify for assistance payments, the mobile home owner shall not have paid more than the Secretary's estimate of value of the mobile home and lot purchased, nor shall the purchase price of the property exceed 120 percent of the loan amount established pursuant to § 235.1040.

§ 235.1120 Assistance payments and handling charges.

(a) Assistance payments shall be in an amount not exceeding the lesser of—

(1) The balance of the monthly payment for principal, interest, real and personal property taxes, insurance and insurance premiums chargeable under § 201.1514 due under the loan or advance of credit remaining unpaid after applying for 20 percent of the mobile home owner's income as determined under this part; or

(2) The difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under § 201.1514 which the mobile home owner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest and insurance premium which the mobile home owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate of seven percent per annum;

(b) In addition to the assistance payment referred to in paragraph (a) of this section, the lender shall be entitled to a monthly payment of an amount the Secretary deems sufficient to reimburse it for its expenses in handling the loan.

(c) Special assessments levied by a governmental body are to be included under the terms "taxes' as a part of the total monthly payment. However, ground rents, assessments of a home owner's association, and special assessments levied by persons or private organizations are not to be included.

§ 235.1125 Time of payments.

The assistance payment shall be due on the first day of each month and shall be paid upon receipt of a billing, on a form prescribed by the Secretary, from the lender or its authorized agent.

§ 235.1130 Term of assistance payment contract.

Mobile home loan. The term of the assistance payment contract shall begin on the date of disbursement of loan proceeds and shall continue until the contract is terminated pursuant to § 235.1160.

§ 235.1135 Mobile home owner's required recertification.

(a) The lender shall obtain from the borrower, on a form prescribed by the Secretary, a recertification as to occupancy, employment, family composition and income whenever one of the following events takes place:

(1) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Secretary.

(2) No more than 30 days after the lender is notified by the borrower or learns from any identifiable source:

(i) That the borrower or any member of the family (21 years or older) residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification.

(ii) That the family income (excluding income of minors) has increased at least $50 per month.

(3) At such other times as the Secretary may require.

(b) With respect to mortgages insured under this Part, the lender shall obtain from the applicant mobile home owner at the time application is made for assistance and at the time of annual recertification required under paragraph (a) (1) of this section, on a form provided by the Secretary, a statement of the aggregate amounts of total income prior to adjustments reported for all family members (other than minors) by the applicant mobile home owner is his most recent Federal income tax return. If seperate returns are filed by separate members of the family, the total income prior to adjustments included in all such returns (except returns of minors) shall be reported. If the income so reported is more than 25 percent above the income reported on the recertification, the lender shall obtain from the mobile home owner a new recertification or a written explanation of the difference in income reported on the two forms.

(c) A mobile home owner who fails to disclose his or her actual income in accordance with the requirements of this Part will be required to reimburse the Secretary for all overpayments made on his or her behalf.

(d) Each mobile home owner must provide a letter on a form prescribed by the Secretary authorizing the Internal Revenue Service to release Federal Income Tax returns for the most recent three years to the Secretary on request.

§ 235.1140 Mobile home owner's optional recertification.

Upon request of the mobile home owner the lender shall accept recertification whenever the borrower, his or her spouse or an adult (21 years or older) member of the family changes or loses employment which results in a decrease in the family income reported in the most recent certification or recertification. This recertification shall be on a form prescribed by the Secretary.

§ 235.1145 Adjustment in assistance payments.

The lender shall make appropriate adjustments in the amount of the requested assistance payments to reflect changes in family income reported in any required or optional recertification of the home owner. The adjustment shall not

be retroactive except at the discretion of the Secretary. The adjustment shall apply only to assistance payments beginning with the payment due no earlier than the first day of the month following the date the borrower's recertification is received by the lender.

§ 235.1146 Recovery of assistance payments.

If it is determined that assistance payments have been paid on behalf of a borrower in excess of the amount of benefits to which the borrower was entitled, the lender shall reduce its next billing to the Secretary in the amount of overpaid assistance payments. The lender may increase the borrower's required monthly payments in an amount which will reimburse the lender within a reasonable time without causing undue hardship to the borrower. If the lender has filed a claim for mortgage insurance benefits, whether or not that claim has been paid or if the mortgage has been paid in full or the borrower has sold the property to an assumptor before the determination is made, and the lender did not contribute to the overpayment through fraud, misrepresentation or error (including failure to meet contractual obligations), the lender will not be required to reduce its billings or increase the assumptor's monthly payments. In such cases, HUD will require payment by the borrower on whose behalf assistance has been overpaid. If fraud, misrepresentation or error on the part of the lender resulted in assistance payments being made on behalf of a borrower when no assistance payment should have been made, the lender shall reduce the next billing to the Secretary in the amount of the handling charges for the period during which the assistance was not warranted.

§ 235.1150 Lender records.

The lender shall maintain such records as the Secretary may require with respect to the borrower's payments, the assistance payments received from the Secretary and the annual recertification of financial status from the mobile home owner. Such records shall be kept on file for a period of time and in a manner prescribed by the Secretary and shall be available, when requested, for review and inspection by the Secretary or the Comptroller General of the United States.

§ 235.1155 Effect of assignment of loan on assistance payment contract.

Where a loan covered by an assistance payment contract is sold to another approved lender, the buyer shall succeed to all rights and become bound by all the obligations of the seller under such contract.

§ 235.1160 Termination, suspension, or reinstatement of the assistance payment contract.

(a) *Termination.* The assistance payment contract shall be terminated when:

(1) The mobile home owner ceases to occupy the property.

(2) The property is sold by the mobile home owner.

(b) *Suspension.* The assistance payments contract shall be suspended when any one of the following events occurs:

(1) The lender determines that the borrower ceases to qualify for the benefits of assistance payments by reason of his income increasing to an amount enabling him to pay the full monthly mortgage payment by using 20 percent of the family income.

(2) Foreclosure is instituted.

(3) The lender is unable to obtain from the mobile home owner a required recertification of occupancy, employment, income, and family composition.

(4) At such other times as the Secretary may require.

(c) *Effect of termination or suspension.* Upon termination or suspension of the assistance payments contract, the payment due on the first day of the month in which the termination or suspension occurs shall be the last payment to which the lender shall be entitled except that, in the case of a suspended contract, payment may be resumed after the contract is reinstated pursuant to paragraph (e) of this section.

(d) *No effect on the mortgage insurance contract.* The termination or suspension of the assistance payments contract shall have no effect on the insurance contract, under Section 2 of Title I of the National Housing Act, as amended.

(e) *Reinstatement.* Where the assistance payment contract is suspended, it may be reinstated by the Secretary at his discretion and on such conditions as he may prescribe.

§ 201.1165 Effect of amendment.

The regulations in this subpart may be amended by the Secretary at any time, from time to time, in whole or in part, but such amendment shall not adversely affect the interest of a lender under an existing contract for assistance payments.

NOTE: The Department of Housing and Urban Development 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.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-2694 Filed 1-26-77;8:45 am]

Federal Disaster Assistance Administration

[24 CFR Part 2205]

[Docket No. R-77-445]

FEDERAL DISASTER ASSISTANCE

Disaster Legal Services

The Department promulgated the Final Regulations for Federal Disaster Assistance under the Disaster Relief Act of 1974 (88 Stat. 143 et seq.; 42 U.S.C. 5121 note et seq.) in the FEDERAL REGISTER (40 FR 23252) on May 28, 1975, as 24 CFR Part 2205. Since at the time of publication the authority for providing disaster legal services (section 412 of the Act) was reserved to the President, 24 CFR Part 2205 did not contain regulations covering provision of legal services. By Executive Order 11910 (April 13, 1976), such authority was granted to the Secretary, and was redelegated to the Administrator of the Federal Disaster Assistance Administration (41 FR 19365, May 12, 1976), and further redelegated to the Regional Directors, FDAA (41 FR 19363, May 12, 1976).

Section 2205.47a, as proposed, contains regulations covering the provision of disaster legal services to disaster victims. This new paragraph provides guidelines for lawyers cooperating with the Federal Disaster Assistance Administration, and defines the parameters of the disaster legal services program intended by the Act.

In each disaster requiring disaster legal services, the authority contained in section 412 has been specifically delegated to FDAA. There is a long-standing agreement between FDAA (and its predecessor agency, the Office of Emergency Preparedness) and the Young Lawyers Section (YLS) of the American Bar Association, which provides for volunteer services to disaster victims. FDAA desires to continue the operation of disaster legal services through that agreement, which is published in today's FEDERAL REGISTER. The regulations proposed here allow the FDAA Regional Director to provide authority and guidance to YLS or other attorneys when the YLS cannot adequately provide disaster legal services. By the terms of the May 12, 1976 redelegation, the Regional Directors may provide legal services under any arrangement they deem appropriate, using the existing agreement, other Federal attorneys, or any other arrangement.

Interested persons are invited to participate in the making of this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted to the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. All communications received on or before February 25, 1977, will be considered by the Administrator before publishing the final regulations. The provisions in this proposed regulation may be changed in light of comments received. All comments will be available for inspection, both before and after the closing date, at the Office of the Rules Docket Clerk at the above address.

The Administrator of the Federal Disaster Assistance Administration, with the concurrence of the appropriate Departmental officials, has issued a Finding of Inapplicability of Environmental Impact according to Section 102 of the National Environmental Policy Act of 1969, concerning this regulation, in accordance with the procedures set forth in HUD Handbook 1390.1 (38 FR 19182).

It is the position of the signatories to that Finding that this regulation in itself has no significant impact on the human environment. Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk, Department of Housing and Urban Development in Washington, D.C.

Accordingly, pursuant to the authority contained in section 7(d) of the Department of Housing and Urban Development Act (79) Stat. 670; 42 U.S.C. 3535(d)) and section 601 of the Disaster Relief Act of 1974 (88 Stat. 163; 42 U.S.C. 5201), it is proposed that a new section, designated § 2205.47a, be added to 24 CFR Part 2205, reading as follows:

§ 2205.47a Disaster legal services.

(a) Legal services may be provided to low-income individuals who require them as a result of a major disaster. For the purpose of this Section, "low-income individuals" shall include those disaster victims who, as a result of the disaster, have insufficient resources to secure adequate legal services. The Regional Director or his authorized representative shall make all determinations concerning whether an individual qualifies for legal services under this Section.

(b) Disaster legal services shall be provided without cost to such individuals. Fee-generating cases shall not be accepted by lawyers operating under these regulations. For the purposes of this Section, a fee-generating case is one which the Regional Director or his authorized representative, after any necessary consultation with local or State bar associations, determines would not ordinarily be rejected by local attorneys as a result of its lack of potential remunerative value. Any fee-generating cases shall be referred by the Regional Director or his authorized representative to private attorneys.

(c) The provision of disaster legal services may be accomplished by use of volunteer lawyers under terms of appropriate agreements. The provision of disaster legal services may also be accomplished by use of Federal lawyers, or by any other arrangement the Regional Director deems appropriate, including payment to attorneys by the Federal Disaster Assistance Administration for the provision of legal services when the Regional Director determines that there is no other means of obtaining adequate legal assistance for qualified disaster victims.

(d) In the event it is necessary for the Federal Disaster Assistance Administration to pay attorneys for the provision of legal services under these regulations, the Regional Director, in consultation with State and local bar associations, shall determine the amount of reimbursement due to the attorneys who have provided disaster legal services at the request of the Regional Director. At the Regional Director's discretion, administrative costs of lawyers providing legal services requested by him may also be authorized.

(e) Provision of disaster legal services is confined to the securing of benefits under the Act and claims arising out of a major disaster.

(f) Any disaster legal services shall be provided in accordance with § 2205.13 of these regulations.

NOTE: The Federal Disaster Assistance Administration 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.

(Sec. 412, Pub. L. 93-288, 88 Stat. 157 (42 U.S.C. 15182), E.O. 11795 as amended by E.O. 11910, FR 25929, Delegation of Authority, 39 FR 28227.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2703 Filed 1-26-77;8:45 am]

[24 CFR Part 2205]

[Docket No. R-77-282]

FEDERAL DISASTER ASSISTANCE

Individual and Family Grant Programs

The Department promulgated the Final Regulations for Federal Disaster Assistance under the Disaster Relief Act of 1974 (88 Stat. 143 et seq.; 42 U.S.C. 5121 note et seq.) in the FEDERAL REGISTER (40 FR 23252), May 28 1975, as 24 CFR Part 2205.

Section 2205.48 contains the regulations governing the Individual and Family Grant Program authorized by section 408 of the Act. During the two years of the program's operation, several changes have been suggested to improve program performance and clarify policy and eligibility questions. The following proposal would effect those changes, incorporate numbering changes both new and previously published as errata, and reprint section 2205.48 completely for the convenience of users.

The proposed changes are:

1. Deletion of the word "authorized" when used in conjunction with the word "representative" to avoid confusion in differentiating between the person assigned by the Governor to administer the Individual and Family Grant Program and the "Governor's Authorized Representative" as defined elsewhere in these Regulations. This change will appear both in paragraph (a) *General* and paragraph (e)(2).

2. Deletion of the word "financial" in paragraph (c)(1)(C) as a description of assistance from other means. If a grant recipient receives assistance in the form of a service or item, he should refund to the State that part of the grant that was identified as payment for that assistance, whether financial or in the nature of a service or item, in order to avoid duplication of benefits.

3. Deletion of existing paragraph (c)(1)(iii) and substitution of a more explicit requirement that States determine whether individuals and families must obtain flood insurance, and that States require grant recipients to provide proof of purchase of such flood insurance. This change will also establish the initial flood insurance premium as a necessary expense.

4. Addition of new subparagraphs (E) and (F) to paragraph (c)(2)(ii), that add new eligibility categories as dictated by experience in field operations. The first addresses minimum protective measures required to safeguard residences against threat of damage, and the second provides protection for mobile homes.

5. Addition of a new subparagraph (E) to paragraph (c)(2)(iii), to permit States to move and store personal property to prevent or reduce damage.

6. Deletion of the words "repair, replace or" and "loss of or" in paragraph (c)(2)(iv)(B). This change more accurately reflects the fact that the grant program is not intended to indemnify losses, but does not reduce the ability of States to meet transportation needs of disaster victims.

7. Addition of a new subparagraph (vi) under paragraph (c)(2) to include as eligible those rental accommodation expenses made necessary because of the disaster. This will allow States to assist those families who were ordered to evacuate an area, but who sustained no physical damage to their residences.

8. Revision of paragraph (d)(6) to provide coordination between the State and the Regional Director rather than the Federal Coordinating Officer, since the Regional Director is responsible for insuring that the grant program is administered properly.

9. Revision of paragraph (e)(1) to more clearly indicate a State's responsibility for administration of the program, and to provide guidance on recovery of funds that have not been spent by grant recipients for their specified purposes.

10. Addition of the words "State audits" in paragraph (g)(1)(v) to make it clear that a State audit must accompany a claim for reimbursement.

11. Revision of paragraph (g) to incorporate a provision permitting the Regional Director to extend the 180-day time limitation by an additional 90 days if all appeals have been resolved and all grants disbursed. This change will provide the Regional Director with greater flexibility in granting time extensions, while retaining controls necessary to insure that grant applicants receive assistance at the earliest possible time.

12. Deletion of present paragraph (g)(2), since the date for submission of requests for grant assistance for those disasters covered under the retroactive provision of the Act has passed.

13. Revision of paragraph (k) by changing the title from *Federal Audit* to *Audits*, and providing guidance on the conduct of both State and Federal audits.

Interested persons may participate in this proposed rule making by submitting written data, views or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. Each person submitting a comment should identify this notice, and give reasons for any recommendations. Comments received on or before February 25, 1977, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the above address. This proposal may be changed in light of the comments received.

The Administrator, with the concurrence of the appropriate Departmental officials, has issued a Finding of Inapplicability of Environmental Impact concerning this proposed rule making, in accordance with Section 102 of the National Environmental Policy Act of 1969 and the procedures set forth in HUD Handbook 1390.1 (38 FR 19182). It is the position of the signatories to the Finding that this amendment in itself has no significant impact on the human environment. Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk of the Department of Housing and Urban Development in Washington, D.C. 20410.

Accordingly, pursuant to the authority contained in section 7(d) of the Department of Housing and Urban Development Act (79 Stat. 670; 42 U.S.C. 3535d) and section 601 of the Disaster Relief Act of 1974 (88 Stat. 163; 42 U.S.C. 5201), it is proposed that § 2205.48 be amended and reprinted to read as follows:

§ 2205.48 Individual and family grants.

(a) *General.* The Governor may request that Federal funds be made available to a State for the purpose of such State making grants to individuals and families who, as a result of a major disaster, are unable to meet necessary expenses or serious needs. The grant program authorized by this section will be 75 percent Federally funded and 25 percent State funded. The Governor of the affected State or his representative will administer the grant program. The grant program is intended to provide funds to disaster victims to permit them to meet those necessary expenses or serious needs for which other governmental assistance is either unavailable or inadequate. The grant program is not intended to indemnify all disaster losses or to purchase items or services that may generally be characterized as nonessential, luxury, or decorative.

(b) *Definitions as used in this section.* (1) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(2) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(3) "Family" means a social unit comprised of husband and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(4) "Individual" means a person who is not a member of a family, as defined in paragraph (b)(3) of this section.

(5) "Assistance from other means" means assistance including monetary or in-kind contributions from other governmental programs, insurance, voluntary or charitable organizations, or from any source other than those of the individual or family.

(c) *National eligibility criteria.* In administering the Individual and Family Grant Program, a State shall determine the eligibility of an individual or family for a grant to meet a necessary expense or serious need in accordance with the following criteria.

(1) *General.* (i) In order to qualify for a grant under this section, an individual or family representative must certify:

(A) That application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither he nor any member of his family has been determined to be qualified for such assistance, or for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need.

(B) That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither he, nor to the best of his knowledge, any member of his family, has previously received or refused assistance from other means.

(C) That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the State that part of the grant for which assistance from other means has been received.

(ii) Farmers, ranchers, and persons engaged in aquaculture who are qualified to apply to the Farmers Home Administration (FmHA), must submit proof of the denial of such loan assistance from the FmHA before they may be considered eligible for a grant under this section. If applicants have been denied such loan assistance because, in FmHA's determination, they are able to obtain necessary credit from other sources, they will be considered ineligible for grant assistance for those items or services for which assistance may be provided by the FmHA's Emergency Loan program.

(iii) Individuals or families who incurred a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their residency in the major disaster area or within the State in which the major disaster had been declared.

(iv) States shall determine whether individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as provided by the Flood Disaster Protection Act of 1973 (Public Law 93-234), in order to reduce future avoidable claims in the Federal or State governments for disaster assistance. After a determination that flood insurance is required, and after disbursement of a grant, States shall require the grant recipient to provide proof of purchase of the required flood insurance. In this regard, the initial premium for flood insurance, not to exceed $25, shall be considered a necessary expense.

(2) *Eligible categories.* Assistance under this section may be made available to meet necessary expenses or serious needs by providing essential items or services in the categories set forth below:

(i) Medical or dental.

(ii) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(A) Repair, replace, rebuild;

(B) Provide access;

(C) Clean or make sanitary;

(D) Remove debris from such residences. Any debris removal will be limited to the minimum required to remove health hazards or protect against additional damage to the residence;

(E) Provide minimum protective measures required to protect such residences against the immediate threat of damage; and

(F) Move mobile homes to prevent or reduce damage.

(iii) Personal Property.

(A) Clothing;

(B) Household items, furnishings, or appliances;

(C) Tools, specialized or protective clothing or equipment which are essential to or a condition of a wage earner's employment;

(D) Repair, clean or sanitize any eligible personal property item; and

(E) Move and store to prevent or reduce damage, including move and store unoccupied mobile homes.

(iv) Transportation.

(A) Grants may be authorized to provide transportation by public conveyance provided that the requirement for this transportation was the direct result of the disaster.

(B) Grants may be authorized to provide private transportation, if the requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(v) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation.

(vi) Rental accommodations, to include motel, hotel, and other temporary accommodations.

(3) *Ineligible categories.* Assistance under this section will not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses.

(ii) Improvements or additions to real or personal property.

(iii) Landscaping.

(iv) Real or personal property used exclusively for recreation.

(v) Financial obligations incurred prior to the disaster.

(vi) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) *Other categories.* Should the State determine that an individual or family has an expense or need not specifically identified as eligible, the State shall provide a factual summary to the Regional Director, and request a determination.

(d) *State request to participate in the Individual and Family Grant Program.* In order to make assistance under this section available to disaster victims, the Governor must file with the appropriate Regional Director a request which includes the following:

(1) A certification that assistance under the Act and from other means is insufficient to meet necessary expenses or serious needs of disaster victims.

(2) An estimate of the number of disaster victims who have necessary expenses or serious needs and the basis for such estimate.

(3) An estimate or the total Federal grant as identified in paragraph (f) (1) of this section.

(4) A commitment to implement an administrative plan as identified in paragraph (e) of this section.

(5) A commitment to identify specifically in the accounts of the State all Federal and State funds committed to the grant program.

(6) A commitment to maintain close coordination with the Regional Director and provide him with such reports as he may require in order to insure proper administration, including avoidance of duplication of benefits and timely availability of Federal funds.

(7) A commitment to implement the grant program throughout the major disaster area designated by the Administrator.

(8) A certification that the State will pay its 25 percent share of all grants to individuals or families. If the State is unable immediately to pay its 25 percent share, the State may request an advance of Federal funds as identified in paragraph (h) of this section.

(e) *State Administrative Plan.* (1) The State will develop a plan for the administration of the Individual and Family Grant Program that includes, but is not limited to:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Methods and procedures for notification of potential applicants to include the publication of pertinent time limitations.

(iii) Provisions for accepting applications, including the establishment of local application centers.

(iv) Administrative procedures for:

(A) Verifying necessary expenses and serious needs.

(B) Determining applicant eligibility and grant amounts by a panel of at least three State employees.

(C) Determining the need for flood insurance.

(D) Processing applicant appeals.

(E) Disbursing grants.

(F) Verifying grant expenditures.

(G) Recovering grant funds expended for unauthorized items or services, or grant funds in excess of a grant recipient's expenses or needs.

(H) Conducting a State audit.

(I) Providing controls to insure that grant recipients expend funds in a timely manner for those items and services specified by the State. Grant funds that have not been expended prior to Federal audit, and grant funds that have not been expended for their specified purposes and are not recovered by the State, may be subject to suspension.

(v) National eligibility criteria as defined in paragraph (c) of this section.

(vi) Provisions for compliance with §§ 2205.13, 2205.15, and 2205.18 of these regulations and the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 87 Stat. 975) and the Federal Insurance Administration Regulations, 24 CFR Parts 1909 et. seq.

(2) The Governor or his representative may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement the Individual and Family Grant Program.

(3) The Regional Director will review the State administrative plan for each disaster for which assistance is requested under this section to insure that the requirements of these regulations have been met. The Regional Director may defer approval of a State administrative plan until any deficiencies have been corrected.

(4) The State administrative plan is to be made part of the State's emergency plan, as described in § 2205.4 of these regulations.

(f) *Limitation on grants.* (1) The Federal grant under this part shall be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expenses not to exceed 3 percent of the total Federal grant, and shall be made only on condition that the remaining 25 percent of such actual cost is paid to such individuals and families from funds made available by the affected State.

(2) An individual or family shall not receive a grant or grants under the provisions of this section aggregating more than $5,000 with respect to any one major disaster. Such aggregate amount shall include both the Federal and State share of the grant.

(g) *Time limitations.* (1) In the administration of the Individual and Family Grant Program authorized under section 408 of the Act, the following time limitations will be applicable except as described in paragraph (g) (2) of this section:

(i) Should the Governor decide to request assistance under this section, he must submit such request no later than seven days following the date on which the major disaster was declared and in the manner set forth in paragraph (d) of this section.

(ii) The State will accept applications from individuals or families for a period of 60 days following the date on which the major disaster was declared.

(iii) Any application filed after the 60-day period stated above must be reviewed by the State to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If such conditions or circumstances are demonstrated, the State will determine that good cause existed for late filing and accept that application as though it had been filed on a timely basis; otherwise, the application will be rejected.

(iv) No application will be accepted by the State if it is filed more than 90 days following the date on which the major disaster was declared.

(v) All administrative activities, including the submission of final reports, State audits, and vouchers to the Regional Director, shall be completed by the State within 180 days following the date on which the major disaster was declared.

(2) The Regional Director may extend any time limitation set forth above for a period not to exceed 30 days. If all appeals to the State have been resolved and all grants disbursed, the Regional Director may further extend the 180-day time limitation contained in paragraph (g) (1) (v) above for a period not to exceed 90 days. The Administrator may further extend any of the above time limitations.

(h) *Advance of State share.* (1) If the State is immediately unable to pay its 25 percent share of the grants to be made under this section, the Governor may request that this amount be advanced by the Federal Government. Requests for such advances will be made to the Regional Director and will include the following:

(i) A certification that the State is immediately unable to pay its 25 percent share and an explanation of the reasons therefor.

(ii) A statement as to the specific actions taken or to be taken to overcome the inability to provide the State share, including a time schedule for such actions.

(iii) A commitment to repay the Federal advance at the time the State is able to do so.

(iv) An estimate of the total amount needed to meet the 25 percent State share.

(v) An agreement to return immediately upon discovery all Federal funds advanced to meet the State's 25 percent share which exceed actual requirements.

(2) Failure to repay the advance of the State share, in accordance with the time

schedule in paragraph (h)(1)(ii) of this section, may result in the withholding by the Federal Government of subsequent advances under this section.

(3) Any advance of the State's share not repaid to the Federal Government by the repayment date established by the time schedule in accordance with paragraph (h)(1)(ii) of this section, may, at the discretion of the Administrator, be recovered by the offset of Federal funds to which the State would otherwise be entitled under other sections of this Act.

(i) *Approval—Authorization of Funds.* (1) The Regional Director may approve Federal assistance and authorize advances of funds under this section upon his determination that:

(i) All required certifications and commitments have been completed by the Governor;

(ii) The administrative plan provided by the State to implement the Individual and Family Grant Program meets the requirements of these regulations.

(2) The Regional Director may authorize Federal assistance based on his estimate of the amount required to meet the necessary expenses or serious needs of disaster victims.

(j) *Reimbursement to the State.* Reimbursement to the State of the Federal share of eligible costs will be on the basis of a voucher filed by the State and approved by the Regional Director.

(k) *Audits.* The State shall perform site audits on all claims in accordance with audit guidelines provided by the HUD Inspector General. All claims are subject to Federal audit.

NOTE.—Federal Disaster Assistance Administration 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.

(Sec. 408, Pub. L. 93-288, 88 Stat. 156 (42 U.S.C. 5178), EO 11795 as amended by EO 11910, 39 FR 25939, Delegation of Authority, 29 FR 28227.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2698 Filed 1-26-77;8:45 am]

Office of Assistant Secretary for Fair Housing and Equal Opportunity

[24 CFR Part 108]

[Docket No. R-77-447]

COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

Notice of Proposed Rulemaking

It is proposed to implement the Department's Affirmative Fair Housing Marketing (AFHM) Regulations, 24 CFR 200.600 et seq., by establishing a comprehensive compliance procedure, which would provide all participants in the Department's housing programs that are required to submit AFHM plans advance information as to Departmental procedure to insure compliance with AFHM Regulations. At the same time, it would insure nation-wide uniformity in obtaining compliance. The compliance procedures outlined do not represent a significant change in Departmental policy in effectuating compliance in those Departmental programs subject to Executive Order 11063, but present the specific procedural steps in an orderly fashion. A show cause procedure is provided in order that a participant in the Department's housing programs subject to the Regulations has opportunity to show good faith efforts to comply with its AFHM plans when there is information which indicates there may be a violation of the AFHM regulation prior to conducting a compliance review. The nature of the compliance review is specified as well as procedures for conducting the review. Since noncompliance with the AFHM regulation may involve a violation of Executive Order 11063 when a complaint or a compliance review of the AFHM plan indicates possible violation of the Executive Order a comprehensive compliance review may also be undertaken to determine compliance with requirements of that Order. Where appropriate, efforts will be undertaken to resolve the matter by conciliation. In cases where these efforts fail the regulation of sanctions. Failure of an individual tion sanctions. Failure of an individual to respond to the HUD informal efforts does not prejudice the individual's rights at later stages of enforcement.

Interested persons are invited to comment on this proposed regulation by furnishing such written comments, data, and recommendations as they may desire. All such materials should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Comments received on or before February 28, 1977, will be considered before adoption of a final regulation in this matter. Copies of all comments will be available for public inspection at the above address during regular business hours, both before and after the close of the comment period.

The Department has determined that this proposed regulation will not have an environmental impact, as defined in HUD Handbook 1390.1. The finding of inapplicability may be inspected at the above address.

NOTE.—It is hereby certified that the economic and inflation impacts of the proposed regulation have been carefully evaluated in accordance with OMB Circular No. A-107.

Accordingly, it is proposed to amend Subchapter A of Chapter 1 of Title 24 of the Code of Federal Regulations by establishing a new Part 108 to read as follows:

PART 108—COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

Sec.
108.1 Purpose and application.
108.2 Authority.
108.3 Responsibility.
108.4 Monitoring and technical assistance.
108.5 Show Cause proceeding to determine compliance.
108.6 Compliance reviews.
108.7 Conciliation conference.
108.8 Sanctions.
108.9 Application of sanctions.
108.10 Effective date.

AUTHORITY: Sec. 7(d) Depart. of Hud Act, 42 U.S.C. 3535(d), E.O. 11063, 27 FR 11527 and Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, 42 U.S.C. 3608, as amended by the Housing and Community Development Act of 1974, Pub. L. 93-383.

§ 108.1 Purpose and application.

(a) The primary purpose of this regulation is to establish procedures for determining whether or not an applicant's actions are in compliance with its approved Affirmative Fair Housing Marketing (AFHM) Plan and the AFHM Regulations (Subpart M of Part 200 of this title).

(b) These regulations apply to all subsidized and unsubsidized housing programs administered by the Federal Housing Administration, and the Department of Housing and Urban Development as defined in paragraph (c) of this section and all other persons required to submit AFHM plans in Department Programs.

(c) The term "Applicant" includes:

(1) Sponsors and developers (both at the time of application for assistance from the Department and after the assistance is granted) whose application is approved for development or rehabilitation of subdivisions, multifamily projects and moble home parks of five or more lots, units or spaces, or of dwelling units, when the applicants' participation in FHA housing programs had exceeded or would thereby exceed development of five or more such dwelling units during the year preceding the application, except that there shall not be included in a determination of the number of dwelling units developed by an applicant those in which a single family dwelling is constructed or rehabilitated for occupancy by a mortgagor on property owned by the mortgagor and in which the applicant had no interest prior to entering into the contract for construction or rehabilitation; and (2) all other persons required to submit AFHM plans in Department Programs.

§ 108.2 Authority.

This regulation is issued pursuant to the authority to issue regulations granted to the Secretary by section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535 (d), Executive Order 11063, 27 FR 11527, and Title VIII of the Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3608, as amended by the Housing and Community Development Act of 1974, Public Law 93-383.

§ 108.3 Responsibility.

The Assistant Regional Administrator for Fair Housing and Equal Opportunity (ARA for FH and EO) shall be responsible for determining whether or not an applicant's actions are in compliance with its approved AFHM plan and the AFHM regulations. Compliance determinations shall be based on whether or not the applicant has made good faith efforts

to fulfill the provisions of its approved plan and is in compliance with the regulations, not on whether implementation of the plan has resulted in achievement of the anticipated results.

§ 108.4 Monitoring and technical assistance.

(a) *Submission of Reports.* The applicant shall submit sales or occupancy reports to the Area or Insuring Office as required.

(b) *Responsibility of Director of E.O. and the E.O. Specialist.* The Area or Insuring Office as appropriate is responsible for monitoring the applicant's AFHM plan, providing technical assistance to the applicant in the preparation or modification of the plan, and reviewing applicant monthly sales and occupancy reports. Copies of such reports shall be forwarded to the ARA for FH and EO by the Area or Insuring Office as requested.

(c) *Review of Applicants' Reports.* When the monthly sales or occupancy reports show that 20% of the units covered by the affirmative marketing plan have been sold or rented, the report shall be evaluated by the Area or Insuring Office to determine if the applicant is taking affirmative action to ensure that the terms of the plan are being implemented in such a way as to attract buyers or tenants of all minority and majority groups. Such evaluations shall continue to be made on a monthly basis. If a determination is made that the plan should be modified in order to accomplish the purposes of the AFHM regulation, the Department shall discuss with the applicant any needed changes.

(d) *Failure of Applicant to File Monthly Reports.* If the applicant fails to file a required monthly report, the applicant shall be notified in writing that if the delinquent report is not submitted to the Area/Insuring Office within 10 days from date of receipt of the notice, the ARA for FH and EO will be requested to conduct a compliance review of the applicant's affirmative fair housing marketing practices.

(e) *Referral to ARA for FH and EO for Compliance Action.* If an applicant fails within 10 days of receipt of notice under paragraph (d) of this section to submit a required monthly sales or occupancy report, or if it appears that an applicant has not complied with its plan or in any other way is in noncompliance with the AFHM regulation, the matter shall be referred with appropriate documentation to the ARA for FH and EO for compliance action.

§ 108.5 Show cause proceeding to determine compliance.

(a) *General.* Whenever the ARA for FH and EO has received information from an Area/Insuring Office, complaint, or other source which indicates that an applicant may be in violation of its AFHM plan or the APHM regulation, he shall initiate Show Cause Proceedings, unless the ARA for FH or EO determines that an immediate compliance review of the applicant's affirmative marketing practices is necessary.

(b) *Notice.*—To initiate a Show Cause Proceeding, the ARA for FH and EO shall issue a written notice to the applicant requiring the applicant to show cause within thirty (30) days why enforcement action or other appropriate action to ensure compliance should not be instituted. The notice shall be sent to the last known address of the applicant, by certified mail, return receipt requested. The notice shall request the applicant to attend a meeting for the purpose of reviewing the AFHM plan and its implementation, at a designated time, date, and location convenience to all parties and shall request the applicant to bring specific documents and records, or furnish other relevant information concerning its compliance, including but not limited to:

(1) Copies or scripts or all advertising in the SMSA or housing market area, as appropriate, including newspaper, radio and television advertising, and a photograph of any sale or rental sign at the site of construction;

(2) Copies of brochures and other printed material used in connection with sales or rentals;

(3) Evidence of outreach to community organizations;

(4) Any other evidence of affirmative outreach to groups which are not likely to apply for the subject housing;

(5) Evidence of instructions to employees with respect to company policy of nondiscrimination in housing, and data on racial composition of staff;

(6) Description of training conducted with sales/rental staff; and

(7) Evidence of nondiscriminatory hiring and recruiting policies for staff engaged in the sale or rental of properties.

The documentation should show what activities the applicant has engaged in to ensure that it has acted affirmatively to attract buyers and renters regardless of sex of all minority and majority groups.

(c) *The Show Cause Meeting.* The show cause meeting shall be conducted by the ARA for FH and EO or designee. Parties to the matters under consideration may be represented by counsel and shall have a fair opportunity to present any relevant material. Formal rules of evidence will not apply to such proceedings. Minutes of the meeting shall be recorded.

(d) *Resolution of Matters.* If the documentation produced at the show cause meeting shows no violation of the AFHM regulations and that the applicant is in good faith complying with its approved affirmative marketing plan, the ARA for FH and EO shall so inform the applicant in writing. If the documentation indicates a possible failure to comply with the AFHM plan or the AFHM regulations, and the matter cannot be resolved informally, the ARA for FH and EO shall so notify the applicant no later than twenty (20) days after the date of the show cause meeting, in writing by certified mail, return receipt requested, and shall advise the applicant that the Department will conduct a comprehensive compliance review. The compliance review shall be conducted to determine whether the applicant has complied with the provisions of Executive Order 11063, Title VIII of the Civil Rights Act of 1968, and the AFHM regulations in conjunction with the applicant's specific AFHM plan previously approved by HUD.

§ 108.6 Compliance reviews.

(a) *General.* All compliance reviews shall be conducted by the ARA for FH and EO or designee. Complaints alleging a violation(s) of the AFHM regulations or a failure to comply with an affirmative marketing plan ascertained in the absence of a complaint or as in § 108.5 (d) shall be referred immediately to the ARA for FH and EO. The Assistant Regional Administrator for Housing shall be notified of all alleged violations of the AFHM regulations or a failure to comply with an AFHM plan, as appropriate.

(b) *Conducting Compliance Reviews.* The ARA for FH and EO or designee, shall conduct a compliance review. In the case of multi-family projects the ARA/EO or designee shall conduct such reviews periodically throughout the life of the mortgage. A comprehensive review of the applicant's compliance with all equal opportunity requirements may also be periodically conducted by the ARA for FH and EO or designee.

(c) *Nature of Compliance Reviews.* The purpose of a compliance review is to determine whether the applicant is in compliance with the Department's AFHM Regulations and is conforming to its approved affirmative marketing plan. The applicant shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. A review will be made of the applicant's sales and rental practices, including practices in soliciting buyers and tenants, determining eligibility, selecting and rejecting buyers and realities and in concluding sales and rental transactions. A review will also be made of programs to attract majority and minority buyers and renters, including use of advertising media, brochures and pamphlets and conformance with the Department's Fair Housing Poster Regulation, Part 110 of this title, and the Advertising Guidelines for fair housing, 37 F.R. 6700. Occupancy data, in relation to the size and location of units, services provided and prices and rental ranges, broken down on a racial basis will also be reviewed, as well as staff engaged in the sale of rental properties.

§ 108.7 Conciliation conference.

Following a compliance review, the ARA for FH and EO or designee shall prepare a report, including recommendations for specific action to be taken by the applicant where appropriate. The applicant shall receive a summary of the findings, and the ARA for FH and EO shall then attempt to resolve the matter by conciliation, when the findings indicate the applicant is in noncompliance. The ARA for Housing shall also receive a copy of the summary of the findings. The resolution of the matter shall be

made in writing and shall be signed by the applicant and the ARA for Fair Housing and Equal Opportunity. A copy of the conciliation agreement entered into shall be provided to the ARA for Housing and the Area or Insuring Office Director as appropriate.

§ 108.8 Sanctions.

When conciliation fails and there is a failure or refusal to comply and give satisfactory assurance of future compliance with the requirements of the AFHM regulations, shall be a proper basis for applying sanctions. Such sanctions may include those authorized by laws, regulations, agreements, rules of policies governing the program pursuant to which the application was made, including but not limited to denial of further participation in Departmental programs in accordance with Part 24 of this title—Debarment, Suspension, and Ineligibility of Contractors and Grantees, and referral to the Department of Justice for suit by the United States for Injunctive or other appropriate relief.

§ 108.9 Application of sanctions.

(a) *General.* In cases where the applicant declined the opportunity to conciliate or conciliation failed, the Assistant Secretary for Fair Housing and Equal Opportunity or designee will issue to the applicant an order to show cause within thirty (30) days why sanctions should not be imposed pursuant to Sec. 200.635 of the AFHM regulations or Sec. 302 of Executive Order 11063. The notice shall be sent to the last known address of the applicant, by certified mail, return receipt requested. The notice will advise the applicant of the right to submit information and relevant data indicating compliance with the requirements of the Affirmative Fair Housing Marketing Regulations, 24 CFR.200.600, Executive Order 11063, 27 FR 11527, the Poster Regulation, 37 FR 16540 and the Advertising Guidelines, 37 FR 6700, and other affirmative marketing requirements applicable to the HUD Programs or activity. Further, the applicant will be offered the opportunity to be present at a meeting scheduled 30 days after the date of the notice, in order to submit any other evidence showing such compliance. The date, place and time of the scheduled meeting will be included in the notice.

(b) *The Show Cause Meeting to Impose Sanctions.* The show cause meeting shall be conducted by the ARA for FH and EO or the ARA's designee. Parties to the matters under consideration may be represented by counsel and shall have a fair opportunity to present any relevant material. Minutes of the meeting shall be recorded and made a matter of record.

(d) *Resolution of the Matters.* If it is found that the applicant is not in compliance the entire file in the matter shall be referred to the Assistant Secretary for FH and EO to make a determination whether or not to initiate further action to complete the imposition of sanctions. The applicant shall be notified of such action by certified mail, return receipt requested and copies of this notice shall be sent to the appropriate Area/Insuring Office Director, the Regional Administrator, the ARA for the appropriate program and the appropriate Assistant Secretary.

If it is found that the applicant is in compliance all parties concerned shall be notified.

Issued at Washington, D.C., January 21, 1977.

JOHN B. RHINELANDER,
Under Secretary of Housing and Urban Development.

[FR Doc.77-2707 Filed 1-26-77;8:45 am]

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 891]

[Docket No. R-77-388]

LOW INCOME HOUSING

Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds

On August 23, 1976, the Department of Housing and Urban Development (HUD) published at 41 FR 35660 a final rule amending Chapter VIII of Title 24 of the Code of Federal Regulations by adding a new Part 891, "Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds." Subpart E of Part 891 contains the policies and procedures governing supplemental allocations of contract authority for use in jurisdictions participating in an Areawide Housing Opportunity Plan selected as the basis for the award of supplemental allocations in accordance with this Subpart. (Subpart E previously had been published for final effect on June 23, 1976, at 41 FR 25983.)

Notice is hereby given that the Department proposes to amend § 891.102 of Subpart A (Definitions) and selected portions of Subpart E. The purpose of the revisions is three-fold: (1) to make the objectives of the Areawide Housing Opportunity Plan effort more explicit (2) to clarify and to revise the requirements for selection of Areawide Housing Opportunity Plans to serve as the basis for award of supplemental allocations of contract authority and (3) to provide for Plans approved by HUD to serve as the primary basis for the distribution of housing assistance funds otherwise allocated by HUD to the area served by the APO.

As prescribed in these regulations, an Areawide Housing Opportunity Plan (Plan) is a plan developed by an areawide planning organization (APO) which addresses areawide housing assistance needs and goals and allocates lower income housing assistance in such a manner as to provide for a broader geographical choice of housing opportunities for lower income households outside areas and jurisdictions containing undue concentrations of low income and minority households. For a Plan to be acceptable, at least 50 percent of the jurisdictions in the area served by the APO, representing at least 75 percent of the population, must have reached agreement with the APO on goals for the distribution of housing assistance and on measures for the implementation of the Plan. In addition, the housing assistance goals contained in Housing Assistance Plans (HAPs) prepared by or applicable to participating jurisdiction may not be less than or inconsistent with the goals identified in the Plan.

The proposed regulations would establish two potential uses for Plans submitted to HUD for review. First, a Plan determined by HUD to have met the general criteria in § 891.502 would be designated by the Secretary as an "Approved Areawide Housing Opportunity Plan." Under this provision, the aggregate amount of contract authority otherwise allocated in accordance with Subpart D of Part 891 to jurisdictions within the area served by the APO of Part 891 to jurisdiction within the area served by the APO would be disturbed, to the extent practicable, in accordance with the Approved Plan. Although the total amount of housing assistance funds allocated to jurisdictions in the area would still be made in accordance with Subpart D, the program mix and geographical distribution of contract authority would be decided jointly by the HUD Field Office Director and the APO and would reflect the Approved Plan. Because the goals in HAPs and the Plan cannot be inconsistent, an allocation of contract authority by HUD according to the regional Plan will be consistent with the HAPS of Participating Jurisdictions. It is hoped that this procedure will enable HUD to be more responsive to local and regional priorities and goals.

Second, Plans which meet the general criteria in § 891.502 would be considered by the Secretary for selection as the basis for supplemental allocations of contract authority to participating jurisdictions. Additional criteria contained in § 891.503 would identify plans for priority consideration from among acceptable plans. HUD has determined that supplemental allocations pursuant to Subpart E can only be made to participating jurisdictions which are covered by a HAP. However, this does not preclude a jurisdiction which is not covered by a HAP from being considered as a participating jurisdiction through agreement on numerical goals and on measures for the implementation of the Plan.

The specific changes proposed to be made are as follows:

1. The definitions of "Areawide Housing Opportunity Plan" (Plan) and "Participating Jurisdiction" contained in § 891.102 of Subpart A have been expanded to more clearly define a Plan and the responsibilities of Participating Jurisdictions. An "Approved Areawide Housing Opportunity Plan" is defined.

2. Section 891.501(a) has been amended to specifically include as part of the role of the APO participation in the determination of the distribution of the supplemental allocation of housing assistance among Participating Jurisdictions.

3. Section 891.501(c) has been revised to limit the amount of supplemental allocations provided on the basis of a Plan selected as the basis for funding. The range of the supplemental allocation has been expanded to between 10 and 50 percent of the initial allocation of contract authority made available in accordance with § 891.404 of Subpart D to Participating Jurisdictions under the applicable housing assistance program(s). In addition, the amount of supplemental contract authority which may be awarded on the basis of any single Plan is limited to twenty percent of the total amount of supplemental contract authority made available by the Secretary for supplemental allocations under Subpart E. The total amount of contract authority which may be awarded on the basis of previously selected Plans is limited to 66⅔ percent of the total supplemental contract authority made available by the Secretary. These proposed revisions are responsive to the need to ensure that Plans which have not been previously selected are given an opportunity to compete with previously selected Plans on an equitable basis and that no single Plan receives a disproportionate share of the contract authority available for supplemental allocations under Subpart E.

4. The needs assessment required in § 891.502(a)(1) has been revised so that only an areawide assessment is required.

5. Section 891.502(a)(2), (formerly § 891.502(a)(4)) has been expanded to identify factors which shall be considered in an allocation procedure. This elaboration is deemed necessary to clarify the objectives of Subpart E.

6. Expression of goals has been made more specific. Section 891.502(a)(3), (formerly § 891.502(a)(2)), has been revised to permit either numerical or percentage housing goals, but requires them on a one and a three-year basis. They must also be specific, at a minimum, as to household types.

7. Section 891.502(a)(4), (formerly § 891.502(3)), has been expanded to include additional examples of acceptable evidence of agreement between the APO and Participating Jurisdictions and to indicate that agreement on implementation measures must be part of this agreement.

8. In response to confusion over the method by which Participating Jurisdictions are to be counted, § 891.502(b)(1) has been expanded to define those circumstances in which a jurisdiction within a county which is a Participating Jurisdiction may be counted as a Participating Jurisdiction.

9. Several additional criteria for priority plans have been added to § 891.503. Separate consideration is now given to APOs which participate in providing housing information and those which provide referrals, counseling or related assistance. Special consideration will also be given to areas without residency preferences for Low Income Housing and to other activities developed or administered by the APO which address the objectives of the Plan.

10. Section 891.503 requires that an APO whose Plan has been previously selected must demonstrate significant progress in addressing at least three priority criteria.

11. The identification of the required elements of requests for supplemental allocations in § 891.504 has been expanded to ensure that the request is responsive to each of the criteria for acceptable and priority Plans and that the necessary information is provided for HUD review.

12. Section 891.505 has been expanded to provide for a separate discussion of the basis for selection of Plans to receive supplemental funding and the determination of the amount of supplemental contract authority to be awarded on the basis of these Plans.

13. A new § 891.506 has been added to provide for special recognition by the Secretary of Plans which meet the general criteria in § 891.502. To the extent practicable, these Plans shall serve as the primary basis for the allocation of any housing assistance provided by HUD in accordance with Subpart D of Part 891. This recognition represents an additional commitment of support to regional strategies which address the housing assistance needs of lower income persons.

14. Section 891.507 has been added to provide for the submission of a report to HUD on the implementation and impact of selected Plans.

Interested persons are invited to participate in the making of these proposed rules by submitting such written comments or suggestions as they may desire. Communications should identify the subject matter by the above title and should be submitted to the Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 10141, Washington, D.C. 20410. All communications received on or before February 25, 1977 will be considered before action is taken on these proposals.

Comments received after that date shall be considered only as time permits, or shall be considered as petitions for future rulemaking.

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of human environment. Accordingly, a finding of inapplicability of environmental impact has been prepared and is available for inspection by the public during regular business hours in Room 10141, 451 Seventh Street, S.W., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Accordingly, it is proposed to amend Subparts A and E of Part 891, Chapter VIII, 24 CFR, as follows:

1. Section 891.102 of Subpart A is amended by revising paragraph (c), adding a new paragraph (d) and by redesignating paragraphs (d) through (o) as (e) through (p) to read as follows:

§ 891.102 Definitions.

* * * * *

(c) *Approved Areawide Housing Opportunity Plan (Approved Plan).* An Areawide Housing Opportunity Plan approved by the Secretary in accordance with § 891.506 to serve as the basis for allocations under § 891.404(a)(3).

(d) *Areawide Housing Opportunity Plan (Plan).* A plan, developed by an Areawide Planning Organization, which addresses areawide housing assistance needs and goals and contains a program which encourages, facilitates, and demonstrably provides for a broader geographical choice of housing opportunities for lower income households outside of areas and jurisdictions containing undue concentrations of low income or minority households.

(l) *Participating jurisdiction.* A jurisdiction, whether or not it is covered by a HAP (including counties and other local governments), with which the APO has reached agreement on numerical or percentage goals for the distribution of lower income housing assistance and on measures for the implementation of the Plan.

* * * * *

2. By revising Subpart E to read as follows:

Subpart E—Supplemental Allocations Based Upon Areawide Housing Opportunity Plans

Sec.

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

Subpart E—Supplemental Allocations Based Upon Areawide Housing Opportunity Plans

§ 891.501 Applicability and scope.

(a)(1) This Subpart describes the policies and procedures governing (i) the review and selection of Areawide Housing Opportunity Plans, as defined in § 891.102 of Subpart A, as the basis for supplemental allocations of contract and budget authority for use in jurisdictions participating in such a Plan; and (ii) approval of such plans to serve as the primary basis for the allocation of any housing assistance provided by HUD pursuant to Subpart D of Part 891 (hereinafter "Subpart D").

(2) The role of the APO under the provisions of this Subpart includes, but need not be limited to, (i) development of the Plan, including the needs assessment, the allocation procedures, implementation strategies and other components described in §§ 891.502 and 891.503; (ii) submission of requests to the Secretary for supplemental allocations in accordance with § 891.504; and (iii) participation in the determination of the distribution of the supplemental allocation of

housing assistance among Participating Jurisdictions covered by a HAP in accordance with § 891.505(f).

(b) The Secretary, after considering all the pertinent factors under section 213(d) of the Housing and Community Development Act of 1974, including such adjustments as may be necessary to assist in carrying out activities designed to meet lower income housing needs as described in approved HAPs, will determine the aggregate amount of contract authority to be used for supplemental allocations and from which housing assistance program(s) contract authority will be made available for supplemental allocations in any fiscal year for which such allocations will be made.

(c) The Secretary shall announce, through a Notice in the FEDERAL REGISTER, the amount of contract authority to be made available for supplemental allocations during any fiscal year; the housing assistance program(s) under which these allocations shall be made; any additional or special criteria which may be established for specific housing assistance programs; and the time, closing date, and address for submission of requests for the supplemental allocations. The closing date for submission of requests shall not be sooner than 30 calendar days after publication of the Notice in the FEDERAL REGISTER.

(d) In order to be approved as a basis for a supplemental allocation under this Subpart, a Plan must meet the general criteria for acceptability set forth in § 891.502. Priority shall be given to those Plans which also meet the greatest number of the priority criteria set forth in § 891.503.

(e)(1) The amount of the supplemental allocation provided on the basis of a Plan selected for funding in a single fiscal year under this Subpart shall not be less than 10 percent nor more than 50 percent of the initial allocation of contract authority to the Participating Jurisdictions in accordance with § 891.404 of Subpart D during the same fiscal year in which the request specified in § 891.504 is submitted to HUD.

(2) The total amount of supplemental contract authority which may be awarded on the basis of any single Plan shall not exceed twenty percent of the supplemental contract authority for the applicable housing assistance program available in that fiscal year in accordance with § 891.501(b).

(3) The total amount of supplemental contract authority awarded on the basis of Plans (or an earlier version of a selected Plan) which have been selected during any previous fiscal year for award of supplemental allocations in accordance with this Subpart shall not exceed 66⅔ percent of the total amount of the supplemental contract authority for the applicable housing assistance program unless, the Secretary determines that there are no other Plans which meet the general criteria for acceptable plans set forth in § 891.502 and at least two of the criteria for priority plans set forth in § 891.503.

§ 891.502 General criteria for acceptable plans.

(a) In addition to any special criteria in the Notice published pursuant to § 891.501(c), a plan, to be acceptable, shall be a program for allocating housing assistance among jurisdictions in the area served by the APO which encourages, facilitates, and demonstrably provides for a broader geographical choice of housing opportunities than is presently available for lower income households outside areas and jurisdictions containing undue concentrations of low income or minority households. The Plan shall contain, but need not be limited to, the following elements:

(1) An assessment, based upon the most reliable and generally available uniform data base, of the housing assistance needs of lower income households (including households displaced or to be displaced by governmental action) on an areawide basis. This assessment shall indicate housing assistance needs by (i) household type (lower income households which are elderly or handicapped; large families; and other families), (ii) present form of housing tenure (owner and renter), (iii) female heads of households and (iv) minority households.

(2) A procedure for allocating housing assistance (whether or not provided by HUD) among jurisdictions within the area served by the APO (as a minimum, by county and for each jurisdiction of over 50,000 population) in accordance with the Plan and the objectives of this Subpart. The procedure shall consider the assessment of needs conducted in accordance with § 891.502(a)(1), the Housing Assistance Plans of jurisdictions in the area served by the APO, and any regional community development, growth, land use, and environmental policies and objectives which have been adopted or are being developed by the APO. In addition, the procedure shall, as a minimum, explicitly take into account the following factors:

(i) Present and potential areas of undue concentration of low income and minority households which have been identified in approved HAPs of Participating Jurisdictions and other data available to the APO.

(ii) The locations of assisted housing and jurisdictions with undue concentrations of assisted housing.

(iii) The present or potential capacity of each jurisdiction to accommodate assisted housing.

(iv) Present and projected (for at least three years) regional population and employment data or patterns, with particular emphasis on the data and patterns applicable to lower income persons.

(v) The needs of lower income households which are (A) large families, (B) minority households and (C) female heads of households.

The allocation procedure included in the Plan shall be designed to ensure that the distribution of housing assistance in accordance with the procedure will have a demonstrable impact in increasing the geographical choice of housing opportunities for lower income households outside areas and jurisdictions containing undue concentrations of low income or minority households throughout the area served by the APO.

(3) Numerical or percentage goals, on an annual and on a 3-year basis, by type of assistance and source of funds, for the distribution of lower income housing assistance (whether or not provided by HUD) to each Participating Jurisdiction which address the needs identified in § 891.502(a)(1) and which have been derived from the allocation procedure. The goals identified in HAPs prepared by or applicable to Participating Jurisdictions may not be less than or inconsistent with the goals identified in the Plan. The numerical or percentage goals shall, as a minimum, be specific as to household type (lower income households which are elderly or handicapped; large families; and other families).

(4) Evidence of agreement between the APO and each Participating Jurisdiction on the goals in paragraph (a)(3) of this section for the distribution of lower income housing assistance among Participating Jurisdictions and of agreement on measures for the implementation of the Plan in accordance with the allocation under paragraph (a)(2) of this section. This evidence may include individual written agreements or other confirmation from the Chief Executive Officer of the Participating Jurisdiction, including confirmation of the consistency of the numerical goals in the HAP of each Participating Jurisdiction covered by a HAP with the goals in the Plan; or by an equivalent provision acceptable to the Secretary which demonstrates a commitment to the objectives and implementation measures of the Plan by each Participating Jurisdiction (e.g., through commitment of CDBG funds in support of implementation measures, removal of impediments to the provision of lower income housing, or cooperation in efforts to meet the Criteria for Priority Plans contained in § 891.503).

(5) Provisions for the Plan to be used in the review of all applications for community development, housing assistance, and other community assistance programs which are subject to review under OMB Circular A-95.

(b) The Plan also shall meet the following conditions:

(1) The Plan shall apply to and include as Participating Jurisdictions at least fifty percent of the jurisdictions in the area served by the APO, wherein Participating Jurisdictions represent at least seventy-five percent of the population of the area. For the purposes of counting Participating Jurisdictions, any jurisdiction under 50,000 population within a county which is a Participating Jurisdiction may be counted as a Participating Jurisdiction if (i) the county's agreement with the APO on numerical or percentage goals applies to that jurisdiction and the county has authority to provide or approve assisted housing in

that jurisdiction or the county has reached agreement on goals and implementation measures with that jurisdiction and the plan provides written evidence thereof; and (ii) the agreement between the county and the APO specifies general locations for assisted housing for those jurisdictions in the county which are not covered by a HAP.

(2) The Plan shall have been approved by the governing body of the APO.

(3) The APO shall demonstrate (i) that the plan can be implemented through activities undertaken or to be undertaken by the APO and Participating Jurisdictions and (ii) that an additional allocation of contract authority can be committed within a reasonable time in Participating Jurisdictions covered by a HAP in a manner consistent with the objectives of the Plan. Implementation activities may include, but need not be limited to, provision of technical assistance to PHAs or prospective developer/sponsors; coordination of outreach to eligible families and owners of properties potentially available for the section 8 Existing Housing Program; coordination of CDBG activities which support the objectives of the Plan; preparation of guides to assisted housing opportunities throughout the region served by the APO; development of specific mechanisms to facilitate interjurisdictional moves; or other coordinated administrative mechanisms to achieve the objectives of the plan and the numerical or percentage goals contained therein. Satisfactory evidence that an additional allocation of contract authority can be committed within a reasonable time may include, but is not limited to, (A) the availability of sites whose locations are consistent with the objectives of the Plan and which meet all applicable program standards and criteria (including site and neighborhood standards) in those Participating Jurisdictions in which the Plan proposes the use of newly-constructed or rehabilitated housing under the programs specified in § 891.101(a), and developer/sponsor-owner interest (e.g., as evidenced by responses to recent notifications of fund availability or invitations for housing applications under these programs); (B) the willingness and ability of established PHAs to administer or otherwise participate in the program in those Participating Jurisdictions in which the Plan proposes the use of a program specified in § 891.101(a) which requires the participation of a PHA, or actions taken by such Participating Jurisdictions to establish PHAs or to negotiate agreements with existing PHAs to perform this function; and (C) contract authority currently allocated to Participating Jurisdictions has been committed or satisfactory progress has been made in committing such contract authority and these Participating jurisdictions have been cooperative in removing or waiving impediments to the provision of lower income housing which have been imposed by local governments.

(4) The data used in making the assessment of housing assistance needs in § 891.502(a)(1) available for use by Participating Jurisdictions in preparing their HAPs.

§ 891.503 Criteria for priority plans.

(a) In order for an Acceptable Plan to qualify for priority consideration, it must meet one or more of the following criteria:

(1) The APO presently administers, funds, or participates in the provision of housing information to lower income and minority households desiring housing assistance outside areas and jurisdictions which contain undue concentrations of low income or minority households.

(2) The APO presently administers, funds, or participates in a program which provides referrals, counseling, and related assistance to lower income and minority households desiring housing assistance outside areas and jurisdictions which contain undue concentrations of low income or minority households.

(3) To the extent that the section 8 Existing Housing Program is used by Participating Jurisdictions, eligible families currently are permitted to use and are assisted in using their section 8 Certificates of Family Participation in two or more Participating Jurisdictions representng at least 50 percent of the area population (e.g., through use of an areawide, regional, or state public housing agency; through cooperation or other local agreements which provide for interjurisdictional use of Section 8 Certificates of Family Participation among Participating Jurisdictions; through elimination of residency preferences for issuance of section 8 Existing Certificates in Participating Jurisdictions which are participating in the section 8 Existing Housing Program; or other administrative mechanisms acceptable to the Secretary which facilitate interjurisdictional moves for households with section 8 Certificates of Family Participation among Participating Jurisdictions which are participating in the Section 8 Existing Housing Program).

(4) Residency preferences for admission to Low-Income housing have been eliminated in all Participating Jurisdictions by all PHAs administering a Low-Income Housing Program.

(5) The Area served by the APO is covered by a voluntary areawide affirmative fair housing marketing agreement with HUD which is currently operative or is covered by a similar program which can be demonstrated to achieve the same objective as a typical agreement with HUD.

(6) The Plan applies to and includes as Participating Jurisdictions 75 to 100 percent of the jurisdictions in the area served by the APO.

(7) Any other activity or activities, as developed or administered by the APO and acceptable to the Secretary, which encourages, facilitates and demonstrably increases the geographical choice of housing opportunities for lower income households outside areas and jurisdictions containing undue concentrations of low-income or minority households.

(b) APOs whose Plan has previously been selected as the basis for the award of supplemental allocations must meet or demonstrate significant progress in addressing at least three priority criteria to be considered for additional supplemental allocations.

§ 891.504 Contents of requests for supplemental allocations.

(a) Each request for supplemental allocation shall consist of:

(1) A letter of transmittal signed by the executive director of the APO submitting the request;

(2) An index of all documents and materials submitted with the request, including graphs, maps, or other illustrative material;

(3) A list of all jurisdictions within the area served by the APO, identification of Participating Jurisdictions, and identification of Participating Jurisdictions covered by HAPs;

(4) A description of the Plan, with specific references to the plan and other documentation, where appropriate, which responds to each of the acceptability criteria contained in § 891.502 and the priority criteria contained in § 891.503; provides examples of and discusses the Plan's conformity to these criteria; and explains how the Plan, with specific references to the allocation procedure (including allocation criteria and factors) and implementation measures, will provide a broader geographical choice of housing opportunities for lower income households outside areas and jurisdictions containing undue concentrations of low income or minority households;

(5) The amount of supplemental allocation requested and from which program(s);

(6) A proposal, consistent with the Plan, showing type of households to be assisted and type of housing proposed for the Participating Jurisdictions covered by a HAP, for using supplemental allocations of ten, thirty, and fifty percent of the initial allocation of contract authority from the applicable program(s) otherwise allocated to Participating Jurisdictions during the current fiscal year in accordance with § 891.404.

(7) Identification of any variations or inconsistencies between the goals of the Plan and the goals contained in the HAPs of Participating Jurisdictions, with a discussion of the reasons therefor;

(8) A discussion of the methodology and sources of data used in assessing areawide housing assistance needs under § 891.502(a)(1);

(9) Identification of areas containing undue concentrations of low income households and of minority households both for each Participating Jurisdiction and on an areawide basis;

(10) A narrative statement which indicates how the Plan, including implementation measures, addresses the needs of lower income households which are (i) large families, (ii) female headed and (iii) minority households within the area served by the APO;

(11) If supplemental allocations or other housing allocations pursuant to Subpart D have been awarded in any previous fiscal year on the basis of the plan or an earlier version of the plan, a report on the distribution of these allocations; activities undertaken in support of the plan, any known results in achieving the objectives of the plan and this Subpart, any expansion, upgrading or other refinement of the data used in any earlier version of the plan;

(12) For participating jurisdictions which are not covered by a HAP, the general locations proposed for assisted housing in accordance with the numerical or percentage goals in § 891.502(a)(3);

(13) A summary of the recent experience of participating jurisdictions with assisted housing programs, including the status and amount of housing assistance received—by program—by each participating jurisdiction during the current fiscal year and each of the previous two fiscal years;

(14) The impact of the plan on the distribution of housing assistance within the area served by the APO since approval of the plan, or an earlier version of the plan, by the governing body of the APO;

(15) A description of the citizen participation process used in the development of the plan in accordance with requirements under section 701 of the Housing Act of 1954 and the way in which affected public and private agencies and organizations were provided an opportunity to participate;

(16) A narrative statement which describes the APO's proposal, if any, to evaluate the impact of the plan and the effect of any supplemental allocations received in achieving the objectives of the plan;

(b) In lieu of a separate and distinct discussion of any or all of items (8) through (16) of § 891.504(a), the APO may, at its option, provide an index which refers to any other portion of the request which specifically responds to these items.

(c) Copies of HAPs prepared by Participating Jurisdictions need not be submitted with the request.

(d) Each request shall be submitted in the number of copies and to the address required in the Notice published pursuant to § 891.501(d). Any request received by HUD after the deadline date and time specified in the Notice shall not be accepted but shall be returned unopened.

§ 891.505 Review and selection of plans.

(a) The Secretary shall review all Plans submitted to identify (1) Acceptable Plans under § 891.502 and (2) Priority Plans under § 891.503. Field Office Directors and Regional Administrators shall be consulted in this evaluation.

(b) On the basis of the evaluation conducted in accordance with paragraph (a) of this section the Secretary shall select, from among all Acceptable Plans, those Plans on the basis of which supplemental allocations can be awarded. Preference shall be given to those Plans which meet the greatest number of the priority criteria set forth in § 891.503.

(c) The Plans to be selected as the basis for supplemental allocations shall be determined by the Secretary on the basis of the following factors:

(1) The compliance with, and overall quality of the Plan with respect to each of the general criteria for acceptable Plans set forth in § 891.502 and the criteria for priority Plans in § 891.503 and the degree to which the Plan addresses the objective of this Subpart;

(2) The responsiveness of the request to the requirements outlined in § 891.504; and

(3) In the case of Plans or earlier versions of Plans previously selected as the basis for supplemental allocations during any previous fiscal year, the impact of the Plan and prior supplemental allocations and the progress made by the APO and Participating Jurisdictions in meeting additional priority criteria as indicated in the Report required in § 891.506, in the request, or from other information available to HUD.

(d) The amount of the supplemental allocation to be awarded on the basis of each of the selected Plans shall be determined by the Secretary on the basis of each of the following factors:

(1) The compliance with, and overall quality of the Plan with respect to each of the criteria in §§ 891.502 and 891.503 and the degree to which the Plan addresses the objective of this subpart.

(2) The number of Plans selected as the basis for award of supplemental allocations and the amount of housing assistance available for supplemental allocations.

(3) The type of lower income households (elderly or handicapped; large families; and other families) and type of housing (new, substantial rehabilitation, or existing) proposed to be assisted with the supplemental allocation, relative to the needs identified in § 891.502 (a)(1).

(4) The amount of housing assistance available to each of the Participating Jurisdictions for the current fiscal year that has been committed.

(e) If contract authority from more than one housing assistance program is made available by the Secretary in any fiscal year in accordance with § 891.501 (b), and the APO requests supplemental allocations for more than one program, the Secretary shall determine the program(s) from which contract authority will be provided on the basis of a Plan selected as the basis for funding.

(f) After the total amount of the supplemental allocations on the basis of each of the selected Plans has been determined, each APO shall be advised of its selection or rejection. Selected APOs shall also be advised of the amount of additional contract authority which is to be made available on the basis of the Plan and the approximate number of units this contract authority is expected to assist. Concurrently with or subsequent to this notification, the allocations will be distributed to those Field Office Directors with jurisdiction over Participating Jurisdictions for reallocation among Participating Jurisdictions covered by a HAP. The Field Office Directors will consult with APOs to determine the actual geographical distribution and program mix of units on the basis of the Plan and other applicable administrative or statutory requirements prior to allocation among Participating Jurisdictions covered by a HAP.

§ 891.506 Approval of plans as basis for allocations under § 891.404(a)(3).

(a) Each Plan which has been determined by the Secretary to have met each of the general criteria for acceptable plans contained in § 891.502 (whether or not it is selected as the basis for award of supplemental allocations under § 891.505(a)) shall be designated by the Secretary as an Approved Areawide Housing Opportunity Plan. An Approved Plan shall serve, to the extent practicable, as the primary basis for the allocation by HUD of any housing assistance provided by HUD pursuant to Subpart D (1) until a subsequent or updated version of an Approved Plan has been approved by HUD in accordance with the procedures under this Subpart or (2) for three years, whichever occurs first. This allocation shall be in consultation with the APO.

(b) In addition, the one and three-year goals in the Housing Assistance Plans of Participating Jurisdictions shall be approved by the Area Office if those goals are not inconsistent (in number or program type) with the goals in an Approved Plan.

(c) Each APO whose Plan is approved pursuant to this section shall be advised of this designation simultaneously with the transmittal of the Secretary's notification to the Field Office Director.

§ 891.507 Reporting requirements.

Each APO which has developed a Plan selected as the basis for funding during or subsequent to fiscal year 1977 shall submit to the Secretary, within one year after the determination by the Field Office Director on the distribution of the supplemental allocation in accordance with § 891.505(f), a report which contains the following information:

(a) The actual distribution of the supplemental allocation among jurisdictions and the number of households assisted or to be assisted (by type of household and by race and sex of head of household, if known) as a result of the supplemental allocation and other housing assistance allocated pursuant to Subpart D;

(b) Any known impact of the Plan in reducing concentrations of low income or minority households outside areas and jurisdictions which contain undue concentrations of such households;

(c) Any refinements, amendments, or upgrading of any of the elements of the Plan;

(d) Actions taken by Participating Jurisdictions to implement or to support

the implementation of the Plan (e.g., encouragement of developers/sponsors, zoning amendments, tax abatement programs, coordination of outreach to eligible families and owners of properties qualifiable for the Section 8 Existing Housing Program, reservations of water and sewer capacity, development and implementation of complementary CDBG or other activities, etc.);

(e) Any increase in the number of Participating Jurisdictions or Participating Jurisdictions covered by HAPS; and

(f) Actions taken to meet additional Priority Criteria contained in § 891.503.

(It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107).

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-2696 Filed 1-26-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 250]

[Notice No. 307]

LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Elimination the Serial-Number-of-Approved-Formula-Marking Requirement on Distilled Spirits Containers

The Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate, is issuing a notice of proposed rulemaking to eliminate the requirement of marking the serial number of the approved formula on containers of distilled spirits made in Puerto Rico and in the Virgin Islands, and shipped to the United States.

The proposed regulations are to be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

The Director received a petition on April 26, 1976, which requested that 27 CFR 250.40, Marking containers of distilled spirits, be amended "to eliminate the requirement for printing the serial number of the approved formula on the cases of distilled spirits, under which distilled spirits were made in Puerto Rico and shipped to the United States". This petition seeks to alleviate any undue burden on producers of Puerto Rican rum by doing away with a marking requirement which may be nonessential.

Section 250.40 currently requires that the serial number of the approved formula be marked on all containers of distilled spirits shipped to the United States from Puerto Rico. Whenever a Puerto Rican manufacturer changes a formula, the manufacturer must remove the premarked serial number from empty shipping containers and affix the new approved formula number. If it were possible to eliminate the formula number requirement of § 250.40, Puerto Rican manufacturers would be relieved from the necessity of removing old serial numbers and re-marking with new serial numbers.

Form 478-B is a required application and permit document that accompanies shipments of distilled spirits from Puerto Rico to the United States. In addition to other information, this form contains both the formula number of the distilled spirits product and the serial numbers of the shipping containers. Since the Form 487-B identifies the formula number of all shipping containers, it could be used to supply the information in question which § 250.40 presently requires.

The Director is also considering to amend a comparable regulation, § 250.206, affecting distilled spirits shipments of Virgin Island manufacture to the United States. Virgin Islands producers are presently required to show formula numbers on the individual shipping containers and on a certificate which accompanies each shipment, along with a report of gauge. If the formula number requirement of § 250.206 were deleted from the section, the certificate, which calls for the number and the date of the approved formula, and the report of gauge, which shows the serial number of each package gauged for shipment, would supply the same information. Thus, the Virgin Islands manufacturers would also be relieved from what appears to be a needless requirement.

In addition to giving notice to the distilled spirits producer of Puerto Rico and of the Virgin Islands, the Director seeks to give notice to the governments of Puerto Rico and of the Virgin Islands of the United States to permit them to comment on this proposal.

Interested parties who desire to submit written comments or arguments on the proposed changes should submit them, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (Attention: Chief, Regulations and Procedures Division) no later than March 14, 1977. Written statements which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of statements as exempt from disclosure.

In view of the foregoing, it is proposed that the regulations, 27 CFR 250.40 and 250.206, pertaining to markings on distilled spirits containers be amended by deleting the phrase, "the serial number of the approved formula under which made", by deleting the last sentence, and by simplifying the language of the sections.

1. As amended, § 250.40 reads as follows:

§ 250.40 Marking containers of distilled spirits.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the distiller, rectifier, or bottler;

(b) The brand name and kind of liquor;

(c) The wine and proof gallon contents; or, for bottles filled according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits; and

(d) In the case of barrels or casks, the serial number of the permit to ship, Form 487-B, prefixed by the number of such form (e.g., "487-B-61-1").

2. As amended, § 250.206 reads as follows:

§ 250.206 Marking packages and cases.

The distiller, rectifier, or bottler shall serially number each case, barrel, cask, or similar container of distilled spirits filled for shipment to the United States. In addition to the serial number of the container, the distiller, rectifier, or bottler shall plainly print, stamp, or stencil with durable coloring material, in letters and figures not less than one-half inch high, on the head of each barrel, cask or similar container or on one side of each case, as follows:

(a) The name of the manufacturer;

(b) The brand name and kind of liquor; and

(c) The wine and proof gallon contents; or, for bottles filled according to the metric standards of fill prescribed by § 5.47a, of this chapter, the contents in liters and the proof of the spirits.

NOTE.—The Director, Bureau of Alcohol, Tobacco and Firearms, 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.

Signed: December 23, 1976.

JARVIS L. BREWER,
Acting Director.

Approved: January 17, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.77-2625 Filed 1-26-77;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[28 CFR Part 16]

[Order No. 680-77]

PRODUCTION OR DISCLOSURE OF INFORMATION

Exemption of Records System Under the Privacy Act

The Department of Justice proposes to issue a regulation exempting a system of records maintained by the Offices of the United States Attorneys, the Pre-Trial Diversion Program Files, JUSTICE/USA-015, from the provisions of subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H),

(e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k) (1) and (2). The principal function of the U.S. Attorneys Offices pertains to the enforcement of criminal laws. The purposes of this exemption are to maintain the confidentiality and security of information compiled for purposes of criminal investigation or civil or regulatory law enforcement or reports compiled at any stage of the process of enforcement of the criminal laws, and to maintain the confidentiality and security of the identity of witnesses, informants, and others protected in witness security programs. Some records contained in this system of records may not be subject to exemptions. A determination will be made as to the exemption of a specific record at the time a request for notification or access is made.

These reasons for exempting this system are similar to ones published in subsection (b) of 28 C.F.R. 16.81 for other systems of the Offices of the United States Attorneys and are published within subparagraph (b) of this order.

By virtue of the authority vested in me by U.S.C. 552a (j) and (k), and as Attorney General of the United States, 28 CFR, Chapter I, Part 16, Subpart E, § 16.81 is amended by the addition of the following new paragraph (a)(9) and paragraph (b) as follows:

§ 16.81 Exemption of U.S. Attorneys Systems—Limited access, as indicated.

(a) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h):

* * * * *

(9) Pre-Trial Diversion Program Files (JUSTICE/USA–015)

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k).

(b) Exemption from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting uses published for these systems would permit the subject of a criminal investigation and/or civil case or matter under investigation, litigation, regulatory or administrative review or action, to obtain valuable information concerning the nature of that investigation, case or matter and present a serious impediment to law enforcement or civil legal activities.

(2) From subsection (c)(4) since an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in these systems would inform the subject of criminal investigation and/or civil investigation, matter or case of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies.

(4) From subsection (e)(1) because in the course of criminal investigations and/or civil investigations, cases or matters, the United States Attorneys often obtain information concerning the violation of laws or civil obligations other than those relating to an active case or matter. In the interests of effective law enforcement and civil litigation, it is necessary that the United States Attorneys retain this information since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought within the United States Attorneys' offices.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension or legal obligations and duties.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4) (G) and (H) because these systems of records are exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the United States Attorneys' ability to issue subpoenas and could reveal investigative techniques and procedures.

(10 From subsection (f) because these systems of records have been exempted from the access provisions of subsection (d).

(11) From subsections (g) and (h) because these systems of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

Interested person are invited to submit written comments concerning this proposed exemption. Comments should be mailed to the Executive Office of United States Attorneys, Department of Justice, Washington, D.C. 20530. All comments must be received by February 28, 1977. No oral hearings are contemplated. Comments received will be available for inspection in Room 1266, Main Department of Justice Building, 10th and Constitution Avenue, NW., Washington, D.C.

Dated: January 18, 1977.

EDWARD H. LEVI,
Attorney General.

[FR Doc.77-2602 Filed 1-26-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

[29 CFR Part 102]

PUBLIC OBSERVATION OF MEETINGS OF THE NATIONAL LABOR RELATIONS BOARD

Proposed Rules

Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. 156), and in accordance with section 3(a) (section 552b(g)) of the Government in the Sunshine Act, Pub. L. 94–409, September 13, 1976, 5 U.S.C., Section 552b(g), the National Labor Relations Board hereby gives notice of its intent to promulgate rules establishing the circumstances under which Board meetings will be open to public observation, the Agency's procedures for public announcement of time, place and subject matter of Board meetings, and provisions for the maintenance of minutes, transcripts or recordings of such meetings. A statement of the basis and purpose of such rules is published herewith.

STATEMENT OF PURPOSE

The Government in the Sunshine Act requires each agency to promulgate regulations to implement the provisions of that statute. This proposed Subpart S of the Rules of the National Labor Relations Board is designed to fulfill that requirement.

Section 102.137 of the subpart states the general statutory obligation that all meetings of agency members for the purpose of conducting or disposing of agency business are to be open to public observation, unless the meeting is to be closed due to the subject matter.

Section 102.138 defines the term "meeting" as applied to the Board. The reference to "at least two members of any group of three Board members to whom the Board has delegated power which it may itself exercise", is from section 3(b) of the National Labor Relations Act. Under that section three members of the Board is a quorum and two members of any designated group is established as a

quorum for purposes of the exercise of delegated powers.

Section 3(a)(d)(4) of the Sunshine Act (5 U.S.C. Section 552b(d)(4)) provides that when the majority of an agency's meetings fall within certain of the statutory reasons permitting meetings to be closed, that agency may provide by regulation for the closing of meetings falling within that provision. Section (c)(10) of the statute permits the closing of meetings which concern the agency's issuance of a subpena, its participation in a civil action or proceeding, or the initiation, conduct or disposition by the agency of a particular case of formal adjudication pursuant to the procedures of section 554 of Title 5, U.S.C., or which otherwise involve a determination on the record after opportunity for a hearing. During the three year period 1974–1976, the National Labor Relations Board held 141 meetings, the subject matter of which was the deliberation of unfair labor practice and representation proceedings pending before the Board for disposition. Of these, 59 were held in calendar year 1974, 46 in 1975 and 36 in 1976. During that same three year period the Board held a total of approximately 60 meetings on matters other than deliberation of pending cases. The Board is therefore entitled under the statute to provide by regulation for the closing to public observation of meetings falling within subsection (c)(10) of the statute. Section 102.139(a) of the proposed rules so provides.

Section 102.139(b) sets forth the other criteria contained in the statute for closing meetings, which might be applicable to this agency's activities.

Section 102.140 sets forth agency procedures to be followed in determining whether a meeting is in fact to be closed to public observation. It also provides for the public availability of the vote of members on the issue of closing.

Section 102.141 sets forth, in its various subsections, the requirements for public announcement of Board meetings, including procedures to be followed when a change of open or closed status, subject matter, or time and place, is made subsequent to the initial announcement of the meeting. The provisions also specify requirements for determining whether a meeting should be held under circumstances permitting less than the seven day prior notice to the public required by the statute, and for publication of the annuoncements in the FEDERAL REGISTER to the extent required.

Section 102.142 provides for maintenance of a transcript, recording or minutes, as may be appropriate, for each closed meeting. The section also establishes the circumstances under which those records may be made available to the public, and the agency's responsibility concerning the period of their retention.

All persons who desire to submit written comments, views, or arguments for consideration by the Board in connection with the proposed rules should file 10 copies of the same, on or before February 28, 1977, with the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570. Copies of such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary of the Board, Room 701, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

Dated: January 24, 1977 at Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

The proposed rules, when promulgated, will constitute a new Subpart S of the Board's Rules and Regulations, §§ 102.137 through 102.142, and will read as follows:

Subpart S—Open Meetings

Sec.
102.137 Public Observation of Board Meetings.
102.138 Definition of meeting.
102.139 Closing of meetings: reasons therefor.
102.140 Action necessary to close meeting; record of votes.
102.141 Notice of meetings; public announcement and publication.
102.142 Transcripts, recordings or minutes of closed meetings; public availability; retention.

Subpart S—Open Meetings

AUTHORITY: Sec. 6, National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. 156) and sec. 3(a), Government in the Sunshine Act, Pub. L. 94–409, Sept. 13, 1976, 5 U.S.C. 552b(g).

§ 102.137 Public Observation of Board Meetings.

Every portion of every meeting of the Board shall be open to public observation, except as provided in § 102.139 of these rules, and Board members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this subpart.

§ 102.138 Definition of meeting.

For purposes of this subpart, "meeting" shall mean the deliberations of at least three members of the full Board, or the deliberations of at least two members of any group of three Board members to whom the Board has delegated powers which it may itself exercise, where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this subpart.

§ 102.139 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of particular representation or unfair labor practice proceedings under sections 8, 9, or 10 of the act, or any court proceedings collateral or ancillary thereto.

(b) Meeting, or portion thereof, may also be closed by the Board, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial or financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 102.140 Action necessary to close meeting; record of votes.

A meeting shall be closed to public observation under § 102.139, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 102.139(a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 102.139(b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public annoucement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where such subsequent meetings are scheduled to be held within thirty days after the initial meeting. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public within one day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Board close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. section 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files com-

piled for law enforcement purposes), the Board members participating in the meeting, upon request of any one of its members, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Board participating in the meeting shall be kept and made available to the public within one day after the vote is taken.

(d) After public announcement of a meeting as provided in § 102.141 of these rules, a meeting, or portion thereof, announced as closed may be opened, or a meeting, or portion thereof, announced as open may be closed, only if a majority of the members of the Board who will participate in the meeting determine by a recorded vote that Board business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) For each meeting closed pursuant to § 102.139, the solicitor of the Board shall certify that in his or her opinion the meeting may be closed to the public. The certification shall set forth each applicable exemptive provision for such closing. Such certification shall be retained by the agency and made publicly available as soon as practicable.

§ 102.141 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings or portions thereof closed to public observation pursuant to the provisions of § 102.139(a) of these rules, shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 102.139(a) of these rules, the agency shall make public announcement of each meeting to be held at least 7 days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address, and phone number of an agency official designated to respond to requests for information about the meeting. The 7 day period for advance notice may be shortened only upon a determination by a majority of the members of the Board who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcements shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 102.139(b) of these rules, the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement shall be made at the earliest practicable time. The subject matter of the meeting may be changed after the public announcement only if a majority of the members of the Board who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereto issued pursuant to the provisions of paragraphs (b) and (d) of this section, or pursuant to the provisions of § 102.140(d), shall be submitted for publication in the FEDERAL REGISTER immediately following their release to the public.

(f) Announcements of meetings made pursuant to the provisions of this section shall be made publicly available by the executive secretary.

§ 102.142 Transcripts, recordings or minutes of closed meetings; public availability; retention.

(a) For every meeting or portion thereof closed under the provisions of § 102.139 of these rules, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting or portion thereof there shall also be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 102.139(a) the Board may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reasons therefor and views thereon, documents considered, and the members' vote on each roll call vote.

(b) The agency shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. section 552b(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall, to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 102.117(c)(2(iv), and the actual cost of transcription.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete electronic recording, or a complete set of the minutes for each meeting or portion thereof closed to the public, for a period of at least one year after the close of the agency proceeding of which the meeting was a part, but in no event for a period of less than two years after such meeting.

[FR Doc.77-2736 Filed 1-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 181]

[CGD 75-008a]

PERSONAL FLOTATION DEVICES

Proposed Information Pamphlet

Correction

In FR Doc. 76-37229 appearing on page 55478 in the issue for Monday, December 20, 1976, the format of § 181.705 was incorrect. It is being reprinted below to correctly reflect material to be published in a pamphlet. Section 181.703 is also being reprinted since it contains internal references to material in § 181.705.

§ 181.703 PFD information pamphlet; manufacturer requirements.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device that is sold or offered for sale for use on a recreational boat shall furnish the information required by § 181.705 with each device by meeting one of the following:

(a) If the personal flotation device package is not transparent—

(1) The information in paragraph (a) of § 181.705 of this subpart must be printed on the outside of the package; and

(2) The information in paragraph (b) of § 181.705 of this subpart must be printed in a pamphlet and the pamphlet must be enclosed in each package.

(b) If the personal flotation device package is transparent—

(1) The information in paragraph (a) of § 181.705 of this subpart must be printed on the front page of a pamphlet and the pamphlet must be enclosed in each package so that the front page can be read through the package; and

(2) The information in paragraph (b) of § 181.705 of this subpart must be printed on the remaining pages of the pamphlet.

(c) If the personal flotation device is not in a package, a pamphlet that meets paragraph (b) of this section must be attached to each personal flotation device so that a purchaser can remove it.

§ 181.705 PFD information pamphlet; contents.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device shall furnish, under the requirements of § 181.703 of this subpart, the information in this section with each PFD that is sold or offered for sale for use on a recreational boat and may include additional information, instructions or illustrations: [1]

[1] The illustrations required by paragraph (a) of § 181.705 may be photographs or drawings. Each manufacturer should use illustrations of his own products. If this is not possible, illustrations of other Coast Guard approved PFD's may be used.

(a) PERSONAL FLOTATION DEVICES FOR RECREATIONAL BOATS; FEDERAL REGULATIONS REQUIRED: [2]

(*a*) No person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one personal flotation device of the following types is on board for each person:

(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.
(4) Type IV PFD.

(*b*) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types is on board for each person:

(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.

(*c*) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD is on board in addition to the PFDs required in paragraph (*b*).

THERE ARE FIVE TYPES OF PERSONAL FLOTATION DEVICES

This is a Type (I, II, III, IV, or V) PFD

Type I—A Type I PFD has the greatest buoyancy and is designed to turn an unconscious person in the water from a face down position to a vertical or slightly backward position and to maintain the person in the vertical or slightly backward position. The Type I PFD is recommended for all waters, especially for cruising on waters where there is a probability of delayed rescue, such as large bodies of water where it is not likely that a significant number of boats will be in close proximity. This type PFD is the most effective of all the types in rough water. The Type I PFD is available in two sizes—Adult (90 lbs. or more) and child (less than 90 lbs.).

(Illustration of Type I PFD)

Type II—A Type II PFD is designed to maintain the wearer in a vertical or slightly backward position in the water. The Type II PFD is usually more comfortable to wear than the Type I. The Type II is recommended for use where there is a probability of quick rescue, such as areas where boating, fishing, and other water activities are likely to occur. The Type II PFD is available in three sizes—Adult (more than 90 lbs.), Medium Child (50 lbs. to 90 lbs.), and Small Child (less than 50 lbs.).

(Illustration of Type II PFD)

Type III—The Type III PFD is designed so that the wearer can place him or herself in a vertical or slightly backward position, and can maintain that position with a minimum of effort. A Type III is the most comfortable, comes in several sizes, and is usually the best choice for water sports, such as skiing. The Type III is recommended for use where there is a probability of quick rescue, such as areas where boating, fishing and other water activities are likely to occur.

(Illustration of Type III PFD)

Type IV—A Type IV PFD is designed to be thrown to a person who has fallen overboard and to be grasped and held by him until he is rescued.

(Illustration of Type IV PFD)

Type V—A Type V PFD is a PFD approved for restricted uses. No. Type V PFD is currently approved for use on recreational boats.

(Illustration of Type V PFD)

(b) YOUR PERSONAL FLOTATION DEVICE

You are required by Federal Regulation to have at least one Coast Guard approved personal flotation device (PFD) for each person in your recreational boat. You may not use your recreational boat unless all your PFD's are in serviceable condition, are readily accessible, are legibly marked with the Coast Guard approval number, and are of an appropriate size for each person on board.

WHY DO YOU NEED A PFD?

Your PFD provides buoyancy to help keep your head above the water and to help you remain in a satisfactory position in the water. The average weight of an adult is only 10 to 12 pounds in the water and the buoyancy provided by the PFD is necessary to support that weight in water. Unfortunately, your body weight does not determine how much you will weigh in water. In fact, your weight in water changes slightly throughout the day. There is no simple method of determining your weight in water. You should try the device in the water to make sure it supports your mouth out of the water. Remember, all straps, zippers, and tie tapes must be used and of course the PFD must be the proper size (size limitations are on the label).

HYPOTHERMIA

Hypothermia, the loss of body heat to the water, is probably the greatest cause of deaths. Often the cause of death is listed as drawning; but, most often the primary cause is hypothermia and the secondary cause is drowning. After an individual has succumbed to hypothermia, he will lose consciousness and then drown. The following chart shows the effects of hypothermia:

Water temperature (degrees Fahrenheit)	Exhaustion or unconsciousness	Expected time of survival
32.5	Under 15 min.	Under 15 to 45 min.
32.5 to 40	15 to 30 min.	30 to 90 min.
40 to 50	30 to 60 min.	1 to 3 hr.
50 to 60	1 to 2 hr.	1 to 6 hr.
60 to 70	2 to 7 hr.	2 to 40 hr.
70 to 80	3 to 12 hr.	3 hr to indefinite.
Over 80	Indefinite	Indefinite.

PFD's can increase survival time because of the insulation they provide. Naturally, the warmer the water, the less insulation one will require. When operating in cold waters (below 40°F) consideration should be given to using a coat or jacket style PFD as they cover more of the body than the vest style PFD's.

Some points to remember about hypothermia protection:

1. While afloat in the water, do not attempt to swim unless it is to reach a nearby craft, fellow survivor, or a floating object on which you can lean or climb. Unnecessary swimming increases the rate of body heat loss.

2. Keep a positive attitude about your survival and rescue. This will improve your chances of extending your survival time until rescue. Your will-to-live does make a difference!

3. If there is more than one person in the water, huddling is recommended while waiting to be rescued. This action tends to reduce the rate of heat loss and thus increase the survival time.

4. Always wear your PFD, it won't help you fight off the effects of hypothermia if you don't have it on when you go into the water.

EACH OF THESE DEVICES IS INTENDED TO HELP YOU SAVE YOUR OWN LIFE

For your PFD to function properly, follow these suggestions to insure that it fits, floats, and remains in good condition:

(1) Try your wearable PFD on and adjust it until it fits comfortably in and out of the water.

(2) Mark your PFD with your name if you are the only wearer.

(3) Try your PFD out in the water. This will show you how it works, and will give you confidence when you use it.

(4) Do not alter your PFD. If it doesn't fit properly, get one that does. An altered device is no longer Coast Guard approved.

(5) Use your PFD only for the purpose for which it is intended. Do not use it as a boat fender or kneeling pad.

(6) Inspect your PFD periodically to insure that it is free of rips, tears, or holes, that the flotation pads have no leaks, and that all seams and joints are securely sewn.

(7) Keep your PFD away from sharp objects which may rip the fabric or puncture the flotation pads.

(8) If your PFD contains kapok, the kapok fibers may become waterlogged and lose their buoyancy after the vinyl inserts are split or punctured. When the kapok becomes hard or if the device is soaked with water, it is no longer serviceable. It may not work when you need it and must be replaced.

(9) If your PFD is wet, allow it to dry thoroughly before storing it.

(10) Store your PFD in a well ventilated area.

PFD'S AND CHILDREN

A child is difficult to float in a safe position because of the distribution of body weight and because a child tends to panic when suddenly in an unfamiliar environment. The violent movement of the arms and legs in an attempt to "climb out" of the water tends to nullify the stability of the PFD. An approved device will keep a child afloat, but not always in a face-up position. A child should be taught how to put on the device and should be allowed to try it out in the water. It is important that the child feels comfortable and knows what the PFD is for and how it functions. Parents should note, however, that PFD's are not a substitute for adult supervision.

WEAR YOUR PFD

Your personal flotation device won't help you if you don't have it on. If you don't choose to wear it at all times, you should keep it handy and put it on when heavy weather threatens, or when danger is imminent. Don't wait until it is too late. Nonswimmers and children especially should wear their PFD's at all times when on or near the water.

REMEMBER—SAFE BOATING IS NO ACCIDENT

If you need more information about PFD's and safe recreational boating, contact your State boating authority, U.S. Coast Guard Auxiliary, U.S. Power Squadron, Red Cross, or your nearest unit of the U.S. Coast Guard.

(46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1))

[2] Coast Guard regulations and special exceptions of these regulations are in Part 175 of Title 33, Code of Federal Regulations.

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-1]

RECORDING OF NOTICES OF IDENTITY AND SIGNAL CARRIAGE COMPLEMENT OF CABLE SYSTEMS

Notice of Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice of proposed rulemaking is to advise the public that the Copyright Office of the Library of Congress is considering the adoption of a new regulation designed to implement a section of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, pertaining to the recording of certain notices by cable systems.

DATES: Initial comments should be received on or before February 18, 1977. Reply comments on or before March 4, 1977.

ADDRESS: Interested persons should submit written comments to:

Office of General Counsel, Copyright Office, Washington, D.C. 20559.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: Section 111(c) of the first section of Pub. L. 94-553 establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. Initial conditions of the compulsory license are set forth in § 111(d)(1) as follows:

> For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

Section 111(d)(1) thus establishes the following recording requirements for cable systems, if they are to enjoy the benefits of the compulsory license provided by section 111(c):

(1) Any system that is in operation on April 17, 1977 (180 days after the effective date of the new law) must record the following information in the Copyright Office no later than April 18, 1977: [1]

(a) "the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it"; and

(b) "the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system".

(2) Any system that begins operation after April 17, 1977, must record the specified information (quoted in the preceding paragraph) at least one month before the date operations commence. (As a transitional exception, the recording deadline for any system that starts operating between April 18, 1977, and May 18, 1977, is April 18, 1977.)

(3) After making the initial record (described in the preceding two paragraphs), the cable system must then make supplemental records "within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes."

(4) In addition to the initial and supplemental records (described in the preceding three paragraphs), the cable system must record "thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause."

The main purpose of the proposed regulation is to make clear that the public records of the Copyright Office are open, well in advance of the first statutory deadline of April 18, 1977, to the initial recording of notices of identity and signal carriage required by section 111(d)(1). The Office's records will also be opened to the recording of the supplemental information required upon changes of ownership, control or signal carriage complement. It is proposed that the recording of these notices be covered by the addition of a new § 201.11 to the regulations of the Copyright Office. The proposed section pertains to the nature of the document to be filed and the action to be taken by the Copyright Office upon its receipt.

The proposed regulation is an interim measure. Section 111(d)(1) authorizes the Register of Copyrights to prescribe regulations under which, after the initial information has been recorded, the recording of "further information * * * to carry out the purpose of this clause" can be required. Moreover, the recording provisions of § 111(d)(1) are part of a larger statutory scheme of compulsory licensing under which cable systems will be required to record or file other information in the Copyright Office. Fairly extensive rulemaking procedings, with the fullest possible public and industry participation, will be needed before the Copyright Office can prescribe in detail all of the information that cable systems must record under § 111 as whole. These proceedings will be instituted in the near future, but they obviously cannot be concluded before the initial deadline of April 18, 1977.

For this reason the proposed regulation, in prescribing the requirements for recording an "initial notice" and a "notice of change", follows the express statutory language of section 111-(d)(1). At the same time, the proposed regulation contains suggestions as to how these requirements should appropriately be interpreted in practice, and further suggestions for additional information that should appropriately be included in the notices. These suggested interpretations and additional information are of the sort that can be expected to be included in future, definitive regulations prescribed under section 111 as a whole. By including them as suggestions in the proposal for an interim regulation, the Copyright Office hopes to encourage public comment on the issues they raise, and to reduce, at least to some extent, the amount of additional information required to be recorded under definitive regulations issued after April 18, 1977

In addition to general comments on the points raised above, specific comments are invited upon the following:

(1) The Office has considered the possibility of cable systems recording copies of FCC Form 325, "Annual Report of Cable Television Systems", instead of separately prepared notices. It is noted, however, that (a) FCC Form 325 does not include the "location" of primary transmitters as required by § 111(d)(1); and (b) paragraph 4 of Schedule 2 to FCC Form 325 does not require identification of individual primary FM radio transmitters where the cable system carries all FM band signals.

(2) Attention is directed to the definition of signals "regularly carried" at page 95 of H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. The report states that "signals 'regularly carried' by the system mean those signals which the Federal Communications Commission has specifically authorized the cable system to carry, and which are actually carried by the system on a regular basis." In preparing this proposal the Copyright Office has considered the phrase "specifically authorized" to include identification of any primary transmitter whose signals are actually carried by the cable system under the "authority" of any permissive or mandatory rule, regulation or authorization of the Federal Communications Commission, or in the absence of any prohibitory Commission rule or regulation, if the signals are carried on a regular basis. We have thus considered that (a) distinctions between categories of signals, such as radio and television, network and independent, commercial and noncommercial, and local and distant, are irrelevant for this purpose; but that (b) identification of primary transmitters whose signals are carried on a sporadic basis, such as under program substitution rules of the Federal Communications Commission, is not required.

Authority. This regulation is proposed under 17 U.S.C. 207 and 215, and under sections 111(d)(1) and 702 of Title 17 of

[1] Since April 17, 1977 is a Sunday, the deadline for recording is the next business day.

the United States Code as amended by Pub. L. 94–553.

Proposed Regulation. In consideration of the foregoing, it is proposed to amend Part 201 of 37 CFR chapter II by adding a new § 201.11 to read as follows:

§ 201.11 **Notices of identity and signal carriage complement of cable systems.**

(a) *Definitions.* (1) An "Initial Notice of Identity and Signal Carriage Complement" is a notice under section 111(d)(1) of Title 17 of the United States Code is amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after (October 19, 1976), whichever is later" for any secondary transmission by the cable system to be subject to compulsory licensing.

(2) A "Notice of Change of Identity or Signal Carriage Complement" is a notice under section 111(d)(1) of Title 17 of the United States Code as amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes" for any secondary transmission by the cable system to be subject to compulsory licensing.

(b) *Forms.* The Copyright Office does not provide printed forms for the use of persons recording Initial Notices or Notices of Change.

(c) *Contents.* (1) An Initial Notice of Identity and Signal Carriage Complement shall be identified as such by prominent caption or heading, and shall include the following:

(i) The identity and address of the person who, or entity which, owns or operates the cable system or has power to exercise primary control over it. It is suggested that the "identity" include the legal name of the person or entity, together with any fictitious or assumed name used for the purpose of conducting the business of the cable system, and that the "address" be given as the full mailing address of that person or entity. It is further suggested that the Notice include the legal name, fictitious or assumed name (if any), and full mailing address of the cable system if different from the above, together with the name of the community served by the system.

(ii) The name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system. It is suggested that the "name" of the primary transmitter be given by station call sign, accompanied by a brief statement of the type of signal carried (for example, "TV", "FM" or "AM"); and that the "location" of the primary transmitter be given as the name of the community to which the transmitter is licensed by the Federal Communications Commission (in the case of domestic signals) or with which the transmitter is identified (in the case of foreign signals).

(2) A Notice of Change of Identity or Signal Carriage Complement shall be clearly identified as such by prominent caption or heading, and shall include the information required by paragraph (c)(1) of this section. It is suggested that the notice also include a brief statement of the nature and date of the change which occasioned the recording of the notice.

(d) *Signature.* It is suggested that all Initial Notices and Notices of Change be dated and that they contain the individual signature of the person identified as the individual person who owns or operates the cable system or has power to exercise primary control over it, or by a duly authorized representative of that person; or, if an entity is identified as owning, operating, or controlling the system, the signature should be that of an officer if the entity is a corporation, or a partner if the entity is a partnership.

(e) *Recording in Copyright Office.* (1) The Copyright Office will record the Notices described in this section by placing them in the appropriate public files of the Office.

(2) Upon request and payment of a fee of $3, the Copyright Office will furnish a certified receipt for any such Notice.

Dated: January 18, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved by:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77–2750 Filed 1–26–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Chapter I]

MUSEUM SERVICES ACT

Intent To Issue Regulations

On October 8, 1976, the President signed the Arts, Humanities, and Cultural Affairs Act of 1976, cited as Pub. L. 94–462. The Act contains five titles, Title II of which is the Museum Services Act. This Notice of Intent to Issue Regulations is exclusively concerned with Title II.

The purpose of this Notice of Intent is two-fold. First, it serves to make the public aware of the existence and provisions of the Museum Services Act, as well as, projected Department of Health, Education, and Welfare activities to implement the Act through the regulations process. Secondly, the Notice of Intent facilitates public involvement in the rulemaking process at an early stage by focusing attention on issues basic to the implementation of the Act. The proposed regulations will be published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking with another opportunity for public comment before publication as final regulations. We are not, of course, asking for recommendations amending the Act. We are concerned solely with the identification of issues involving clarification, interpretation, and specification which arise from the provisions of the Act.

LEGISLATIVE HISTORY

With the authorization of appropriations for the National Foundation on the Arts and Humanities expiring at the end of Fiscal Year 1976, joint hearings on the legislation, including the proposed Museum Services Act, were held in November 1975 by the Subcommittee on Select Education of the House Committee on Education and Labor and the Special Subcommittee on Arts and Humanities of the Senate Committee on Labor and Public Welfare. These hearings resulted in S. 3440, Committee Report 94–880 (May 14, 1976) and H.R. 12838, Committee Report 94–1024 (April 9, 1976). Final enactment by the Congress of H.R. 12838, Conference Report 94–1260, occurred on September 20, 1976.

SUMMARY OF MUSEUM SERVICE ACT PROVISIONS

The Act establishes within the Department of Health, Education, and Welfare an Institute of Museum Services, consisting of a National Museum Services Board and a Director of the Institute. The Board consists of fifteen members, appointed by the President with the advice and consent of the Senate, broadly representative of various museums, of the curatorial, educational and cultural resources of the United States, and of the general public. The Director is appointed by the President with the advice and consent of the Senate, will be compensated at the rate for executive level V, and will report to the Secretary of Health, Education, and Welfare with respect to the activities of the Institute.

Subject to the policy direction of the Board, the Director is authorized to make grants to museums to increase and improve museum services including: (1) The construction and installation of displays and exhibitions; (2) developing and maintaining experienced staff; (3) meeting the administrative costs of preserving and maintaining collections and providing educational programs to the public; (4) inter-museum arrangements; (5) the conservation of artifacts and art objects; and (6) developing and carrying out special programs for specific population groups. Grants under this title can be used to pay up to 50 percent of the cost of programs, except that up to 20 percent of the total appropriation can be used for grants without regard to that limitation. The Institute is authorized to accept grants, gifts, and bequests of money for use in furtherance of the functions of the Institute.

The amount authorized to be appropriated for grants by the Institute is $15 million for Fiscal Year 1977, $25 million for Fiscal Year 1978, and such sums as may be necessary for Fiscal Years 1979 and 1980. Such sums as may be necessary is also authorized to be appropri-

ated to administer the provisions of this title. A further authorization is provided through Fiscal Year 1980 to match the amount of any private contributions to the Institute.

ISSUES

ISSUE 1: SELECTION OF NATIONAL MUSEUM SERVICES BOARD MEMBERS

The statute requires that Board membership be "broadly representative of various museums * * *" What criteria, if any, should the Department of Health, Education, and Welfare recommend to the President to insure such broad representation? What kind of selection process, if any, would be most likely to help the President meet this goal?

ISSUE 2: COORDINATION

The statute mandates that the Board "assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government." In addition, the statute amends the National Foundation on the Arts and Humanities Act of 1965 to require that the Federal Council on the Arts and Humanities "advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services * * *" How extensive should such coordination be? How can such coordination be most effectively implemented? How should the relationship between the Federal Council and the Institute's Board and Director be precisely defined?

ISSUE 3: DEFINITION OF MUSEUM

The statute defines museum as "a public or private non-profit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public or a regular basis."

Is this definition adequate for program administration? If not, what expansion and/or clarification is necessary?

ISSUE 4: ELIGIBILITY

Any institution which qualifies under the definition of "museum" is eligible to apply for a grant to improve its services. In this application process should such institutions be required to meet any specific accreditation standards in order to be eligible for a grant under this program?

ISSUE 5: ACTIVITIES OF THE INSTITUTE

The statute authorizes the Director, with the policy direction of the Board, to make grants to museums for a variety of activities. The description of these activities, which is not meant to be all inclusive, raises a number of specific questions:

Given the authorization level in the Act, should there be any limit on the cost or extent of construction or installation of displays?

How should the Department define the terms "professionally-trained" and "otherwise experienced" in relation to museum staff: Should the Department through this program consider subsidizing undergraduate education, graduate fellowships, inservice training for museum employees, or any combination of the above?

How should the Department define what constitutes a traveling exhibition? What are legitimate transportation costs?

How should the Department define the term "conservation" of artifacts and art objects?

What will qualify as a "specialized program for specific segments of the public?" Should other segments be identified in a regulation?

In each case above what specific criteria should be set up in order to assure funding of the most appropriate and most valid proposals?

Finally, given the sweep of this legislation, are there any specific types of activities related to the operation of museums which should not qualify for funding under this statute?

ISSUE 6: MATCHING REQUIREMENTS

An issue within this category which deserves special attention is that relating to the distribution of funds. Grants under this section may not exceed one half of the cost of the program for which the grant is made except that "not more than 20 per centum" of the funds available may be allocated without regard to such limitations. The Department would like to solicit advice as to what criteria should be used to determine which projects or programs should qualify for more than 50 percent funding.

An additional question relates to the sources of recipients' matching funds. Should some or all of these funds come from new funds or should recipients be permitted to use funds from existing budget levels to fulfill the matching requirements?

Further, how should the Department interpret the phrase "immediate disbursement?" Does money have to be obligated within a given fiscal year? Is any specific time frame appropriate?

ISSUE 7: FUNDING

While the statute provides some detail regarding the scope of activities which qualify for funding by the Institute, little is said about how the authorization should be divided among the range of eligible activities:

Should funds be earmarked for certain kinds of museums (art, science, history, other)?

Should funds be earmarked for certain kinds of museum services, for specialized programs, for specific segments of the public?

Should additional weight be given to museums' past efforts at and/or future interest in educational programs?

Should additional weight be given to funding an institution's present needs or new initiatives?

Should some money be earmarked for evaluation activities related to this program?

What, if any, evidence of eligibility and/or need will institutions be required to submit during the funding process?

OTHER ISSUES

The Secretary of Health, Education, and Welfare welcomes comments, advice, and guidance from any member of the general public on any of the issues set forth in this Notice of Intent and on any other issues related to the Museum Services Act. We hope that this Notice of Intent will both benefit the development of regulations and promote an understanding of the process.

COMMENTS

Comments are due by March 15, 1977.

Addressed to: Room 403-E—South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

For further information call: Dr. J. Anthony Imler 202-245-1889.

Approved: January 18, 1977.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.77-2653 Filed 1-26-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Part 804]

RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Proposed Rulemaking

Pursuant to the Government in the Sunshine Act (Act), Pub. L. 94-409, the National Transportation Safety Board (NTSB) gives notice that it proposes to amend Chapter VIII, Title 49, Code of Federal Regulations, by adding a new Part 804 entitled "Rules Implementing the Government in the Sunshine Act."

The Act requires that meetings of multimember Government agencies, including the NTSB, be open to public observation subject to 10 exemptions. The Act also requires public announcement of every meeting. To facilitate widespread dissemination of the public announcement referred to in proposed § 804.7, the NTSB will, in addition to publishing a notice of each announcement in the FEDERAL REGISTER, post the announcements on meeting notice bulletin boards, submit the announcements to the media, and establish a mailing list for anyone desiring to receive announcements. Requests to be placed on this mailing list should be addressed as follows: Meetings Announcement Mailing List, Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Interested persons are invited to submit written comments concerning the proposed regulations to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, on or before February 28, 1977.

Accordingly, the NTSB proposes to establish Part 804 of Chapter VIII, Title 49, Code of Federal Regulations, to read as follows:

PART 804—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Sec.

AUTHORITY: Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b); Independent Safety Board Act on 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

§ 804.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings, as defined herein, of the Members of the National Transportation Safety Board (NTSB).

(b) Documents which are considered at meetings may be obtained subject to the procedures and exemptions set forth in Part 801 of the NTSB regulations (49 CFR Part 801).

§ 804.2 Policy.

It is the policy of the NTSB to provide the public with the fullest practicable information regarding the decisionmaking processes of the Board, while protecting the rights of individuals and the ability of the Board to discharge its statutory functions and responsibilities. The public is invited to attend but not to participate in open meetings.

§ 804.3 Definitions.

As used in this part: "Meeting" means the deliberations of three or more Members where such deliberations determine or result in the joint conduct or disposition of official NTSB business, and includes conference telephone calls otherwise coming within the definition. A meeting does not include:

(a) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(b) Deliberations by three or more Members (1) to open or to close a meeting or to release or to withhold information pursuant to § 804.6, (2) to call a meeting on less than seven days' notice as permitted by § 804.7(b), or (3) to change the subject matter or the determination to open or to close a publicly announced meeting under § 804.8(b).

"Member" means an individual duly appointed and confirmed to the collegial body, known as "the Board," which heads the NTSB.

"National Transportation Safety Board (NTSB)" means the agency set up under the Independent Safety Board Act of 1974.

§ 804.4 Open meetings requirement.

Members shall not jointly conduct or dispose of agency business other than in accordance with this part. Except as provided in § 804.5, every portion of every meeting of the Board shall be open to public observation.

§ 804.5 Grounds on which meetings may be closed or information may be withheld.

Except in a case where the Board finds that the public interest requires otherwise, a meeting may be closed and information pertinent to such meeting otherwise required by §§ 804.6, 804.7, and 804.8 to be disclosed to the public may be withheld if the Board properly determines that such meeting or portion thereof or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (2) are in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the NTSB;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would—

(1) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities or (ii) significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this paragraph shall not apply in any instance where the NTSB has already disclosed to the public the content or nature of its proposed action, or where the NTSB is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the Board's issuance of a subpoena, or the NTSB's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the NTSB of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 804.6 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A meeting shall not be closed, or information pertaining thereto withheld, unless a majority of all Members votes to take such action. A separate vote shall be taken with respect to any action under § 804.5. A single vote is permitted with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular subject matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under this paragraph shall be recorded and proxies are not permitted.

(b) Any person whose interest may be directly affected if a portion of a meeting is open may request the Board to close that portion on any of the grounds referred to in 804.5 (e), (f), or (g). Requests, with reasons in support thereof, should be submitted to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. On motion of any Member, the Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the NTSB shall make available a written copy of such vote reflecting the vote of each Member on the qeustion and, if a portion of a meeting is to be closed to the public a full written explanation of its action closing the meeting and a list of all persons expected to attend and their affiliation.

(d) For every closed meeting, the General Counsel of the NTSB shall publicly

certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement of the presiding officer setting forth the time and place of the meeting and the persons present, shall be retained by the NTSB as part of the transcript, recording, or minutes required by § 804.9.

§ 804.7 Procedures for public announcement of meetings.

(a) For each meeting, the NTSB shall make public announcement, at least one week before the meeting, of the:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the official designated by the NTSB to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if: (1) A majority of all Members determines by recorded vote that NTSB business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section be made at the earliest practicable time.

(c) Immediately following each public announcement required by this section, or by § 804.8, the NTSB shall submit a notice of public announcement for publication in the FEDERAL REGISTER.

§ 804.8 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public announcement only if the NTSB publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) The subject matter of a meeting or the determination of the Board to open or to close a meeting, or a portion thereof, to the public may be changed following public announcement only if:

(1) A majority of all Members determines by recorded vote that NTSB business so requires and that no earlier announcement of the change was possible; and

(2) The NTSB publicly announces such change and the vote of each Member thereon at the earliest practicable time.

§ 804.9 Transcripts, recordings, or minutes of closed meetings.

The NTSB shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. The NTSB may maintain a set of minutes in lieu of such transcript or recording for meetings closed pursuant to § 804.5 (h), (i)(1), or (j). Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any actions shall be identified in such minutes.

§ 804.10 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

The NTSB shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at the meeting, except for such item, or items, of discussion or testimony as determined by the NTSB to contain matters which may be withheld under the exemptive provisions of § 804.5. Copies of the nonexempt portions of the transcript or minutes, or transcription of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication. The NTSB shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or a portion thereof, closed to the public for at least two years after such meeting, or until one year after the conclusion of any NTSB proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

Signed at Washington, D.C., this 24th day of January 1977.

WEBSTER B. TODD, Jr.,
Chairman.

[FR Doc.77-2682 Filed 1-26-77;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.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

UNITED STATES GRAIN STANDARDS ACT

Recordkeeping and Registration

The following statements concerning the recordkeeping and registration provisions of the United States Grain Standards Act, as amended by Public Law 94–582 (90 Stat. 2867), are published pursuant to section 3A of the Act for the information of persons subject to the provisions of the Act and of the public generally.

RECORDKEEPING

Section 12(d) of the United States Grain Standards Act, as amended by Public Law 94–582 (90 Stat. 2882), generally provides that grain merchandisers and elevator owners or operators who obtain, or have obtained, official inspection or weighing services under the Act shall keep, for a 5-year period after obtaining such services, complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing for all grain merchandised or handled by them.

In implementing the recordkeeping provisions, a rulemaking proceeding will be instituted by the Federal Grain Inspection Service to identify the kind of records to be kept and the manner in which they shall be kept. Until a final determination is made in this matter, the Service will consider merchandisers and elevator owners or operators as being in compliance with the recordkeeping provisions if the merchandisers, owners, or operators permit representatives of the Secretary or the Administrator to have access to, and to copy, at all reasonable times, the records which the merchandisers, owners, or operators normally maintain with reference to the named activities.

REGISTRATION

Section 17A(a) of the Act generally provides that the Administrator of the Federal Grain Inspection Service shall provide by regulation for the registration, with specified exceptions, of all persons engaged in the business of buying grain for sale in foreign commerce and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. In implementing the registration provisions, a rulemaking proceeding will be instituted by the Service to establish procedures and guidelines for registration. Until a final determination is made in this matter, there is no obligation to register under the Act.

Done at Washington, D.C., on: January 17, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77–2731 Filed 1–26–77;8:45 am]

Forest Service

BURNETT INLET FISH HATCHERY

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Burnett Inlet Fish Hatchery, USDA–FS–R10–FES (Adm)–76–06.

This environmental statement concerns the construction plans for nonprofit salmon hatchery structures on Burnett Inlet, Tongass National Forest, Alaska.

This final environmental statement was transmitted to CEQ on January 19, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3231, 12th Street & Independence Ave. SW, Washington, D.C. 20250.
USDA, Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99802.
Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.
Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.
Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Room 313, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to the Forest Supervisor, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

CARL W. SWANSON,
Environmental Coordinator, Alaska Region.

JANUARY 19, 1977.

[FR Doc.77–2662 Filed 1–26–77;8:45 am]

GEOTHERMAL DEVELOPMENT BREITENBUSH AREA

Availability of Draft Environmental Statement

The Notice of Availability for the Geothermal Development—Breitenbush Area Draft Environmental Statement on Mt. Hood and Williamette National Forest, Oregon, USDA–FS–R6–DES(Adm)–77–3, that appeared in the FEDERAL REGISTER, Volume 41, No. 213 (41 FR 48389), Wednesday, November 3, 1976, is corrected to extend the review period to February 15, 1977.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programing and Budgeting.

JANUARY 20, 1977.

[FR Doc.77–2600 Filed 1–26–77;8:45 am]

BOISE NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Boise National Forest Grazing Advisory Board will meet at 9:00 a.m., March 8, 1977, at the Boise National Forest Supervisor's Office, 1075 Park Boulevard, Boise, Idaho.

The agenda for the meeting is as follows:

1. Election of Officers.
2. Review of the Federal Land Policy and Management Act of 1976, Pub. L. 94–579.
3. Review of the National Forest Management Act of 1976, Pub. L. 94–588.
4. New business.

The meeting will be open to the public. Persons who wish to attend should notify Mr. Tom Nicholson, President, Boise National Forest Grazing Advisory Board, 10322 Estate Drive, Boise, Idaho 83705; Telephone Area Code 208–375–5255.

The committee has established the following rules for public participation: Written statements will be accepted by the committee president prior to the meeting or immediately after the close of the meeting.

Dated: January 20, 1977.

EDWARD C. MAW,
Forest Supervisor.

[FR Doc.77–2647 Filed 1–26–77;8:45 am]

Soil Conservation Service

ST. THOMAS-LODEMA WATERSHED PROJECT, NORTH DAKOTA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an envi-

ronmental impact statement is not being prepared for the St. Thomas-Lodema Watershed Project, Pembina County, North Dakota.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Allen L. Fisk, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by 25.0 miles of channel work on natural and previously notified ephemeral streams.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Room 270, Federal Building, Rosser Avenue, and 3rd Street, Bismarck, North Dakota 58501. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until February 11, 1977.

Dated: January 14, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention on Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,

Assistant - Administrator for Water Resources Soil Conservation Service.

[FR Doc.77-2594 Filed 1-26-77;8:45 am]

ARMS CONTROL AND DISARMAMENT AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Issuance of Final Agency Procedures for Compliance With Federal Environmental Statutes

Notice is hereby given of the publication of final procedures of the U.S. Arms Control and Disarmament Agency (ACDA) for compliance with Federal environmental statutes, in accordance with the requirements of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)), and section 309 of the Clean Air Act (42 U.S.C. 1857h-7). These procedures supercede the proposed procedures published by the Agency in the FEDERAL REGISTER on March 8, 1973 (38 FR 6321) and will be published in the ACDA Manual.

When the proposed procedures were published on March 8, 1973, the Agency solicited written comments or suggestions for consideration concerning them to be submitted on or before April 9, 1973 to the General Counsel of the Agency. The records of the Office of the General Counsel indicate that no comments were received at that time; however, by letter dated December 10, 1973 the Center for Law and Social Policy submitted a copy of a letter dated April 6, 1973 addressed to the General Counsel of the Agency submitting nine numbered comments on behalf of the Sierra Club and the Environmental Defense Fund. These comments have been available for public inspection in the Office of the General Counsel. All of the suggestions have been fully considered and most of them have been adopted or substantially satisfied by eidtorial changes, deletions, or additions to the procedures. In addition, the nomenclature and citations in the procedures, particularly the citations to the Guidelines of the Council on Environmental Quality, have been clarified and updated.

The following is a brief discussion of the nine comments and the changes made in the final procedures in response to them:

1. Section 3 of the proposed procedures provided that the Bureau of Science and Technology (ST) (now the Non-Proliferation and Advanced Technology Bureau (NTB)) would have primary responsibility for determining whether any proposed action required an environmental impact statement and would "consult" with the Office of the General Counsel in making this decision. The commenter pointed out that the General Counsel's role should be more than a consulting one because the decision on whether an environmental impact statement is required is basically a legal one. The Agency agrees and has revised the initial paragraph of section 3 and made changes elsewhere in that section and in section 4, the third paragraph of section 5, and in section 6 (c) and (d) of the final procedures to assign appropriate responsibilities to the Office of the General Counsel.

2. The third paragraph of section 3 of the proposed procedures contained guidelines to consider in assessing the need for impact statements. The first of these guidelines provided several examples of what are not considered major Federal actions. The commenter urged that before providing such examples, the procedures should set forth examples of what are major Federal actions. The Agency agrees that it is desirable for the procedures to provide more guidance about the Federal actions for which the agency is responsible under the NEPA. The Agency has moved the guidelines to the end of section 2(b) of the final procedures which deals with determining the need for environmental impact statements and has revised them to accommodate this comment and the following four comments which also relate to the guidelines. In the process, the reference in section 5(b) of the proposed procedures to the Department of State procedures has been moved to the end of the new section 2(b)(1) in the final procedures.

3. Section 3(a)(1) of the proposed procedures stated that Agency participation in research or study projects would not be considered major Federal actions for purposes of the NEPA. The commenter pointed out that some types of research, e.g., field research, could pose significant risks to the environment and should not be exempted from the impact statement requirement. The Agency agrees and has reflected this point in the new section 2(b)(2) of the final procedures.

4. Section 3 (a)(2) of the proposed procedures exempted all "mandatory actions" required by international agreements or decisions to which the United States is bound. While agreeing that the question whether or not the United States should comply with a mandatory international obligation should not be subject to an impact statement, the commenter expressed concern that this would be construed as exempting "mandatory" internatinal obligations that could be fulfilled by alternative routes with varying environmental impacts. The Agency has addressed this concern by adding a parenthetical clarification in section 2(b)(3) of the final procedures where the subject is now covered.

5. Section 3(b) of the proposed procedures referred to indirect effects of Agency activities. The commenter felt that further guidance on this subject was needed. The Agency has expanded the discussion of indirect effects in section 2(b)(4) of the final procedures which combines section 3(b) of the proposed procedures with the last two sentences of section 3(c) of the proposed procedures and additional explanatory material. The commenter also felt that the procedures should explicitly note that "major Federal actions" should be construed with a view to overall cumulative impact and with a view to further actions contemplated. The Agency believes that this subject already is adequately covered in the third sentence of section 2(b) where there is a specific reference to section 1500.6 of the CEQ Guidelines for a general elaboration of the term "major Federal action".

6. The second sentence of the final paragraph of section 3 of the proposed procedures provided that those preparing an environmental impact statement "may, where appropriate" solicit information from private organizations and government agencies with special expertise or interest. The commenter pointed out that the NEPA provides that such consultations "shall" be held with appropriate government agencies. The Agency agrees and has changed that paragraph of the final procedures to comply with the NEPA requirement.

7. Paragraph 3 of the proposed procedures concluded by stating that the Office of the General Counsel would provide advice on the legal requirements for the preparation of impact statements.

The commenter pointed out again that legal requirements are not something the General Counsel should advise on, but rather his office should decide such issues. The Agency agrees and has revised the last sentence of paragraph 3 of the final procedures to require that decisions on legal requirements regarding the contents of environmental impact statements be obtained from that office.

8. The commenter objected that section 6(a) of the proposed procedures would be applicable to "Limited Official Use" information through its use of the term "administratively controlled material". The Agency agrees that "Limited Official Use" information will be covered and has made no changes in the final procedures since they are considered appropriate for information properly determined to be "Limited Official Use".

9. Section 6(d) of the proposed procedures set no minimum time for advance notice of public hearings on environmental issues and allowed hearings to be held only 15 days after circulation of the draft impact statement. The commenter urged that the section be amended to provide that, where possible, notice of hearings in the FEDERAL REGISTER and the circulation of draft impact statements should occur 30 days before the hearings. The Agency agrees, and has added a new sentence to that effect in section 6(d) of the final procedures.

The Agency is always interested in receiving public comment on its published procedures and regulations. This is particularly so in this case due to the length of time between the publication of the proposed procedures and the publication of these final procedures. Persons desiring to make comments or suggestions for consideration concerning these procedures should submit them in writing to the General Counsel, U.S. Arms Control and Disarmament Agency, 2201 C Street, N.W., Washington, D.C. 20451.

The Agency procedures are as follows:

1. *General.* Attention is called to section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)); section 309 of the Clean Air Act (42 U.S.C. 1857h–7); Executive Order 11514 of March 5, 1970; and the Guidelines for Preparation of Environmental Impact Statements issued by the Council on Environmental Quality (CEQ) (40 CFR Part 1500), incorporated herein by reference. Except as modified by the present policy guides, the CEQ Guidelines will be followed by the responsible Agency officials in complying with policies and provisions of the NEPA and section 309 of the Clean Air Act. The requirements of these procedures are in addition to, and not a substitute for, any environmental analyses or consultations required by any international obligations of the United States.

2. *Determining the Need for Environmental Impact Statements.* (a) Whether or not an environmental impact statement is required under section 102(2)(C) of the NEPA and filed for any Agency action, the policies and provisions of NEPA require that the environmental effects of proposed actions, and reasonable alternatives thereto (including those not within the authority of the Agency), be considered. The process of deciding on the need for an environmental impact statement on any Agency action will itself require an analysis of the effects that the proposed action will have on the human environment. The inquiry into environmental effects is mandated, independent of the requirements to file environmental impact statements, by section 102(2)(B) of the NEPA, which requires procedures to insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic, technical, and other considerations. Section 1500.1 of the CEQ Guidelines underscores this by recognizing a requirement that agencies build into the decisionmaking process an appropriate and careful consideration of the environmental aspects of proposed actions. While the procedural requirements of section 102(2)(C) must be carefully complied with, it must also be emphasized that the essence of the NEPA is the need for real consideration of environmental effects.

(b) Section 102(2)(C) of the NEPA requires an environmental impact statement on "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." Therefore, if otherwise required, an environmental impact statement must be prepared for an activity which is both a major Federal action and has a potentially significant effect on the environment. For a general elaboration of the terms see the CEQ Guidelines, especially sections 1500.5 and 1500.6. In assessing the need for impact statements regarding any particular action, the following guidelines will be considered:

(1) The Agency is responsible for determining whether environmental impact statements are required and for preparing such statements with respect to Federal actions for which the Agency is solely responsible or for which it is the "lead agency", as defined in section 1500.7 (b) of the CEQ Guidelines. However this does not encompass actions having no environmental impact under peacetime conditions (e.g., actions taken in formulating rules regulating the conduct of warfare), or activities covered by section 36 of the Arms Control and Disarmament Act (sec. 146 of Public Law 94–141). In connection with the Agency's responsibilities, it should be noted that although the Agency conducts activities related to the preparation for and management of U.S. participation in international negotiations in the arms control and disarmament field, these functions are subject to the direction of the Secretary of State (see 22 U.S.C. 2551(b), 22 U.S.C. 2574 (a), and the Department of State Circular 175 Procedure (11 FAM 720)). (For Department of State environmental impact statement procedures, see 37 FR 19167, September 19, 1972.)

(2) The Agency is responsible for determining whether environmental impact statements are required for its research projects and for preparing such statements for those projects which constitute major Federal actions significantly affecting the quality of the human environment. Since the Agency's research is directed at acquiring a fund of theoretical and practical knowledge for arms control and disarmament policy formulation, the conduct of most Agency research will not involve significant environmental impact; however, there are types of research, e.g., field research, which could have significant effects on the environment and may therefore require an environmental impact statement.

(3) Mandatory actions (i.e., those for which no alternatives are available) required under any treaty or international agreement to which the United States is a party, or required by the decisions of international organizations, authorities, conferences, or consultations in which the United States is a member or participant, will not be considered major Federal actions for purposes of the NEPA.

(4) Indirect effects of Agency activities can lead to a need to file an environmental impact statement. In some such instances, the Agency might be the lead agency responsible for the preparation of such a statement. However, in most cases, another Agency will be responsible since the action of this Agency will merely permit rather than require action by the other agency or will leave open the manner in which the actions of the other agency will be performed. For example, projects such as the destruction of weapons in accordance with the provisions of an international arms control agreement would be the subject of environmental impact statements, if otherwise required, prepared by the Department of Defense, the Department of State, or other lead agency. In some cases, joint preparation of the statement by two or more agencies may be appropriate.

3. *Responsibility within the Agency.* The Office of the General Counsel (GC) is responsible for the legal aspects of filing environmental impact statements and the contents of any such statements as well as for coordination of necessary activities related thereto. The Non-Proliferation and Advanced Technology Bureau (NTB) has primary responsibility for the scientific and other non-legal aspects of the Agency's compliance with the requirements of the NEPA. Other Agency bureaus and offices are responsible for providing necessary assistance to GC and NTB on environmental matters. Disagreements between bureaus and offices will be referred to the Director of the Agency for resolution.

Each Agency bureau or office having operational responsibility over a pro-

posed major action which may significantly affect the environment shall inform NTB and GC of the proposed action, its potential environmental impact and reasonable alternatives thereto. In order to determine whether the proposed action will be "a major Federal action significantly affecting the quality of the human environment," NTB and GC, together with the bureau or office having operational responsibility, shall investigate the direct and indirect environmental effects of the proposed action. Where appropriate to supplement their work in evaluating the environmental impact of the proposed action, they will solicit information from other parts of the Agency, from other Government agencies with jurisdiction by law or special expertise with respect to any environmental impact involved, or from private organizations.

In each instance where it is determined, after this investigation, that no environmental impact statement will be prepared by the Agency, a memorandum will be prepared jointly by NTB and GC for Agency files indicating the extent of the investigation conducted and the reasons for the determination that no impact statement will be prepared. A list of actions for which such memoranda have been prepared will be available to Government agencies or members of the public on request to GC.

Where it is determined that an environmental impact statement will be prepared by the Agency, NTB, together with the bureau having operational responsibility and GC for the legal aspects, will prepare the statement. In doing so, they shall consult with and obtain the comments of Government agencies with special expertise or interest. In addition they may, where appropriate, solicit information and comments from private organizations and, under the direction of the Secretary of State, engage in consultations with foreign governments whose environments will be substantially affected by the proposed action. Decisions on legal requirements regarding the contents of environmental impact statements will be obtained from GC.

4. *Responsibility for Investigation Into Environmental Effects of All Proposed Actions.* Even where it appears clear from the start that a proposed action will not require an environmental impact statement, the consideration of possible environmental effects will still be made by NTB and the bureau having operational responsibility and, as required by the NEPA, the results of that investigation will be an integral part of the decisionmaking process. Furthermore, where no impact statement will be prepared, GC will nonetheless submit for review and comment to the Environmental Protection Agency (EPA) all proposals for legislation, regulations, and construction projects which are related to the statutory responsibilities of the Administrator of the EPA, as required by section 309 of the Clean Air Act and by section 1500.9(b) of the CEQ Guidelines.

5. *General Procedure.* Unless excluded under section 2, actions of the Agency which are covered by the NEPA will require an environmental impact statement. Section 1500.7(a) of the CEQ Guidelines emphasizes "that draft environmental statements be prepared and circulated for comment and furnished to the Council as early as possible in the agency review process in order to permit agency decisionmakers and outside reviewers to give meaningful consideration to the environmental issue involved."

The draft statements will be distributed by GC for comment to Government agencies with jurisdiction by law or special expertise with respect to any environmental impact involved, such as the agencies identified in Appendices II and III of the CEQ Guidelines, and, in accordance with section 6(d) below, made available to the public. Upon circulation of draft statements to the EPA, comments shall be requested under both the NEPA and section 309 of the Clean Air Act. GC shall arrange for notice of the draft statement's availability to be published in the FEDERAL REGISTER.

Any comments received will be considered in final policy decisions and in the preparation of a final evironmental impact statement. All such comments should be attached to the final statement, and those responsible comments not adequately discussed in the draft statement should be appropriately dealt with in the final statement. In any case where comments are not received in sufficient time to allow consideration in final policy decisions, they should be considered in future decisionmaking in similar areas of policy.

6. *Exceptions.* The nature of negotiations and relations at the international level may make it necessary to depart in some instances from the procedures in the CEQ Guidelines. CEQ foresaw the need for such departures in sections 1500.4 and 1500.11 of the CEQ Guidelines. Exceptions applicable to the Agency are set forth below:

(a) The statements and other written matter prepared to comply with the NEPA should not normally include any classified or administratively controlled material. However, there may be situations where such statements and memoranda cannot adequately discuss environmental effects without including material classified or administratively controlled under the provisions of 22 CFR Part 605 and the ACDA Security and Classification Handbook. In any event, however, those portions of any statement which are not classified or administratively controlled shall be made available to the public unless the material thus disclosed would be distorted or incomprehensible.

(b) Every attempt will be made to comply with the 30-day and 90-day periods which section 1500.11(b) of the CEQ Guidelines requires between submission of statements and final action. Where schedules of international conferences or other factors make this impossible, the Agency will consult with the CEQ concerning appropriate modifications by the Agency of these minimum arrangements for the availability of environmental impact statements.

(c) Normally, agencies consulted in accordance with section 1500.9 of the CEQ Guidelines shall be allowed 30 days for reply, and the EPA shall be allowed 45 days. However, the procedure in section 6(b) above will be followed if it becomes necessary to reduce these periods. When this is the case, all agencies to whom the draft statement has been sent will be informed by GC of the reduced time period. The reduced time period must also be included in the public notice published in the FEDERAL REGISTER.

(d) Section 2(b) of Executive Order 11514 establishes requirements for providing public information on Federal actions and impact statements and envisions use of public hearings whenever appropriate. Public hearings will be employed by the Agency following the circulation of each draft impact statement unless it is determined that the requirements of carrying on international relations, including the constraints of time and the posture of the United States in negotiations do not allow such hearings to be carried out without prejudice to the national interest. The provisions of the Administrative Procedure Act do not apply to hearings involving "foreign affairs functions"; however, in each case where hearings are employed in accordance with this paragraph, a public notice of the hearings shall be published in the FEDERAL REGISTER indicating the time and place of the hearing and the matters to be considered, and the draft environmental impact statement shall be made available to the public at least 15 days prior to the hearings. Where possible, notice of hearings in the FEDERAL REGISTER and circulation of draft impact statements should occur 30 days before the hearings. GC shall determine the nature and the procedures to be employed for such hearings, shall arrange for the hearing and the publication of the prescribed notice, and shall conduct the hearing. If such hearings cannot be carried out, arrangements should still be made, where practicable, for an expedited opportunity for members of the public to present their views orally.

Dated: January 21, 1977.

LEON SLOSS,
Acting Director.

[FR Doc.77-2729 Filed 1-26-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order No. 77-1-89; Docket No. 27573; Agreement CAB 26381 R-1 throught R-8]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Issued under delegated authority January 14, 1977.

An agreement has 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 Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

As set forth in the attachment, the agreement adds three and extends five specific commodity rates under existing specific commodity descriptions, all reflecting reductions from general cargo rates. The agreement was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated January 6, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

Agreement 26381, R–1 through R–8, is 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.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

Agreement CAB	Specific commodity item No.	Description and rate
26381:		
R–1	0007	Fruits and vegetables, excluding strawberries, 190 c/kg,[1] minimum weight 500 kg. From Johannesburg to New York.
R–2	3341	Bathroom shower sets, 160 c/kg, minimum weight 500 kg. From Tel Aviv to New York.
R–3	3909	Locks, 145 c/kg, minimum weight 500 kg. From Tel Aviv to New York.
R–4	4479	Electrical apparatus for killing insects, 190 c/kg, minimum weight 500 kg. From Tel Aviv to New York.
R–5	8001	Surgical instruments including rubber/enamel articles for use in surgery, 286 c/kg,[2] minimum weight 500 kg. From Bombay to New York.
R–6	1100	Furs, hides, pelts, and skins, excluding wearing apparel, 172 c/kg, minimum weight 1,000 kg. From Melbourne to New York.
R–7	7067	Lottery tickets, 125 c/kg, minimum weight 1,000 kg. From Auckland to New York.
R–8	9512	Handicraft, namely brass, copper, iron, wood, stone, bamboo, wicker, paper, paper mache, leather, clay, lac and handloom textiles, excluding wearing apparel, diamonds and precious stones, 112 c/kg, minimum weight 100 kg. From Nandi to Honolulu.

[1] Expires Sept. 30, 1977.
[2] Expires June 30, 1977.

[FR Doc.77-2540 Filed 1-25-77;8:45 am]

[Docket No. 27434]

TEXAS INTERNATIONAL AIRLINES, INC.

Postponement of Argument on Motion for Summary Judgment

Argument on the motion for summary judgment in this proceeding heretofore assigned to be heard on February 7, 1977, (42 FR 3190, dated January 17, 1977) is hereby postponed to 9:30 a.m., February 8, 1977 in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 21, 1977.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc.77-2728 Filed 1-26-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE SPANISH ORIGIN POPULATION FOR THE 1980 CENSUS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (1974)), notice is hereby given that the Census Advisory Committee on the Spanish Origin Population for the 1980 Census will convene on February 17 and 18, 1977 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Committee is composed of 21 members appointed by the Secretary of Commerce. It was established in February 1975 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, developing definitions for classification of the Spanish-origin population, recommending subject content and tabulations of special use to the Spanish-origin population, and expanding the dissemination of census results among present and potential users of census data in the Spanish-origin population.

The agenda for the February 17 meeting is: (1) Current status of the 1980 census plans; (2) pretest census in Oakland, California; (3) enumeration of migrants; and (4) reports by Committee members on population items on the census questionnaire.

The February 18 meeting, which will adjourn at 12:30 p.m., will consist of: (1) Reports by Committee members on housing items on the census questionnaire, (2) affirmative action, and (3) Committee review and recommendations.

The meeting will be open to the public and a brief period will be set aside on February 18 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning these meetings or who wish to submit written statements may contract Clifton S. Jordan, Deputy Chief, Demographic Census Staff, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233) Telephone: (301) 763–5169.

Dated: January 21, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc.77-2628 Filed 1-26-77;8:45 am]

National Oceanic and Atmospheric Administration

NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL AND MID-ATLANTIC REGIONAL FISHERY MANAGEMENT COUNCIL

Meetings

Pursuant to section 302(h) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265); and section 10(a)(2) of the Federal Advisory Committee Act; notice is hereby given of a series of public meetings to be held for the purpose of receiving public views and comments on a Draft Fishery Management Plan prepared by the New England Regional Fishery Management Council in consultation with the Mid-Atlantic Regional Fishery Management Council for the following fisheries: (a) Atlantic cod (*Gadus morhua*); (b) haddock (*Melanogrammus aeglefinus*); (c) yellowtail flounder (*Limanda ferruginea*).

These do not have a surplus available for foreign nationals to harvest and thus the draft plan pertains solely to the management of the United States domestic groundfish fisheries identified above.

The New England Regional Fishery Management Council will hold its public meetings at the following locations and dates. All will be from 7:30 to 9:30 p.m.

Monday, February 7, 1977, Gloucester City Hall, Dale Avenue, Gloucester, Massachusetts.
Tuesday, February 8, 1977, Brunswick Recreational Hall, 30 Federal Street, Brunswick, Maine.
Wednesday, February 9, 1977, Holiday Inn, 500 Hathaway Road, New Bedford, Massachusetts.
Thursday, February 10, 1977, Dutch Inn, Great Island Road, Point Judith, Rhode Island.
Friday, February 11, 1977, Cape Cod Community College, West Barnstable, Massachusetts.

The Mid-Atlantic Regional Fishery Management Council will hold its public meetings at the following locations and dates. All will be from 7:30 to 9:30 p.m.

Monday, February 7, 1977, City Hall, 4400 New Jersey Avenue (use Davis Avenue Entrance), Wildwood, New Jersey.
Tuesday, February 8, 1977, Kings Grant Inn, River Road and Route 70, Point Pleasant, New Jersey.
Wednesday, February 9, 1977, Holiday Inn, Routes US 13N and 113, Dover, Delaware.
Friday, February 11, 1977, Gold Crest Manor, North Highway, Southampton, L.I., New York.

Copies of the Draft Fishery Management Plan are being distributed by:

Office of the Director, National Marine Fisheries Service, NOAA, Page Building 2—Room 400, Washington, D.C. 20235, Tel: 202-634-7283.

Members of the public interested in immediately viewing a copy of the draft plan may contact any member of the New England or Mid-Atlantic Regional Fishery Management Councils. Copies of the complete draft plan may also be viewed at the public meetings and summaries will be distributed at the public meetings. In addition, the complete draft plan will be published in the FEDERAL REGISTER prior to the above meetings.

A summary of the draft plan may also be obtained by contacting:

John C. Bryson, Executive Director, Mid-Atlantic Regional Fishery Management Council, c/o Senator Roth's Office, Federal Building, North New Street, Dover, Delaware 19901.
Patricia Pelczarski, New England Regional Fishery Management Council, c/o National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930.

Written comments on the draft plan may be submitted by interested members of the public no later than 23 February, 1977 to either of the addresses above.

This notice was prepared and published at the request of the New England Regional Fishery Management Council in consultation with the Mid-Atlantic Regional Fishery Management Council.

Dated 24 January, 1977 at Washington D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-2657 Filed 1-26-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

CONSTRUCTION OF MILITARY FAMILY HOUSING IN FORT BELVOIR, VIRGINIA, MLITARY RESERVATION

Filing of Supplement to Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army is filing with the Council on Environmental Quality a Supplement to the Final Environmental Impact Statement concerning the scope reduction to 444 from 1,445 for construction of military housing units in the Fort Belvoir, Virginia, Military Reservation.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested individuals may obtain copies from the Office of the U.S. Army Engineer District, Norfolk, ATTN: NAOEN-D, 803 Front Street, Norfolk, Virginia 23510. In the Washington area, inspection copies can be seen in the Environmental Office, Assistant Chief of Engineers, Room 1E676, Pentagon Building, Washington, D.C. 20310. (Telephone: (202) 694-1163).

CHARLES R. FORD,
Deputy Assistant Secretary of the Army (Civil Works).

[FR Doc.77-2680 Filed 1-26-77;8:45 am]

Defense Privacy Board

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION TO COMMERCIAL ENTERPRISES

Application of the Privacy Act and Exemption 6 of the Freedom of Information Act

On August 30, 1976, a general notice promulgated by the Defense Privacy Board, FR Doc. 76-25326, was published in the FEDERAL REGISTER (41 FR 36523) setting forth Department of Defense proposed guidelines for release of personal information, as affected by the Privacy Act of 1974 and Exemption 6 of the Freedom of Information Act, in responding to requests for information or assistance from commercial enterprises.

The notice invited interested parties to submit their views and comments to the Defense Privacy Board by September 29, 1976. All comments with respect to the proposed guidelines were given due consideration. As a result of comments received, the following changes in the revised final policy guidelines are made in addition to language changes for clarification:

1. A new sentence is added to paragraph 3. containing policy guidelines which reads: "Requests for evaluation of personal characteristics, including pay habits, if known, shall not be provided." Reason: The Department of Defense is not in a position to render an evaluation of personal characteristics of integrity or ability of an individual to pay or not pay his or her debts.

2. Paragraph 3b. concerning releasable information pertaining to military personnel has been expanded to include: date of birth, marital status, the number, names, sex and age of dependents; awards and decorations, and the duty status at any given time. Reason: Information is releasable under the Freedom of Information Act exception, or matter of public record.

3. Paragraph 3e. providing locator assistance, containing the sentence: "However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed." is changed by adding: "unless the public interest dictates disclosure of the last known home address." Reason: To permit disclosure of home address for certain special overriding public policy matters, e.g., child support and alimony.

Accordingly, the Department of Defense policy on guidelines for release of personal information to commercial enterprises, as revised, is set forth below. These guidelines will be incorporated within the Department of Defense rules implementing the Privacy Act (Title 32, Chapter 1, Part 286a) which is currently under revision.

Effective date: This policy guideline shall become effective February 1, 1977.

Adopted by the Defense Privacy Board at its office in Washington, D.C., on the 19th day of January 1977.

Dated: January 24, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

GUIDELINES FOR RELEASE OF PERSONAL INFORMATION TO COMMERCIAL ENTERPRISES

1. *Scope.* The provisions of this guideline apply to all requests for personal information or assistance concerning Department of Defense military and civilian personnel. The provisions also apply to all commanders, supervisors, personnel officers, Privacy Act, and Freedom of Information Act officials, administrators, legal counsels and others involved in releasing information to the public within the various components of the Department of Defense.

2. *Background.* It is the policy of the Department of Defense, consistent with the Freedom of Information Act (5 U.S.C. 552) to make available to the public the maximum amount of information concerning its operations and activities. Information may be disclosed without the written consent of the individual to

whom the information pertains if such disclosure is required under the Freedom of Information Act. Section 552(b)(6) of that Act, however, clearly states that information in personnel, medical and similar files is exempt from the provisions of the Act if disclosure to a member of the public would result in a clearly unwarranted invasion of personal privacy. This guideline attempts to strike a balance between the rights of all requestors under the Freedom of Information to obtain information in Department of Defense records and the rights of individuals pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) to avoid an unwarranted invasion of personal privacy by the release of personal information from Department of Defense records. This guideline attempts to advise what personal information concerning individuals of the Department of Defense can and cannot be disclosed. To comply with the Privacy Act, any record contained in a system of records filed by name or personal identifier, maintained within the Department of Defense may not be disclosed by any means of communication to any other person unless it is available under the Freedom of Information Act, or to any agency outside the Department of Defense, pursuant to a published routine use or pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

3. *Policy Guidelines.* Commercial enterprises hold the same position and relationship to their customers and to the Government as they did before the enactment of the Privacy Act. In this connection, banks, branch banks, military banking facilities, credit unions, or any type of commercial facility or concession operating on any Department of Defense installation or facility have no better standing than any other commercial enterprises or public requestor in the private sector to obtaining personal information concerning Department of Defense personnel. Within their usual business relationships, commercial enterprises are assumed to be responsible for safeguarding the information provided by their clients and for obtaining only such information as is reasonable and necessary to conduct business. This includes normal credit information and proper identification, which may include the Social Security number. Requests for evaluation of personal characteristics including pay habits, if known, shall not be provided.

a. *Indebtedness.* The Department of Defense policy towards personal indebtedness is set forth in DoD Directive 1344.9, July 1, 1969, (32 CFR 43a) for military personnel and the Civil Service Commission Federal Personnel Manuel (5 CFR 735.207) for federal civilian employees. The established policy towards indebtedness expressed in these documents is unaffected by the Privacy Act. Department of Defense personnel are expected to pay all just financial obligations in a timely and proper manner.

b. *Releasable Information.* Information which would be released as required under provisions of the Freedom of Information Act is releasable to a member of the public. Verification of identity shall be required of an individual or commercial enterprise seeking access to information under the Freedom of Information Act (5 U.S.C. 552) only when such information is relevant to determining whether a clearly unwarranted invasion of privacy would result from the requested release. Information available under the Freedom of Information Act and not involving research or duplication may be releasable by telephone. Examples of personal information pertaining to military personnel which normally are releasable under the Freedom of Information Act without an unwarranted invasion of personal privacy are: name, rank, date of rank, salary, present and past duty assignments, future assignments which are final, office phone number, source of commission, promotion sequence number, date of birth, marital status, the number, names, sex and age of dependents, awards and decorations, and the duty status at any given time. Disclosure of personal information pertaining to civilian Department of Defense employees shall be made in accordance with the Civil Service Commission Federal Personnel Manual (5 CFR Part 294). There is nothing to preclude a written request for personal information pursuant to the Freedom of Information Act. However, a formal written request obligates the addressee to various automatic legal obligations should the request be delayed or denied. Search and duplication may require more time for processing and subject the requester to search and duplication fees (32 CFR 286.10).

c. *Restrictions on Release of Personal Information.* (1) Social Security Number (SSN): Disclosure of the SSN may constitute a clearly unwarranted invasion of personal privacy. The SSN is considered an individual identifier in accordance with the Privacy Act, which need not be disclosed in all instances without the prior written consent of the individual concerned.

(2) Home Addresses: The home address of an individual is considered to be personal information, the release of which may be considered a clearly unwarranted invasion of personal privacy. In this regard, an individual's name and address may not be sold or rented unless specifically authorized by law. Lists or compilations of names and home addresses, or single home addresses normally will not be disclosed, without the prior written consent of the individual concerned.

(3) Home Telephone Numbers: An individual's home telephone number falls within the same restrictions imposed on home addresses set forth in (2) above.

d. *Individual Consent.* Disclosure may be authorized for any personal information, including that set forth in c. above, when prior written consent for release is obtained from the individual concerned. There is nothing to preclude commercial enterprises in their direct bilateral negotiations from soliciting any personal information deemed necessary from the individual concerned or from incorporating consent to disclosure of personal information in agreements signed by their potential customers. Such an agreement might require the customer to sign a consent to the release of certain personal information at the time of a conditional sale, agreement, or the like. Commercial enterprises may incorporate the following conditions of disclosure of personal information in all agreements honored by the Department of Defense as meeting the prior written consent condition for the release of information:

"I hereby authorize the Department of Defense and its various departments and commands to verify my social security number or other identifier and disclose my home address to authorized (name of commercial enterprise) officials so that they may contact me in connection with my financial business with (name of commercial enterprise). All information furnished will be used solely in connection with my financial business relationship with (name of commercial enterprise)."

When the commercial enterprise presents such signed authorizations, the military commands or installations shall provide the appropriate information.

e. *Providing Locator Assistance.* In those cases where a Department of Defense member with a financial obligation is reassigned, and fails to inform a commercial enterprise or individual of his or her whereabouts, the remedy is to seek the locator assistance of the individual's last known commander or supervisor at the official position or duty station within that particular Department of Defense component. That commander or supervisor shall either furnish the individual's new official duty location address to the requestor or forward, through official channels, any correspondence received pertaining thereto to the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed to the individual concerned at his or her last official place of business or duty station is forwarded as provided by postal regulations to the new location, but the individual may choose not to respond. However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed unless the public interest dictates disclosure of the last known home address. The Department may at its discretion forward correspondence to the individual's last known home address. The individual may choose not to respond and the Department of Defense will not act as an intermediary for private matters concerning former Department personnel who are no longer affiliated with it.

[FR Doc.77-2684 Filed 1-26-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 675-5]

FOSSIL FUEL-FIRED STEAM GENERATORS; SO_2 EMISSIONS

Study To Review New Source Performance Standard

The Clean Air Act requires the Environmental Protection Agency to develop and implement regulations on air pollution. These include standards of performance for new and modified stationary sources. The Act also provides that the Administrator may, from time to time, revise such standards as new knowledge or technology becomes available.

In December, 1971, pursuant to section 111 of the Clean Air Act, the Administrator promulgated a regulation establishing standards of performance for emissions of SO_2 from new or modified fossil fuel-fired steam generators. (40 CFR 60.40 et seq.) Since that time, the technology for controlling these emissions has been greatly improved. Emissions of SO_2 continue to be a national problem. The utility industry contributes about half of all the SO_2 emissions from stationary sources, and it is a source category for which rapid growth is predicted.

EPA was petitioned on August 6, 1976, by the Oljato and Red Mesa Chapters of the Navajo Tribe, and the Sierra Club, to revise that standard so as to require a 90% reduction in SO_2 emissions from all coal-fired power plants. The petition included detailed information which on its face presented a compelling case to support the claim that advances in technology since 1971 call for a revision of the standard, and EPA has agreed to investigate the matter thoroughly.

EPA is required to consider a broad range of issues in promulgating or revising a standard issued under section 111 of the Clean Air Act. Any revision of this regulation would have broad environmental impact by reducing nationwide SO_2 emissions, and would have economic impact in terms of added industry control costs and their attendant effect on the cost of electrical power. Accordingly, the Agency has initiated a study to complete the technological, economic and other documentation needed to determine to what extent the regulation for emissions of SO_2 from fossil fuel-fired steam generators should be revised. This study is scheduled for completion by November 1977.

Interested persons are invited to participate in Agency efforts by submitting written data, opinions or arguments as they may desire. The Agency is specifically interested in information on the following aspects of fossil fuel-fired steam generators and their SO_2 emissions: industry definitions; emission data; toxicological data; information concerning both demonstrated emission control technology and processes; cost associated with the control of SO_2 emissions and solid and liquid waste treatment and disposal systems; and methods and costs of coal desulfurization. Communication on these or any other aspects of this program should be submitted to: the Environmental Protection Agency, Office of Air Quality Planning and Standards, Emission Standards and Engineering Division, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

In the near future, EPA will conduct a public hearing, at which interested persons will have the opportunity to orally present their views on this subject. The time and place of the hearing will be announced in a separate notice.

Dated: January 19, 1977.

ROGER STRETOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.77-2586 Filed 1-26-77;8:45 am]

LOUISIANA

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (Oct. 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Edwin Edwards, Governor of the State of Louisiana, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for contingency approval, pending promulgation of proposed regulations. Notice is hereby given of the intention of the Regional Administrator, EPA, Region VI, to approve this plan on a contingency basis pending promulgation of the proposed regulations.

A summary of the plan follows. The entire plan, together with all attached appendices, except for sample examinations, may be examined during normal business hours at the following locations:

Louisiana Department of Agriculture, Harry D. Wilson Lab, Room 223, LSU Campus, Baton Rouge, Louisiana 70893, phone: 504-389-5478.

U.S. Environmental Protection Agency, Region VI, Pesticides & Hazardous Materials Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270, phone: 214-749-7601.

U.S. Environmental Protection Agency, Office of Pesticide Programs (WH-569), Federal Register Section, Room 401 East Tower, 401 M Street SW., Washington, D.C. 20460, phone: 202-755-4854.

SUMMARY OF LOUISIANA STATE PLAN

The Louisiana Department of Agriculture, Bureau of Technical Services, has been designated as the State Lead Agency for the administrator of the pesticide certification program. Since the authority to regulate applicators is legislatively delegated between the Bureau of Technical Services and the Bureau of Entomology and Plant Industry within the Department of Agriculture, each agency will certify those applicators in its sphere of authority. The Bureau of Technical Services will certify all applicators of restricted use pesticides except those individuals required to be licensed as Structural Pest Control Operators. Those individuals will be certified by the Bureau of Entomology and Plant Industry in conjunction with the licensing procedure of the Structural Pest Control Commission. The Bureau of Entomology and Plant Industry is the departmental adjunct to the Structural Pest Control Commission and as such will administer the laws, rules, and policies of the Commission regarding certification.

The Cooperative Extension Service will handle training and educational aspects of certification with participation by the Bureau of Entomology and Plant Industry and the Bureau of Environmental Health in the areas in which they have available expertise.

Legal authority for the program is contained in the Louisiana Pesticide Control Act (R.S. 3:1621-1642) and the Louisiana Structural Pest Control Law (R.S. 40:1261-1274), and proposed regulations. A copy of the proposed regulations is attached to the plan.

The plan indicates that the State Lead Agency and cooperating agencies have sufficient qualified personnel and funds necessary to carry out the programs.

The Bureau of Technical Services will submit an annual report providing the information required in 40 CFR 171.7(d) on March 1 of each year for the previous year and other reports as may be required by 40 CFR 171.7 (d).

The major categories for commercial applicators for the State of Louisiana will conform to those listed in 40 CFR 171.3(b). Louisiana has adopted the following subcategories:

2. Forest Pest Control: a. General Forest Pest Control. b. Forest Tree Seed Orchards and Nurseries Pest Control. c. Wood Processing Treatment.

6. Right-of-Way Pest Control: a. Industrial Weed and Brush Control.

7. Industrial, Institutional, Structural and Health Related Pest Control: a. Commercial applicators licensed as Pest Control Operators by the Bureau of Entomology and Plant Industry in the following areas. 1. Entomology. 2. Wood-destroying Organism Control. 3. Household Pest Control. 4. Fumigation. 5. Rodent Control. b. Commercial applicators not covered by subcategories 7a or 7c. c. Commercial applicators who apply or supervise the application of pesticides with restricted uses in, on, or around establishments engaged in the manufacture of food products from raw agricultural commodities.

8. Public Health Pest Control: a. Mosquito Control (governmental programs). b. Rodent Control (governmental programs). c. Community Public Health Pest Control.

Approximately 4,905 commercial and 70,000 private applicators will need certification.

Commercial applicators will be certified using the standards of competency established in 40 CFR 171.4(b&c) and 171.6. Competency will be determined by written examination for both general and specific standards.

Commercial applicators will be certified by written examinations administered by employees of the appropriate agency. These tests will be graded by agency employees and the results will be mailed to the applicators.

In accordance with 40 CFR 171.7(e)(3), the State of Louisiana has described its current licensing program for applicators in subcategory 7a, 1-5 (See App. B, R.S. 40:1265) and has requested authority to certify those applicators licensed in these categories on the basis of written examinations with further demonstration of competency solely through a written examination covering the

general standards. This Agency has reviewed the examinations submitted with the Plan, and has determined that applicators licensed on the basis of the examinations have satisfied the requirements for certification with respect to the specific standards of competency. Passage by these applicators of a written examination covering the general standards would, in this Agency's view, fully satisfy the requirements for certification. Accordingly, notice is hereby given of the intention of the Regional Administrator to approve the Louisiana request.

Private applicators will be certified to the standards of competency listed in 40 CFR 171.5 and 171.6.

General certification will be obtained by private applicators by one of two methods:

1. Completion of a State Cooperative Extension Service training course which will include oral review questions and group discussions;

2. Completion of written examination administered by the State Lead Agency.

Single product certification will be used for certification of private applicators who cannot read the label and for emergency certification. A written questionnaire will be used for single product certification. This questionnaire will be administered by field inspectors of the Bureau of Technical Services and employees of other designated agencies. Applicators able to read the label will be allowed to fill out the questionnaire while those applicators not able to read a label will be asked the questions by the field inspector or employee of the designated agency. This certification will be valid for one year. Emergency certification will not be renewable. Non-reading applicator certification will be renewable.

Programmed instruction may be utilized in the future as a means of granting general certification. Louisiana will submit a copy of the programmed instruction to EPA for approval.

A copy of the examinations or a representative sample of questions has been submitted with the plan for review.

To preserve the confidentiality of the examinations, the State of Louisiana has requested they not be made available for public inspection. The Agency agrees with this request and has removed the examinations and sample questions from the public inspection copies of the plan.

Credentials will be furnished to all applicators when they become certified.

Louisiana will not accept the Government Agency Plan (GAP) as it is understood at this time. Within 60 days of final approval of the GAP a statement will be forwarded to EPA in regards to acceptance of GAP.

The Department of Agriculture intends to enter into agreements with the two Indian reservations in the State to provide for jurisdiction of applicators under this State Plan. Copies of this agreement will be furnished to EPA.

Louisiana is open to reciprocity with States that have competency standards at least equal to Louisiana. Copies of these agreements will be furnished to EPA.

Other pesticide regulatory activities include the regulation of: pesticide dealers, pesticide registrations, pesticide residues, and pest management consultants.

Pesticide inspectors will make checks of persons applying, selling, or recommending the application of pesticides to determine if they are complying with the law. Inspectors may also sample pesticides to determine if they meet the analysis specification. The inspector may also obtain pesticide residue samples.

The certification documents (credentials) will be renewed every three years for private applicators and every year for commercial applicators. All applicators will be required to attend a training session every three years beginning October 21, 1977 to maintain their certification.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Louisiana to the Chief, Pesticides and Hazardous Materials Branch, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270. The comments must be received on or before February 28, 1977, and should bear the identifying notation (OPP-42038). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned location from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Date: January 14, 1977.

JOHN C. WHITE,
Regional Administrator,
EPA, Region VI.

[FR Doc-77-2590 Filed 1-26-77;8:45 am]

[FRL 675-8; OPP—42033A]

NEW YORK

Approval of State Plan for Certification of Commercial and Private Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b) and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On October 28, 1976, notice was published in the FEDERAL REGISTER (41 FR 47283) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region II, to approve, on a contingency basis, the New York State Plan for Certification of Pesticide Applicators (New York State Plan). Contingency approval was requested by the State of New York pending enactment of an approvable amendment to Article 33 of the Environmental Conservation Law to delete or clarify the exemption granted to public employees from unlawful acts and pending approval of implementing regulations. Complete copies of the New York State Plan were made available for public inspection at the Bureau of Pesticides, Division of Quality Services, Department of Environmental Conservation, Albany, New York; Pesticides Branch, Environmental Programs Division, EPA Region II, New York, New York and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

The only written comments received were from the National Canners Association. These comments were carefully reviewed and evaluated by EPA and by the Department of Environmental Conservation, the State lead agency responsible for implementing the New York State Plan.

The National Canners Association commented that because pesticide applicator training is not required by amended FIFRA, New York State Cooperative Extension Service funds for training should not be considered in the assessment of the adequacy of funding to support the State Plan. Although the State of New York plans to utilize training programs as an integral part of the pesticide applicator certification program, the Agency assessed the proposed certification program only on the basis of funding information provided by the lead agency.

Objections were raised to the State's intention to require a certification fee for pesticide applicators, to the plan's provision for private applicator categories and to certain commercial applicator subcategory divisions. It is the Agency's position that Section 4 of the amended FIFRA establishes a coordinated State/Federal program for certifying applicators with section 4(a)(1) making EPA responsible for prescribing applicator certification standards. Under section 24 of the amended FIFRA, the States are left with a great deal of flexibility in developing their individual programs provided these programs meet the prescribed Federal standards. These comments received pertain to regulatory requirements which are specific to the State of New York and do not address the acceptability of the regulations to the Agency. Since these comments are pertinent to the specifics of the New York State Plan, the Agency has forwarded the comments to the Department of Environmental Conservation for its consideration.

Certain comments address regulations promulgated under amended FIFRA rather than the acceptability of the plan under Federal regulations. Since these comments are not germane to the conformance of the plan to prescribed standards they were not considered by the Agency.

The New York State Plan will remain available for public inspection at the Bureau of Pesticides, Division of Quality Services, Department of Environmental Conservation, 50 Wolf Road, Albany, New York.

It has been determined that the New York State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171 if an approvable amendment to Article 33 of the Environmental Conservation Law to delete or clarify the exemption granted to public employees from unlawful acts is enacted and if necessary implementing regulations are promulgated. Accordingly, the New York State Plan is approved contingent upon enactment of such amendment and upon promulgation of implementing regulations in accordance with and as prescribed in the State Plan.

This contingency approval shall expire on October 21, 1977, if these terms and conditions are not satisfied by that time. On or before the expiration of the period

of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the New York State Plan as a result thereof.

Effective date. Pursuant to Section 4 (d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the New York State Plan shall be effective immediately. Neither the New York State Plan itself nor this Agency's contingency approval of the Plan create any direct or immediate obligations on pesticide applicators or other persons in the State of New York. Delays in the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingency approval shall become effective immediately.

Dated: January 70, 1977.

ERIC B. OUTWATER,
Acting Regional Administrator,
United States Environmental
Protection Agency, Region II.

[FR Doc.77-2589; Filed 1-26-77;8:45 am]

[FRL 675-6, OPP-180111]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Benomyl to Control Fungus on Cabbage, Cauliflower, Broccoli, and Brussels Sprout Seeds

Pursuant to the provisions of 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.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage, cauliflower, broccoli, and brussels sprout seeds in western Washington to control infestations of the fungus *Phoma lingam*, which causes the plant disease called "blackleg". This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), 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 application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, *Phoma lingam*, the causal agent of blackleg disease in these crucifers (plants of the family *Cruciferae*) is frequently present on seed, but epidemic outbreaks depend on the weather conditions in seed growing, transplant and food production areas. The organism, which may remain viable on plant debris for up to four (4) years, can be introduced into new fields by seed transmission. The Applicant stated that a disastrous outbreak of cabbage blackleg occurred in the eastern cabbage-growing States in 1973 as a result of seed transmission of *Phoma lingam*. In that year, cabbage growers suffered a ten (10) percent loss of the nation's cabbage crop to blackleg and blackrot; the cabbage seed growing industry of Washington State was threatened by lawsuits and the potential loss of insurance coverage.

Control of this fungus requires effective treatment of stock seed used for seed production and commercial seed; however, tolerances have not been established for benomyl residues on cabbage, cauliflower, broccoli, or brussels sprouts. EPA has made the determination that the use of benomyl on seed used exclusively for seed production does not constitute a food use and therefore, does not require food tolerances. Although there is an alternative control method, hot water treatment, the Applicant contended that it is not effective and may cause damage to the seeds. The fungus *Phoma lingam* has been found on seeds from this year's cabbage crop; without an effective control method, spread of the fungus to growing fields by seed transmission may occur.

The Applicant will treat up to one million (1,000,000) pounds of commercial seed which has been harvested from the 1976 cabbage, cauliflower, broccoli and brussels sprout seed production crop. The seed from these crucifers will be utilized for food production in 1977. Benomyl (Benlate 50 percent wettable powder, EPA Reg. No. 352-354 AA) will be applied at the rate of eight (8) ounces of the product, four (4) ounces active ingredient, in sufficient water to treat one-hundred (100) pounds of seed. Seeds will be treated upon the determination of the presence of Phoma lingam; each seed lot will be treated no more than once. Treatment will begin as soon as possible and be completed by March 31, 1977. All applications will be made by seed companies or seed contractors utilizing seed treating personnel.

There are approximately 1,500 acres of cabbage grown for seed in the United States each year, including 1,000 acres in western Washington State, according to the Applicant. These 1,000 acres supply about 80% of the cabbage seed for the United States and 30% for the world. The Applicant stated that the potential market value of cabbage raised from this seed is $84,000,000. This estimate of economic loss does not include the possible losses which could be incurred regarding the cauliflower, broccoli and brussels sprout crops.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the fungus *Phoma lingam* has occurred; (b) there is no pesticide presently registered and available for use to control the fungus in Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 1, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

(1) A benomyl product, Benlate 50 percent wettable powder (EPA Reg. No. 352-354 AA) will be used;

(2) Benomyl will be applied at the rate of eight (8) ounces of the product, four (4) ounces active ingredient, in sufficient water to treat one hundred (100) pounds of seed;

(3) Each seed lot will receive no more than a single application of benomyl;

(4) A maximum of one million pounds of seed will be treated;

(5) Treated seed will not be used for food, feed, or any other use except planting;

(6) EPA has determined that residues of benomyl resulting from this use are not likely to exceed 0.2 ppm (parts per million) in cabbage and cauliflower and 0.4 ppm in broccoli and brussels sprouts, which will not pose a hazard to the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

(7) The Applicant is responsible for ensuring that the restrictions pursuant to this specific exemption are met;

(8) The Applicant will monitor crops grown from treated seed for residues of benomyl and its metabolites; and

(9) All applications will be made by seed treating personnel of the seed companies or seed contractors.

Dated: January 17, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-2587 Filed 1-26-77;8:45 am]

[FRL 675-7]

RADIATION PROTECTION IN HEALING ARTS; GUIDANCE TO FEDERAL AGENCIES

Memorandum of Understanding with Department of Health, Education, and Welfare

The Environmental Protection Agency (EPA) and the Department of Health, Education, and Welfare (HEW) each have statutory responsibilities which affect radiation protection. In addition, HEW has the major Federal responsibility for national health care policy, including areas in the practice of medicine which involve radiation exposure. For the purpose of reducing unnecessary patient exposure to radiation in the healing arts, through the devel-

opment and promulgation of radiation protection guidance to Federal agencies, the EPA and HEW hereby agree to the following:

AUTHORITY

1. The Administrator of EPA is directed by Section 274(h) of the Atomic Energy Act (42 U.S.C. 2021(h)) to advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States.

2. The Secretary of HEW is directed by Sections 301, 310, 311, and 356 of the Public Health Service Act (42 U.S.C. 241, 242o, 243, and 263d) to conduct research and investigations, to issue information to the public, to advise the States, and to make recommendations on radiation matters affecting public health and safety, and by Section 520(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(e)) to prescribe regulations restricting the sale, distribution and use of medical devices. These authorities have been delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

AGENCY RESPONSIBILITIES

1. EPA will identify in consultation with other Federal agencies (including HEW) areas of potential reduction in radiation exposure in the healing arts, particularly those areas of concern to Federal agencies.

2. In the consideration of potential Federal radiation guidance affecting radiation exposure in the healing arts, EPA will consult with HEW on the need for Federal guidance, the time within which it should be developed, the degree of specificity appropriate to the problem, and the adequacy of any existing criteria as a basis for such guidance.

3. When HEW believes that development of Federal guidance is needed and is consistent with its resources and priorities, FDA will proceed to develop and promulgate a radiation protection recommendation and transmit it to EPA for review as proposed Federal radiation guidance.

4. When, in the interest of timely Federal guidance, it is appropriate to consider issuance in two phases: (1) Broad guidance developed by EPA, followed by (2) Specific implementing guidance developed by HEW, the agencies will consult on the appropriate division between the broad and specific phases.

5. In those instances when EPA develops proposed Federal radiation guidance, HEW will provide available input on the content of that guidance and a determination of the anticipated impact on health care, and EPA will address in the public record all comments by Federal agencies (including HEW), professional organizations, and the public.

6. EPA will conduct review of proposed Federal radiation guidance developed by either HEW or EPA. Such review will include coordination of appropriate review by affected Federal and State agencies, experts in radiation matters, professional organizations, and the public.

7. EPA will provide appropriate followup and coordination with Federal agencies to assure implementation of Federal radiation guidance as used in the healing arts.

LIAISON OFFICIALS

All matters pertaining to this agreement will be administered by the following officials or their designees:

For the Department of Health, Education, and Welfare: Director, Bureau of Radiological Health, FDA.

For the Environmental Protection Agency: Director, Criteria and Standards Division, Office of Radiation Programs.

PERIOD OF AGREEMENT

This Memorandum of Understanding shall continue in effect unless modified by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other.

This Memorandum of Understanding will become effective on the date of the last signature.

For the Environmental Protection Agency.

Dated: January 5, 1977.

RUSSELL E. TRAIN,
Administrator.

For the Department of Health, Education, and Welfare.

Dated: January 18, 1977.

THEODORE COOPER,
Assistant Secretary for Health.

[FR Doc.77-2588 Filed 1-26-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

KLEER SALT DOME STORAGE SITE; STRATEGIC PETROLEUM RESERVE

Availability of Draft Site-Specific Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft site-specific environmental impact statement (EIS) for the Kleer salt dome site, one of eight storage sites that is being considered for the creation of a Strategic Petroleum Reserve. The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., Sections 6231–6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

The Kleer salt dome site is located near Grand Saline, Texas. This site is currently under consideration for use in the Early Storage Reserve, i.e., for the first 150 million barrels of storage capacity.

Single copies of the draft Kleer EIS (DES–77–3) may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the draft Kleer EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the draft Kleer EIS to Executive Communications, Box KI, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Draft Kleer EIS (DES–77–3)." Fifteen copies should be submitted. All comments should be received by FEA by March 7, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., January 21, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-2606 Filed 1-24-77;9:32 am]

WEST HACKBERRY SALT DOME STORAGE SITE; STRATEGIC PETROLEUM RESERVE

Availability of Final Site-Specific Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a final site-specific environmental impact statement (EIS) for the West Hackberry salt dome site, one of eight storage sites that is being considered for the creation of a Strategic Petroleum Reserve. The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., Sections 6231–6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

The West Hackberry salt dome site is located in Cameron Parish, Louisiana. This site is currently under consideration for use in the Early Storage Reserve, i.e., for the first 150 million barrels of storage capacity.

Single copies of the final West Hackberry EIS (FES–76/77–4) may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the final West Hackberry EIS will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the final West Hackberry EIS to Executive Communications, Box KJ, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Final West Hackberry EIS (FES–76/77–4)." Fifteen copies should be submitted. All comments should be received by FEA by February 22, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., January 21, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–2605 Filed 1–24–77;9:33 am]

FEDERAL HOME LOAN MORTGAGE CORPORATION

[No. MC 77–5]

GOVERNMENT IN THE SUNSHINE ACT

Public Information Regarding Decision Making Process

JANUARY 13, 1977.

SECTION 1. *Purpose and scope.* Notice is hereby given of proposed rules issued by the Federal Home Loan Mortgage Corporation ("the Corporation") pursuant to the requirement of the Government in the Sunshine Act of 1976 (Pub. L. 94–409, 5 U.S.C. 552b). These proposed rules are issued in accordance with the provisions of the Act in order to provide the public with the fullest practicable information regarding the Corporation's decision making processes while protecting the rights of individuals and the ability of the Corporation to carry out its purposes and objectives.

Interested persons are invited to submit written public comments in connection with these proposed rules through February 23, 1977. Comments should be sent to Mr. Don Hill, Director of Corporate Relations, Federal Home Loan Mortgage Corporation, 311 First Street, NW., Washington, D.C. 20001.

SEC. 2. *Definitions.* (a) For purposes of these rules, the term "meeting" means any deliberations of two or more members of the Corporation's Board of Directors ("Director"), assembled in *collegio*, the purpose or effect of which is to determine or result in joint conduct of official business of the Corporation.

SEC. 3. *Opened meetings.* (a) Except as provided in section 4 of these Rules, all meetings of the Directors shall be open to the public.

(b) Procedures for open meetings:

(1) Except as provided in subparagraph (2) of this section, the Directors shall announce at least one week before a meeting the time, place, and subject matter of the meeting and the name and telephone number of the official designated to respond to requests for information about the meeting. This announcement shall be sent to the FEDERAL REGISTER for publication and also posted in the main lobby of the Corporation's headquarters which is located on the 6th floor at 311 First Street, NW., Washington, D.C. 20001.

(2) Where a majority of the Directors determine by recorded vote that Corporation business requires a shorter announcement period or a change in a meeting or portion thereof previously announced, the one-week prior-announcement rule shall be suspended and announcement shall be made at the earliest practicable time.

SEC. 4. *Closed meetings*—(a) *Expediting regulation.* (1) This section, providing for expedited closing procedures with regard to meetings or portions thereof exempt under paragraphs (4), (8), (9) (A) or (10) of subsection (c) of this Act (paragraphs (c) (4), (8), (9) (A) or (10) of this section), is adopted pursuant to 5 U.S.C. 552(d)(4), because a majority of the Directors' meetings include deliberations which if held publicly would be likely to disclose information required or authorized by law to be kept confidential. However, the Directors may choose to open any meeting on an ad hoc basis notwithstanding that it may lawfully be closed.

(2) Where a meeting or portion thereof is to be closed, a public record shall be kept of the Directors' vote at the beginning of the meeting to close it or a portion thereof and any certification by the General Counsel that such closure is authorized by law, including a statement pertaining to the relevant exemptive provision or provisions of law. Such record shall be made available to the public at the Office of the Secretary of the Corporation. Public announcement of the time, place and subject matter of closed meetings or portions thereof shall be made at the earliest practicable time.

(b) (1) A complete transcript or recording shall be made and maintained of the proceedings at each meeting or portion thereof closed to the public under these Rules, except that, where appropriate, a set of minutes may be made and maintained in lieu of such transcript or recording. Such minutes shall fully and clearly describe all matters discussed and provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Director on the question). All documents considered in connection with any action shall be identified in such minutes.

(ii) Such transcript, electronic recording, or minutes of the discussion of any item on the agenda shall be made promptly available to the public at or through the Office of the Secretary, except for such item or items of such discussions as the Directors determine to contain information which may be withheld under paragraph (c) of this section. Copies of such transcript or minutes or a transcription of such recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Directors shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) Except in a case where the Directors find that the public interest requires otherwise, the Directors may close a meeting or portion of a meeting where they determine that disclosure of information pertaining to such meeting or portion thereof is likely to:

(1) Disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (A) requires that matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets or commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial

or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source or, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Corporation or another agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(A) Be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) Be likely to significantly frustrate implementation of a proposed Corporation action,

except that subparagraph (B) shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case involving a determination on the record after opportunity for a hearing.

SEC. 5. *Accommodation for public attendance at open meetings.* Open meetings are held in Room 630 at 320 First Street, N.W., Washington, D.C. 20552, at the time and on the date specified in the advance public notice; such information is also posted in the main lobby at such location. Interested members of the public may attend such meetings but may not participate therein unless invited or permitted to do so by the Corporation.

FEDERAL HOME LOAN MORTGAGE CORPORATION,
RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-2543 Filed 1-26-77;8:45 am]

[NO: MC 77-3]

PUBLIC INFORMATION

Notice Providing Information Concerning Organization, Rules and Access to Records

JANUARY 13, 1977.

Notice is hereby given as to the (1) organization, (2) rules, and (3) procedures for access to records used by the Federal Home Loan Mortgage Corporation. Some of this information is set forth herein, and the remainder is incorporated by reference pursuant to 5 U.S.C. 552(a)(1). This Notice supersedes, in its entirety, the Notice on this subject which appeared at 41 FR 30721 on July 27, 1976 and is effective upon publication.

1. CREATION AND PURPOSE

The Federal Home Loan Mortgage Corporation (hereinafter referred to as "FHLMC" or the "Corporation") is a corporate instrumentality of the United States created pursuant to an Act of Congress enacted on July 24, 1970 (Title III of the Emergency Home Finance Act of 1970, as amended, 12 U.S.C. 1451–1459, hereinafter referred to as the "FHLMC Act"). The Federal Home Loan Mortgage Corporation was established primarily for the purpose of increasing the availability of mortgage credit for the financing of housing. It seeks to provide an enhanced degree of liquidity for residential mortgage investments primarily by assisting in the development of secondary markets for conventional mortgages.

The Corporation currently carries out its statutory responsibilities by purchasing mortgages, and by selling securities representing interests in mortgages it has purchased. Sales of mortgages provide funds for additional mortgage purchases or are used to repay borrowings of the Corporation.

The Corporation purchases conventional mortgages, FHA insured mortgages and VA guaranteed mortgages; these purchases include mortgages secured by both single family and multifamily real properties. The Corporation is statutorily limited to purchasing mortgages from financial institutions the deposits or accounts of which are insured by the United States or from certain state institutions as described in the FHLMC Act. The FHLMC Act further restricts the Corporation's mortgage purchases to those mortgages which would be acceptable to institutional mortgage investors.

The Corporation currently resells mortgages it purchases primarily in the form of Participation Certificates (PCs) and Guaranteed Mortgage Certificates (GMCs). A description of the terms of these securities can be found in the current Offering Circular for PCs and current Prospectus for GMCs, both of which are available from the Corporation. The primary purchasers of PCs have been savings and loan associations, and the primary purchasers of GMCs have been institutional investors—e.g., pension funds.

2. CENTRAL AND FIELD ORGANIZATION

A. *Principal and Regional Offices.* The principal office of the Federal Home Loan Mortgage Corporation is located at 311 First Street, NW., Washington, D.C. 20001. In addition, it has established five regional offices for administrative purposes. The locations and respective administrative areas of these regional offices are set forth below.

Regional Offices and Administrative Areas

Northeast: 2001 Jefferson Davis Highway, Suite 901, Arlington, Virginia 22202 (703) 685–2400: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Virginia, Virgin Islands, West Virginia.

Atlanta: 229 Peachtree Street, N.E., Suite 2600, Atlanta, Georgia 30343 (404) 659–3377: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Chicago: 111 East Wacker Drive, Suite 1515, Chicago, Illinois 60601 (312) 861–8400: Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin.

Dallas: 12700 Park Central Place, Suite 1800, Dallas, Texas 75251 (214) 387–0600: Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wyoming.

Los Angeles: 3435 Wilshire Boulevard, Suite 1000, Los Angeles, California 90010 (213) 487–4800: Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington.

B. *Corporation Officers and Directors.*—(i) *Board of Directors.* The Board of Directors of the Corporation consists of the Chairman and Board Members of the Federal Home Loan Bank Board. The Board of Directors is responsible for all corporate functions.

(ii) *President and Chief Executive Officer.* The President and Chief Executive Officer is directly responsible to the Board of Directors for the management of the Corporation.

(iii) *Executive Vice President and Chief Administrative Officer.* The Executive Vice President and Chief Financial Officer is directly responsible to the President for administration of corporate activities relating to Finance, Marketing, Office Services, Personnel and Systems.

(iv) *Executive Vice President and Chief Operating Officer.* The Executive Vice President and Chief Operating Officer is directly responsible to the President for the recommendation and implementation of all corporate activities relating to the procurement and administration of the corporate mortgage portfolio and regional operations.

(v) *Senior Vice President—Regional Operations.* The Senior Vice President—Regional Operations is directly responsible to the Executive Vice President and Chief Operating Officer for the administration of the corporate regional offices.

(vi) *Senior Vice President—Region.* The Senior Vice President—Region is directly responsible to the Senior Vice President—Regional Operations for the administration of the corporate regional office.

(vii) *Vice President—General Counsel.* The Vice President—General Counsel is directly responsible to the President for advice concerning corporate policy on all matters of law affecting the Corporation.

(viii) *Vice President—Research.* The Vice President—Research is directly responsible to the President for the analysis of current economic indicators affecting overall corporate activity as

well as research on housing and mortgage finance related topics.

(ix) *Vice President—Congressional Relations.* The Vice President—Congressional Relations is directly responsible to the President and provides national legislative analysis, advice and coordination.

(x) *Vice President—Treasurer.* The Vice President—Treasurer is directly responsible to the Executive Vice President and Chief Administrative Officer for the recommendation and implementation of corporate financial policy.

(xi) *Vice President—Marketing.* The Vice President—Marketing is directly responsible to the Executive Vice President and Chief Administrative Officer for the development and implementation of all marketing functions of the Corporation.

(xii) *Vice President—Systems.* The Vice President—Systems is directly responsible to the Executive Vice President and Chief Administrative Officer for development, operation, support and control of all corporate computer systems.

(xiii) *Vice President—Appraisal and Underwriting.* The Vice President—Appraisal and Underwriting is directly responsible to the Executive Vice President and Chief Operating Officer for the establishment and maintenance of appraisal and underwriting standards for corporate mortgage procurement.

(xiv) *Corporate Secretary.* The Corporate Secretary is directly responsible to the Board of Directors for preparation and maintenance of the Minute Record of all official actions of the Board of Directors of the Corporation.

3. PUBLISHED INFORMATION

A. *Federal Register.* The Corporation hereby publishes in the FEDERAL REGISTER for the guidance of the public:

(i) A description of its central and field organization, and

(ii) The place at which forms may be obtained.

B. *Availability of Forms and Other Publications.* All forms and other publications of the Corporation which are described hereinafter are reasonably available to the class of persons affected thereby and may be obtained from the FOIA Director of the Corporation at the Corporation's principal office, 311 First Street, N.W., Washington, D.C. 20001, during normal business hours. These forms and publications are hereby incorporated by reference in this Notice.

(i) *Sellers' Guide Conventional Mortgages.* The Sellers' Guide Conventional Mortgages sets forth eligibility requirements applicable to conventional mortgages purchased by the Corporation, and describes the procedures pursuant to which the Corporation purchases such mortgages.

(ii) *Servicers' Guide.* The *Servicers'* Guide sets forth rules and procedures to be followed by entities (such as savings and loan associations) which service mortgages which the Corporation has purchased either in whole or in part, or on an agent basis.

(iii) *Sellers' Guide FHA/VA Mortgages.* The Sellers' Guide FHA/VA Mortgages sets forth eligibility requirements applicable to mortgages purchased by the Corporation which are either insured by the Federal Housing Administration or guaranteed by the Veterans Administration, and describes the procedures pursuant to which the Corporation purchases such mortgages.

(iv) *Mortgage Insurer Eligibility Requirements.* The Mortgage Insurer Eligibility Requirements are standards (such as minimum capitalization) which must be met by private mortgage insurance companies in order to insure those loans purchased by the Corporation as to which such insurance is required. Private mortgage insurance companies are State-chartered, and are regulated by the applicable State insurance commissioner.

(v) *Home Mortgages—Underwriting Guidelines.* The Home Mortgages—Underwriting Guidelines are intended to assist in the establishment of underwriting criteria which will produce institutional quality loans which can be purchased by the Corporation.

(vi) *How to Package and Sell Conventional Home Mortgage Loans to The Mortgage Corporation.* This publication describes, in an illustrated step-by-step manner, the way in which financial institutions should submit loans for sale to the Corporation.

(vii) *Policy and Procedure Manual.* The Policy and Procedure Manual sets forth policies and procedures to be followed by Corporation personnel in connection with mortgage purchases, underwriting review, supervision of servicers, and the sale of loans and securities.

(viii) *Annual Report.* The Corporation prepares an annual report of the type prepared by other corporate entities. The report describes the Corporation's operations for the preceding year and contains the Corporation's financial statements for that period.

(ix) *Mortgage Finance Review.* The Mortgage Finance Review, which is prepared quarterly, describes mortgage activity during the preceding quarter and charts significant financial indicators relevent to housing.

(x) *FNMA/FHLMC Uniform Mortgage Instruments.* The FNMA/FHLMC Uniform Mortgage Instruments consist of a note and mortgage or deed of trust form for use in each State in connection with 1–4 family property. These forms were developed in conjunction with the Federal National Mortgage Association.

(xi) *FHLMC Uniform Mortgage Instruments.* The FHLMC Uniform Mortgage Instruments consist of a note and mortgage or deed of trust form for use in each State in connection with property involving more than four dwelling units—i.e., multifamily property.

(xii) *Current Offering Circular for PCs.* This document describes the terms and conditions under which Mortgage Participation Certificates are sold and contains information concerning the business operations and financial condition of the Corporation which may be material to the purchaser of PCs.

(xiii) *Current Prospectus for GMCs.* This document describes the terms and conditions under which Guaranteed Mortgage Certificates are sold and contains information concerning the business operations and financial condition of the Corporation which may be material to the purchaser of GMCs.

C. *Index of Records.* The Federal Home Loan Mortgage Corporation hereby determines and orders that the publication of a quarterly index to those items specified in 5 U.S.C. 552(a) is unnecessary and impractical in that it does not materially assist the public and, in addition, such publication imposes a financial burden on the Corporation. A copy of said index will nonetheless be provided, upon request, at a cost not to exceed the direct cost of duplication at the rate per page specified in Section 4E(i) of this Notice.

4. ACCESS TO RECORDS

A. *General Rule.* All records of the Corporation are made available to any person for inspection and copying in accordance with the provisions of this Notice and subject to the limitations stated in section 5 of this Notice. It is the policy of the Corporation to disclose its records (including computerized information which can be retrieved through an existing information system program of the Corporation) to the public, even though such records may, in the Corporation's discretion, be exempted from disclosure by section 552 of Title 5 of the United States Code or by Section 5 of this Notice, wherever such disclosure can be made without resulting in injury to a public or private interest intended to be protected by the foregoing statute or in a significant interference with the statutory responsibilities of the Corporation. However, requests for information which can be produced only by processing through an information systems program especially designed for that purpose are not regarded as requests for identifiable records that must be disclosed pursuant to section 552 of Title 5 of the United States Code; but it is the policy of the Corporation to make such information available if it is not otherwise exempt from disclosure, provided that the retrieval or production of such information does not unduly burden or interfere with the functioning of the Corporation. For purposes of this paragraph, a request for information which can be produced only by processing through an information systems program designed for that purpose means any request for information which can be obtained only by the use of an information systems program furnished by the person making the request, by the creation of a new information systems program by the Corporation, or by the modification by the Corporation of one of its existing information systems programs.

B. *Statements of Policy, Interpretations, and Staff Manuals and Instructions.* Subject to the provisions of Section 5 of this Notice, the Corporation makes available for inspection and copying (1)

statements of policy and interpretations adopted by the Corporation that are not published in the FEDERAL REGISTER; and (2) administrative staff manuals and instructions to staff that affect any member of the public. However, to the extent required to prevent a clearly unwarranted invasion of personal privacy, the Corporation may delete identifying details in any material of the kinds above-described; and in each such case the justification for such deletion will be fully explained in writing. The Corporation maintains and makes available for public inspection and copying a current index providing indentifying information for the public as to any material described in this paragraph which is issued, adopted or promulgated after July 24, 1970 (date of corporate charter).

C. *Other Records.* Subject to the provisions of Section 5 of this Notice, a record of the final votes of each member of the Board of Directors of the Corporation in any proceeding of the Corporation is available for public inspection.

D. *Requests for Records and Other Information.* Available records and other information of the Corporation subject to this section may be inspected or copied during regular business hours on regular business days at the offices of the Federal Home Loan Mortgage Corporation, 311 First Street, NW., Washington, D.C. 20001. Any person requesting access to, or copying of, such records or other information shall submit such request in writing to the FOIA Director. The request shall state the full name and address of the person and a description of the records or other information sought that is reasonably sufficient to permit their identification without undue difficulty. Wherever possible request should be submitted in advance of the date inspection or copying is desired, preferably by mail.

E. *Fees for Providing Copies of Records.* (i) A person requesting access to or copies of particular records shall pay the cost of searching or copying such records at the rate of $10 per hour for searching by non-clerical personnel, $5 per hour for searching by clerical personnel, and 10 cents per page for copying. Unless a requester states in his initial request that he will pay all costs regardless of amount, he shall be notified as soon as possible if there is reason to believe that the cost for obtaining access to and/or copies of such records will exceed $50. If such notice is given, the time limitations contained elsewhere in this section shall not commence until the requester agrees in writing to pay such cost. The FOIA Director is authorized to require an advance deposit whenever in his judgment such a deposit is necessary to insure that the Corporation will receive adequate reimbursement of its costs. If such a deposit is required, the time limitations contained elsewhere in this section shall not commence until the deposit is paid.

(ii) The FOIA Director or a person designated by the FOIA Director is authorized either to waive such payment in instances in which total charges are less than $3, or to waive in full or in part such fees when unnecessary hardship would be inflicted upon the requesting person or when waiver would serve the public interest.

(iii) With respect to information obtainable only by processing through an information systems program, which has been made available under paragraph A of this section, a person requesting such information shall pay a fee equal to the full cost of retrieval and production of the information requested and the Vice President—Systems, or such person or persons as he may designate, with the concurrence of the Vice President—Research, or such person or persons as he may designate, is authorized to determine the cost of such retrieval and production, and to waive such payment in instances in which unnecessary hardship would be inflicted upon the requesting person or in which waiver would serve the public interest.

F. *Initial Determination.* (i) The FOIA Director of the Corporation, or his designee, shall determine within 10 days (excepting Saturdays, Sundays and legal public holidays) after the receipt by the FOIA Director of a written request for records or other information of the Corporation whether, or the extent to which, the Corporation will comply with such request.

(ii) Upon determination by the FOIA Director, or his designee, with respect to a request for records or other information of the Corporation, the FOIA Director shall immediately send written notification to the person making the request. If the request is denied, in whole or in part, said notification shall include the reasons therefore and shall advise such person that such determination is not a final agency action and of the right to appeal therefrom under paragraph G of this Section.

G. *Appeal Procedure.* (i) In the event of a denial of a request for records or other information pursuant to paragraph F of this Section, the person making the request may appeal from such denial to the Board of Directors of the Corporation by so notifying the FOIA Director at the address set forth in Section 4D of this Notice. Such an appeal shall be in writing and shall state the grounds for the appeal.

(ii) The Board of Directors of the Corporation has delegated to the Vice President—General Counsel the authority to grant (in whole or in part) any request for records or other information which was denied by the FOIA Director pusuant to paragraph F of this Section, and as to which an appeal to the Board of Directors has been filed pursuant to paragraph G(i) thereof. In the event that the Vice President-General Counsel decides to grant such a request, this decision shall be made within 10 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of the appeal to the Board of Directors. In the event that the Vice President-General Counsel does not grant such a request, the Board of Directors (or such Member thereof as it shall designate) shall make its determination with respect to the appeal within 20 days (excepting Saturdays, Sundays and legal public holidays) after receipt of such appeal under paragraph G(i) of this Section. If the Board of Directors upholds (in whole or in part) the denial of a request for records or other information, the FOIA Director shall promptly notify the person making the request. Such notice shall be in writing, and shall inform such person of the provisions for judicial review under 5 U.S.C. 552(a)(4).

H. *Appeal During Pendency of Action for Judicial Review.* If a suit is filed in a district court of the United States under 5 U.S.C. 552(a)(4) in any case in which an initial adverse determination, in whole or in part, has been issued, regardless of whether or not the suit is premature: (1) the Board of Directors of the Corporation or a designated Member thereof may continue to process any appeal therefrom under paragraph G of this Section, or (2) if the person making the request has not appealed under said paragraph G, the Board of Directors of the Corporation or a designated Member thereof may initiate and process an appeal from such determination.

I. *Time Extension in Unusual Circumstances.* In unusual circumstances as provided in this paragraph, the time limitations prescribed in paragraphs F or G of this Section may be extended for not more than ten additional working days by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination of the request or appeal is expected to be dispatched. As used herein, "unusual circumstances" means:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation with another agency having substantial interest in the determination of the request or the appeal, or among two or more components of the Corporation having substantial subject-matter interest therein.

J. *Time Limitations.* All time limitations established pursuant to this Section with respect to initial determinations and appeals therefrom shall begin as of the time that a written request for records or other information of the Corporation, or the appeal from such determination, is actually received by the FOIA Director.

5. INFORMATION NOT DISCLOSED

A. *General Rule.* Except as otherwise provided in this Section or as may be specifically authorized by the Corpora-

tion, records or other information of the Corporation that have not been published in accordance with this Notice and are not available to the public through other sources will not be made available to the public or otherwise disclosed if such records or other information are:

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(ii) Related solely to the internal personnel rules and practices of the Corporation;

(iii) Specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Inter-agency or intra-corporate memoranda or letters which would not be available by law to a party other than an agency in litigation with the Corporation;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (a) interfere with enforcement proceedings, (b) deprive a person of a right to a fair trial or an impartial adjudication, (c) constitute an unwarranted invasion of personal privacy, (d) disclose the identity of a confidential source, (e) disclose investigative techniques and procedures, or (f) endanger the life or physical safety of law enforcement personnel; or

(viii) Contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt from disclosure under this Section.

B. *Prohibition Against Disclosure.* Except as authorized by this Notice or otherwise by the Corporation, no officer, employee, or agent of the Corporation shall disclose or permit the disclosure of any unpublished information of the Corporation to anyone (other than an officer, employee, or agent of the Corporation properly entitled to such information for the performance of his official duties), whether by giving out or furnishing such information or a copy thereof or by allowing any person to inspect, examine, or copy such information or copy thereof, or otherwise. Notwithstanding the foregoing, unpublished economic, statistical or similar information may be disclosed, orally or in writing, by any officer, employee or agent of the Corporation, subject, however, to the restrictions stated in this section.

C. *Subpoenas.* (i) If any person, whether or not an officer, employee, or agent of the Corporation, has information of the Corporation that may not be disclosed under this Section, and in connection therewith is served with a subpoena, order or other process requiring his personal attendance as a witness or the production of documents or information in any proceeding, he shall promptly advise the Corporation of such service and of all relevant facts, including the documents and information requested and any facts which may be of assistance to the Corporation in determining whether such documents or information should be made available; and he shall take action at the appropriate time to advise the court or tribunal which issued the process and the attorney for the party at whose instance the process was issued, if known, of the substance of these rules.

(ii) Except as the Corporation has authorized disclosure of the relevant information, or except as authorized by law, any person who has information of the Corporation that may not be disclosed under this section and is required to respond to a subpoena or other legal process shall attend at the time and place therein mentioned and respectfully decline to produce such information or give any testimony with respect thereto, basing his refusal upon this Section. If, notwithstanding, the court or other body orders the disclosure of such information or the giving of such testimony, the person having such information of the Corporation shall continue respectfully to decline to produce such information and shall promptly report the facts to the Corporation for such action as the Corporation may deem appropriate.

(5 U.S.C. 552, as amended; 12 U.S.C. 1452 (b)(3)(1970))

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-2544 Filed 1-26-77;8:45 am]

FEDERAL MARITIME COMMISSION

NATIONAL HELLENIC AMERICAN LINE S.A.

Certificate of Financial Responsibility; Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-68 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons No voyages No. C-1,063.

Whereas, National Hellenic American Line S.A. (c/o Chandris Incorporated, 666 Fifth Avenue, New York, New York 10019) has ceased to operate the passenger vessel R.H.M.S. *Amerikanis;* and

Whereas, Certificate (Performance) No. P-68 and Certificate (Casualty) No. C-1,063 issued to National Hellenic American Line S.A. have been returned for revocation.

It is ordered, that Certificate (Performance No. P-68 and Certificate (Casualty) No. C-1,063 covering the R.H.M.S. *Amerikanis* be and are hereby revoked effective January 19, 1977.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission January 19, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-2717 Filed 1-26-77;8:45 am]

PACIFIC COAST EUROPEAN CONFERENCE, ET AL.

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, N.W., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 7, 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:

Raymond A. Velez, Chairman, Pacific Coast European Conference & Pacific Coast Europe Rate Agreement, 417 Montgomery Street, San Francisco, California 94104.

Agreement No. 10280, between the Associated North Atlantic Freight Conferences (ANAFC) on the one hand and the Pacific Coast European Conference and the Pacific Coast Europe Rate Agreement on the other hand evidence the understanding whereby ANAFC will provide self-policing, enforcement, cargo inspection and revenue collection services for the two bodies.

By Order of the Federal Maritime Commission

Dated: January 24, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-2718 Filed 1-26-77;8:45 am]

FEDERAL POWER COMMISSION

PANHANDLE EASTERN PIPE LINE CO.

[Docket No. CP77-112]

Notice of Application

JANUARY 13, 1977.

Take notice that on December 30, 1976, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Kansas City, Missouri 64141, filed in Docket No. CP77-112 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compressor facilities to be located at various points on the Applicant's existing Anadarko Gathering and Rocky Mountain systems in the states of Colorado, Oklahoma, Texas and Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities at the listed locations:

Pipeline facilities

Section	Township or block	Range or survey	County and State	Length (miles), diameter (inches)
10, 13, 16	Block 3	A.B. & M.	Carson, Tex.	2.1-12
79, 97	Block 5	I. & G.N.	do	1.6-8
77	do	I. & G.N.	do	.4-8
81	do	I. & G.N.	do	.5-8
11, 12	Block 3	A.B. & M.	do	1.1-8
		Horace Hall	Moore, Tex.	.6-6
22	Block 1	J. Poitevent	do	.4-8
15, 16	Block 44	H. & T.C.	do	.7-8
29, 30	27S	35W	Grant, Kans.	1.5-8
16	27S	35W	do	.5-6
14, 15	29S	36W	do	.9-8
16, 22	32S	39W	Stevens, Kans.	1.1-6
12, 13	33S	38W	do	.9-6
1	35S	39W	do	1.0-6
3	35S	39W	do	1.4-8
				Diameter (inches) miles
26, 35	31S	38W	do	1.8-6
3	32S	38W	do	.8-8
2	35S	38W	do	.4-8
25, 36	6N	12E	Texas, Okla.	1.4-8
30, 31	6N	13E	Texas, Okla.	.9-8

Compressor facilities

Station name	Section	Township	Range	County and State	Proposed horsepower
McAtee	23	34S	39W	Stevens, Kans.	2,000
Ward	16	33S	39W	Morton, Kans.	2,000
Ulysses	24	29S	36W	Grant, Kans.	(1)
Adams	22	3N	18E	Texas, Okla.	(1)
Vollmar	14	2N	67W	Weld, Colo.	1,500

[1] Recylandering.

Applicant states that the compressor units proposed would be installed immediately adjacent to existing similar units or related pipeline facilities and that all miscellaneous pipeline facilities would run, essentially, parallel to and would be constructed within existing pipeline rights-of-way. Applicant estimates the cost of the proposed facilities to be $7,740,000. The cost would be financed from funds available to the Company.

Applicant states that the production and gathering of oil and gas in most of the areas in which the proposed facilities would be installed has been carried out for more than forty years. The pressure of these older gas reservoirs, it is indicated, has declined with a resultant loss in deliverability. Furthermore, new gas supplies have been insufficient to offset deliverability losses from the older fields. The proposed facilities would assist Applicant to remedy this problem, it is stated, by lowering system line pressures to permit production at lower reservoir pressures. Applicant anticipates tha the construction and improvements proposed would allow older reservoirs on the Applicant's system to produce substantial volumes of gas and would assist Applicant in meeting its mainline requirements east of its Haven, Kansas, Compressor Station.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUM,
Secretary.

[FR Doc.77-2453 Filed 1-26-77;8:45 am].

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 2]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending January 8, 1977

ACTIONS OF THE BOARD

Annual report to Congress on Truth in Lending for the year 1976.

Regulation L, interlocking relationships, the Board announced easing of its rules to permit interlocking relationships, under specified conditions, between a member bank and a minority for a women's bank (Docket No. R0059).

Request for a determination of the applicability of section 212.3(g) of the Board's Regulation L, to the appointment of Mr. W. Hunter Platt, Vice President, Citibank, N.A., New York, New York, to serve as a director of Freedom National Bank of New York, New York, New York.

Reorganization of the Division of Consumer Affairs, effective immediately, creating two Associate Director positions; the new positions will be filled by Mr. Nathaniel E. Butler and Mr. Jerauld C. Kluckman.

Regulation F, revision, which governs disclosures to shareholders by State member banks with more than 500 shareholders; the revision affects a guideline form, and accompanying instructions, that set forth the form and content of financial statements these banks must file with the Board of Governors.

Regulations B, Z and AA, Rules Regarding Delegation of Authority amendments, part 202 Equal Credit Opportunity; part 226-Truth in Lending; part 227Unfair or Deceptive Acts or Practices; part 265Rules Regarding Delegation of Authority; the amendments delegate authority to issue certain examination, inspection and reporting materials to the Board's Division of Banking Supervision and Regulation and Division of Consumer Affairs (Docket No. R0076).

Peninsula Financial, Inc., Sturgeon Bay, Wisconsin, extension of time to March 31, 1977, within which to acquire 98.20 percent of the First State Bank of Algoma, Algoma, Wisconsin.[1]

Ann Arbor Bank and Trust Company, Ann Arbor, Michigan, extension of time to February 10, 1977, within which to establish a branch at the corner of Main Street and Eisenhower Boulevard, Ann Arbor, Michigan.[1]

City Bank & Trust Company, Moberly, Missouri, to make an additional investment in bank premises.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Glenwood State Bank, Glenwood, Iowa. Branch to be established in the Glenwood Shopping Center, Glenwood.[2]

* * * * *

To Withdraw from Membership in the Federal Reserve System Without a Six-Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

DENIED

The Oberlin Savings Bank Company, Oberlin, Ohio.[2]

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Marion National Corporation, Marion, Indiana, for approval to acquire 28.29 per cent or more of the voting shares of Marion National Bank of Marion, Marion, Indiana.

Reed Street Company, Inc., Red Oak, Iowa, for approval to acquire an additional 66.8 per cent of the voting shares of The Montgomery County National Bank of Red Oak, Red Oak, Iowa.[2]

Midwest Bancshares, Inc., Midwest City, Oklahoma, for approval to acquire 80 per cent or more of the voting shares of Security Bank & Trust Company, Midwest City, Oklahoma.[2]

DENIED

Lake View Bancorp, Inc., Northbrook, Illinois, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Lake View Trust and Savings Bank, Chicago, Illinois.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Independent Bank Corporation, Ionia, Michigan, for approval to acquire 100 per cent of the voting shares of the successor by consolidation to Western State Bank, Howard City, Michigan.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(5) of the Bank Holding Company Act of 1956.

APPROVED

Trust Company of Georgia, Atlanta, Georgia, for approval to merge with Central Bankshares Corporation, Jonesboro, Georgia.

* * * * *

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Mid America Bancorporation, Inc., Minneapolis, Minnesota, notification of intent to engage in de novo activities (the placement and servicing of real estate mortgages of all kinds including but not limited to mortgages on industrial, commercial, apartments, and homes) at 815 Foshay Tower, Minneapolis, Minnesota, through a division of the Corporation known as Mid America Mortgage Company (1/7/77).[3]

DELAYED

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (consumer finance and insurance agency for any insurance directly related to an extension of credit or provision of other financial services or otherwise sold as a matter of convenience to the purchaser) at 715 W. Oglethorpe Boulevard, Albany, Georgia, through a subsidiary, Southern Discount Company, a subsidiary of Industrial National Corporation (1/5/77).[3]

REACTIVATED

Shawmut Corporation, Boston, Massachusetts, notification of intent to engage in de novo activities (agricultural commodity financing, and servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account of for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (1/5/77).[3]

Citicorp, New York, New York, notification of intent to engage in de novo activities (purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if the proposal is effected, the subsidiary will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or cosigners in the case of life coverage in the event of death, or, to make the contractual monthly payment on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; and individual casualty insurance on personal property subject to security agreements; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 3000 Lynch Extension, Jackson, Mississippi, through its subsidiary, Nationwide Financial Corporation (12/28/76).[3]

PERMITTED

Bank of Virginia Company, Richmond, Virginia, notification of intent to engage in de novo activities (making loans or extensions of credit such as would be made by a finance company; and acting as agent for credit life/accident and health insurance and other insurance written to protect collateral during the period of credit extension) at 10750 Lee Highway, Fairfax Mall Shopping Center, Store #26, Fairfax, Virginia, through a subsidiary, The Budget Plan Company of Virginia (a wholly-owned subsidiary of General Finance Service Corporation) (1/2/77).[3]

Bank of Virginia Company, Richmond, Virginia, notification of intent to engage in de novo activities (leasing of real property or acting as agent, broker, or adviser in leasing such property provided the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property, the property to be leased to be acquired specifically for the leasing transaction or having been acquired specifically for an earlier leasing transaction) at 11011 West Broad Street Road, Richmond, Virginia, through its subsidiary, BVA Credit Corporation (1/8/77).[3]

Banks of Iowa, Inc., Cedar Rapids, Iowa, notification of intent to engage in de novo activities (bookkeeping or data processing services for the internal operations of its subsidiaries and other banking institutions and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or payable, or billing services for other businesses) at 1014 Nebraska Street, Sioux City, Iowa, through its subsidiary, Banks of Iowa Computer Services, Inc. (1/6/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (the financing of personal property and equipment and real property and the leasing of such property or the acting as agent, broker, or adviser in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction (and, with respect to Governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and the servicing of such financings and/or leases) at Suite 910, 7777 Bonhomme, Clayton, Missouri, through its subsidiary, Security Pacific Leasing Corporation (1/7/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties for its own account or for the sale to others and the servicing of such loans for others) from 319 West 5th Avenue to 1011 East Tudor Road, Anchorage, Alaska, through its subsidiary, Security Pacific Mortgage Corporation (1/6/77).[3]

APPROVED

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire direct acquisition of ownership and control of the leasing activities of Central Bankshares Corporation, Jonesboro, Georgia.

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire acquisition of 100 per cent of the voting shares of Central Bankshares Equity Corporation, Jonesboro, Georgia.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Applications Received

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Piedmont Trust Bank, Martinsville, Virginia. Branch to be established at 200 East Church Street, Martinsville.

Tracy Collins Bank and Trust, Salt Lake City, Utah. Branch to be established at 1090 North 500 East, North Salt Lake, Davis County.

* * * * *

To Withdraw from Membership in the Federal Reserve System Without a Six Month Notice as Prescribed by Section 9 of the Federal Reserve Act.

The Oberlin Savings Bank Company, Oberlin, Ohio.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

Bancorporation of Wisconsin, Inc., West Allis, Wisconsin, for approval to acquire 80 per cent or more of the voting shares of West Allis State Bank, West Allis, Wisconsin and Southwest Bank, New Berlin, Wisconsin.

Spencer Financial Corporation, Spencer, Iowa, for approval to acquire 66.44 per cent or more of the voting shares of Spencer National Bank, Spencer, Iowa.

NBC Corp., Jackson, Tennessee, for approval to acquire 108,000 shares of the voting shares of The National Bank of Commerce of Jackson, Jackson, Tennessee and to acquire 723,047 shares of the voting shares of The First National Bank of Gibson County, Humboldt, Tennessee.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

Ellis Banking Corporation, Bradenton, Florida, for approval to acquire 50.1 per cent or more of the voting shares of Citizens Bank of Bunnell, Bunnell, Florida.

The Royal Trust Company, Montreal, Quebec, Canada, for approval to acquire 80 per cent or more of the voting shares of Baymeadows Bank, Jacksonville, Florida.

Spencer National Bank Trust, Spencer, Iowa, for approval to acquire 75.94 per cent of the voting shares of Spencer Financial Corporation, Spencer, Iowa and indirectly to acquire 66.44 per cent or more of the voting shares of Spencer National Bank, Spencer, Iowa.

First City Bancorporation of Texas, Inc., Houston, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of East Dallas Bank, Dallas, Texas.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

CBT Corporation, Hartford, Connecticut, notification of intent to engage in de novo activities (the financing of accounts receivable, inventories and imports for business customers) at Room No. 20, Gateway Suites, Suite 640, 1801 Avenue of the Stars, Los Angeles, California, through a subsidiary, Lazere Financial Corporation, a wholly-owned subsidiary of CBT Financial Corporation which is in turn a wholly-owned subsidiary of CBT Corporation (1/3/77).[3]

CBT Corporation, Hartford, Connecticut, notification of intent to engage in de novo activities (purchasing on a recourse basis residential, second mortgage loans) at One Constitution Plaza, Hartford, Connecticut, through a subsidiary, Nutmeg Commercial Corporation, a wholly-owned subsidiary of CBT Financial Corporation, which is in turn a wholly-owned subsidiary of CBT Corporation (1/3/77).[3]

First National Boston Corporation, Boston, Massachusetts, notification of intent to engage in de novo activities (making, acquiring, and servicing for its own account, loans and other extensions of credit including loans to individuals for property improvement, debt consolidation and other purposes; and offering credit life and credit accident and health insurance coverage to its borrowers through a master health insurance policy) at 4900 Veterans Boulevard, Metairie, Louisiana, through a subsidiary of FSC Corp., Boston, Massachusetts, which is a wholly-owned subsidiary of First National Boston Corporation to be known as First Louisiana Acceptance Corporation (1/3/77).[3]

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provision of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding and fire and theft insurance to protect household goods held as collateral during the periods of credit extensions) at 1505 Market Street, Camp Hill, Cumberland County, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary Sentry Consumer Discount Company (1/7/77).[3]

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding and fire and theft insurance to protect household goods held as collateral during the periods of credit extensions) at 616 Baltimore Pike, Springfield, Delaware County, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (1/5/77).[3]

* * * * *

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

H. F. Ahmanson & Company, Los Angeles, California, divestiture of Ahmanson Bank & Trust Co., Beverly Hills, California.

GATX Corporation, Chicago, Illinois, divestiture of 100,000 shares of LaSalle National Bank, Chicago, Illinois.

The Signal Companies, Inc., Beverly Hills, California, divestiture of Signal Equities, formerly Arizona Bancorporation, Phoenix, Arizona.

The Wachovia Corporation, Winston-Salem, North Carolina, divestiture of Wachovia Insurance Agency, Inc., Winston-Salem, North Carolina.

The Wachovia Corporation, Winston-Salem, North Carolina, divestiture of North Carolina Title Company, Winston-Salem, North Carolina.

First Missouri Banks, Inc., Creve Coeur, Missouri, divestiture of certain real property in Ellisville, Missouri.

Republic of Texas Corporation, Dallas, Texas to divest: (a) All of the Howard Corporation's interests in its oil and gas properties and related real estate interests; (b) The common stock of Round Rock Lime Company; (c) Three shopping centers located in Dallas and Midland, Texas and Shreveport, Louisiana, and (d) Approximately 6 acres of real estate in Dallas, Texas.

Republic of Texas Corporation, Dallas, Texas, divestiture of Highland Park Shopping Center and other real property, all in Dallas, Texas.

Transohio Financial Corporation, Cleveland, Ohio, divestiture of Port Clinton National Bank, Port Clinton, Ohio.

World Airways, Inc., Oakland, California and its wholly-owned subsidiary, Worldamerica Investors Corp., divestiture of shares of Western Bank and Trust Company, Los Angeles, California.

Southern National Corporation, Lumberton, North Carolina, through its wholly-owned subsidiary, Southern National Insurance Services, Inc.: (a) Divestiture of general insurance agency business located in Lumberton, North Carolina on December 31, 1976, (b) proposed divestiture of general insurance agency business located in Rockingham, North Carolina, and (c) proposed divestiture of general insurance agency business located in Henderson, North Carolina.

G.S. Bancshares, Inc., Goodland, Kansas (formerly Western Agency, Inc.), divestiture of its shares of Western Insurance Agency, Goodland, Kansas.

University Bancorp, Inc., Kansas City, Missouri (formerly Orwig and Company, Inc.), divestiture of real property located in Topeka, Kansas by Ward Parkway Building Company ("Ward Parkway").

Earl R. Waddell & Sons, Inc., Fort Worth, Texas, proposed divestiture of 58,714 shares (approximately 39 per cent of outstanding shares) of City National Bank, Fort Worth, Texas.

Shelter Resources Corporation, Lyndhurst, Ohio ("Applicant") divestiture by its subsidiary, Capital Bancorporation, of shares of Capital National Bank, Lyndhurst, Ohio.

Educators Investment Company of Kansas, Inc., Emporia, Kansas, divestiture of Flint Hills Manor, Inc., Emporia, Kansas.

Midwestern Fidelity Corporation, Milford, Ohio, divestiture of The Miami Deposit Bank, Yellow Springs, Ohio.

Pan American Bancshares, Inc., Miami, Florida, divestiture of Commercial Aseguradora Suize Americano, S.A., Guatemala City, Guatemala.

First Oklahoma Bancorporation, Inc., Oklahoma City, Oklahoma, divestiture of 30 various nonbanking companies, assets and activities.

First National Bank, Stewartville, Minnesota, proposed divestiture of its insurance agency.

MEI Corporation, Minneapolis, Minnesota, divestiture of Olmstead County Bank and Trust Company, Rochester, Minnesota and the First National Bank, Sioux City, Iowa.

Tracy Bancorp., Salt Lake City, Utah, proposed divestitures of Tracy Realty Company, Salt Lake City, Utah and Tracy-Osborne-Dickson & Associates, Inc.

Westland Banks, Inc., Lakewood, Colorado, divestiture of its travel agency business.

First International Bancshares, Inc., Dallas, Texas: (a) Divestiture by its subsidiary, First National Bank in Dallas, of 264,143 shares of Guaranty Bank, Dallas, Texas, and a $150,000 debenture of Guaranty Bank; and (b) Divestiture by its subsidiary, First National Securities Company, Dallas, Texas of: 19,200 shares of White Rock National Bank, Dallas, Texas; 4,458 shares of DeSoto

State Bank, Dallas, Texas; 9,960 shares of North Park National Bank of Dallas, Dallas, Texas; 21,464 shares of North Dallas Bank & Trust Co., Dallas, Texas; 6,130 shares of East Dallas Bank & Trust Company, Dallas, Texas; 14,058 shares of Citizens State Bank, Irving, Texas; 22,080 shares of 1st National Bank of Richardson, Richardson, Texas.

Union Financial Corporation, Denver, Colorado, divestiture of substantially all of its oil and gas properties.

Crocker National Corporation, San Francisco, California, proposed divestiture of Crocker McAlister Equipment Leasing Inc. and Crocker McAlister Leasing Inc.

American Affiliates, Inc., South Bend, Indiana, divestiture of American Home Industries, Inc., and Maron Products, Inc., both of South Bend, Indiana.

Helmerich & Payne, Inc., Tulsa, Oklahoma, divestiture of shares of Utica Bankshares Corporation, Tulsa, Oklahoma.

Beverly Agency, Inc., Chicago, Illinois, divestiture of shares of Mt. Greenwood Bank, Chicago, Illinois.

* * * * *

REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The State Bank of North Jersey, Pine Brook, New Jersey.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, January 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2638 Filed 1-26-77;8:45 am]

BUFFALO BANK CORP.

Formation of Bank Holding Company

Buffalo Bank Corporation, Buffalo, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Wyoming Bank and Trust Company, Buffalo, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 22, 1977.

Board of Governors of the Federal Reserve System, January 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2635 Filed 1-26-77;8:45 am]

NATIONAL DAVID CITY CORP.

Formation of Bank Holding Company

National David City Corporation, David City, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of David City, David City, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 17, 1977.

Board of Governors of the Federal Reserve System, January 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2637 Filed 1-26-77;8:45 am]

NBC CORP.

Formation of Bank Holding Company

NBC Corp., Jackson, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of National Bank of Commerce, Jackson, Tennessee, and of 83 per cent or more of the voting shares of First National Bank of Gibson County, Humboldt, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 18, 1977.

Board of Governors of the Federal Reserve System, January 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2636 Filed 1-26-77;8:45 am]

REDWOOD BANCORP

Order Amending Prior Board Orders With Regard to Divestiture of Real Estate

By Order dated July 24, 1973, the Board approved the application of Redwood Bancorp, San Francisco, California ("Redwood"), a bank holding company within the meaning of the Bank Holding Company Act (12 U.S.C. 1841), to acquire the assets of Montgomery Street Mortgage Corporation ("MSMC") and shares of West Coast Insurance Agency, Inc., both of San Francisco, California (38 FR 20951). In acquiring the assets of MSMC, Redwood indirectly acquired a parcel of unimproved real estate held by MSMC for development. Redwood committed itself to divesting that property promptly but in no event later than July 24, 1975. The Board's Order approving the acquisition was made subject to the condition that such divestiture be carried out. The period for divestiture was extended to October 24, 1976, by the Federal Reserve Bank of San Francisco. Redwood has requested that the divestiture period be extended to February 24, 1977.

Redwood has indicated that active efforts to sell the property are continuing. In fact, the property has been sold to a developer, subject to approval of the development plan by municipal authorities. It appears, in light of Redwood's efforts to sell the property, that an extension of the period for divestiture would not be detrimetnal to the public interest.

After examining the facts of record, the Board has concluded that Redwood's request should be granted. Accordingly, the Board's Order of July 24, 1973, is hereby amended to authorize retention of the property subject to the condition that Redwood promptly divest such real property, but in no event later than February 24, 1977.

In addition, the Board has noted that as a result of Redwood's acquisition of National Mortgage Company, Salt Lake City, Utah ("NMC"), approved by the Board on January 18, 1973 (38 FR 3014), Redwood holds indirectly four parcels of real property. At the time that Redwood's acquisition of NMC was approved, the Board was not aware of the ownership of such real property by NMC. The ownership of land for development or investment is not a permissible activity under the Act.

After examining the facts of record, the Board has concluded that Redwood should divest the properties that it holds indirectly through NMC. Accordingly, the Board's Order of January 18, 1973, is hereby amended so that Redwood must promptly divest itself of such properties, but in no event later than June 30, 1977.

By order of the Board of Governors,[1] effective January 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2634 Filed 1-26-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 72 3197]

GRAND SPAULDING DODGE, INC.

Consent Agreement With Analysis To Aid Public Comment

Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34, of the Commission's Rules of Practice (16 CFR 2.34, 40 F.R. 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission,

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before March 28, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975). Comments should be directed to:

Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

GRAND SPAULDING DODGE, INC.
A CORPORATION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Grand Spaulding Dodge, Inc., a corporation, sometimes hereinafter referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Grand Spalding Dodge, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Grand Spaulding Dodge, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 3300 W. Grand Ave., Chicago, Illinois.

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

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

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

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

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released, and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty (60) day period, comments or views submitted to the Commission disclose facts or consideration which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

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

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

ORDER

It is ordered, that respondent Grand Spaulding Dodge, Inc., a corporation, its successors and assigns and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, and distribution of new and used automobiles in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist, in connection with credit sales in which the sales presentation has been conducted in whole or in part in Spanish, from:

1. Failing to furnish consumers with complete and accurate translations in Spanish of any documents, notices or disclosures normally provided to consumers in connection with respondent's credit sales at the time of the transaction.

2. Failing to furnish to consumers executing any contracts, agreements or other documents in connection with such credit sales, a complete and accurate translation in Spanish of each such writing, prior to the execution of the same.

Provided however, That nothing in this order shall be understood to apply to sales receipts or other documents which serve merely as a memorandum of sales and do not, in themselves, contain covenants, disclaimers or other provisions defining the rights and responsibilities of the parties.

Further provided, That respondent must comply with subparagraphs 1 and 2 of this order by providing consumers either with:

a. bilingual documents containing all the provisions and disclosures in both English and Spanish, or

b. separate documents containing complete and accurate translations in Spanish of each English language document, and which shall contain in a clear and conspicuous manner in the Spanish language, the following heading in bold-face 10 point type:

READ THIS FIRST

THIS IS A TRANSLATION OF THE DOCUMENT OR DOCUMENTS YOU HAVE RECEIVED OR ARE ABOUT TO SIGN.

It is further ordered, That respondent shall display, in at least two different locations on its premises, one of them being the location where consumers usually execute consumer credit instruments or other legally binding documents, the following notice in Spanish:

NOTICE TO SPANISH-SPEAKING CUSTOMERS

IF YOU ARE A SPANISH-SPEAKING CONSUMER AND THE SALE PRESENTATION WAS MADE, IN WHOLE OR IN PART IN SPANISH, YOU ARE ENTITLED TO RECEIVE A SPANISH TRANSLATION OF THE CREDIT CONTRACT AND OF THE OTHER DOCUMENTS RELATED TO THE FINANCING OF YOUR PURCHASE BEFORE YOU SIGN ANYTHING. DO NOT SIGN ANY DOCUMENTS UNTIL YOU HAVE RECEIVED AND READ THE SPANISH TRANSLATIONS.

It is further ordered with respect to each account in which translations in Spanish are provided, as required herein, that respondent shall maintain in its files, for a period of two years, statements signed by respondent's consumers acknowledging receipt of such translations.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all operating divisions and to all present and future personnel of respondent engaged in making sales presentations and in the consummation of any consumer credit transactions.

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

It is further ordered, That no provision of this order shall be construed in any way to annual, invalidate, repeal, terminate, modify or exempt respondent from complying with agreements, orders

or directives of any kind obtained by any other agency, or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondent complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

DECISION AND ORDER

In the Matter of Grand Spaulding Dodge, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Grand Spaulding Dodge, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 3300 West Grand Ave., Chicago, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Grand Spaulding Dodge, Inc., a corporation, its successors and assigns and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, and distribution of new and used automobiles in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist, in connection with credit sales in which the sales presentation has been conducted in whole or in part in Spanish, from:

1. Failing to furnish consumers with complete and accurate translations in Spanish of any documents, notices or disclosures normally provided to consumers in connection with respondent's credit sales at the time of the transaction.

2. Failing to furnish to consumers executing any contracts, agreements or other documents in connection with such credit sales, a complete and accurate translation in Spanish of each such writing, prior to the execution of the same.

Provided however, That nothing in this order shall be understood to apply to sales receipts or other documents which serve merely as a memorandum of sales and do not, in themselves, contain covenants, disclaimers or other provisions defining the rights and responsibilities of the parties.

Further provided, That respondent must comply with subparagraphs 1 and 2 of this order by providing consumers either with:

a. bilingual documents containing all the provisions and disclosures in both English and Spanish, or

b. separate documents containing complete and accurate translations in Spanish of each English language document, and which shall contain in a clear and conspicuous manner in the Spanish language, the following heading in bold face 10 point type:

READ THIS FIRST

THIS IS A TRANSLATION OF THE DOCUMENT OR DOCUMENTS YOU HAVE RECEIVED OR ARE ABOUT TO SIGN.

It is further ordered, That respondent shall display, in at least two different locations on its premises, one of them being the location where consumers usually execute consumer credit instruments or other legally binding documents, the following notice in Spanish:

NOTICE TO SPANISH SPEAKING CUSTOMERS

IF YOU ARE A SPANISH-SPEAKING CONSUMER AND THE SALES PRESENTATION WAS MADE, IN WHOLE OR IN PART IN SPANISH, YOU ARE ENTITLED TO RECEIVE A SPANISH TRANSLATION OF THE CREDIT CONTRACT AND OF THE OTHER DOCUMENTS RELATED TO THE FINANCING OF YOUR PURCHASE BEFORE YOU SIGN ANYTHING. DO NOT SIGN ANY DOCUMENTS UNTIL YOU HAVE RECEIVED AND READ THE SPANISH TRANSLATIONS.

It is further ordered with respect to each account in which translations in Spanish are provided, as required herein, that respondent shall maintain in its files, for a period of two years, statements signed by respondent's consumers acknowledging receipt of such translations.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all operating divisions and to all present and future personnel of respondent engaged in making sales presentations and in the consummation of any consumer credit transactions.

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

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondent from complying with agreements, orders or directives of any kind obtained by any other agency, or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondent complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Grand Spaulding Dodge, Inc., a corporation.

The proposed consent order has been placed on the public record for sixty (60) days of reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Grand Spaulding Dodge, Inc. is an Illinois corporation engaged in the advertising, sale and distribution of new and used automobiles to the general public. Over forty percent of Grand Spaulding Dodge, Inc. customers are Spanish speaking customers.

The complaint alleges that in the advertising and sale of new and used automobiles, Grand Spaulding Dodge, Inc. engaged in false, misleading and deceptive sales presentations to Spanish speaking consumers, many of whom have been induced to deal with respondent as a result of respondent's advertisements and sales presentations made in whole or part in the Spanish language.

Spanish speaking consumers do not have the opportunity to receive full and adequate disclosure in Spanish of the terms and conditions of any agreements they have entered into with respondent.

These terms and conditions include customer's rights and obligations under sales agreement, and other written instruments normally provided to consumers at the time of the transaction.

The consent order prohibits Grand Spaulding Dodge, Inc. from failing to make adequate disclosures in Spanish to all Spanish speaking customers of the terms and conditions of the transaction as alleged in the complaint. In addition the order prohibits respondent from failing to provide customers who only speak, write and understand Spanish with bilingual documents containing all the provisions and disclosures of the transaction in both the English and Spanish languages.

Respondent must provide said customers with separate documents containing complete and accurate translations in Spanish of each English language documents in a clear and conspicous manner. A headline sign to notify consumers of this requirement is provided for in this provision of the order.

The order further requires the posting of a notice, in at least two locations, where sales agreement are negotiated, advising Spanish speaking customers that if the sales presentation was made to them in Spanish they are entitled to receive a Spanish translation of all documents that they are about to sign, and all documents relating to the financing of their purchase, prior to signing and documents.

The purpose of this analysis is to facilitate public comment of the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-2608 Filed 1-26-77;8:45 am]

NATIONAL SERVICE INDUSTRIES, INC., TRADING AS CERTIFIED LEASING COMPANY

[File No. 742 3225]

Consent Agreement With Analysis To Aid Public Comment

Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34, 40 FR 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before March 28, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975). Comments should be directed to:

Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenut, NW., Washington, D.C. 20580.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from National Service Industries, Inc., doing business as Certified Leasing Company.

The proposed consent order and complaint described in this analysis have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that customers who are determined by proposed respondent to be eligible for the return of their security deposits and who do not, within ninety (90) days of the termination of the lease agreement, furnish a forwarding address to which their deposits are to be sent forfeit the deposits to the company. It also alleges that proposed respondent fails to make any effort to return to customers security deposits in instances where customers have not specifically furnished proposed respondent with their forwarding addresses.

The terms of the proposed order as presented in the provisionally accepted consent agreement require proposed respondent to cease and desist from:

(1) Failing to follow certain procedures, detailed in the order, which are aimed at maximizing the number of instances in which the company, by taking certain affirmative steps, will obtain forwarding addresses for the return of deposits to eligible customers.

(2) Failing to refund all security deposits due lessees whose lease terminated or expired within three months from the effective date of the consent order, by following certain procedures in an attempt to obtain forwarding addresses.

(3) Failing to maintain for a period of three years from the date the lease was terminated or expired adequate records concerning the disposition of each lessee's security deposit; and

(4) Failing to honor any lessee's request for the return of his security deposit up to three years from the date the lease was terminated or expired.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

[File No. 742 3225]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the Matter of National Service Industries, Inc., a corporation, doing business as Certified Leasing Company.

The Federal Trade Commission having initiated an investigation of certain acts and practices of National Service Industries, Inc., a corporation, doing business as Certified Leasing Company, and it now appearing that National Service Industries, Inc., a corporation, doing business as Certified Leasing Company, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between National Service Industries, Inc., doing business as Certified Leasing Company, and its attorney, and counsel for the Federal Trade Commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the facts as alleged in the draft complaint here attached are true or that any law has been violated.

2. Proposed respondent National Service Industries, Inc., doing business as Certified Leasing Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 1180 Peachtree Street, N.E., Atlanta, Georgia 30309.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

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

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

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. The Commission may at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently

withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the respondent, (1) issue its Complaint corresponding in form and substance with the draft of Complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

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

8. It is agreed that the relief for consumers set forth in the order contained herein fully satifies any claim for consumer redress which the Commission has under sections 5(b) and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the complaint, prior to the effective date of this order. By its final acceptance of this agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to commence a civil action under section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's complaint, prior to the effective date of this order.

ORDER

It is ordered, That respondent National Service Industries, Inc., a corporation, doing business as Certified Leasing Company, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the leasing to consumers of furniture, related accessories, or any other personal property, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Failing to request, both orally and in writing, at the time the lease agreement is signed with two or more legally unrelated persons, which person will be designated by the joint lessees to be the recipient of the lessees' returnable security deposit in the event that respondent is obligated to return the full security deposit or any portion thereof to such customers.

2. Failing to incorporate on the face of the lease agreement, in bold print, the following notice which shall be given to the lessee at the time the lease agreement is signed.

NOTICE: YOU MAY BE ENTITLED TO A REFUND OF ALL OR A PORTION OF YOUR SECURITY DEPOSIT AT THE TERMINATION OF THIS LEASE AGREEMENT. RETAIN THIS REMINDER SO THAT YOU MAY SEND US A FORWARDING ADDRESS WHERE YOU CAN BE REACHED SO THAT WE CAN PROMPTLY FORWARD ANY BALANCE OF THE SECURITY DEPOSIT DUE YOU.

3. Failing to request from the lessee, both orally and in writing, at the time the lease agreement is signed, a tentative forwarding address where the security deposit, or any portion thereof which may be returnable to the lessee, can be mailed if no updated forwarding address is received prior to or at the termination of the lease agreement.

4. Failing, when notice of termination of the lease agreement is received telephonically, to request from the lessee at that time a forwarding address.

5. Failing to send written notice by first class mail prior to the expiration of the term of the lease agreement to the lessee's last known address requesting a forwarding address within five business days after receiving notification of the lessee's intent to terminate the lease agreement, if such forwarding address has not been received.

6. Failing to send by first class mail, with the envelope captioned "PLEASE FORWARD," the security deposit, or any portion thereof which may be returnable to the lessee, including an itemized accounting of respondent's charges against the lessee's security deposit, within thirty (30) days from the termination of the lease agreement, to the lessee's updated forwarding address or to the tentative forwarding address obtained at the time the lease agreement was signed if no updated address has been received, or in the absence of the above, to the lessee's last known address; and failing in all other situations to provide within 30 days, by first class mail, such itemized accounting upon the oral or written request of the lessee.

It is further ordered:

A. That respondent attempt to refund all security deposits or portions thereof due lessees whose lease terminated or expired within three months from the effective date of this order. In attempting to refund all returnable deposited money, respondent shall perform the following steps:

1. Determine whether the lessee's file contains an address to which a returnable deposit is to be forwarded. If so, respondent shall forward a check in that amount to the lessee or his designee at the address given.

2. If no forwarding address is given, respondent shall send a notice by first class mail, with the envelope captioned "PLEASE FORWARD," to the lessee's last known address informing such lessee that a refund is due him, and that he should immediately contact the respondent at the address or telephone number given, requesting an address correction.

3. If the letter is returned by the post office as undeliverable, respondent shall:

(a) Determine from information set forth in the lessee's credit application filed by the lessee incident to the consummation of the lease agreement the name and address of the lessee's parents, employer and a listed personal reference of the lessee.

(b) Forward the notice in the form set forth below, entitled "We need your help", to either the parents, employer, or one listed personal reference of the lessee, if such names and addresses are available in the lessee's file.

WE NEED YOUR HELP

The individual listed below recently rented furniture from Certified Leasing Company and placed a security deposit with us. The individual is entitled to a refund of all or a portion of such deposit, which refund will be sent as soon as we can determine a current address.

If you know the individual's current address and/or telephone number, please complete the following form and return it to us. The postage is prepaid.

Thank you for your help.

CERTIFIED LEASING COMPANY

Lessee

Street Apt.

City State Zip Code

( )

Area Code Telephone Number

B. That respondent shall not use the notices described in paragraphs 2. and A. 3.(b) of the order to collect or attempt to collect delinquent accounts.

C. That respondent maintain, for a period of three years from the date the lease was terminated or expired, adequate records including a complete summary of each lessee's file which (1) substantiate that respondent is following the procedures specified in the order, and (2) readily disclose the disposition of the lessee's security deposit and the reasons therefor, including a notation of the specific amount of money due the lessee from his security deposit; any request by such person within three years from the date the lease was terminated or expired for the return of the deposit due shall be honored by mailing the balance of said deposit within thirty (30) days from the date of receipt of such request.

D. That respondent deliver a copy of this order to all present and future administrative and sales employees engaged in any aspect of communicating

with customers with respect to the leasing to consumers of furniture or other personal property, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

E. That respondent notify the Commission within thirty (30) days prior to any proposed change in the corporate respondent or its division such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or other change in the corporation or its division which may affect compliance obligations arising out of the order.

F. That respondent herein shall within sixty (60) days after service upon it of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-2609 Filed 1-26-77;8:45 am]

TRADE REGULATION RULEMAKING PROCEEDINGS UNDER THE MAGNUSON-MOSS WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENTS ACT

Placement of Presiding Officer and Staff Reports on Public Record

In Re: Placement of Presiding Officer and Staff Reports on the Public Record and Authorization of Federal Register Notice of Publication for 60-day Comment Period.

The Director of the Bureau of Consumer Protection is authorized to place on the public record and to arrange for Federal Register notice of public availability of presiding officer reports completed under Rule 1.13(f) and staff reports completed under 1.13(g) in Magnuson-Moss trade regulation rulemaking proceedings. The presiding officer's report should state that it has not been reviewed or adopted by the Bureau of Consumer Protection or by the Commission, and the staff report should state that it has not been reviewed or adopted by the Commission. Both reports should explain that the Commission's final determination in the matter will be made upon the record taken as a whole, including the presiding officer's report, the report and recommendations prepared by the staff under Section 1.13(g) of the Rules, and comments upon these reports received during the 60-day period after the staff report is placed on the public record.

By direction of the Commission.

Dated: January 26, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-2483 Filed 1-26-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temp. Reg. E-47, Supplement 1]

TELEPROCESSING SERVICES PROGRAM

Extension of Expiration Date

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-47 (41 FR 34634, August 16, 1976).

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires September 30, 1977, unless sooner superseded or revised.

4. *Revised date.* The expiration date indicated in paragraph 3 of FPMR Temporary Regulation E-47 is extended to ensure continuity of the policies regarding the Teleprocessing Services Program.

JACK ECKERD,
Administrator of General Services.

JANUARY 17, 1977.

[FR Doc.77-2482 Filed 1-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

BOARD OF SCIENTIFIC COUNSELORS, NIMH

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Board of Scientific Counselors, NIMH.

Authority for this board will expire January 4, 1979, unless the Secretary formally determines that continuance is in the public interest.

Dated: January 19, 1977.

F. N. WALDROP,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-2646 Filed 1-26-77;8:45 am]

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

Meeting Change

In FR Doc. 77-1382 appearing at page 3213 in the issue of Monday, January 17, 1977, the date and location for the February meeting of the Minority Group Mental Health Programs Review Committee should be changed as follows: from February 24-26 to February 25-26; new location—Franz Hall, Room A344, University of California, 405 Hilgard Avenue, Los Angeles, California. The meeting will therefore be open from 9:00 a.m. to 10:30 a.m. on February 25 instead of February 24.

Dated: January 21, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Acohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-2645 Filed 1-26-77;8:45 am]

Office of the Secretary

RADIATION PROTECTION IN HEALING ARTS; GUIDANCE TO FEDERAL AGENCIES

Memorandum of Understanding With Environmental Protection Agency

CROSS REFERENCE: For a document issued jointly by the Department of Health, Education, and Welfare, Office of the Secretary, and the Environmental Protection Agency, concerning the above entitled matter see FR Doc. 77-2588 appearing in the notices section of this FEDERAL REGISTER.

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON POPULATION AFFAIRS

Renewal

Notice is hereby given that pursuant to the authority contained in section 14 (a) (1) (A) of Pub. L. 92-463 I have determined that renewal of the Secretary's Advisory Committee on Population Affairs beyond December 7, 1976 is in the public interest in connection with the performance of duties imposed upon the Department by law, that such duties can best be performed through the advice and counsel of such a group, and, therefore, the Committee has been continued for a period of one year.

My determination to continue the Committee for a period of two years was communicated to the Office of Management and Budget on November 24, 1976, and that Office on December 2, 1976 approved the renewal of the Committee for a period of one year.

In making my determination I concluded that it is not feasible for the Department or any of its existing committees to perform the duties above described, and that a satisfactory plan for appropriate balance of the Committee membership has been submitted.

Dated: December 6, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.77-2681 Filed 1-26-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. N–77–695]

DISASTER LEGAL SERVICES

Notice is hereby given that pursuant to section 412 of the Disaster Relief Act of 1974, Pub. L. 93–288, the Federal Disaster Assistance Administration has entered into an agreement with the Young Lawyers Section of the American Bar Association for the provision of disaster legal services for the victims of Presidentially declared major disasters. Volunteer services under this agreement is one of the methods used by the Federal Disaster Assistance Administration in providing disaster legal assistance. The Office of Emergency Preparedness, predecessor of the Federal Disaster Assistance Administration, originally entered into a legal services agreement with the Young Lawyers Section of the American Bar Association in December 1972. The Federal Disaster Assistance Administration found that arrangement beneficial and entered into a revised agreement in March 1976. The purpose of this notice is to submit the revised agreement for the public record. Also published in today's FEDERAL REGISTER are the proposed regulations governing the provision of disaster legal services, 24 CFR 2205.47a (FR Doc. 77–2703).

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

AGREEMENT BETWEEN THE YOUNG LAWYERS SECTION (AMERICAN BAR ASSOCIATION) AND THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION CONCERNING DISASTER LEGAL SERVICES

The Federal Disaster Assistance Administration, hereinafter referred to as FDAA, and the Young Lawyers Section of the American Bar Association, hereinafter referred to as YLS, enter into the following agreement concerning legal services to disaster victims at the local or State level in the aftermath of a "major disaster" as defined in the Disaster Relief Act of 1974, Public Law 93–288, hereinafter referred to as the Act.

a. *First:* When the President declares a major disaster under the Act, and when the Administrator or Regional Director of FDAA determines that implementation of this agreement is necessary, the Regional Director or his designee will notify the appropriate YLS Regional Director or State Chairman that legal services are needed in accordance with the provisions of this agreement.

b. *Second:* The YLS Regional Director or State Chairman will activate a local legal services unit and instruct them to report to the Individual Assistance Officer on the Federal Coordinating Officer's staff for full particulars and assignment. Local YLS units will then provide legal assistance in accordance with their previously prepared response plans, and with the advice and approval of the State or local bar association. The local unit shall report to, and be under the general direction of, the Individual Assistance Officer.

c. *Third:* "Legal services", for the purposes of the agreement, shall be defined as legal counseling and advice, referral to appropriate sources of assistance, and representation in non fee-generating cases. Legal services may be provided to low-income disaster victims and those who, as a result of the disaster, have insufficient resources to secure adequate legal assistance. Legal services are authorized only to assist disaster victims in securing benefits under the Act and in resolving claims arising out of the disaster.

d. *Fourth:* Disaster legal services units shall operate with the advice, assistance, and cooperation of the appropriate State or local bar association, in accordance with Section 412 of the Act. The legal services units will undertake to have knowledge of the disaster assistance programs through all available means, including training materials furnished by FDAA. At its discretion, FDAA will assist in the training of participating lawyers through the furnishing of material describing Federal disaster assistance programs, payment of travel expenses to training sessions, meetings with FDAA Regional personnel, and by other means it deems useful.

e. *Fifth:* The YLS agrees to mobilize voluntary legal services units at the local level. The mobilization functions shall include, but not be limited to, the following:

1. Enlisting of attorneys to comprise the legal services unit.

2. Serving as a conduit in transmitting materials received from FDAA and other Federal agencies.

3. Maintaining direct communication with FDAA, at the National, Regional, and local office levels.

4. Providing whatever additional services are mutually agreed upon by the parties to this agreement.

f. *Sixth:* No compensation shall be paid to or accepted by participating attorneys, nor may participating attorneys accept any fee-generating cases. Participating attorneys shall be encouraged to refer to private local attorneys any matters they are handling when it becomes apparent that substantial legal effort will be required to resolve the problem and where referral can be done without jeopardizing the interests of the disaster victims.

g. *Seventh:* FDAA will provide the local legal services units with administrative support, including office space and supplies, secretarial services, and reimbursement for official phone expenses in connection with this agreement.

h. *Eighth:* Nothing in this agreement, nor in the plans developed pursuant to this agreement, precludes FDAA from providing legal services in any other manner it selects, including, without limitation, arrangements with other Federal agencies or through implementation of agreements between FDAA and State or local bar associations, or in any other manner.

i. *Ninth:* As required by Section 311 of the Act, the legal services program provided for under this agreement shall be conducted in an equitable and impartial manner, without discrimination on the gronuds of race, color, religion, nationality, sex, or age.

In witness whereof, the parties hereto have executed this agreement on the 6th day of March, 1976.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

R. WILLIAM IDE, III,
Chairman, Young Lawyers Section, American Bar Association.

[FR Doc.77–2715 Filed 1–26–77;8:45 am]

[Docket No. NFD–388; FDAA–3021–EM]

WEST VIRGINIA

Notice of an Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority. Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 19, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of West Virginia. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Arthur T. Doyle, FDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Grant	Mercer
Greenbrier	Mineral
Hampshire	Monroe
Hardy	Summers

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 19, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–2706 Filed 1–26–77;8:45 am]

[Docket No. NFD–391; FDAA–3013–EM]

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, November 9, 1976, December 16, 1976, December 27, 1976, and December 30, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe de-

clared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Anoka	Mille Lace
Carver	Murray
Clay	Nobles
Dakota	Pine
Dodge	Pipestone
Grant	Polk
Kanabec	Renville
Kandiyohi	Rock
McLeod	Sherburne
Mahnomen	Steele
Meeker	Wilkin

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 Assistance No. 14.701, Disaster Assistance.)

Dated: January 14, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2710 Filed 1-26-77;8:45 am]

[Docket No. NFD-393 FDAA-3013-EM]

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, November 9, 1976 December 16, 1976, December 27, 1976, December 30, 1976, and January 14 1977, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his dcelaration of June 17, 1976:

The County of Olmsted.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: January 19, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 77-2712 Filed 1-26-77;8:45 am]

[Docket No. NFD-394; FDAA-3017-EM]

MISSOURI

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Missouri dated September 24, 1976, and amended on November 9, 1976, and January 12, 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 September 24, 1976:

The Counties of:

Benton	Morgan
Callaway	Osage
Cedar	Oregon
Dallas	Ozark
Douglas	Polk
Franklin	Reynolds
Gasconade	St. Clair
Howell	St. Louis
Iron	Shannon
Jefferson	Texas
Laclede	Washington
Madison	Wright
Maries	

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 Assistance No. 14.701, Disaster Assistance.)

Dated: January 19, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2713 Filed 1-26-77;8:45 am]

[Docket No. NFD-389; FDAA-3022-EM]

NEBRASKA

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act on May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 19, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Nebraska is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Nebraksa. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Francis X. Tobin, FDAA Region VII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Boyd	Keya Paha

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 19, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2708 Filed 1-26-77;8:45 am]

WISCONSIN

[Doc. No. NFD-390; FDAA-3014-EM]

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Wisconsin, dated June 17, 1976, and amended on July 29, 1976, and on September 7, 1976, and on September 30, 1976, and on December 16, 1976, and on December 30, 1976, 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:

Adams	Kewaunee
Barron	Lafayette
Brown	Marinette
Chippewa	Oconoto
Dane	Polk
Door	Portage
Dunn	Rock
Eau Claire	St. Croix
Green Lake	Sauk

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 Assistance No. 14.701, Disaster Assistance)

Dated: January 14, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-2709 Filed 1-26-77;8:45 am]

[Docket No. NFD-392; FDAA-3020-EM]

OKLAHOMA

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 18, 1977, the President declared an emergency as follows:

I have determined that the impact of a fire on the State of Oklahoma is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Oklahoma. You are to determine the specific areas with-

in the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Joe D. Winkle, FDAA Region VI, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency:

The City of Bartlesville

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: January 18, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–2711 Filed 1–26–77;8:45 am]

[Doc. No. NFD–395; FDAA–3024–EM]

UTAH

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 20, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Utah is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of Utah. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Donald G. Eddy, FDAA Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Beaver	Piute
Emery	Sanpete
Juab	Sevier
Millard	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 20, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–2714 Filed 1–26–77;8:45 am]

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–77–480]

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority With Respect to Housing

Section L of the redelegation of authority to Regional Administrators et al. with respect to Housing published at 41 FR 52545, November 30, 1976, is revised to read:

SEC. L. *Additional authority redelegated to Insuring Office Officials.* 1. Each Insuring Office Director and Deputy Insuring Office Director in the offices listed below is authorized to exercise the power and authority of the Secretary of Housing and Urban Development for housing for the Elderly and Handicapped under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701 et seq.) and for housing assisted under the U.S. Housing Act of 1937 as amended (42 U.S.C. 1401, et seq.).

Phoenix, AZ	Albuquerque, NM
Fresno, CA	Albany, NY
Sacramento, CA	Cincinnati, OH
Santa Ana, CA	Cleveland, OH
Denver, CO	Providence, RI
Springfield, IL	Memphis, TN
Des Moines, IA	Houston, TX
Topeka, KS	Salt Lake City, UT
Shreveport, LA	Spokane, WA
Grand Rapids, MI	Charleston, WV
Helena, MT	

The authority redelegated above includes the power and authority under sections 1(1) and 1(2) of Executive Order 11196, except the authority to:

a. Determine that there is a substantial breach or default and invoke any remedy on behalf of the Federal Government upon default or breach by a local housing authority in respect to the terms, covenants, or conditions of an annual contributions contract.

b. Terminate annual contributions contracts when the decision to terminate is made by the Federal Government.

c. Waive the provisions of annual contributions contracts: Provided, That each Insuring Office Director and Deputy Insuring Office Director is authorized to waive provisions with respect to the following:

i. Employment of a former local housing authority Commissioner.

ii. Frequency of reexamination of tenants to permit a local housing authority to change its established reexamination schedule.

iii. Approval of the use of force account for modernization programs.

iv. Approval of construction and equipment contracts for modernization exceeding $5,000, but not exceeding $50,000.

2. Each Director of Housing Management in the above listed Insuring Offices is authorized to exercise the powers and authorities redelegated to Directors of Housing Management in Area Offices in section D.

(Secretary's delegation of authority to redelegate published at 41 FR 24755, June 18, 1976.)

Effective date: This amendment to redelegation of authority is effective on January 17, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77–2691 Filed 1–26–77;8:45 am]

New Communities Administration

[Docket No. N–77–696]

SHENANDOAH NEW COMMUNITY PROJECT

Intent to Supplement Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Communities Administration, Washington, D.C., intends to issue a supplement to the Final Environmental Impact Statement for the Shenandoah New Community Project, Coweta County, Georgia. The final EIS was issued on December 4, 1972, and copies are available at the address set forth below.

Shenandoah is located approximately 35 miles southwest of Atlanta adjacent to the junction of Interstate Highway 85 and Georgia State Highway 34 lying between the cities of Newman and Peachtree.

The Supplement will evaluate the impact of changing the water supply system from the original Flint River Water Supply System (reflected in Shenandoah's Final Environmental Impact Statement) to the Line Creek-Lake Shenandoah Water Supply System. This Water Supply System will essentially comprise construction of an intake structure and pumping station (initial capacity of 12 million gallons per day) located at Wynnes Pond adjacent to Georgia State Highway 54, about 8 miles of 24-inch raw water transmission pipeline from Wynnes Pond intake to the City of Newman's present water intake at White Oak Creek; and construction of water treatment facilities, and Lake Shenandoah Reservoir on Sullivan Creek which at maximum design capacity will cover about 300 acres and impound about 5,000 acre-feet of water.

Copies of the Supplement will be available at the address set forth below in February 1977. The comment period on the Supplement will be 30 calendar days. All persons who received the Final EIS will receive the Supplement. Copies of the Supplement will also be available in the Atlanta HUD Regional Office at Room 211 Pershing Point Plaza, 1321 Peachtree Street, NE., Atlanta, Georgia, and the Carnegie Public Library in the City of Newnan.

Comments concerning this Notice are invited from all affected and interested parties. Please send comments by February 15, 1977, to:

Earl DeMaris, Deputy Administrator for Project Support and Development, Attn: Leo Stein, U.S. Department of Housing and Urban Development, New Communities Administration, 451 7th Street, SW, Room 7134, Washington, D.C. 20410, Telephone 202-755-6092.

Issued in Washington, D.C.

JAMES F. DAUSCH,
Deputy General Manager and Administrator, New Communities Administration.

Concurrence: January 7, 1977.

RICHARD BROUN,
OEQ.

Concurrence: January 10, 1977.

BURTON BLOOMBERG,
OGC.

[FR Doc.77-2697 Filed 1-26-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S-2635]

CALIFORNIA

Reclassification of Natural Resource Lands for Transfer Out of Federal Ownership

1. Notice is hereby given that the following described national resource lands are reclassified for transfer out of federal ownership by exchange pursuant to the Act of July 15, 1968 (16 U.S.C.A. 460L-22, 1969 Supplement). The lands were classified previously for exchange pursuant to the Point Reyes National Seashore Act of September 13, 1962 (76 Stat. 538) by a notice of classification published January 7, 1970 in the FEDERAL REGISTER.

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 7 N., R. 7 W.,
Sec. 11: E½NE¼;
Sec. 12: SW¼NW¼; NW¼SW¼.

The above described lands aggregate 160 acres and are located in Sonoma County.

2. The reclassification has been discussed with local governmental agencies as well as with other interested parties. These lands, after appropriate analysis including an environmental assessment, meet the criteria of 43 CFR 2430.4(d). The regulation authorizes classification of national resource lands for exchange under appropriate authority where they have special values arising from the interest of proponents for exchange of other lands needed in support of a federal program. The National Park Service has a proponent interested in exchanging private in holdings within the Golden Gate National Recreation Area for the subject lands.

3. One comment only was received after publication of the notice of proposed reclassification in the FEDERAL REGISTER (FR Doc. 76-33121) on November 11, 1976 (41 FR 49892). The comment was not adverse to the proposal.

4. Information concerning the lands including the land report and environmental record, is available for inspection at the Bureau of Land Management District Office, 555 Leslie Street, Ukiah, California 95482.

5. On or before February 28, 1977, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3.

For the State Director.

ALAN L. BELLON,
Acting District Manager.

[FR Doc.72-2661 Filed 1-26-77;8:45 am]

[N-16095]

NEVADA

Proposed Withdrawal and Reservation of Lands of Military Purposes

JANUARY 19, 1977.

The United States Army, Corps of Engineers, on behalf of the Department of the Air Force, filed application N-16095 on December 23, 1976, for the withdrawal of lands described below from settlement, sale, location or, entry under the public land laws, including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

The applicant desires to continue using the lands for the Indian Springs Auxiliary Air Force Field and bombing and gunnery ranges (Nellis) in the training of combat aircrews as well as testing of new and improved weapons systems.

On or before February 28, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the act), an opportunity for a public hearing is hereby afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before February 28, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The lands involved are presently segregated from the operation of the public land laws by virtue of withdrawals effected by Executive Orders No. 8578 of October 29, 1940, No. 9019 of January 12, 1942, No. 9086 of March 4, 1942, Public Land Orders No. 58 of November 12 1942, No. 89 of February 10, 1943, and No. 168 of September 17, 1943, which withdrawals will expire February 15, 1977. Under section 204(b) of the Act, the segregation will remain in effect for a period of 2 years from date of publication of this notice unless Congress approves the withdrawal prior to that date, in which case the segregation would be continued in accordance with the legislation.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essental to meet the applicants needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources

He will also prepare a report for consideration by the Secretary of the Interior who will submit a legislative proposal to the Congress of the United States for its consideration to determine whether the lands will be withdrawn as requested by the applicant agency.

The lands involved in the application are described below and are delineated on maps designated 256-FP-1, 256-FP-3 and 389-FP-1, copies of which are on file in Case No. N-16095, Nevada State Office, Bureau of Land Management.

All correspondence in connection with this withdrawal should be directed to the Bureau of Land Management, Department of the Interior; Chief, Division of Technical Services, 300 Booth Street, Reno, Nevada 89509.

MOUNT DIABLO MERIDIAN, NEVADA

Tps. 1, 2, 3, and 4 S., R. 44 E.
Tps. 1, 2, 3, and 4 S., R. 45 E.
Tps. 1 and 2 S., R. 46 E.
Tps. 3 and 4 S., R. 46 E. (unsurveyed).
Tps. 1 and 2 S., R. 47 E.
Tps. 3 and 4 S., R. 47 E. (unsurveyed).
Tps. 1 and 2 S., R. 48 E.
Tps. 3 and 4 S., R. 48 E. (unsurveyed).
Tps. 1 and 2 S., R. 49 E.
Tps. 3, 4, 5, 6, and 7 S., R. 49 E. (unsurveyed).
T. 8 S., R. 49 E. (unsurveyed),
Secs. 1-11, incl., 14-23, incl., 26-35, incl.;
Secs. 12, 13, 24, 25, and 36, exclusive of those portions withdrawn by P.L.O. 5268.
Tps. 9, 10, 11, and 12 S., R. 49 E. (unsurveyed,
Secs. 2-11, incl., 14-23, incl., 26-35, incl.;
Secs. 1, 12, 13, 24, 25, and 36, exclusive of those portions withdrawn by P.L.O. 2568.
Tps. 1, 2, 3, 4, 5, 6, and 7 S., R. 50 E. (unsurveyed).
T. 8 S., R. 50 E. (unsurveyed),
Secs. 1-6, incl.;
Secs. 7-12, incl., exclusive of those portions withdrawn by P.L.O. 2568.
Tps. 2, 3, 4, 5, 6, and 7 S., R. 51 E. (unsurveyed).
T. 8 S., R. 51 E. (unsurveyed),
Secs. 1-6, incl.;
Secs. 7-12, incl., exclusive of those portions withdrawn by P.L.O. 2568.
Tps. 3 and 4 S., R. 51½ E. (unsurveyed).
Tps. 3, 4, 5, 6, and 7 S., R. 52 E. (unsurveyed).
T. 8 S., R.52 E. (unsurveyed),
Secs. 1-6, incl.;
Secs. 7-12, incl., 18, 19, 30, and 31, exclusive of those portions withdrawn by P.L.O. 805 and 2568.
Tps. 3 and 4 S., R. 53 E.
Tps. 5, 6, and 7 S., R. 53 E. (unsurveyed).
T. 8 S., R. 53 E. (unsurveyed),
Secs. 1-6, incl.;
Secs. 7-12, incl., exclusive of those portions withdrawn by P.L.O. 805.

Tps. 3 and 4 S., R. 54 E.,
Secs. 4–9, incl., 16–21, incl., 28–33, incl.
Tps. 5 and 6 S., R. 54 E. (unsurveyed).
T. 7 S., R. 54 E. (unsurveyed).
Secs. 1–34, incl.;
Secs. 35 and 36, exclusive of those portions withdrawn by P.L.O. 1662.
T. 8 S., R. 54 E. (unsurveyed),
Secs. 3–6, incl.;
Secs. 2, 35, 36, and 7–11, incl., exclusive of those portions withdrawn by P.L.O. 1662 and 805.
Tps. 9, 10, 11, and 12 S., R. 54 E. (unsurveyed),
Secs. 1, 12, 13, 24, 25, and 36;
Secs. 2, 11, 14, 23, 26, and 35, exclusive of those portions withdrawn by P.L.O. 805.
T. 13 S., R. 54 E. (unsurveyed),
Secs. 10–15, incl., 22–27, incl., 34, 35, and 36;
Secs. 9, 16, 21, 28, 33, exclusive of those portions withdrawn by P.L.O. 805.
T. 14 S., R. 54 E. (unsurveyed),
Secs. 1–3, incl., 10–15, incl., 22–27, incl., 34, 35, and 36;
Secs. 4, 9, 16, 21, 28, and 33, exclusive of those portions withdrawn by P.L.O. 805.
Tps. 5 and 6 S., R. 55 E. (unsurveyed),
Secs. 2–11, incl., 14–23, incl., 26–35, incl.
T. 7 S., R. 55 E. (unsurveyed),
Secs. 2–11, incl., 14–23, incl., 26–30, incl.;
Secs. 31–35, incl., exclusive of those portions withdrawn by P.L.O. 1662;
Secs. 36, S½, exclusive of those portions withdrawn by P.L.O. 1662.
T. 8 S., R. 55 E. (unsurveyed),
Secs. 31–36, incl., exclusive of those portions withdrawn by P.L.O. 1662.
Tps. 9, 10, 11, 12, 13, and 14 S., R. 55 E. (unsurveyed),
T. 7 S., R. 55½ E. (unsurveyed),
Secs. 31, 32, and 33, S½, exclusive of those portions withdrawn by P.L.O. 1662.
T. 8 S., R. 55½ E. (unsurveyed),
Secs. 4, 9, 16, 21, 28, 31, 32, and 33, exclusive of those portions withdrawn by P.L.O. 1662.
Tps. 9, 10, 11, 12, 13, and 14 S., R. 55½ E. (unsurveyed).
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 56 E. (unsurveyed).
T. 15 S., R. 56 E.
T. 16 S., R. 56 E.
Secs. 1 and 2;
Sec. 3, lost 5, 6, 7, 8, 9, E½;
Sec. 4, lost 5, 6, 7;
Sec. 5, lots 5, 6, 7, 8, 9, NW¼, W½NE;
Sec. 6, lots 8, 9, NE¼, W½;
Sec. 8, lot 1;
Sec. 9, lot 1;
Tracts 38, 39, 40, 41, 42 A and B.
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 57 E. (unsurveyed).
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 58 E. (unsurveyed).
Tps. 8, 9, 10, 11, 12, 13, and 14 S., R. 59 E. (unsurveyed).

The lands described above aggregate 2,375,000 acres more or less in Nye, Lincoln and Clark Counties. Approximately 810,000 acres are within the Desert National Wildlife Range.

WM. J. MALENCIK,
Chief,
Division of Technical Services.

[FR Doc.77-2595 Filed 1-26-77;8:45 am]

[Nev-025474]

NEVADA

Termination, in Part of Airport Lease Nev-025474

JANUARY 17, 1977.

Notice is hereby given that Elko County, through and by the Board of County Commissioners, relinquished its airport lease as to the following described lands:

MOUNT DIABLO MERIDIAN, NEVADA

T 47 N., R. 64 E.,
Sec. 12, E½E½SE¼NE¼, SE¼NE¼NE¼ and portions of the NE¼SW¼NE¼NE¼, SE¼SW¼NE¼NE¼, NW¼NE¼SE¼NE¼, SW¼NE¼SE¼NE¼, NW¼SE¼SE¼NE¼, SW¼SE¼SE¼NE¼, more particularly described as follows: Beginning at the east quarter corner of said section 12, Corner No. 1; thence, north along the east section line of said sec. 12, 1,980', more or less, to corner No. 2; thence, west along the north line of the SE¼NE¼NE¼, 921.05 feet, more or less, to a point 300' from the centerline of the existing Jackpot runway, corner No. 3; thence, S. 16°37'15'' E., 2,066.33', more or less, to the east-west quarter section line of said sec. 12, corner No. 4; thence, east, 330', more or less, to the east quarter corner of said sec. 12, Corner No. 1, the point of beginning.

Therefore, at 10:00 a.m. on February 21, 1977 the lands will be relieved of the segregation effect of the lease.

WILLIAM J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77-2649 Filed 1-26-77;8:45 am]

[OR 9296 (Wash.); Vancouver 0808]

WASHINGTON

Order Providing for Opening of Public Land

JANUARY 20, 1977.

1. Pursuant to Order of the Office of Hearings and Appeals, dated January 25, 1972; Indian Trust Patent No. 77896, dated September 9, 1909, has been cancelled, and the following land has returned to the status of national resource land:

WILLIAMETTE MERIDIAN

T. 5 N., R. 19 E.,
Sec. 19, SE¼.

The area described contains 160 acres in Klickitat County.

2. The subject land is located approximately 19 miles northeast of the Town of Goldendale. Elevation ranges from 2,300 to 2,700 feet above sea level, and the topography varies from generally flat to rolling and undulating. Vegetation consists primarily of scattered conifers and native grasses and brush. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use management.

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. February 25, 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, Oregon, 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-2650 Filed 1-26-77;8:45 am]

Fish and Wildlife Service

ISSUANCE OF FEDERAL WILDLIFE PERMITS

Delegation of Authority

Notice is hereby given that the Associate Director, Federal Assistance, and the Federal Wildlife Permit Office have been delegated the authority formerly held by the Division of Law Enforcement to issue, modify, suspend and revoke permits and exemptions issuable under authority of the Endangered Species Act of 1973, 16 U.S.C. 1531–1543; Lacey Act, 18 U.S.C. 42, 44; Tariff Classification Act of 1962, 19 U.S.C. 1202; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1368–1384, 1401; and they may redelegate this authority by memorandum to other Washington Office Federal Wildlife Permit Office personnel.

The Associate Director, Federal Assistance, and the Federal Wildlife Permit Office also have been delegated authority to issue permits for the importation and exportation into or out of the United States of migratory birds, or parts, nests, or eggs thereof; to kill, frighten or otherwise herd migratory birds (except eagles) injuring crops or other property; and they also may exercise all of the authority set forth in the Code of Federal Regulations pertaining to the acquisition and possession of migratory birds.

Effective date: This delegation of authoirty shall be effective as of November 15, 1976.

Dated: December 28, 1976.

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

[FR Doc.77-2630 Filed 1-26-77;8:45 am]

Geological Survey

NEW MEXICO

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220. 2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as the Socorro Peak known geothermal resources area, effective October 26, 1976:

(31) NEW MEXICO

SOCORRO PEAK KNOWN GEOTHERMAL RESOURCES AREA

NEW MEXICO PRINCIPLE MERIDIAN, NEW MEXICO

T. 2 S., R. 1 E.,
Secs. 28, 29 and 80;
Secs. 31, 32 and 33, partly unsurveyed, (including lands within Town of Socorro Grant).
T. 2 S., R. 1 W.,
Secs. 25–33, inclusive;
Secs. 34, 35 and 36, partly unsurveyed (including lands within Town of Socorro Grant).
T. 2 S., R. 2 W.,
Secs. 25–29, inclusive;
Secs. 32–36, inclusive.
T. 3 S., R. 1 E.,
Secs. 4–9, inclusive, partly unsurveyed, (including lands within Town of Socorro Grant);
Secs. 16–21, inclusive, partly unsurveyed, (including lands within Town of Socorro Grant);
Secs. 28, 29 and 30, partly unsurveyed, (including lands within Town of Socorro Grant);
Secs. 31–33, inclusive.
T. 3 S., R. 1 W.,
Secs. 1–36, inclusive, partly unsurveyed, (including lands within Town of Socorro Grant).
T. 3 S., R. 2 W.,
Secs. 1–5, inclusive;
Secs. 8–17, inclusive;
Secs. 20–29, inclusive;
Secs. 32–36, inclusive.
T. 4 S., R. 1 E.,
Secs. 4–9, inclusive.
T. 4 S., R. 1 W.,
Secs. 1–12, inclusive.
T. 4 S., R. 2 W.,
Secs. 1–5, inclusive;
Secs. 8–12, inclusive.

The area described aggregates 89,715.81 acres, more or less.

Dated: January 10, 1977.

GEORGE H. HORN,
Conservation Manager, Central Region.

[FR Doc.77–2591 Filed 1–26–77;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS BY THE CITY OF NEW YORK

Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 14, 1977, a proposed consent decree in *United States v. City of New York, Abraham Beame, Robert Low and Charles Samowitz* was lodged with the United States District Court for the Southern Ditrict of New York. The proposed decree would require the City to meet a detailed time-table to build two sewage treatment facilities, the Red Hook Water Pollution Control Plant at the Brooklyn Navy Yard, Brooklyn, New York and the North River Water Pollution Control Plant at the Hudson River between West 138th and 145th Streets, New York, New York; to upgrade one sewage treatment facility, the Oakwood Beach Pollution Control Plant at Staten Island, New York; and to otherwise comply with the National Pollutant Discharge Elimination System permits covering the service areas for the above projects.

The proposed consent decree may be examined at the office of the United States Attorney, One St. Andrew's Plaza, New York, New York, 10007; at the Region II Office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York, 10007; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive until February 28, 1977 written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *"United States v. City of New York, et al.,"* D.J. Ref. 90–5–1–1–683. In requesting a copy, please enclose a check in the amount of one dollar (ten cents per page reproduction charge) payable to the Treasurer of the United States.

PETER R. TAFT,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77–2593 Filed 1–26–77;8:45 am]

[Order No. 681–77]

PRIVACY ACT OF 1974

Notice of Systems of Records, Proposed Routine Uses, and Other System Modifications

Notice is hereby given that pursuant to the provisions and requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the following system notices, routine uses and system modifications are proposed by the Department of Justice.

JUSTICE/USA–015, Pre-Trial Diversion Program Files, is a proposed new system of records for which no public notice is currently published in the FEDERAL REGISTER.

JUSTICE/DEA–027, DEA Employee Profile System (DEPS) is an existing system of records which was inadvertently omitted from previous publication and for which no public notice consistent with the requirements of 5 U.S.C. 552a(e)(4) has been published in the FEDERAL REGISTER.

JUSTICE/BOP–006, Inmate Commissary Accounts Record System, is partially reprinted to reflect the proposed automation of this system. The original Privacy Act notice for this system appeared on August 27, 1975, at 40 FR 38705.

Interested persons are invited to comment on those portions of the notices which describe the routine uses of JUSTICE/USA–015 and JUSTICE/DEA–027, and the storage and retrievability practices of JUSTICE/BOP–006. Comments should be mailed to the System Manager at the address listed in the relevant System Notice. All comments must be received by February 28, 1977. No oral hearings are contemplated. Comments received will be available for inspection in Room 1266, Main Department of Justice Building, 10th and Constitution Avenue, N.W.

Dated: January 18, 1977.

EDWARD H. LEVI,
Attorney General.

JUSTICE/USA 015

System name:

Pre-Trial Diversion Program Files

System location:

Ninety-four United States Attorneys' Offices (See attached Appendix)

Categories of individuals covered by the system:

Individuals referred to in potential or actual pre-trial diversion cases.

Categories of records in the system:

(a) USA Form 184—Referral letter to Probation Service; (b) USA Form 185—Letter to defendant; (c) USA Form 186—Agreement for Pre-Trial Diversion; (d) USA Form 187—Pre-Trial Diversion Report Form; (e) USA Form 188—Certification of Completion of Programs; (f) USA Form 189—Defendant Application Form; (g) Telephone Records; (h) Miscellaneous Correspondence; and, (i) Files Unique to a District.

Authority for maintenance of the system:

This system is established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the

cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability:

Information is retrieved by the name of the person, case number or complaint number.

Safeguards:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards.

Retention and disposal:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix.)

Notification procedure:

Address inquiries to the System Manager for the judicial district in which the diversion application or approval was made. (See attached appendix.)

Record access procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester shall also provide a return address for transmitting the information. Access requests will be directed to the system manager. (See attached Appendix.)

Contesting record procedures:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j) (2), (k) (1) and/or (k) (2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) (2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the FEDERAL REGISTER.

JUSTICE/DEA 027

System name:

DEA Employee Profile System (DEPS)

System location:

Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537

Categories of individuals covered by the system:

DEA employees.

Categories of records in the system:

The following eight categories of information will be maintained in the system:

(1) Personal identification
(2) Work experience
(3) Language and geographical areas
(4) Formal education
(5) Special skills
(6) Record of training
(7) Consideration for vacancies
(8) Awards

Authority for maintenance of the system:

This system is maintained to effectively place and assign employees to positions to further the mandates of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Categories of users and the purposes of such uses:

The records will be used principally by the Personnel Management Division. Selected data will be forwarded by this personnel section to the Career Development Board and operational units throughout DEA for the purpose of:

(1) Identifying employees with particular skills or qualifications for assignment to special projects.

(2) Identification of candidates for overseas assignments who have specific language skills.

(3) Insuring that the Career Development Board will be reviewing the entirety of an applicant's background.

(4) Calculating DEA's human resources on hand and to project more accurately future resource needs and capabilities.

Information from this system will not be disseminated outside of DEA.

Storage:

These records will be maintained on magnetic tape and a disk storage device.

Retrievability:

The information in this system can be retrieved by the individual's name, special skills information, special knowledge information or by some combination of the above information.

Safeguards:

The records of the system will be maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those transacting business within the building who are escorted by DEA employees. In addition, the area where the tapes and disks are stored is a secured area and access is restricted to those employees who have business in the area and those non-DEA people who are transacting business within the area and escorted by a DEA employee. Inquiries to the system are only made by the written request of the Chief, Personnel Management Division.

Retention:

Records in this system are retained as long as the individual is employed by DEA.

System manager(s) and address:

Chief, Computer Services Division, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C., 20537.

Notification procedure:

Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C., 20537. Inquiries should include inquirer's name, date of birth, and social security number.

Record access procedures:

Same as *Notification procedure.*

Contesting record procedures:

Same as *Notification procedure.*

Record source categories:

(1) DEA employee, (2) Servicing personnel office, and (3) The Justice Uniform Personnel System (Juniper).

Systems exempted from certain provisions of the act:

None.

JUSTICE/BOP 006

NOTE: The JUSTICE/BOP 006 system is partially reprinted to reflect a change in the equipment configuration.

System name:

Inmate Commissary Accounts Record System

Categories of records in the system:

(1) Financial data; (2) identification data. Both categories of records will be automated; the Bureau facilities will have responsibility for their maintenance. The records will be accessible by the telecommunications means of BOP facilities, Regional Offices and the Central Office.

Storage:

Information maintained in the system will be stored electronically on the Department of Justice Computer System separate from the BOP Central Office.

Retrievability:

Information on the automated system will be indexed by name and/or register number.

Safeguards:

The Inmate Commissary Accounts Record System will be protected by both physical security methods and dissemination and access controls. Access to this information will be limited to those persons with a demonstrated and lawful need to know, in order to perform assigned functions.

Protection of the automated system will be provided by physical, procedural and electronic means. The files will reside on the Department of Justice Computer System which is physically attended or guarded on a full-time basis. For retrieval purposes, access to active telecommunications terminals will be limited to those persons with a demonstrated need to know. For update purposes, access to the files will be limited to BOP facilities employees, as required in the performance of their assigned duties. Surreptitious access to an unattended terminal will be precluded by a complex authentication procedure. The procedure will be provided only to authorized BOP employees.

An automated log of queries will be maintained for each terminal. Improper procedure will result in no access, and under certain conditions complete lockout of the terminal, pending restoration by the master controller at the BOP Central Office after appropriate verification has been received. Unattended terminals, after normal office hours, will be electronically disconnected by the master controller at the BOP Central Office. All terminals will have key locks and will be located in lockable facilities.

Retention:

Records in this system will be retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means.

[FR Doc.77-2603 Filed 1-26-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-5)]

STRATOSPHERIC RESEARCH ADVISORY COMMITTEE

Meeting

The Stratospheric Research Advisory Committee will meet at the National Aeronautics and Space Administration Headquarters on February 24 and 25, 1977. The meeting will be open to members of the public. The meeting will take place from 9:00 am to 5:00 pm on February 24 and from 9:00 am to 4:30 pm on February 25 in room 6004 of Federal Office Building 6, 400 Maryland Avenue SW, Washington, DC, 20546.

The Stratospheric Research Advisory Committee advises NASA concerning the contents and direction of the NASA Upper Atmospheric Research Program. Topics under discussion at this meeting will include: Development of the NASA measurement strategy; Responses to the NASA UARO "Dear Colleague" Letter; Discussion of the research programs at the Goddard Space Flight Center and the Jet Propulsion Laboratory.

For further information regarding the meeting, please contact Dr. Shelby G. Tilford, Executive Secretary, at Area Code 202/755-3766 or 755-1790, National Aeronautics and Space Administration, Washington, DC 20546.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs.

JANUARY 21, 1977.

[FR Doc.77-2663 Filed 1-26-77;8:45 am]

[Notice 77-6]

LONG DURATION EXPOSURE FACILITY (LDEF)

Experiment Review Ad Hoc Subcommittee of the Space Technology Steering Committee and the Research and Technology Advisory Council

MEETING

The Long Duration Exposure Facility (LDEF) Experiment Review Ad Hoc Sub-

committee of the Space Technology Steering Committee and the NASA Research and Technology Advisory Council (RTAC) will meet on February 22–25, 1977, to evaluate experiment proposals submitted in response to the LDEF Announcement of Opportunity No. OAST-76-1. The Subcommittee will discuss and complete the categorization of proposals for flight on the first LDEF mission. Discussion of the professional qualifications of the proposers and their potential research and technology contributions to the LDEF mission would invade the privacy of the proposers and other individuals involved. Since this Subcommittee session will be concerned throughout with matters listed in 5 U.S.C. 552(b)(6), it has been determined that the sessions be closed to the public.

The Subcommittee is comprised of four advisory groups to evaluate proposals in appropriate technology disciplines. The Structures and Materials Advisory Group, which consists of eleven members, will meet on February 22–25, 1977, in Room 124, Building 1192C, Langley Research Center, Hampton, Virginia, 23665. The Electronics Advisory Group, which consists of seven members, will meet on February 23–25, in Room 103, Building 1192C, Langley Research Center, Hampton, Virginia, 23665. The Propulsion and Power Advisory Group, which consists of nine members, will meet on February 23–25, 1977, in Room 185, Building 1192D, Langley Research Center, Hampton, Virginia, 23665. The Basic Research Advisory Group, which consists of seven members, will meet on February 24–25, 1977, in Room 125, Building 1192E, Langley Research Center, Hampton, Virginia 23665.

The LDEF is a large, free-flying, passive satellite which provides accommodations to experiments which require long-term exposure to the space environment. It will be carried into Earth orbit during the 1979–80 Shuttle Orbital Flight Test program, deployed in a gravity-gradient stabilized mode, and retrieved six to nine months later during a subsequent Shuttle flight. The LDEF Experiment Review Ad Hoc Subcommittee was established to review experiment proposals for the first flight of the Long Duration Exposure Facility. The NASA Chairman is Mr. Robert G. Kyle, and the Advisory Chairman is Professor Seymour M. Bogdonoff of the Research and Technology Advisory Council. The Subcommittee will report the results of its evaluation to the Space Technology Steering Committee. It will also report the results to the RTAC Council after the formal announcement of the experiment proposal selections has been made.

The Structures and Materials Advisory Group will convene at 1:00 p.m. on February 22, 1977. The Electronics Advisory Group will convene at 8:30 a.m. on February 23, 1977. The Propulsion and Power Advisory Group will convene at 9:30 a.m. on February 23, 1977. The Basic Research Advisory group will convene at 8:30 a.m. on February 24, 1977. After being convened, the Advisory Groups will meet daily from 8:15 a.m. to 4:30 p.m. until all assigned proposals have been evaluated individually according to the guidelines of Section V of the Announcement of Opportunity. For further information, please contact the Executive Secretary, Mr. James L. Jones, Jr., NASA, Langley Research Center, Mail Code 158B, Langley Station, Hampton, Virginia 23665 (Area Code 804, 827-3704).

JOHN M. COULTER,
Acting Assistant Administrator for Department of Defense and Interagency Affairs, National Aeronautics and Space Administration.

JANUARY 21, 1977.

[FR Doc. 77-2664; Filed 1-26-77; T:45 am]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL COUNCIL ON THE ARTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will be held on February 11–12, 1977, from 9:00 a.m. to 5:30 p.m., and February 13, 1977, from 9:00 a.m. to 1:00 p.m., in the Chandelier Room, Sheraton Carlton Hotel, 16th and K Streets, NW., Washington, D.C.

A portion of this meeting will be open to the public on February 11–12, from 9:00 a.m. to 3:00 p.m., on a space available basis. Accommodations are limited. The agenda for these sessions include a general budget briefing, discussion of Dance, Education, Music, and Public Media program guidelines, and long-range program and policy planning.

The remaining sessions of this meeting on February 11–12, from 3:00 p.m. to 5:30 p.m., and February 13, from 9:00 a.m. to 1:00 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-2644 Filed 1-26-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ENGINEERING CHEMISTRY AND ENERGETICS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Engineering Chemistry and Energetics.

Date and time: February 14 and 15, 1977—9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C 20550.

Type of meeting: Part Open—Open 2/14/77, 9:00 a.m.–1:00 p.m. and 2/15/77, 9:00 a.m.–1:00 p.m.; Closed—2/14/77, 1:00 p.m.–5:00 p.m. and 2/15/77—1:00 p.m.–5:00 p.m.

Contact person: Dr. Marshall M. Lih, Head, Chemical Processes Program, Room 413, National Science Foundation, Washington, D.C 20550 telephone (202) 632–5867.

Purpose of panel: To provide advice and recommendations concerning support for research in Engineering Chemistry and Energetics.

AGENDA

FEBRUARY 14

9 a.m.	Open Session—Remarks and Introductions. Status Report on the Engineering Division.
9:45 a.m.	Section Head's Report (M Lih).
10:15 a.m.	Break.
10:30 a.m.	Program Briefing (10 min each). Dr. Raffi Turian, Chemical Processes. Dr. Win Aung, Heat Transfer. Dr. Royal Rostenbach, Engineering Energetics. Dr. William Weigand, Thermodynamics and Mass Transfer. Dr. Morris Ojalvo, Solid and Particulate Processing.
11:20 a.m.	Question and Answer Time.
11:45 a.m.	Lunch Break.
1 p.m.	Closed Session—Subpanel review of the individual programs including proposal jackets and peer reviews.
5 p.m.	Adjourn.

FEBRUARY 15

9 a.m.	Discussion. (1) Oral Reports from subpanels. (2) Section-wide concerns.
12 noon	Main panel adjourns.
1 p.m.	Closed Session—Heat Transfer subpanel's further in-depth study of the Program including proposal jackets and peer reviews.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's

deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBBECCA WINKLER,
Acting Committee Management Officer.

JANUARY 24, 1977.

[FR Doc.77-2643 Filed 1-26-77;8:45 am]

NATIONAL SCIENCE FOUNDATION ADVISORY COUNCIL

Revision of Charter

This notice is to announce revision to the charter of the National Science Foundation Advisory Council.

The National Science Foundation Advisory Council was established on March 8, 1976 to provide advice and counsel to the NSF Director and principal members of his staff on Foundation-wide issues. This revision will provide for membership on the Council of non-scientists as well as scientists.

The revision described above is reflected in the Council's modified charter. Copies of the charter addendum like the initial charter, have been forwarded to the Library of Congress for public inspection and filed with the standing committees of Congress having legislative jurisdiction of the National Science Foundation.

RICHARD C. ATKINSON,
Acting Director.

JANUARY 24, 1977.

[FR Doc.77-2641 Filed 1-26-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-250 and 50-251]

FLORIDA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 22 and 21 to Facility Operating Licenses Nos. DPR-31 and DPR-41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Nuclear Generating Units Nos. 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

These amendments concern changes required as a result of (1) the steam generator repair and (2) a reevaluation of the emergency core cooling system, for Turkey Point Unit No. 3. The emergency core cooling system reevaluation fulfills, for Unit No. 3, the requirements of the Commission's Order for Modification of License dated August 27, 1976. The operating limits for Unit No. 4 set forth in its Technical Specifications remain unchanged although the Unit No. 4 Technical Specifications will be modified to reflect the revisions to the Unit No. 3 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 21, 1976, as supplemented by letters dated December 9, December 22, December 30, 1976 and January 3, 1977, (2) Amendments Nos. 22 and 21 to Licenses Nos. DPR-31 and DPR-41 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of January 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-2292 Filed 1-26-77;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

This amendment modifies the Technical Specifications by lowering the trip level setpoints for the differential pressure instruments associated with the HPCI Turbine Steam Line High Flow trip.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1976, (2) Amendment No. 26 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of January 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-2293 Filed 1-26-77;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which temporarily revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment was effective on December 8, 1976.

The amendment temporarily revised the provisions in the Technical Specifi-

cations relating to operation of the bearing water makeup pumps in the primary coolant system. On December 8, 1976, telephoned authorization was given to the licensee to extend from 24 hours to seven days the duration during which one bearing water makeup pump could be inoperable without the helium circulators being considered inoperable. On December 15, 1976, telephoned authorization was given to the licensee to extend the time to a total of twenty-one days from December 8, 1976. Following this period the original technical specification would be reinstated.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated December 8, 1976 and December 15, 1976, (2) Amendment No. 17 to License No. DPR-34, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Managment.

Dated at Bethesda, Maryland, this 17th of January, 1977.

For the Nuclear Regulatory Commission.

RICHARD P. DENISE,
Assistant Director for Special Projects, Division of Project Management.

[FR Doc. 77-2294 Filed 1-26-77;8:45 am]

[Docket No. 50-346]

THE TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO. (DAVIS-BESSE UNCLEAR POWER STATION, UNIT NO. 1)

Issuance of Amendment to Construction Permit and Availability of Initial Decision (Antitrust)

Notice is hereby given that pursuant to an Initial Decision (Antitrust), dated January 6, 1977, by the Atomic Safety and Licensing Board, the Nuclear Regulatory Commission has issued Amendment No. 3 to Construction Permit CPPR-80 issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company for construction of the Davis-Besse Nuclear Power Station, Unit No. 1, presently under construction at the Applicants' site on the southwestern shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio. The Board's Initial Decision includes antitrust conditions to be attached to licenses for the Davis-Besse 1, 2 and 3 nuclear units.

The Nuclear Regulatory Commission has found that the provisions of this amendment comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the Atomic Safety and Licensing Board's Initial Decision (Antitrust), dated January 6, 1977, and Amendment No. 3 to Construction Permit No. CPPR-80 are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and in the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Single copies of the Initial Decision (Antitrust) and Amendment No. 3 to CPPR-80 may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 14th day of January 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-2295 Filed 1-26-77;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding:

VERMONT YANKEE NUCLEAR POWER CORPORATION

Vermont Yankee Nuclear Power Station, Facility Operating License No. DPR-28.

This action is in reference to a notice published by the Commission on December 9, 1976, in the FEDERAL REGISTER (41 FR 53871) entitled "Proposed Issuance of Amendment to Facility Operating License".

The members of the Board and addresses are as follows:

Samuel W. Jensch, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. David B. Hall, Member, Los Alamos Scientific Laboratory, P.O. Box 1663, Los Alamos, New Mexico 87544.

Dr. Paul W. Purdom, Member, 245 Gulph Hills Road, Radnor, Pennsylvania 19087.

Dated at Bethesda, Maryland this 17th day of January, 1977.

Atomic Safety and Licensing Board Panel.

JAMES R. YORE,
Chairman.

[FR Doc.77-2296 Filed 1-26-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-71-4]

CHEM-NUCLEAR SYSTEMS, INC.

Filing of Petition for Rule Making

Notice is hereby given that the Chem-Nuclear Systems, Inc., P.O. Box 1866, Bellevue, Washington, by letter dated November 22, 1976, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions", 10 CFR Part 71.

The petitioner requests the Commission to amend §§ 71.7 and 71.10 of 10 CFR Part 71 to exempt from the specification container requirements of Part 71 "low specific activity material" as defined in § 71.4(g). The petitioner states that § 71.4(g) defines the term "low specific activity material" using the same language provided in § 173.389 of the Department of Transportation (DOT) Hazardous Materials Regulations, 49 CFR Parts 170-189, and that the DOT regulations provide a specific exemption for "low specific activity material" from the type A and type B packaging requirements. The petitioner states that this exemption is consistent with both the 1967 regulations of the International Atomic Energy Agency and the 1972 revised edition of the IAEA regulations.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition 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 rule making 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 March 28, 1977.

Dated at Washington, D.C. this 18th day of January 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-2291 Filed 1-26-77;8:45 am]

[Docket Nos. 70-8, 70-25 etc.]

LICENSEES AUTHORIZED TO POSSESS OR TRANSPORT STRATEGIC QUANTITIES OF SPECAL NUCLEAR MATERIALS

Memorandum and Order

Docket Nos. 70-8, 70-25, 72-27, 70-33, 70-135, 70-143, 70-364, 70-371, 70-734, 70-754, 70-820, 70-1143, 70-1257, 70-1319, et al.

On February 2, 1976, the Natural Resources Defense Council, Inc. ("NRDC") filed a petition requesting that the NRC either immediately implement emergency safeguards measures to protect strategic special nuclear material ("SSNM") currently held or transported by NRC licensees or revoke forthwith the licenses and take immediate possession of the SSNM. The emergency safeguards measures included immediate dispatch of U.S. Marshall to licensee facilities, curtailment or complete suspension of licensee activities, revocation of outstanding SSNM licenses, and immediate recovery of SSNM.

The "Emergency Safeguards Petition" before the Commission addresses the adequacy of safeguards measures used by NRC licensees who are authorized under our regulations (10 CFR Parts 70 and 73) to possess or transport substantial quantities of strategic special nuclear material.[1] The term "safeguards" refers to the security measures undertaken by a licensee to protect SSNM from loss, theft, or diversion and to prevent sabotage of a licensee's facilities or activities.

By notice in the FEDERAL REGISTER dated February 4, 1976 (41 FR 5357), the Commission requested comments on the petition. The Commission referred the petition to the Director of NRC's Office of Nuclear Material Safety and Safeguards ("NMSS") under 10 CFR § 2.206. After reviewing the matter and meeting with NRDC representatives, the Director denied the request for emergency relief on March 22, 1976, concluding that the requested emergency action was "unnecessary" and failed "take into account the competing interest of the licensees and the broader public interests involved." In the Director's words, "the present safeguards programs of the licensees in question are adequate to provide a reasonable assurance of public health and safety and are not inimical to the common defense and security." On April 8, 1976, petitioner filed a motion requesting action at the Commission level, in response to the emergency safeguards petition. In its response, the NRC staff did not oppose the request for Commission action. However, the staff contended that our review should be a limited one under our *Indian Point* decision.[2] In *Indian Point*, we stated our authority to review, under an abuse of discretion standard, a staff decision made under 10 CFR § 2.206 not to issue an order to show cause.

Ten private companies (operating 13 facilities) licensed by NRC currently possess SSNM, and four transport companies hold NRC-approved transportation plans for shipments of SSNM. The licensees utilize the SSNM for a number of purposes, but most of the SSNM—more than 90%—is high-enriched uranium held by certain licensees whose principal business is fabricating fuel for the Navy Nuclear Propulsion Program, an important national defense activity relating to the initial fueling and refueling of Navy nuclear submarines and surface ships. Other SSNM is used in various research and development programs of private organizations and institutions and of governmental agencies. The SSNM which licensees possess or transport (predominantly high-enriched uranium) differs from the low-enriched uranium primarily utilized as fuel in commercial light water-cooled power reactors in that the former is capable of being used to fabricate a nuclear explosive device while the latter is not.[3] SSNM licensees are therefore required by NRC regulations to protect the SSNM against loss, theft, or diversion (10 CFR parts 70 and 73). The potential consequences which could arise from the illicit use of SSNM are sufficiently great that licensees are required to employ detailed security measures to provide a high-degree of assurance against the threat of theft or diversion of the SSNM. Safeguards programs of licensees typically have several dimensions including: (1) physical security measures, such as private guards, physical barriers, and intrusion alarms (e.g., 10 CFR § 73.50); (2) material containment programs providing for separate material access areas and vault storage of SSNM (e.g., 10 CFR § 73.60); and (3) material control and accounting procedures such as inventory and measuring systems designed to detect discrepancies in the amount of material on hand (e.g., 10 CFR § 70.57).

Petitioner contended that the safeguards programs of the SSNM licensees do not sufficiently and adequately protect SSNM from theft or diversion by, for example, an armed terrorist group intent on obtaining SSNM for its illicit use. In support of its position, petitioner relied principally on internal memoranda and reports done by or for the NRC and its predecessor agency, the Atomic Energy Commission.[4] Petitioner asserted that the common defense and security and the public health and safety require either that the licensees' safeguards programs be immediately supplemented to provide protection against the maximum credible threat of theft—as, for example, by the immediate dispatch of federal marshals—or, if this cannot expeditiously be done, that the SSNM licenses be revoked forthwith and that possession immediately be taken of the SSNM.

1. *Preliminary Considerations.* At the outset, we need to address two aspects of the emergency petition each of which affects our consideration. The first relates to our scope of review. The petition can be viewed as requesting both enforcement action against individual licensees and special rulemaking on a generic level. Because of its request for enforcement action, the petition was initially referred to the staff under 10 CFR § 2.206. The Director's decision not to institute action under 10 CFR § 2.202 is reviewable by the Commission utilizing the standard of review established in *Consolidated Edison Company of New York, Inc.* (Indian Point, Units 1, 2, and 3, 2 NCRI 173 (1975)). Under this standard, detailed in a note below,[5] the Director's decision will not be disturbed unless it is clearly unwarranted or an abuse of discretion. The *Indian Point* review is essentially a deferral to the staff's judgment on the facts relating to a potential enforcement action, in order to avoid premature commitment by the Commission on factual issues. While the Director's decision not to institute emergency action was rendered in March 1976, we consider this to remain his decision today by virtue of his responsibility under our regulations to act on his own initiative. The Director has not initiated the emergency action requested by petitioner to date. Thus, the *Indian Point* issue is whether the Director's decision was an abuse of discretion, either when he made it or in light of the current facts.

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[1] The term strategic special nuclear material ("SSNM") includes uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium 233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium).

[2] *Consolidated Edison Company of New York, Inc.* (Indian Point, Units 1, 2, and 3), 2 NRCI 173 (1975). See note 5 infra.

[3] Some licensees also possess limited amounts of plutonium. Plutonium is toxic. Adverse consequences could follow from its dispersal in the atmosphere. This is not as great a concern with either low or high-enriched uranium.

[4] The reports and memoranda include an early draft of the NRC Security Agency Study required by the Energy Reorganization Act of 1974, an internal memorandum, dated January 19, 1976, written by Carl Builder, the Director of NRC's Division of Safeguards, NMSS ("Builder Memorandum"), the Rosenbaum Special Safeguards Study done for the AEC and issued in April 1974 ("Rosenbaum Report"), and a Mitre Corporation report to the NRC entitled "The Threat to Licensed Nuclear Facilities," done in September 1975.

[5] Review of the Director's decision embodies the following elements: (1) whether the statement of reasons given permits rational understanding of the basis for his decision; (2) whether the Director has correctly understood governing law, regulations, and policy; (3) whether all necessary factors have been considered, and extraneous factors excluded, from the decision; (4) whether inquiry appropriate to the facts asserted has been made; and (5) whether the Director's decision is demonstrably untenable on the basis of all information available to him.

In this case, contrary to petitioner's view utilization of the *Indian Point* standard will not noticeably limit Commission involvement in the issues raised by the emergency safeguards petition. As we have earlier noted, a substantial part of the petition relates to policy matters which, as is clear from *Indian Point* and otherwise, the Commission itself must decide. In any event, we would rely heavily on the staff's judgment of factual matters, quite apart from the considerations in *Indian Point*. Of course, we would examine the staff's judgment and its basis with the appropriate degree of discrimination to satisfy ourselves of the judgment's validity. A searching inquiry is also considered essential to an *Indian Point* review.[6]

The second important aspect of the petition relates to the emergency nature of the relief sought. Much of the substance of the NRDC's position is of a policy nature which would warrant close Commission attention whether or not available information compelled the precipitate action it sought.[7] Nonetheless, petitioner's contentions must be weighed in the context of its request for emergency action.

The emergency action requested by petitioner is a drastic procedure which can radically and summarily affect the rights and interests of others, including licensees and those who depend on their activities. Our emergency powers must be responsibly exercised. *Cf. Nader* v. *Federal Aviation Administration*, 440 F.2d 292, 294 (D.C. Cir. 1971). Available information must demonstrate the need for emergency action and the insufficiency of less drastic measures. In the context of the request for emergency relief in this case, the available information must show that the continued activities of NRC licenses, under current safeguards programs, are inimical to the common defense and security and constitute an unreasonable risk to the public health and safety. We are not required either by the Atomic Energy Act or by our regulations, to take the emergency action petitioner has requested whenever we receive information adverse to the integrity of existing nuclear power safety or safeguards systems. See *Nader* v. *Nuclear Regulatory Commission*, 513 F.2d 1045, 1054–55 (D.C. Cir. 1975). Where the balance of available information demonstrates an undue risk, we of course take prompt remedial action. Actions have been taken to improve our safeguards posture. But the facts have never called for the drastic relief which petitioner seeks. And as we state in detail in the following paragraphs, we believe that current available information also falls short of establishing a basis for the emergency relief.

2. *Review of the Director's Decision and the Staff's Site-Specific Actions.* Petitioner has raised a number of safeguards issues calling for our consideration. Although there were safeguards deficiencies pointed up by a series of staff site visits initiated prior to receipt of the petition, the Commission is of the view that the emergency remedies sought by petitioners were inappropriate in March 1976, when Mr. Chapman denied the petition, and are equally inappropriate now. As we now discuss, what the staff review indicated as necessary to remedy the shortcoming revealed in fuel cycle facility safeguards was a systematic and integrated increase in safeguards protection implemented on an expedited, but not emergency, basis. Such an orderly enhancement of safeguards effectiveness has indeed been in progress since March, and we have recently directed implementation of additional measures at a limited number of facilities. Additionally, the Commission has decided to conduct a rulemaking, the details of which will be publicized shortly to establish, through public proceedings, a long-term regulatory framework for safeguarding strategic quantities of special nuclear material.

We believe the orderly approach adopted by the staff was and remains the correct one, in view of the compressed timetable under which needed safeguards improvements have been and are being implemented. In contrast, the emergency measures proposed by petitioners would have required our taking action in the absence of the results of the staff's careful, though expeditious, review of the situation and could have had an unwarranted and severe impact on the operations of our licensees, most of whom are engaged in activities of importance to the national security.

In January of last year and prior to this petition, the Director of the NRC Office of Nuclear Material Safety and Safeguards initiated a special onsite review of all SSNM licensees.[8] The purpose of the special review was to evaluate the safeguards measures of licensees against current NRC regulations and to analyze safeguards capabilities against a hypothetical internal threat of diversion of SSNM by at least one insider—an employee of the licensee—occupying any position, and a hypothetical external threat of theft presented by a determined violent attack of, at minimum, three well-armed, well-trained attackers, who might possess inside knowledge or assistance.[9] Two separate task groups of the NRC safeguards staff visited each licensee's facilities. The task groups consisted of six-to-eight staff personnel, and the visits ranged from two-to-four days' duration. One task group examined the licensee's physical security measures for compliance with existing regulations, the purpose of gauging the timeliness, likelihood and adequacy of the licensee's response to an external attack. The second task group reviewed the licensee's material control programs to evaluate procedures controlling access to and containment of SSNM. The reviews were completed in May.[10] While the fixed-facility licensees were found to have safeguards programs which were generally in compliance with existing regulations, nearly all licensees were unable to defeat both hypothetical threats. The most frequently observed weaknesses were control of access to significant quantities of SSNM (both stored and in process), exit search procedures, and adequacy of response by onsite and offsite forces.

The special review task groups reported that most weaknesses could be corrected by licensees instituting changed procedures, and the Director concluded that shutdown or curtailment of SSNM activities was not necessary. A few weak-

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[6] The *Indian Point* standard of review is similar to the review that would be accorded the Director's decision by a court. 2 NRCI at 175. *See Dunlop* v. *Bachowski*, 421 U.S. 560, 568–576 (1975); *Citizens to Preserve Overton Park, Inc.* v. *Volpe*, 401 U.S. 402, 416 (1971). Using the *Indian Point* standard to review the Director's decision in this case is not an abdication of Commission responsibilities as petitioner maintains. As we have noted, the Commission itself will decide questions of safeguards policy. The *Indian Point* standard is reserved for the factually oriented controversies in which full Commission review at the very outset of a proceeding risks premature commitment on factual disputes which the Commission might later be called upon to review.

[7] Indeed, as we note later, the petitioner's contentions relate to policy matters being considered by the Commission. For this reason and as we note *infra*, we retain these aspects of petition for further review.

[8] The January review was directed at the fixed-facility fuel cycle licensees. Activities of companies authorized to transport SSNM had been under special review since October 1975, and are discussed infra. Much of the information generated by these staff reviews and follow-up activities is classified or proprietary. We have attempted in this memorandum and order to set forth the salient aspects of the information without, of course, compromising the classified nature of it. But the factual underpinning of our conclusions includes the classified information and briefings we have received from the staff.

[9] No specific threat levels are defined in our regulations.

[10] While the Director's decision on the NRDC emergency request preceded completion of the site reviews, we do not conclude that his inquiry into the facts asserted by petitioner was thereby rendered incomplete. In our view the factual issues raised by the petition center primarily on the nature of the threat to licensed facilities, generally, rather than on the implementation of safeguards measures at specific sites, which was the subject of the staff's site reviews. The Director properly focused his inquiry on the former, broader question. The Director's denial of the emergency relief requested amounted to a finding that modification of NRC's regulatory standards on an emergency basis was not called for. The Director's action was based in large measure on examination of the very information and reports cited by petitioner, who, as the Director pointed out in his response to the petition, brought forward no new factual material on this subject. Nevertheless, implicit in the petition was a request for the actual implementation of emergency safeguards measures to protect the public against whatever threat was ultimately found to be appropriate. As we note in the text, each site visit was followed by the imposition of new license conditions as appropriate, although in no case were the dramatic measures petitioner sought found to be required.

nesses were found which required structural changes, but these were susceptible to correction through compensatory procedural changes as a short-term solution. The NRC safeguards staff suggested specific procedural alterations to each fixed-facility licensee at the conclusion of each site visit, and has continued to work closely with the licensees to increase safeguards capabilities and correct weaknesses found. A special survey, conducted by inspectors in the NRC Regional Offices during June, determined that all licensees had made significant improvements in their safeguards systems, although further upgrading measures still had to be taken.

Beginning in May, new license conditions were issued to individual SSNM licensees which, in effect, formally required each licensee to employ the safeguards measures that the review teams had determined were sufficient to defend against the hypothetical threats. During September and October, the staff conducted a second round of special onsite reviews to verify that the actions required by the new license conditions had been fully implemented. These onsite reviews were similar, in personnel, time, and procedures, to the earlier initial staff review. Our staff's conclusions were that marked safeguards improvements had been made by all SSNM licensees, and that, in the judgment of the site-review teams, all facilities visited have the capability of meeting the postulated threat. However, as to several facilities, the site reviews have suggested that the level of assurance underlying that judgment was not as great as for the remaining facilities. The Commission considers it prudent—in order to maintain a reasonably assured margin of safeguards at all facilities—to undertake additional measures at these facilities to increase the level of assurance that they are protected against the postulated threat. Based on a generic staff analysis that shows a strong relationship between onsite guard strength and the level of safeguards protection afforded at SSNM facilities, the Commission has decided to require the facilities to increase the number of guards on site or to implement alternative measures which are equally effective within the next two months.[11]

As regards SSNM transportation activities, on October 1, 1976, ERDA assumed responsibility for shipment of all Government-owned SSNM—over 90 percent of the total SSNM road shipments. In a separate series of reviews, the NRC staff evaluated the vulnerability of road shipments of SSNM to attack by at least one insider, or an external group of a minimum of three attackers with military training and skills, at least one of whom could be an insider. As to the private shipments which are still subject to NRC regulation—about 10–30 shipments annually—the NRC staff reviews have led to improvements in commercial transportation planning and scheduling. New license conditions responding to other problems identified by the staff vulnerability studies were implemented in May 1976. The license conditions required increased escort guards, training and instruction of shipment guards and drivers, and installation of citizen band radios for shipment and escort vehicles. The staff is conducting additional reviews, and further upgrading measures remain under consideration.

As we next address, we believe the NRC policy of orderly strengthening of safeguards which the staff is implementing and enforcing provides adequate protection to the public. This policy includes planned agency public proceedings directed at requiring additional upgrading actions by SSNM licensees. In this context, we are satisfied with the staff's conclusions that licensees have safeguards programs which are adequate for the immediate term and that the emergency safeguards sought by NRDC are unwarranted. Our conclusion to initiate rulemaking directed at further upgrading of existing safeguards discussed below, is founded on considerations of prudence. As we have described above, the staff's conclusions rest on extensive onsite reviews of and work with individual licensees. We do not construe the staff's efforts as a statement that the safeguards measures of NRC licensees are insufficient. Rather, we view the activities as an important ingredient to enhance a safeguards posture which we believe is adequate to protect during this interim period while the upgrading measures discussed below are implemented. Because of the staff's past and continuing safeguards efforts, we believe that the emergency measures which petitioner requests are not necessary and that the continued activities of SSNM licensees are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. Based upon the information present available, we cannot conclude that the Director's decision not to invoke the emergency action petitioner requests was an abuse of discretion.[12]

3. *Consideration of Safeguards Policy Matters.* Specific threat levels are not defined in NRC regulations. However, the effect of the staff's recent activities with individual SSNM licensees has been to require safeguards systems that will protect against the postulated threat of diversion of SSNM by at least one insider occupying any position, or by, at minimum, three well-armed, well-trained outside attackers, who might possess inside knowledge or assistance. This current NRC safeguards posture rests on judgment and experience. It is supported by (1) analysis of and to the extent possible extrapolation from historical evidence on the size and character of groups involved in incidents of terrorism and other antisocial behavior; (2) communications and work with other federal agencies having special knowledge and expertise of this area; and (3) review of our records of the types of actual and threatened violence in the commercial nuclear industry. No NRC-licensed nuclear facility or activity has ever been subjected to armed attack, and we have no evidence suggesting that any such attack is likely. Nonetheless, the danger of attack cannot be wholly discounted. Given our impending proposals for safeguards upgrading, we believe the current level of safeguards reasonably assures that continued SSNM activities of NRC licensees are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

The principal safeguards policy issue raised by the NRDC is whether SSNM licensees should be required immediately to employ safeguards measures which would protect against attacks by groups substantially larger than the threat postulated in the staff's special safeguards review. The documents upon which petitioner relies are several reports and memoranda generated by or for the NRC and the AEC over the last two years.[13] The authors of some of these documents judge larger groups to be a possible risk as petitioner contends. However, neither these judgments nor the factual context in which they must be evaluated suggest that the emergency action petitioner requests is either necessary or appropriate. Petitioner has not provided information demonstrating an imminent threat to SSNM licensees—although such risks cannot be wholly discounted—and in this regard it is noteworthy that the reports and memoranda referenced by petitioner

[11] All SSNM facilities and transportation activities will be the object of continued NRC review, inspection, and evaluation. In this regard, the Commission has asked the staff to develop a plan for the comprehensive assessment of all SSNM facilities, to be used in the context of current safeguards as well as upgraded safeguards measures which are to be the subject of a Commission rulemaking described later in this document. The staff's expertise in using safeguards evaluation techniques is growing, and future site visits will likely include the use of additional evaluation strategies.

[12] Analyzing the Director's March 22 decision under the Indian Point standards (see footnote 5, supra), we consider the letter-decision to be understandable and to rationally explain the basis for the decision. The Director understood and executed then-current safeguards policy and his obligations under the Atomic Energy Act and NRC regulations. No essential factor was excluded from consideration or extraneous factor included. An appropriate factual inquiry was made (see footnote 10 supra), and the decision was, and remains, not demonstrably untenable in light of the available information.

[13] Representative of the internal reports and memoranda—and also the documents upon which petitioner principally relies in seeking emergency action—are the Rosenbaum Report, and the Builder Memorandum. See note 4 supra. The former hypothesizes a threat of 15 highly trained persons, three of whom might be insiders; the latter assumes, for purposes of future safeguards consideration, an internal and external threat of two and six persons respectively (nothing a range of expert opinion from one and three to four and 12) and hypothesizes a minimum level of one insider and three outsiders.

do not recommend the kind of precipitate action which petitioner seeks.[14]

In the safeguards context, the specifications of the threat against which safeguards should protect—its size and characteristics—cannot be precisely quantified. In this respect, threat analysis appears to be an example of regulatory action that would greatly benefit, before implementation, from a detailed and open review, including a public examination of the costs and benefits attendant to increasing safeguards measures to meet varying levels of threat. Some historical perspective exists for threat analysis, but it appears to be of limited value. Much of the safeguards question deals in the complexities and unpredictable nature of human character. Thus, the possible analogy of safeguards planning and design and of the technical health and safety planning and design undertaken incident to the licensing of commercial nuclear facilities is of uncertain scope or validity.[15] At present we are not convinced that the empirical or technical means exist to assess the threat with such precision as to establish as mandatory one specific level of safeguards and no higher or lower level. Further examination of safeguards policy may reveal that the appropriate level of safeguards protection will depend on the public acceptability of the measures employed and on the cost-benefit balance of increasing safeguards protection.[16] In this regard, we cannot discount that the ultimate decision to require additional safeguards may involve substantial amounts of initial and continuing expenditures.[17] Before requiring this action, we should be reasonably certain that the expenditures will provide a publicly desired benefit in safeguards protection. Additional safeguards protection need not be implemented on an emergency basis unless necessitated by the facts. Available information does not provide a factual basis for emergency implementation. Thus, in refusing petitioner's requests for emergency action, we do not put a price on basic public safety. Rather, we simply recognize that we must determine that the common defense and security and the public health and safety are advanced by proposed safeguards improvements. All of this discussion convinces us that the issues addressed by petitioner are of important concern but can and should be resolved in contexts other than that of a request for immediate, emergency action.

We do not perceive an actual threat to our licensees although such may not be wholly discounted. As we have said, no NRC licensees has ever been the target of an armed attack, and available information does not indicate than an attack is probable. However, prudence dictates that our safeguards policy be subject to close and continuing NRC review.

Thus, we have decided to conduct a public rulemaking to consider upgraded interim safeguards requirements and proposed longer-term upgrading actions. The specific upgrading actions remain to be defined in the proposed rule and in developing these actions the Commission will consult and coordinate with the Energy Research and Development Administration and other Federal agencies having special knowledge and expertise in this area.[18] For the reasons already stated, we have concluded that continuing activities of SSNM licensees are neither inimical to the common defense and security nor present an unreasonable risk to the public health and safety.

The rulemaking is currently planned for the next few months. This proceeding is intended as a public review of generic safeguards policy for SSNM licenses, and transportation activities and will consider requirements for upgraded safeguards programs in both the near and long term. At the Commission's request, the staff is formulating, for consideration in the rulemaking, recommendations for additional steps that might be taken to upgrade safeguards to protect against higher levels of threat. In formulating its recommendations, the staff is considering, among other materials, the report from a joint NRC–ERDA Task Force which evaluated safeguards of the fixed-facility licensees involved in this proceeding for the purpose of formulating a safeguards action plan for NRC licensees and government-owned SSNM facilities.[19] The Task Force recommended employing additional safeguards measures to counter the hypothetical threats of internal conspiracies among licensee employees and determined violent assaults which would be more severe than those postulated in evaluating the adequacy of current safeguards. The Commission has approved this objective as an appropriate proposal for purposes of the planned public review.[20] The rulemaking proposal will also include interim safeguards actions to be taken over a shorter span of time. Proposed interim actions include: (1) increasing the capability of weapons supplied to guards; (2) improving guard training; (3) requiring SSNM licensees to employ additional safeguards measures, as the staff determines necessary at each facility or for each transport company, to defend against an external threat having the capability of a determined assault more severe than that currently postulated; [21] (4) a security clearance program for employees with access to SSNM; [22] and (5) other measures which may, for the interim, be utilized to increase protection against internal threats of theft or diversion of SSNM.

The Commission believes that the contemplated safeguards rulemaking proceeding presents a satisfactory framework for near- and long-term safeguards decisionmaking. We see no reason to short-circuit the usual rulemaking procedures to address safeguards policy matters.[23]

One final matter merits comment. Petitioner has contended that SSNM licensees must employ safeguards meas-

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[14] The Builder Memorandum, for example, did not suggest that additional safeguards must be implemented on an emergency basis. Rather, the memorandum recommended a review of existing facilities while awaiting further judgments about what may be a prudent design threat level. This, of course, has been done by the staff.

[15] See "A Report to the U.S. Nuclear Regulatory Commission on a Conceptual Approach to Safeguards," p. 21 (October 31, 1975).

[16] Id. at 16.

[17] On his point, we note that some of the SSNM licensees are engaged in important national defense activities. Thus, there may not be the option of ultimate shutdown of these SSNM licensees even though the publicly desired level of safeguards might be greater and more expensive than the present level. Petitioners recognize this, albeit in the contetx of short-term, emergency relief.

[18] In this regard, we note that ERDA has recently initiated upgrading actions at its facilities and plans additional actions in Fiscal Year 1978. Over 90 percent of the SSNM possessed by NRC licensees is government-owned and subject to ERDA possession and safeguards at one point, or another. Our safeguards concerns relate, of course, to those periods when SSNM is in the hands of our licensees.

[19] The Task Force was directed by Carl H. Builder, then Director of NRC's Division of Safeguards. Its report—sometimes referred to as the "Builder Task Force Report"—contains Restricted Data, and is classified "Confidential," under the Atomic Energy Act of 1954. 42 U.S.C. § 2014y. Like previous reports on this subject, the report based its recommendation to increase safeguards on prudence, rather than a perception of the imminence of threats to the nuclear industry. An unclassified version of the report is planned for release shortly.

[20] While we are committed to proposing for public review an upgrade of safeguards capabilities at SSNM facilities, this is not to say that the Commission will necessarily adopt the proposed upgrade measures as its ultimate course of action. The Commission remains free, at the close of the public proceeding, to adopt the course it considers as most prudent to maintain a margin of safeguards protection, taking into consideration all ingredients of responsible regulatory action, including the education it undergoes as a result of the public process. While we have no evidence of actual threats, we cannot wholly discount that SSNM licensees will be the object of assaults more severe than those currently postulated or of internal conspiracies among employees.

[21] Depending on the staff's evaluation of what is preferable at each facility, these additional safeguards measures would include additional guards at some facilities, installation of undefeatable offsite communications systems, improved guard deployment and defensive positions, and hardened facility alarm stations.

[22] Security clearances are already required by ERDA for employees of SSNM licensees that are engaged in activities under ERDA contract. This covers 90 percent of the SSNM in facilities licensed by the NRC.

[23] The Commission's analysis of safeguards issues in the context of the wide-scale use of mixed-oxide fuels in commercial light water-cooled power reactors ("GESMO") may also offer a forum for discussion of longer-term safeguards matters. GESMO does not apply to existing SSNM licensees, but could serve to focus long-term generic safeguards issues and develop future approaches that would be relevant to existing SSNM licensees.

ures designed to combat "the maximum credible threat of theft or diversion." It is maintained that the concept finds support, by analogy, in the health and safety requirements incident to the licensing of commercial nuclear facilities—an analogy which, as we have previously indicated, is of uncertain validity. The maximum credible threat concept is not now a part of NRC safeguards policy. Without intending to prejudge the utility of the concept, which will likely be evaluated in planned agency proceedings and studies, the present state of safeguards information does not render the concept obviously useful. For example, there does not now appear to be sufficient sophistication in safeguards analysis to establish conclusively the precise nature and level of threats which may be posed to nuclear facilities.[24] Current safeguards policy relies on extrapolation from historical evidence and communications with law enforcement authorities and with other Federal agencies having intelligence-gathering responsibilities or experience and expertise in protecting materials similar to SSNM. Yet, as we have noted earlier, the empirical basis for nuclear safeguards threat assessment is not well developed. This, of course, is not to say that an analytical framework for threat analysis cannot be developed and would not be important in the resolution of safeguards policy issues. In this regard, we again note that the parameters appear to us to be more social than technical. The staff has underway several studies which address the analytical basis for a design basis threat. Additionally, consideration of this safeguards matter may be a part of the planned NRC public proceedings. Thus, while future information and developments may provide clarity, we are not now convinced that the maximum credible threat concept is a helpful one in safeguards planning.

4. *Disposition of the Petition.* On the basis of the above, we conclude that existing safeguards programs, including the extensive and continuing activities of the staff and the SSNM licensees along with the planned safeguards policy activities, are adequate to provide a reasonable assurance that the current SSNM activities of NRC licensees are not inimical to the common defense and security, and do not constitute an unreasonable risk to the public health and safety. We further conclude that the Director's decision not to invoke the emergency action requested by petitioner was not an abuse of discretion. We accordingly deny petitioner's request for the immediate dispatch of federal guards, or similar emergency measures, or the revocation of SSNM licensees. As to the safeguards policy issues raised by the emergency petition—apart from the requested emergency relief—we retain these to be incorporated into ongoing and contemplated reviews and proceedings, and shall invite NRDC participation at appropriate stages in these proceedings. The staff will be instructed to notify petitioner of agency proceedings, which involve public participation, on agency proposals relating to the safeguards measures to be used by SSNM licensees and in related transportation activities. Nothing contained herein should be construed as precluding petitioner from renewing its request for emergency action upon a showing of new information which demonstrates the need for emergency relief.[25]

It is so ordered.

Dated at Washington, D.C. this 21st day of January, 1977.

By the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-2390 Filed 1-21-77;1:09 pm]

[24] For example, petitioner asserts that existing information places the maximum credible threat at from 12–15 armed outsiders or 3–4 industry employees in collusion, with the chance that future review and assessment may reveal a significantly larger threat. We consider these numbers to be essentially matters of judgments. Such judgments, together with the other available information, have been taken into account by the Commission in arriving at its safeguards decisions.

[25] Petitioner has filed a motion entitled "Motion to Ensure Compilation of the Record." The motion reflects petitioner's concern that all materials relevant to the contentions made in the Emergency Safeguards Petition be available and before the Commission for review. We agree with this concern and note, that the Commission is free to consider any materials it believes relevant including, but not limited to, the documents enumerated in petitioner's motion. This follows from the fact that our consideration of the Emergency Safeguards Petition is not a formal agency proceeding conducted on the record. Thus, the Commission is free to rely on its expertise in the matter and to consider any and all available information whether or not cited by NRDC or the staff, and whether or not it has been or could be made publicly available. The information relevant to and considered in this case includes staff reports and documents on the special onsite reviews (some of which are classified Restricted Data or National Security Information), information and reports provided to the Commission in connection with its continuing interchanges with the Congress and other Executive branch agencies, safeguards studies done by or for the Commission (some of which are classified Restricted Data or National Security Information), documents and reports furnished to the Commission in the course of performing its daily business affairs.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

Meeting; Correction

The February 5, 1977 meeting of the ACRS Subcommittee on Emergency Core Cooling Systems announced in FEDERAL REGISTER, Vol. 42, page 3906, January 21, 1977, will discuss experimentation concerning core bypass of emergency core coolants. It will not consider items regarding the Oyster Creek Nuclear Power Plant as stated in paragraph (a) of cited notice. (The Subcommittee will consider items pertaining to the Oyster Creek Plant at its January 29, 1977 meeting, announced in FEDERAL REGISTER, Vol. 42, page 2729, January 13, 1977.)

Dated: January 25, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-2763 Filed 1-26-77;8:45 am]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the Facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

This amendment authorized changes in the Technical Specifications concerning tendon and ventilation system surveillance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 12, 1976, (2) Amendment No. 18 to Facility Operating License No. DPR-51 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of January, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-2766 Filed 1-26-77;8:45 am]

[Docket Nos. 50-317 and 50-318]

BALTIMORE GAS & ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 19 and 5 to Facility Operating License Nos. DPR-53 and DPR-69 (respectively), issued to Baltimore Gas & Electric Company (the licensee), which revised the licenses for operation of the Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2 (the facilities) located in Calvert County, Maryland. The amendments are effective as of their date of issuance.

The amendments authorized an additional offsite power source from Southern Maryland Electric Cooperative (SMECO) which provides a standby offsite power source to augment the two existing offsite power sources and increases the reliability of the offsite power sources, thus minimizing the possibility of an extended shutdown of the facilities.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal relating to the action authorized by these license amendments and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated March 18, 1976, and supplement thereto dated July 13, 1976, (2) Amendment No. 19 to License No. DPR-53 and Amendment No. 5 to License No. DPR-69, and (3) the Commission's jointly issued Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland 20678. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of January, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-2767 Filed 1-26-77;8:45 am]

[Docket Nos. STN 50-491, STN 50-492, and STN 50-493]

DUKE POWER CO., CHEROKEE NUCLEAR STATION, UNIT NOS. 1, 2, AND 3

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Cherokee Nuclear Station, Unit Nos. 1, 2, and 3, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on June 10, 1976 (41 FR 23489). Based upon an Atomic Safety and Licensing Board Order, the staff has now revised two of the environmental conditions related to the radwaste treatment system and preservation of a mountain-laurel hardwood stand.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on May 21, 1976. A copy of (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated October 1975; (5) the Commission's letter of authorization, dated May 28, 1976; and (6) the Commission's revision to that letter of authorization dated January 19, 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW, Washington, D.C. and the Cherokee County Library, 300 East Rutledge Avenue, Gaffney, South Carolina.

Dated at Rockville, Md., this 19th day of January 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-2768 Filed 1-26-77;8:45 am]

[Docket No. 50-334]

DUQUESNE LIGHT CO., OHIO EDISON CO., AND PENNSYLVANIA POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), for operation of the Beaver Valley Power Station Unit No. 1, located in Beaver County, Pennsylvania.

In accordance with the licensees' application for amendment dated December 3, 1976, the amendment would revise the provisions in the Technical Specifications relating to the spent fuel storage pool. As amended, the Technical Specifications would permit the replacement of the existing 272 spent fuel storage cells with High Density Spent Fuel Storage Racks, increasing the ultimate storage capacity of the spent fuel storage pool to 833 storage locations.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), the Commission's rules and regulations.

By February 28, 1977, the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license.

Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated December 3, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania.

Dated at Bethesda, Md., this 12th day of January 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-2764 Filed 1-26-77;8:45 am]

[Docket No. STN 50-572]

WESTINGHOUSE ELECTRIC CORP.

Receipt of Standard Safety Analysis Report

Westinghouse Electric Corporation, in response to Option No. 1 of the policy statement of the Nuclear Regulatory Commission (the Commission) entitled "Methods of Achieving Standardization of Nuclear Power Plants", issued March 5, 1973, and pursuant to Appendix O to 10 CFR Part 50, has filed with the Commission a seven-volume document entitled "Westinghouse Reference Safety Analysis Report 414" (RESAR-414), which was docketed on December 30, 1976. The tendered application for RESAR-414 was received on October 8, 1976. Following a preliminary review for completeness, the application was found to be acceptable for docketing. Docket No. STN 50-572 has been assigned to RESAR-414 and should be referenced in any correspondence relating thereto.

RESAR-414 has been submitted in accordance with the "reference system" option wherein an entire facility design or major fractions of it can be identified as a standard design to be used in multiple applications. RESAR-414 describes and analyzes a four-loop pressurized water reactor nuclear steam supply system (NSSS) with auxiliary and safety systems. The reactor is designed for initial operation at a rated core thermal power level of 3,800 megawatts.

On March 11, 1974, the Commission docketed for review an application filed by Westinghouse Electric Corporation for its Reference Safety Analysis Report, RESAR-41. The Commission issued a preliminary design approval for RESAR-41 on December 31, 1975. The RESAR-414 NSSS is in many respects similar to the RESAR-41 NSSS, with the principal differences being the reactor core length, control rods, systems for emergency core cooling and boration, electrical protection systems, and spent fuel removal and storage.

When its review of RESAR-414 is complete, the Commission's staff will prepare and publish a Safety Evaluation Report documenting the results of the review. In addition, RESAR-414 has been referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Copies of the Safety Evaluation Report and the ACRS report will be made available to the public. A notice relating to the availability of these documents will be published in the FEDERAL REGISTER.

All interested persons who desire to submit written comments for consideration by the staff and ACRS during their review of RESAR-414 should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by ----------.

A copy of the RESAR-414 Reference Safety Analysis Report is available for public inspection at the Commission's Public Document Room, 1717 H Street, Washington, D.C. 20555. When available, the Safety Evaluation Report and the ACRS report will be made available for inspection by the public at the Commission's Public Document Room.

Dated at Bethesda, Md., this 19th day of January, 1977.

For the Nuclear Regulatory Commission.

S. A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc.77-2765 Filed 1-26-77;8:45 am]

[Docket Nos. 50-443, 50-444]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE ET AL., (SEABROOK STATION, UNITS 1 AND 2)

Order Regarding Stay Application

On January 21, 1977, the Atomic Safety and Licensing Appeal Board rendered ALAB-366, suspending the effectiveness of the outstanding construction permits for the proposed Seabrook facility. The Board's decision is to become effective on February 4, 1977. An application for a stay of construction is pending before the United States Court of Appeals for the First Circuit. *Audubon Society of New Hampshire* v. *United States*, 76-1346. On December 17, 1976, the Court rendered an opinion deferring its ruling on the stay application pending further agency consideration of the issues. The Court stated its expectation that it would rule on the stay application unless further agency action eliminating a need for a stay were taken by February 18, 1977.

Pursuant to 10 CFR 2.786, the Commission has elected to review ALAB-366. The matter raises complex legal and policy issues with possible ramifications for other proceedings. As is our custom, we will articulate in appropriate detail the reasons for any action we may decide to take in our decision announcing the results of our review.

As previously noted, the Appeal Board decision will become effective by its own terms and construction must cease (except for measures which protect the environment or buildings, material or personnel) on February 4, 1977. In order to allow adequate time for consideration of the submissions of the parties under the schedule we are establishing by this order, the effectiveness of the Appeal Board decision is hereby stayed until 6 p.m., February 7, 1977. Any party who believes that the Appeal Board decision should be stayed beyond that date should apply for a stay. The other parties will have an opportunity to respond. The Commission will rule on any such stay application no later than February 7, 1977. Should the Commission decline to issue a further stay, the applicant will be given a reasonable period of time to comply with the Board's decision.

Apart from the question of a temporary stay pending completion of Commission review, the parties are to file papers addressed to the correctness of the Appeal Board decision. In addition, the applicant is to provide a detailed description of the status of work at the site and its plans with reference to construction over the next several months, should continued construction be permitted. In this regard, the applicant should explain the meaning of its Board of Directors resolution of January 6, 1977 referred to in the Appeal Board's opinion at pp. 63-64, detailing the work now underway whose continuation is regarded as "necessary or desirable in order to complete a particular phase or phases of the Project or to permit full construction activity to be resumed in an efficient and orderly manner as soon as possible * * *."

In view of time constraints the parties are free to incorporate relevant portions of papers previously submitted to the Licensing and Appeal Boards and to the Court, so long as such submissions are readily intelligible.

The following schedule is established for Commission review:

Jan. 31, 1977---	All parties submit papers on the merits of the Appeal Board decision; any party seeking a stay pending a completion of Commission review shall file an appropriate submission.
Feb. 3, 1977----	Reply papers due from all parties on the merits and any stay application.
Feb. 7, 1977----	Oral argument before the Commission.

All submissions must be put in the hands of all parties by the close of business on the specified deadlines. The oral argument will take place at 9:30 a.m. in the Commissioners Conference Room, 1717 H Street NW., Washington, D.C. Counsel wishing to participate in oral argument should so inform the Secretary by January 31, 1977. The Secretary will thereafter issue an order allocating time for oral presentations.

In footnote 54 of the majority opinion, the Board noted that it had not reached the merits of many of the issues pending before it for decision in this proceeding. It indicated, however, that some of those issues appear to be "troublesome." The Appeal Board is requested to identify these issues and to provide the Commission with a statement of the seriousness of these issues and the competing considerations involved. This submission is

requested by February 3, 1977.

The reconstituted Licensing Board in this proceeding should proceed with preparation for the hearing contemplated in the Appeal Board's opinions without awaiting the outcome of Commission review of ALAB–366.

Dated at Washington, D.C., this 24th day of January 1977.

It is so ordered.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77–2791 Filed 1–26–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS NUCLEAR REGULATORY COMMISSION

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 10–12, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, FEBRUARY 10, 1977

8:00 A.M.–8:45 A.M.: Executive Session (Closed).—The Committee will discuss the qualifications of candidates nominated for appointment to the ACRS.

8:45 A.M.–9:45 A.M.: Executive Session (Open).—The Committee will hear and discuss the reports of ACRS Subcommittees and consultants who may be present regarding the evaluation of selected safety issues related to light-water reactors. Portions will be closed if necessary to discuss proprietary material or intra-agency memoranda prepared for internal use only.

9:45 A.M.–12:45 P.M. and 1:45 P.M.–4:45 P.M.: Meeting on Evaluation of Selected Safety Issues Related to Light-Water Reactors (Open).—The Committee will hear presentations and hold discussions regarding evaluation of selected safety issues related to light-water reactors.

Portions of this session will be closed if necessary to receive reports from individual NRC employees who will present their personal opinions and recommendations only in confidence. Portions will also be closed if required to review Proprietary Information related to the matters being considered and intra-agency memoranda prepared for internal use only.

4:45 P.M.–6:30 P.M.: Executive Session (Open).—The Committee will hear and discuss reports of ACRS Subcommittees regarding proposed Regulatory Guides and regulatory activities related to the practices and policies for correction of ECCS errors for operating power plants. The Committee will also discuss a proposed revision of its report on the Status of Generic Matters Related to Light-Water Reactors.

FRIDAY, FEBRUARY 11, 1977

8:30 A.M.—11:15 A.M.: Meeting with Members of the NRC Staff.—This portion of the meeting will include sessions with the Executive Director for Operations and other members of the NRC Staff related to current reactor operating experience and licensing actions; evaluation of generic matters related to light-water reactors, including performance of steam generator tubes in pressurized water reactors and evaluation of fuel handling accidents inside containment; and evaluation of safety research data and regulatory requirements of the Federal Republic of Germany. The future schedule for ACRS activities will be discussed. Reports will be made to the Committee regarding the NRC program to evaluate integrity of reactor pressure vessels designed and fabricated to the ASME Boiler and Pressure Vessel Code Sections I and VIII and the NRC program to review environmental phenomena at sites with facilities for processing and fabricating plutonium.

11:15 A.M.–12:00 Noon: Executive Session (Open).—The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the analytical models formulated to evaluate use of Exxon Nuclear Company Replacement Fuel for Light-Water Reactors. Portions of this session will be closed if required to discuss Proprietary Information related to the design, fabrication, or operation of this fuel.

1:00 P.M.–3:00 P.M.: Meeting Regarding Exxon Nuclear Company, Inc. Replacement Fuel for Light-Water Reactors (Open).—The Committee will hear and discuss information with representatives of the NRC Staff and the Exxon Nuclear Company, Inc., and the Jersey Central Power & Light Company, regarding the ECCS evaluation models for replacement fuel to be used in non-jet pump boiling water reactors and pressurized water reactors with low-pressure containment.

Portions of this session will be closed if required to discuss Proprietary Information related to the design, fabrication or operation of this type fuel.

3:00 P.M.–5:00: Executive Session (Open).—The Committee will hear and discuss the reports of ACRS Subcommittee Chairmen with respect to ACRS activities regarding review of the Zion Nuclear Station, ACRS review of the Clinch River Breeder Reactor, review of sites with environmental phenomena for plutonium processing and fabrication facilities, and ACRS review of the NRC plan to reevaluate siting policy and practices.

5:00 P.M.–6:30: Executive Session (Closed).—The Committee will meet in closed Executive Session to discuss the qualifications of proposed candidates for appointment to the Committee. The Committee will discuss a proposed ACRS report on safeguards provisions at nuclear facilities.

SATURDAY, FEBRUARY 12, 1977

8:30 A.M.–4:30 P.M.: Executive Session (Open).—The Committee will discuss proposed ACRS reports and activities regarding matters considered during this meeting. Portions of this session will be closed if necessary to discuss proprietary material related to the matters being discussed. Portions will also be closed if necessary to discuss information related to safeguards provisions at nuclear facilities and to discuss proposed policy and practice regarding conduct of ACRS activities.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to close portions of the meeting as noted above to protect material, which has been designated national security information and is classified under E.O. No. 11652 (5 U.S.C. 552(b)(1), to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the confidentiality of intra-agency memoranda prepared for internal agency use only and discussion of information which, if written, would fall within the provisions of exemption 5 of 5 U.S.C. 552(b) (5 U.S.C. 552(b)(5)), to preserve the confidentiality of information related to safeguarding of special nuclear material (5 U.S.C. 552(b)(4)), to protect information provided in confidence by individual members of the NRC Staff (5 U.S.C. 552(b)(5)), and to protect information which, if released, would represent an undue invasion of privacy (5 U.S.C. 552(b)(6)). Separation of factual information and information considered exempt from disclosure under exemption (1), exemption (4), exemption (5), and exemption (6) of 5 U.S.C. 552(b) during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than February 2, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

OYSTER CREEK NUCLEAR POWER PLANT

Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753.

D.C. COOK UNIT 1

Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, MI 49085.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on February 9, 1977, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 A.M. and 5:00 P.M., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on February 9, 1977.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. on or after May 13, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: January 21, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

NOTE: This is a republication of a document which originally appeared at 42 FR 4564, Jan. 25, 1977.

[FR Doc.77–2389 Filed 1–21–77:1:11 pm]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 77–4]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

The National Transportation Safety Board has recommended that the U.S. Department of Transportation in conjunction with its State agent, the Maine Public Utilities Commission, monitor the compliance actions taken by Maine Utility Gas Company to insure that it has established operations and maintenance records as required by 49 CFR Part 192. The Class II, priority followup recommendation No. P–76–101 was issued January 17 following investigation of a flash fire which occurred last August 13 in the basement of a house in Bangor, Maine.

The fire killed one Maine Utility Gas Company employee, burned two other employees, and caused minor damage to the house. Board investigation disclosed that liquefied petroleum gas admixed with air at 7-inches water-column pressure had escaped from a severely corroded segment of a 1½-inch bare steel service line at the basement wall. The escaping gas migrated underground along the service line and entered the basement through numerous openings in the stone foundation wall.

In its recommendation letter, the Board indicated that the gas company's operating procedures did not include instructions for the type of operation used by company servicemen in attempting to locate a low gas pressure problem immediately before the fire began. These procedures did not require the servicemen to vent open service lines to a safe outside location or to monitor the atmosphere for combustible gases when working in confined locations, nor did the procedures prohibit smoking or the introduction of other ignition sources while working near gas facilities. Also, the Board stated that it was doubtful that leakage surveys of the company's gas mains made previously by a contractor were adequate.

Also on January 17 the Safety Board directed five Class I recommendations to the Maine Utility Gas Company. The Board asks urgent followup action in implementing these recommendations:

Develop written procedures to insure the safety of company personnel and the public when work is performed on active gas facilities within buildings or other enclosed locations and train its employees in the use of the procedures. These procedures should require the use of equipment to monitor the atmosphere for combustible gases and should prohibit smoking, open flames, or other sources of ignition. (P–76–96)

Inspect a sample of the bare steel gas service lines at foundation walls to determine the systemwide extent of corrosion and perform a survey capable of detecting gas leakage that includes all service lines, meter set assemblies, and openings in foundation walls near gas service lines. Based upon the results of the inspection and survey, take necessary corrective action. (P–76–97)

Determine areas of active corrosion and install necessary cathodic protection to stop corrosion which could result in a condition detrimental to public safety. (P–76–98)

Determine the odor intensity of the gas at one-fifth of its lower explosive limit and periodically sample the intensity at representative locations. (P–76–99)

Maintain operation and maintenance records as required by 49 CFR Part 192. (P–76–100)

A third recommendation letter was forwarded by the Board on January 17 to the American Society of Mechanical Engineers Gas Piping Standards Committee. The Class II recommendation, No. P–76–102, also issued in connection with the Bangor accident, asked that the Committee provide priority followup action in revising its Guide for Gas Transmission and Distribution Systems, Appendix G–11, to include information appropriate to heavier-than-air gases which will guide operators of systems transporting these gases in the selection of gas leakage detection techniques and procedures.

The Federal Highway Administration, by letter of January 13, has acknowledged the Safety Board's letter of December 21 redirecting recommendations

H–76–2 and H–76–3 from the National Highway Traffic Safety Administration to FHWA. (See 41 FR 56739, December 29, 1976.) These recommendations were developed as a result of the Board's investigation of the railroad-automobile grade crossing collision which occurred in Tracy, California, March 9, 1975. FHWA notes that the basic issues involved in railroad grade crossing safety and programs conducted by the Department of Transportation were discussed with Safety Board representatives at a meeting last June 14. The meeting was initiated by FHWA's Office of Engineering, partly as a result of the Board's report on the Tracy accident, and was attended by representatives of the Federal Railroad Administration and NHTSA. FHWA states that its formal response to these recommendations will be an extension and updating of the information provided to Board representatives at that meeting.

The Safety Board's letter of January 17 to the Federal Aviation Administration supplies comments on FAA's notice of proposed rulemaking 76–23—Additional Weather Information: Domestic and Flag Carriers, published last November 15 at 41 FR 50275. While the Board concurs with the intent of the proposal, certain reservations are expressed.

The preamble to NPRM 76–23 quotes, in part, the Safety Board's recommendation A–74–14, resulting from the July 1973 crash of an Ozark Airlines FH–227B at St. Louis, Missouri. The recommendation, in part, was that the FAA "* * * implement, in coordination with the National Weather Service, a system to relay severe thunderstorms and tornado bulletins expeditiously to inbound and outbound flights when such bulletins include the terminal area." The Board states that the letter to FAA was quite clear in pointing out that the tower and approach control facility had no system for the relay of severe weather warning bulletins to incoming and outgoing flights. The Board did not intend that the company have the responsibility in the terminal area.

The Board states that its operational and investigative experience and the findings of its ongoing study of terminal area thunderstorm problems indicate that the timely transmission of significant weather information by the company dispatcher to a flight in the terminal area is not feasible because of communications difficulties. The Board believes that the responsibility for transmission of such information necessarily devolves to the controller and that the proposed 14 CFR 121.601(c) as it pertains to the terminal area is not practical. The Board therefore considers recommendation A–74–14 to be still applicable and is carrying it on Board records as an "open" item.

Further commenting on the FAA proposal, the Board notes that although the major air carriers have meteorological departments which tailor weather information for their flights and provide forecasts of low-level wind shear, many carriers do not have company meteorologists and depend on the products of the National Weather Service. The Board notes that although NWS issues forecasts for clear air turbulence and thunderstorms, it does not provide routine forecasts of low-level wind shear; accordingly, there is no way many dispatch departments can provide such forecasts to flightcrews. According to the Board, similar problems no doubt exist on international routes where the dispatcher might be separated from the flight by thousands of miles, and such forecasts, even if issued by the various meteorological authorities, are not necessarily available to the dispatcher.

Safety recommendation letters are available to the general public; single copies may be obtained without charge. Copies of letters concerning recommendations 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 recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2172 (49 U.S.C. 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

JANUARY 24, 1977.

[FR Doc.77–2683 Filed 1–26–77;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

MEETING

The Privacy Protection Study Commission will hold meetings on February 2 (Wednesday), 3 (Thursday), 9 (Wednesday), 10 (Thursday), 17 (Thursday), and 18 (Friday), 1977 for the purpose of internal deliberations and discussion with staff. The meetings will be held from 9:00 a.m. to 5:30 p.m. each day in Room 2358, Rayburn House Office Building, Washington, D.C.

Topics of discussion for February 2, 3, 9, and 10 may include the following Commission projects: Credit, credit reporting, insurance, and medical records. The sessions on February 17 and 18 will include a discussion of education records, research and statistics, and implementation of the Privacy Act of 1974.

It has been determined in writing by the Acting Director of the Office of Management and Budget, James L. Mitchell, that these meetings of the Commission to be held February 2, 3, 9 and 10 may be closed under section 10(d) of the Federal Advisory Committee Act and under exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5). The Commission will discuss the progress of draft reports being undertaken by the staff of the Commission. No recommendations will be given to anyone outside of the Commission nor will the Commission take any final actions in closed session. Also, a full verbatim transcript will be taken for all sessions.

For further information, contact John Barker, Public Affairs Director, at 202–634–1477.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

[FR Doc.77–2607 Filed 1–26–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. SR–Amex–76–30]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 18, 1977.

On December 13, 1976, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, a proposed rule change amending the Amex constitution and rules to reflect the proposed transfer of the clearing agency business of the American Stock Exchange Clearing Corporation ("ASECC"), the Amex's wholly-owned clearing subsidiary, to the National Securities Clearing Corporation ("NSCC"). The proposed amendments were filed in connection with the pending application of NSCC as a registered clearing agency.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 85, January 3, 1977), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13103, December 23, 1976. No letters of comment were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.[1] Furthermore, in view of the proposed transfer of the clearing agency business of ASECC to NSCC, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change contained in File No. SR–Amex–76–30 be, and it hereby is, approved provided, however, that the proposed rule change will not become effective prior to the effectiveness, and implementation by NSCC, of the order granting NSCC registration as clearing agency.[2]

[1] The Commission's approval of the amendments to the Amex constitution and rules is subject, nevertheless, to the Commission's review pursuant to Section 31(b) of the Securities Acts Amendments of 1975. See Securities Exchange Act Release No. 13027 (December 1, 1976).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-2619 Filed 1-26-77;8:45 am]

[SR-NASD-76-10]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

JANUARY 18, 1977.

The National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006 (the "NASD") submitted on September 28, 1976, a proposed rule change under Rule 19b-4 to amend Section 4 of Schedule G under Article XVIII of the By-Laws of the NASD to provide that the charge to members for transactions in eligible securities reported in the consolidated transaction reporting system (the "consolidated system") contemplated by Rule 17a-15 under the Securities Exchange Act of 1934 (the "Act") through the NASDAQ system be altered from $.20 per transaction for all transactions, to $.20 per transaction for transactions reported prior to January 1, 1976, and $.10 per transaction for transactions reported subsequent to January 1, 1976.

The schedule of changes proposed to be amended (contained in Section 4 of Schedule G) was originally filed with the Commission on March 21, 1975, in conjunction with other rule changes (contained in Sections 1, 2 and 3 of Schedule G) governing: (i) the reporting of transactions in eligible securities, and (ii) antimanipulative rules relating to over-the-counter trading in such securities.

The provisions of Schedule G were amended by the NASD and refiled with the Commission on June 4, 1975, and were deemed by the Commission to have been filed under Section 19(b) of the Act, as amended by the Securities Acts Amendments of 1975. In view of the need to implement the NASD rule changes proposed in Article XVIII of the NASD's By-Laws and Schedule G thereunder (the "NASD Rule Changes") immediately to permit the scheduled commencement of the consolidated system on June 16, 1975, the Commission ordered the NASD Rule Changes into effect summarily pursuant to Section 19(b)(3)(B) of the Act on June 11, 1975. Notice of that action was provided by Securities Act Release No. 11461 (June 11, 1975), published in the FEDERAL REGISTER on June 18, 1975 (40 FR 25730). That release also solicited public comment on the NASD Rule Changes.[1]

On May 12, 1976, the Commission approved Article XVIII of the NASD By-Laws and Sections 1, 2 and 3 thereunder, as modified on December 15, 1975, with respect to the method of reporting transactions effected by NASD members at a price plus or minus a commission, commission equivalent, or differential.[2] With respect to the fees and charges contained in Section 4 of Schedule G, the Commission determined to take no formal action, but acknowledged the consent of the NASD to a further extension of the time within which the Commission is required to act on the proposed fees and charges.[3] In so doing, the Commission noted that it understood that the reason the NASD consented to the further extension of time was to permit an opportunity for internal resolution of certain issues relating to the proposed fees contained in Section 4 of Schedule G.[4] The Commission understands that the revised transaction fees proposed by the NASD represent a resolution of those issues.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12914 (October 21, 1976)) and by publication in the FEDERAL REGISTER (41 FR 47300 (October 28, 1976)). Interested persons were invited to submit written data, views and arguments concerning the proposal by November 27, 1976. The Commission has not received any comments concerning the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to national securities associations, and in particular the requirements of Section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2624 Filed 1-26-77;8:45 am]

[File No. SRNYSE 76-29]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 18, 1977.

On April 30, 1976, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005 filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, a proposed rule change amending the NYSE constitution and rules to reflect the proposed transfer of the clearing agency business of Stock Clearing Corporation ("SCC"), the NYSE's wholly-owned clearing subsidiary, to the National Securities Clearing Corporation ("NSCC"). The proposed amendments were filed in connection with the pending application of NSCC as a registered clearing agency.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (41 FR 23499, June 10, 1976), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 12512, June 3, 1976. No letters of comment were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.[1]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change contained in File No. SR-NYSE-76-29 be, and it hereby is, approved provided, however, that the proposed rule change will not become effective prior to the effectiveness, and implementation by NSCC, of the order granting NSCC registration as a clearing agency.[2]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2679 Filed 1-26-77;8:45 am]

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[2] On January 13, 1977, the Commission issued an order granting NSCC registration as a clearing agency subject to the terms, conditions and directives contained in the order. See Securities Exchange Act Release No. 13163 (January 13, 1977).

[1] The original deadline for submission of written comments on the proposals was June 30, 1975; the time for such comment was extended until July 18, 1975, in Securities Exchange Act Release No. 11508 (June 30, 1975), and until October 1, 1975, in Securities Exchange Act Release No. 11653 (September 15, 1975), 40 FR 43284 (1975). See also Securities Exchange Act Release Nos. 11546 (July 10, 1975), 40 FR 53085 (1975), and 11951 (December 24, 1975), 41 FR 836 (1976).

[2] Securities Exchange Act Release No. 12432 (May 12, 1976). See Securities Exchange Act Release No. 11951 (December 24, 1975), 41 FR 836.

[3] Securities Exchange Act Release No. 12432 (May 12, 1976), at 2, n. 3.

[4] Id. See also File No. SR-1 for previous comments received with respect to the NASD transaction fees.

[1] The Commission's approval of the amendments to the NYSE constitution and rules is subject, nevertheless, to the Commission's review pursuant to Section 31(b) of the Securities Acts Amendments of 1975. See Securities Exchange Act Release No. 13027 (December 1, 1976).

[2] On January 13, 1977, the Commission issued an order granting NSCC registration as a clearing agency subject to the terms, conditions and directives contained in the order. (See Securities Exchange Act Release No. 13163 (January 13, 1977).

[Release No. 34-13171; File No. SR-PHLX 76-23]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

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 that on December 30, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PHLX' STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Centramart provides a system for the automatic execution of orders on the Exchange equity floor under predetermined conditions. Orders accepted under the system may be executed on a fully automated or manual basis. Securities admitted to dealings on the equity floor are eligible for trading on the Centramart System in which equity specialists and member organizations may choose to participate. The conditions under which orders will be accepted and executed are set forth below. When used in these rules PRL means a combined round-lot and odd-lot order. The Centramart rules, conditions and guidelines do not apply to orders not on the system, and existing rules governing the latter dealings are not affected hereby.

1. Member organizations wishing to participate in Centramart will undertake to send to the Philadelphia trading floor all of their market orders and limit orders up to 299 shares in securities traded under Centramart.

2. Only agency orders may be executed under Centramart.

3. Floor brokerage or service charges on orders executed under Centramart are subject to negotiation by the specialist and the participating member organization. An automated execution program, by nature, involves set parameters. The Exchange permits such a program but does not require its members to participate in it. Thus, fees are ultimately subjected to competitive determination. Members may choose to deal on the program, not on the program, or on other markets.

4. When the prices of limit orders entered under Centramart, or by floor brokers representing member organizations not participating in the system, or by competing market-makers, are between the New York market and Philadelphia market quotes, it is the responsibility of the specialist to reflect such prices in the Philadelphia quote on Centramart and allow any agency order in the crowd to participate in the transaction occurring on Centramart.

5. All market orders will be executed immediately upon entry in the system.

6. Market orders (round-lots, odd-lots and PRL's up to 299 shares) entered prior to 9:57 a.m., will be executed at the New York market opening price. In the case of delayed openings execution will occur at the New York market opening price.

7. Market orders (round-lots, odd-lots and PRL's up to 299 shares) entered after 9:57 a.m. will be executed on the best bid/ask quote on either the Philadelphia or New York markets.

8. Odd-lot limit orders will be executed at the limit price when a sale takes place on the New York market either at or through the limit price. An odd-lot stop or stop limit order which becomes a market order will be executed on the next sale in the New York market plus or minus a differential if any is charged.

9. Round-lot limit orders and PRL limit orders will be executed at the limit price when an accumulative volume of 500 shares prints at the limit price on the New York market after the time of entry of any such order into Centramart. A maximum of 300 shares will be executed on each such accumulation of 500 shares for each participant in Centramart. Round-lot limit orders and PRL limit orders are distributed to the specialists for manual execution based on the above conditions.

10. Upon approval of a Floor Procedure Committee member, the specialist will have the right to refuse by 9:55 a.m. round-lot and PRL orders which create a net long or short position in excess of 1,000 shares.

11. In case of a trading halt, orders will be executed based on the reopening price.

12. Under unusual market conditions such as imbalance in the influx of orders, specialist can seek relief during the trading day from performance conditions. In such case, only a Floor Procedure Committee member may authorize such relief.

13. It is permissible for the specialist and the participants to adjust Centramart executions when the latter take place outside the New York market range for the day because of erroneous quotation or sales information.

14. Orders to which special conditions are attached and orders which exceed 299 shares may be accepted under Centramart but such orders will be executed manually by the specialist.

PHLX' STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide, as an alternative, an efficient system under which specialists on an automatic and predetermined basis can expand their market-making activities to serve the investing public.

The proposed rule change establishing an alternate system for the execution of orders, is consistent with the registration and functions of odd-lot dealers and specialists as contemplated under Section 11(b) of the Exchange Act.

No written comments have been received from members on the proposed rule change. During developmental stages and operation of the pilot program, oral comments and recommendations have been received from specialists, members and technical resource people.

No burden on competition will be imposed by the proposed Rule.

The PHLX does not consent to an extension of the time periods specified in Section 19(b)(2) of the Act.

On or before March 7, 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 six 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, N.W., 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 on or before February 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 14, 1977.

[FR Doc.77-2620 Filed 1-26-77;8:45 am]

[Release No. 34-13176]

RESCHEDULING PUBLIC FORUM

On December 8, 1976 [41 FR 54785 (12-15-76)] the Commission announced that a public forum would be held on January 28, 1977 for the purpose of receiving oral presentations from a representative selection of persons who are interested in the establishment of a nationwide investor dispute grievance system. Because a relatively large number of persons have indicated an interest in appearing at the public forum and making an oral presentation, the Commission today announced that the public forum would be rescheduled to February 9-10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 17, 1977.

[FR Doc.77-2623 Filed 1-26-77;8:45 am]

[812-4076]

WILLOW FUND, INC.

Application for Temporary Order of Exemption

JANUARY 18, 1977.

Notice is hereby given that The Willow Fund, Inc. ("Applicant"), 1 Chase Manhattan Plaza, New York, N.Y. 10005, an open-end non-diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application on January 4, 1977, and an amendment thereto on January 17, 1977, pursuant to Section 10(e) of the Act for an order of the Commission temporarily exempting Applicant from the requirements of Section 10(b) of the Act to the extent specified therein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Wertheim & Co., Inc. (the "Corporation") is an investment banking firm and a broker-dealer registered under the Securities Exchange Act of 1934. The Corporation acts as Applicant's regular broker in the execution of its portfolio transactions, and is also the principal underwriter of Applicant's shares. Wertheim & Co., a partnership, owns substantially all the outstanding voting stock of the Corporation. Wertheim Advisers, Inc. ("Advisers"), a wholly-owned subsidiary of the Corporation, acts as investment adviser to Applicant, and the Corporation acts as Applicant's subinvestment adviser. Applicant and Advisers have no employees other than their officers. All of Applicant's officers are affiliated persons or interested persons of the Corporation. All persons who perform services for Applicant are employees of the Corporation or one of its subsidiaries. The Corporation provides the necessary personnel and services to permit Advisers to serve Applicant. Applicant has no facilities apart from those provided by the Corporation. Applicant represents that Wertheim & Co. and Advisers, and all partners, directors, officers and employees thereof, are affiliated persons or interested persons of the Corporation within the meaning of sections 2(a)(3) and 2(a)(19)(B), respectively, of the Act.

Prior to December 16, 1976, the Applicant's Board of Directors consisted of five members, two of whom were affiliated and interested persons of the Corporation, and three of whom were not affiliated or interested persons of the Corporation. The application states that on December 16, 1976, one of the non-affiliated and non-interested directors of Applicant resigned unexpectedly leaving two of Applicant's current four directors, Messrs. Frederick A. Klingenstein and Robert Bach, as affiliated and interested persons of the Corporation, and Applicant's two other current directors as non-affiliated and non-interested persons of the Corporation. As a result of this resignation, the non-affiliated and non-interested directors of Applicant are no longer in a majority on Applicant's Board of Directors. Section 10(b) of the Act provides, in pertinent part, that it is unlawful for a registered investment company to employ as its regular broker, or to use as principal underwriter of its shares or to have as a director, officer or employee any person affiliated with an investment banker, unless a majority of the board of directors of such registered company shall be persons who are (i) not affiliated persons of such broker, (ii) not interested persons of any such principal underwriter, or (iii) not affiliated persons of any investment banker, respectively.

Section 10(e) of the Act provides, in pertinent part, that if by reason of the bona fide resignation of any director the requirements of Section 10(b) of the Act shall not be met by an investment company, the operation of such provision shall be suspended for a period of sixty days if a vote of stockholders is required to fill the vacancy, or for such longer period as the Commission may prescribe by order upon application as not inconsistent with the protection of investors.

Applicant represents that its remaining directors cannot fill the vacancy created by the December 16, 1976, resignation because of the requirements of Section 16(a) of the Act, which provide, in pertinent part, that immediately upon filling a director vacancy by vote of the remaining directors at least two-thirds of the directors of an investment company must have been elected by the stockholders at the last annual meeting. The application states that three of Applicant's four current directors were elected by the stockholders of Applicant at its last Annual Meeting of Stockholders; and that one director was elected in July, 1976, by Applicant's board of directors to fill a vacancy created by the earlier resignation of another non-interested director, who had been elected by the stockholders and was forced to retire as a result of serious illness. The application further states that under Section 10(e) of the Act, Applicant has 60 days, or until February 14, 1977, to have its stockholders elect a new noninterested director if the Corporation is to continue to serve as Applicant's regular broker and principal underwriter, if Messrs. Klingenstein and Bach are to remain directors of Applicant, and if the current officers of Applicant are to remain its officers after that date. The application further states that if stockholder action is not taken by February 14, 1977, the normal operations of Applicant will cease, because Applicant has no facilities or services apart from the Corporation, unless Applicant hires its own personnel and arranges for its own facilities and operations before that date.

Applicant represents that its Board of Directors has determined that it is the prudent course to retain the Corporation as Applicant's regular broker and principal underwriter, to retain Messrs. Klingenstein and Bach as directors, and to retain Applicant's current officers past February 14, 1977, until Applicant's 1977 Annual Meeting of Stockholders, and thereby prevent a serious disruption in the normal operations of Applicant. Applicant further states that it is the prudent course not to hold a special meeting of stockholders on or before February 14, 1977, for the purpose of electing an additional noninterested person to its board of directors, followed by the Annual Meeting of Stockholders of Applicant soon thereafter.

Applicant represents that it is not practicable to have its Annual Report to Stockholders, which under Rule 14a-3 of the Securities Exchange Act of 1934 must accompany or precede Applicant's proxy statement, prepared and delivered in time so as to combine the Annual Meeting of Stockholders with a special meeting of stockholders which would otherwise be required to be held by February 14, 1977, under Section 10(e) of the Act. Applicant also represents that its By-Laws provide for an Annual Meeting date of the third Tuesday in April in each year. Applicant states that unless the Commission grants the exemption requested, it will be required to hold a special meeting of stockholders, to be followed within a relatively short period by its Annual Meeting. Applicant further represents that its Board of Directors have determined that the interest of stockholders will not be adversely affected if Applicant continues to operate temporarily without a majority of directors who are neither affiliated persons nor interested persons of the Corporation, if Applicant is spared the expense of holding a Special Meeting of Stockholders.

On the basis of the above information, Applicant requests the Commission to grant a temporary exemption to Applicant from the requirements of Section 10(b) of the Act from February 14, 1977, until the 1977 Annual Meeting of Stockholders of Applicant, provided that such Annual Meeting is called and held not later than April 19, 1977, and at least 50 percent of Applicant's board of directors continue to be non-affiliated and non-interested persons of the Corporation and Advisers.

Applicant asserts that the granting of the application is consistent with the protection of investors, and will save the expense of holding a special stockholders' meeting approximately two months before the regularly scheduled Annual Meeting of Stockholders.

Notice is further given that any interested persons may, not later than February 10, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission orders a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request shall be served personally or by mail upon Applicant at the address set forth above. Proof of such service (by affidavit, or in 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 herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77–2621 Filed 1–26–77;8:45am]

[Rel. No. 34–13187]

EXEMPTED SECURITIES

Federal Farm Credit Banks-Consolidated Systemwide Bonds Designated

The Securities and Exchange Commission announced today that the Federal Farm Credit Banks-Consolidated Systemwide Bonds of the twelve Federal Land Banks, the twelve Federal Intermediate Credit Banks, and the thirteen Banks for Cooperatives, have been designated exempted securities under the Securities Exchange Act by the Secretary of the Treasury pursuant to section 3(a)(12) of that Act.

Following is the text of the letter from the Secretary of the Treasury to the Commission providing for the exemption:

Paragraph 12 of section 3(a) of the Securities Exchange Act of 1934, as amended, provides in part that when used in Title I thereof, unless the context otherwise requires, the term "exempted security" or "exempted securities" shall include "securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors."

In accordance with the provisions of this paragraph and pursuant to the authority delegated to me by the Secretary of the Treasury, I am designating for exemption the obligation entitled "The Federal Farm Credit Banks-Consolidated Systemwide Bond" of the twelve Federal Land Banks, the twelve Federal Intermediate Credit Banks, and the thirteen Banks for Cooperatives, issued pursuant to section 4.2(d) of the Farm Credit Act of 1971 (12 U.S.C. 2153). This designation for exemption may be revoked, modified, or amended at any time with respect to securities not issued prior to such time.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 19, 1977.

[FR Doc.77–2670 Filed 1–26–77;8:45 am]

[70–5957]

GENERAL PUBLIC UTILITIES CORP.

Proposed Capital Contributions by Holding Company to Subsidiaries

JANUARY 21, 1977.

In the matter of General Public Utilities Corporation, 80 Pine Street, New York, New York, 10005; (70–5957).

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below for a complete statement of the proposed transactions.

GPU proposes to make cash capital contributions to two of its three major operating subsidiaries, Jersey Central Power and Light Company ("JCP&L") and Pennsylvania Electric Company ("Penelec"), of amounts up to an aggregate of $100,000,000. GPU proposes to make such contributions from time to time during the period beginning with the effectiveness of the authorization herein sought and ending December 31, 1977. GPU requests that it be permitted to allocate the respective amounts of the proposed contributions covered by this Declaration among its subsidiaries as to best match the needs of such subsidiary, as such needs may develop in 1977.

The proposed cash capital contributions will be utilized by JCP&L and Penelec for the purpose of financing their respective businesses as public utilities, including the construction of additional facilities and the increase in their working capital. JCP&L will require an aggregate of approximately $238,000,000 for its construction program including anticipated net payments to Metropolitan Edison (Met-Ed) and Penelec relating to the transfer of ownership in portions of certain generating stations and approximately $5,000,000 for sinking fund purposes. During 1977, Penelec will require an aggregate of approximately $101,000,000 for its construction program, including anticipated net receipts from JCP&L relating to the transfer of ownership in portions of certain generating stations and approximately $3,000,000 for sinking fund purposes.

GPU estimates that the fees, commissions and expenses paid or incurred in connection with the proposed transactions will total $4,000 including $3,500 in legal fees. It is stated that no state or federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions.

Notice is further given that any interested person may, not later than February 17, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–2671 Filed 1–26–77;8:45 am]

[811–2569]

GOLD INCOME INVESTORS, INC.

Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

JANUARY 19, 1977.

In the matter of Gold Income Investors, Inc., 122 East 42nd Street, New York, New York 10017; (811–2569).

Notice is hereby given that Gold Income Investors, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 23, 1976, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant was incorporated under the laws of Maryland on December 16, 1974; and registered with the Commission under the Act on May 5, 1975. The Applicant states that it has never issued any securities, has no intention of ever issuing any securities, and has no outstanding assets or liabilities.

The Applicant further represents that its Board of Directors has authorized

its dissolution, and that articles of dissolution have been forwarded for filing with the appropriate authorities of the State of Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking of effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 14, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons 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 shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–2672 Filed 1–26–77;8:45 am]

[File No. SR–MCC–75–2]

MIDWEST CLEARING CORP.

In the matter of Midwest Clearing Corporation, 120 South LaSalle Street, Chicago, Illinois 60603 (File No. SR–MCC–75–2).

Order Approving Rule Change Submitted by the Midwest Clearing Corporation

JANUARY 19, 1977.

On October 24, 1975, the Midwest Clearing Corporation ("MCC"), a wholly-owned subsidiary of the Midwest Stock Exchange, Inc., filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, a proposed rule change expanding its services to its members to include the trade recording, comparison, and settlement of over-the-counter securities. In connection with the proposed rule change, MCC requested that the Commission continue its previous finding pursuant to paragraph (g) of Rules 8c–1 and 15c2–1 under the Act that the agreements, provisions and safeguards established by MCC are adequate for the protection of investors.

In accordance with section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (40 FR 51514, November 11, 1975), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 11770, October 29, 1975.

The Commission has reviewed the MCC submission and finds that the agreements, provisions and safeguards established by MCC are adequate for the protection of investors. The Commission finds also that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–MCC–75–2 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE FITZSIMMONS,
Secretary.

[FR Doc.77–2674 Filed 1–26–77;8:45 am]

[SR–NASD–76–14]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

JANUARY 19, 1977.

In the matter of National Association of Securities Dealers, Inc., 1735 K Street, NW., Washington, D.C., 20006; (SR–NASD–76–14).

The National Association of Securities Dealers, Inc. (the "NASD") submitted on December 3, 1976, a proposed rule change under Rule 19b–4 to amend Schedule D under Article XVI of the NASD By-Laws by adding a new Part III to Schedule D, redesignating existing Part III of Schedule D as Part V thereof, redesignating existing Parts V through X of Schedule D as Parts VI through XI respectively, amending Part IV of Schedule D to add a new section D thereof, and redesignating existing sections D and E of Schedule D as sections E and F respectively. Part III of Schedule D, as proposed to be added by the proposed rule change, describes the NASD's proposed Consolidated Quotations Service ("CQS") which will provide subscribers with quotations from all registered CQS Third Market Makers, as well as the Boston, Midwest, New York, Pacific, and Philadelphia Stock Exchanges, in approximately 2,000 common stocks, preferred stocks, warrants and rights registered or admitted to unlisted trading privileges on the New York Stock Exchange.

Part III of Schedule D, as proposed to be added, also establishes rules and regulations governing the activities of registered CQS Third Market Makers, including provisions governing (i) registration, (ii) character of quotations, (iii) business hours, (iv) withdrawal, (v) voluntary termination, and (vi) suspension and termination of quotations by action of the NASD. Section D of Part IV of Schedule D, as proposed to be added, contains the fees and charges associated with CQS.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 13047 (December 8, 1976)) and by publication in the FEDERAL REGISTER (41 FR 55404 (December 20, 1976)). Interested persons were invited to submit written data, views and arguments concerning the proposal by January 17, 1977. The Commission has not received any comments concerning the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to national securities associations, and in particular the requirements of section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–2676 Filed 1–26–77;8:45 am]

[File No. SR–NASD–76–6]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Rule Changes Submitted with Respect to Establishment of National Securities Clearing Corporation

JANUARY 19, 1977.

In the matter of National Association of Securities Dealers, Inc., 1735 K. Street, NW., Washington, D.C. 20006; (File No. SR–NASD–76–6).

On June 30, 1976, the National Association of Securities Dealers, Inc. (the "NASD") filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, proposed changes to the NASD By-Laws, Uniform Practice Code, and Code of Arbitration Procedure to reflect the proposed transfer of the securities processing operations of National Clearing Corporation ("NCC"), the NASD's wholly-owned subsidiary, to the National Securities Clearing Corporation ("NSCC"). The

rule changes were filed in connection with the ending application of NSCC as a registered clearing agency.

In accordance with section 19(b) of the Act and Rule 19b–4 thereunder, the rule changes were published in the FEDERAL REGISTER (41 FR 31949, July 30, 1976), and the public was invited to submit comments. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 12653, July 23, 1976. No letters of comment were received.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations, and in particular, the requirements of Section 15A and the rules and regulations thereunder.[1]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes contained in File No. SR–NASD–76–6 be, and they hereby are, approved provided, however, that the rule changes will not become effective prior to the effectiveness, and implementation by NSCC, of the order granting NSCC rgeistration as a clearing agency.[2]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–2675 Filed 1–26–77;8:45 am]

[70–5924]

OHIO POWER CO.

Proposed Charter Amendments

JANUARY 19, 1977.

In the matter of Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702; (70–5924).

Notice is hereby given that Ohio Power Company ("Ohio"), an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration, and amendments thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

Ohio proposes to amend its Articles of Incorporation ("Charter") to create authority for Ohio to issue 4,000,000 shares of its Cumulative Preferred Stock with a par value of $25 per share ("$25 non-voting preferred") and 1,000,000 shares of its Cumulative Preferred Stock with a par value of $100 per share ("$100 non-voting preferred") (the $25 non-voting preferred and the $100 non-voting preferred, collectively "the new preferreds"). Ohio's Charter presently authorizes Ohio to issue 4,200,000 shares of cumulative preferred stock with $100 par value ("$100 voting preferred"), of which 1,437,597, shares remain unissued to date. Ohio proposes to amend its Charter to cancel the unissued $100 voting preferred. Ohio states that a market for preferred stock priced at less than $100 per share recently has developed. Consequently, Ohio states it believes that its ability to sell preferred stock on favorable terms will be strengthened by the creation of authority to issue additional shares of preferred stock with a par value of $25 per share. Additionally, Ohio states that it may be advantageous to sell shares of $100 par value preferred in the future, but that it would not be appropriate for Ohio to issue both voting and non-voting shares.

The $100 voting preferred presently outstanding and the new preferreds will be of equal rank and will confer equal rights upon the holders thereof, except as to the par value per share of the $25 non-voting preferred, the number of votes per share, and permissible variations among the series thereof as detailed below. Unlike the holders of the $100 voting preferred, who are entitled to vote for the election of directors of Ohio and upon all matters submitted to the shareholders of Ohio, the holders of the new preferreds would not be entitled to vote, except in proceedings as to which their vote is required by Ohio law and in the case of certain other events specified in the Charter, as amended. Whenever the holders of the new preferreds would be so entitled to vote, they will vote as a single class with the holders of the $100 voting preferred, but the holders of the $25 non-voting preferred will have ¼ vote per share. Ohio's Board of Directors, without action by the shareholders, will be authorized to issue series of the new preferreds and to fix the dividend rate, liquidation prices, redemption terms and prices and sinking fund provisions, if any, for such series, as it is currently empowered to do with respect to the authorized and unissued $100 voting preferred.

The proposed amendments also will amend that portion of the Charter which permits Ohio to issue stock authorized by the shareholders which ranks prior to or on a parity with the $100 voting preferred only within a period of 180 days after the shareholders' meeting at which consent to the issuance of the stock is given. It is not intended or expected that all, or even a major part, of the new preferred will be issued within 180 days of the proposed special meeting. The amendment would eliminate any time limit on the issuance of the new preferreds or other stock ranking on a parity with the $100 voting preferred or new preferreds, but would retain a time limit with respect to any stock ranking prior to either of these classes of cumulative preferred stock. Additionally, a proposed amendment as to notices of redemption of the cumulative preferred stock would substitute publication thereof in general circulation newspapers in Canton, Ohio, (Ohio's present principal office place) for publication in Newark, Ohio (Ohio's former principal office place).

Ohio proposes to solicit proxies from its common stockholder and the holders of its $100 voting preferred stock to be used at a special meeting of the common and preferred stockholders to be held on March 3, 1977. Holders of the Ohio preferred stock will be asked to approve the Ohio Charter amendments. Such approval requires the affirmative vote of more than two-thirds of the outstanding shares of common stock and outstanding $100 voting preferred shares, voting together, and the affirmative vote of the holders of more than two-thirds of the outstanding $100 voting preferred shares, voting separately as a class. AEP, owner of all of Ohio's common stock, has indicated that it intends to vote all of such shares in favor of the Charter amendments.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at $79,000, including legal fees of $3,500.

Notice is further given that any interested person may, not later than February 14, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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

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[1] The Commission's approval of the amendments to the NASD By-Laws, Uniform Practice Code and Code of Arbitration Procedure is subject, nevertheless, to the Commission's review pursuant to section 31(b) of the Securities Acts Amendments of 1975. See Securities Exchange Act Release No. 13027 (December 1, 1976).

[2] On January 13, 1977, the Commission issued an order granting NSCC registration as a clearing agency subject to the terms, conditions and directives contained in the order. See Securities Exchange Act Release No. 13163 (January 13, 1977).

the date of the hearing (if ordered) and any postponements thereof.

It appearing that the declaration, as amended, insofar as it proposes the solicitation of proxies from Ohio's preferred and common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration, as amended, regarding the proposed solicitation of proxies from Ohio's preferred and common stockholders, be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2677 Filed 1-26-77;8:45 am]

[812-4004]

VANGUARD GROUP, INC.

Filing of Application for an Order Permitting Certain Proposed Transactions

JANUARY 19, 1977.

In the matter of the Vanguard Group, Inc. and Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Exeter Fund, Inc., Gemini Fund, Inc., Explorer Fund, Inc., Trustees' Equity Fund, Inc., Wellesley Income Fund, Inc., W. L. Morgan Growth Fund, Inc., Westminster Bond Fund, Inc., Whitehall Money Market Trust, Qualified Dividend Portfolio, Inc., Qualified Dividend Portfolio II, Inc., and First Index Investment Trust, P.O. Box 1100, Valley Forge, Pennsylvania 19482 (812-4004).

Notice is hereby given that The Vanguard Group, Inc. ("Vanguard"), and Wellington Fund, Inc., Explorer Fund, Inc., Trustees' Equity Fund, Inc., Wellesley Income Fund, Inc., W. L. Morgan Growth Fund, Inc., Westminister Bond Fund, Inc., Whitehall Money Market Trust, Qualified Dividend Portfolio, Inc., and Qualified Dividend Portfolio II, Inc., all open-end, diversified management investment companies, and Gemini Fund, Inc., a closed-end, diversified investment company ("Vanguard Funds"), all of which are registered under the Investment Company Act of 1940 ("Act"), and First Index Investment Trust ("Index Trust"), a newly organized open-end diversified management investment company registered under the Act (collectively, "Applicants"), filed an application on August 5, 1976, and amendments thereto on October 7 and November 29, 1976, pursuant to sections 6(c) and 17(b) of the Act and Rule 17d-1 thereunder, for an order permitting Applicants to engage in certain transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On February 18, 1975, the Commission issued an order (Investment Company Act Release No. 8676) pursuant to an application filed by Vanguard, Vanguard Funds and Wellington Management Company ("WMC"), the Vanguard Funds' investment adviser and principal underwriter, to permit, in substance, the partial internationalization of the Vanguard Funds through Vanguard, a corporation owned by the Vanguard Funds which provides them with corporate management and administrative services at cost. Pursuant to this arrangement, each of the Vanguard Funds contributed to the capital of Vanguard in proportion to such fund's relative net assets. Adjustments will be made periodically to maintain proportional ownership by each of the Vanguard Funds. Applicants state that after approval by the shareholders of each Vanguard Fund, Vanguard began its operations on May 1, 1975.

Index Trust is a new investment company organized by WMC to provide investment results that correspond to the price and yield performance of common stocks as represented by the Standard & Poor's 500 Composite Stock Price Index. The Trustees of the Trust also serve as the Directors of Vanguard and the Vanguard Funds, and the principal executive officers of the Trust are the same persons who serve as the principal executive officers of Vanguard and the Vanguard Funds. The Vanguard Funds' Service Contract makes provision for other registered investment companies to become parties to the agreement and join in the "at cost" arrangements for corporate management and administrative services. The Vanguard Funds propose to permit Index Trust to become a party to the agreement. Index Trust will participate in the capitalization of Vanguard, which is limited to .05% of the net assets of each party to the agreement.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of or principal underwriter for a registered investment company, acting as principal, knowingly to sell any security to such registered company, or knowingly to purchase from such registered investment company any security. Section 17(b) of the Act, however, provides that the Commission, upon application, shall 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.

Vanguard is an affiliated person of several of the Vanguard Funds which own more than 5% of its voting securities. Further, since there are common directors and Vanguard Funds and Index Trust will own all of Vanguard's voting securities, Vanguard may be deemed to be directly or indirectly controlled by, or under common control with, one or more of the Vanguard Funds and Index Trust, and therefore Vanguard may be deemed to be an affiliated person of each of them and they may be deemed to be affiliated persons of each other. Thus, Applicants state the proposed purchases and sales of Vanguard shares by Index Trust among Vanguard and Vanguard Funds may be deemed subject to the provisions of section 17(a).

Section 17(d) of the Act and Rule 17d-1 thereunder, in pertinent part, prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or arrangement in which any such registered investment company or a company controlled by such registered company is a participant with the affiliated persons unless an application regarding such transaction is filed with, and an order is granted by, the Commission permitting such joint enterprise or arrangement prior to its submission to security holders for approval; and provided that, in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that Vanguard, Vanguard Funds and Index Trust may be deemed to be engaged in such a joint transaction and prohibited from having Index Trust join the Vanguard Fund Group unless the Commission issues an order allowing the implementation of such proposal.

Applicants, therefore, request an order pursuant to section 17(b) of the Act and Rule 17d-1 thereunder (1) exempting from section 17(a) of the Act the transaction whereby Vanguard will issue and Index Trust will purchase securities of Vanguard as described above; (2) exempting from section 17(a) of the Act the transactions whereby each of the Vanguard Funds and Index Trust periodically may purchase and sell securities of Vanguard among themselves to maintain ownership of Vanguard proportional to their assets; and (3) permitting Vanguard, Vanguard Funds, and Index Trust to enter into and implement the proposed joint transaction whereby Index Trust joins the Vanguard Funds described herein.

The application further states that on August 23, 1976, Vanguard became registered under the Investment Advisers Act of 1940 ("Advisers Act") with a view towards rendering investment advisory services to persons other than the Vanguard Funds, including Fiduciaries Index Trust, a private business trust recently organized by Vanguard as a vehicle through which institutional investors can acquire "index matching services" similar to those which Vanguard will provide to Index Trust. Section 12(d)(3) of the Act, in pertinent part, prohibits,

with exceptions unavailable to Applicants, a registered investment company from acquiring any security issued by a registered investment adviser. Thus, section 12(d)(3) would prohibit the Vanguard Funds, including Index Trust, from acquiring shares of Vanguard pursuant to the Vanguard Service Agreement.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application may exempt any classes of transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants believe that the exemptions they request are necessary and appropriate primarily because the internationalization of the management of their corporate administrative affairs through Vanguard achieves increased independence from and an increased ability to monitor and evaluate the performance of any external investment adviser or distributor, and providing administrative services at a reasonable cost. They further state that the arrangement increases their bargaining power in obtaining advisory and underwriting services and reduces the expenses both immediately and in the long run by having corporate administrative services performed at cost. Vanguard Funds and Vanguard state that the addition of Index Trust to The Vanguard Fund Group arrangements will produce additional benefits to the Vanguard Funds because of the ability to spread Vanguard's fixed costs of operation over a larger asset base, producing economies of scale. Vanguard asserts it has the capability to provide services to Index Trust without impairing the quality of service to others.

The application states that the proposed contribution to the capitalization of Vanguard by Index Trust is reasonable in view of the anticipated working capital needs of Vanguard and the de minimis portion of its assets to be invested, and fair since each investment company will contribute capital in proportion to its current net assets with the capital contribution being adjusted periodically so that no investment company will have a disproportionate investment. Applicants further state that the essential purposes of the proposal are consistent with the provisions, policies and purposes of the Act.

Notice is further given that any interested person may, not later than February 14, 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 Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2673 Filed 1-26-77;8:45 am]

[Release No. 34-13191; File No. SR-MSRB-77-1]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

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. 94-29, 16 (June 4, 1975), notice is hereby given that on January 18, 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 CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing proposed amendments to rule G-6 (hereinafter sometimes referred to as the "proposed rule changes") as follows (brackets indicate deletions; *italics* indicate new language):

Rule G-6. *Fidelity Bonding Requirements.*

[(a)] No municipal securities broker or municipal securities dealer (other than a bank dealer) shall be qualified for purposes of rule G-2 unless such broker or dealer, if a member of a registered securities association, has met the fidelity bonding requirements set forth in the rules of such association, to the same extent as if such rules were applicable to such broker or dealer, or such broker or dealer, if not a member of a registered securities association, has met the fidelity bonding requirements set forth in rule 15b10-11 under the Act, to the same extent as if such rules were applicable to such broker or dealer, in each case as such requirements were set forth on *January 10, 1977.* [May 24, 1976.]

[(b) The requirements of this rule shall become effectice on October 18, 1976.]

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

Purpose of Proposed Rule Changes. The principal purpose of the proposed rule changes is to revise the reference date to fidelity bonding rules of the National Association of Securities Dealers, Inc. and the Securities and Exchange Commission (the "Commission") to incorporate recent changes in rule 15b10-11 of the Commission. In addition, the paragraph relating to the effective date of the rule has been omitted since such date has now passed.

Basis Under the Act for Proposed Rule Changes. The Board has adopted the proposed rule changes pursuant to Section 15B(b)(2)(A) of the Act which authorizes and directs the Board to adopt professional qualification standards for municipal securities brokers and municipal securities dealers and persons associated with municipal securities brokers and municipal securities dealers.

Comments Received from Members, Participants, or Others on Proposed Rule Changes. Comments were not solicited or received on the proposed rule changes.

Burden on Competition. The Board is of the opinion that the proposed rule changes will not impose any burden on competition.

On or before March 3, 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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, N.W., 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 on or before February 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 19, 1977.

[FR Doc.77-2733 Filed 1-26-77;8:45 am]

[Release No. 34–13196; File No. SR–MSRB–77–2]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

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 that on January 19, 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 CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing herewith proposed amendments to rule A–3(d) (hereinafter sometimes referred to as the "proposed rule changes").

The proposed rule changes provide a procedure for the nomination and election of successor members of the Board. The term of office of the 15 initial members of the Board, who were appointed by the Securities and Exchange Commission (the "Commission") pursuant to section 15B(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] expires on September 4, 1977. Rule A–3(d) provides that five of the initial members of the Board shall be elected for a succeeding one-year term and five initial members for a succeeding two-year term, and that five individuals who are not initial members of the Board shall be elected for a three-year term, and that all other future members of the Board shall be elected for three-year terms. The rule, however, does not presently provide a procedure for these elections.

The proposed rule changes provide for the nomination by the chairman of the Board and election by the Board of those initial members of the Board who will serve successive one- and two-year terms beginning in September 1977. Under the proposed rule changes, the Board would also appoint a Nominating Committee in each year beginning in 1977, consisting of the five Board members whose terms are due to expire that year and six persons other than Board members, two representing bank dealers, two representing municipal securities brokers and non-bank municipal securities dealers, and two representing the public. In appointing the Nominating Committee, the Board would be required to give consideration to the need for broad geographic representation and representation of diverse sizes and types of municipal securities brokers and municipal securities dealers on the Committee.

The Nominating Committee would solicit public recommendations for nominees to the Board for a period of 60 days. Thereafter, the Nominating Committee would nominate three persons for each Board position to be filled. In making such nominations, the Nominating Committee would be required to give consideration to the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. The nominations to the Board would be confidential. The Board would elect from the slate of nominees submitted by the Nominating Committee one person for each of the Board positions to be filled, giving consideration to the need for broad geographic representation on the Board as well as diversity in size and type of municipal securities brokers and municipal securities dealers represented.

Rule A–3(d) presently prohibits any member of the Board from succeeding himself or herself in office. The proposed rule changes would also prohibit a broker-dealer representative or bank representative from being succeeded in office by any person associated with the municipal securities broker or municipal securities dealer with which the Board member was associated at the time of expiration of his or her term.

STATEMENT OF BASIS AND PURPOSE

Purpose of Proposed Rule Changes. The purpose of the proposed rule changes is to provide a procedure for the nomination and election of successor members of the Board. In adopting the proposed rule changes, the Board sought to achieve four goals: to provide equal representation on the Board by bank dealers, securities firms and public members, as mandated by the Act and set forth in existing rule A–3(d), within the framework of staggered terms of office; to assure broad diversity in geographical background and sized and type of banks and firms represented on the Board; to establish a fair and workable procedure for the nomination and election of successor members of the Board; and to tailor a suitably deliberative framework for the nomination and election of successor members of the Board. The Board believes that the proposed rule changes provide a procedure for the nomination and election of successor Board members which will take into account the views and recommendations of all sectors of the municipal securities industry and of the public at large in as fair a manner as possible, recognizing that the Board is not a membership corporation.

Basis Under the Act for Proposed Rule Changes. The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(B) of the Act which directs the Board to establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of municipal securities brokers and municipal securities dealers. Such rules shall provide that the membership of the Board shall at all times be equally divided among public representatives, broker-dealer representatives, and bank representatives, and that the public representatives shall be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer, or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities. Such rules shall also specify the term members shall serve and may increase the number of members which shall constitute the whole Board provided that such number is an odd number.

The proposed rule changes were also adopted pursuant to section 15B(b)(2)(I) of the Act which authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

Comments Received from Members, Participants or Others on Proposed Rule Changes. On November 23, 1976, the Board issued an exposure draft of the proposed rule changes and solicited comments thereon. The Board received letters of comment from the following persons:

Bank of America N.T.&S.A., National Association of Securities Dealers, Inc. ("NASD"), Shearson Hayden Stone Inc. ("Shearson"), State Farm Mutual Automobile Insurance Company ("State Farm"), Wauterlek & Brown, Inc. ("Wauterlek & Brown").

Both the Bank of America and the NASD suggested that the Board examine procedures utilized by other self-regulatory organizations to determine whether additional industry participation could be achieved in the selection of Board members. In accordance with these suggestions, the Board considered the possibility of providing for a petitioning procedure similar to that of the NASD in which generally each member firm and branch office of supervisory jurisdiction in a district is given one vote for petitioning purposes. However, given the special characteristics of the Board, including the fact that it is not a membership corporation, the Board has concluded that the procedures incorporated in the proposed rule changes will result in the most equitable and administratively feasible selection of Board members possible under the circumstances.

The fact that the Board is not a membership corporation is significant in several respects pertinent to the matter of elections. Thus, the Board's constituency is much more difficult to define than that of the NASD and the proper weight to assign to each segment of the constituency more difficult to determine. One possibility would be to assign one vote to each securities firm and bank dealer that had paid the Board's initial fee. Under this system, however, disproportionate representation would be given to the more numerous small firms. In addition, firms that paid the Board's initial fee but have ceased doing a municipal securities business would nonetheless be entitled to vote. Alternatively, voting weight could be scaled to the total dollar amount of municipal securities underwritten by each firm and bank dealer during the prior year. To do so, however, would exclude the sizeable number of firms and bank dealers that

[1] See Securities Exchange Act Release No. 11635 (Sept. 5, 1975).

do not participate in underwriting activity.

All of the possible methods of assigning voting weight to achieve an equitable allocation in a nonmembership context appear to present severe administrative problems, involving substantial financial cost to the Board and therefore the industry and onerous reporting requirements. The Board questions whether any of these burdens can be justified when weighed against the possible benefits to be obtained, particularly in light of the strict requirments set forth in the proposed rule changes that broad representation be achieved both in the nominating process and on the Board. In addition, the Board understands that the NASD's petitioning procedure has been used on not more than two occasions in the more than 35 years it has been in effect, a fact which underscores the disparity, for the Board's purposes, between the difficulties and costs in establishing a similar procedure as against the benefits to be realized.

One final and critical factor in the Board's consideration of possible election procedures was the need to achieve broad representation on the Board, not only according to the categories specified in the Act—securities firm representatives, bank dealers and public members—but also with respect to geography, and size and type of firm. The Board believes that these criteria can best be met by the more direct and flexible selection procedures of a representative nominating committee than by an at-large election.

The Board notes that aside from the comments discussed above, no municipal securities broker or municipal securities dealer has questioned the fairness or appropriateness of the election procedures set forth in the proposed rule changes.

On another point, the NASD suggested that the final slate of nominees be circulated for review and comment by the industry and general public. The Board concluded, however, that such a procedure would be counterproductive for several reasons. First, the Board expects the Nominating Committee to engage in such investigation of a nominee's background and qualifications as may be necessary to demonstrate his or her capabilities and eligibility for Board membership and that therefore there would be little benefit to be gained in this respect from public review of the nominees. Second, public circulation of the names of nominees would tend to emphasize nominees' political popularity instead of their capabilities and would tend to favor individuals from large financial centers or with well-known firms. Finally, the Board believes that the most capable individuals would be reluctant to enter a three-way contest which carried with it the possibility of being identified thereafter as a person not elected to the Board.

The NASD suggested that a prohibition be added against individuals from the same organization succeeding each other on the Board. The proposed rule changes incorporate this suggestion.

The NASD also suggested that at least one Board member be required to be a representative of "small" municipal securities brokers and municipal securities dealers. The Board concluded that it was unnecessary to make such provision in view of the requirements of the proposed rule that both the Nominating Committee and the Board give consideration in selecting new Board members to the size and type of municipal securities brokers and municipal securities dealers represented on the Boad. The Board also believed it would be inappropriate to require representation of any one size or type of firm without doing so for all sizes and types.

Both the NASD and Wauterlek & Brown suggested that the proposed rule provide for broader publication of the request for recommended nominees. The NASD suggested publication in two financial journals instead of one and Wauterlek & Brown suggested that the notice be sent to the Board's mailing list. The Board anticipates assuring wide distribution of the notice, including distribution to the Board's mailing list, and did not deem it necessary to incorporate more specific requirements in the text of the rule.

State Farm recommended that the Board require at least one member of the Board and Nominating Committee to be a representative of the property and liability insurance industry. In view of the requirement of the Act that at least one Board members be representative of investors in municipal securities and the requirement in the proposed rule changes that the public be represented on the Nominating Committee, the Board believed it would be inappropriate to incorporate more specific language on this point in the rule.

Burden on Competition. The proposed rule changes do not affect the conduct of business by any broker, dealer or municipal securities dealer, and the Board has therefore concluded that the proposed rule changes do not impose any burden on competition.

On or before March 3, 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 abovementioned 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 submission 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, N.W., 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 on or before February 17 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 21, 1977.

The text of the proposed rule is as follows:

A-3(d) *Nomination and Election of Members.*[1]

(i) Except for the initial members of the Board, members shall be nominated and elected in accordance with *the* procedures specified by *this* rule. [of the Board. The public representatives on the Board shall, prior to their assumption of office, be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities.] The members of the Board elected to succeed the initial members shall consist of five of the initial members who shall serve for a succeeding term of one year, five of the initial members who shall serve for a succeeding term of two years, and five individuals who are not initial members, who shall serve for a term of three years; provided, however, that each such category of initial members shall include at least one public representative, one broker-dealer representative and one bank representative. Subsequent to such first election of members, all members of the Board shall be elected for terms of three years, so that the terms of office of one-third of the whole Board shall expire each year. Except for the succeeding terms for initial members as hereinbefore provided, no member of the Board may succeed himself in office *and no broker-dealer representative or bank representative may be succeeded in office by any person associated with the municipal securities broker or municipal securities dealer with which such member was associated at the expiration of his term.*

(ii) Not later than March 15, 1977, the chairman of the Board shall announce the names of five initial members of the Board whose membership on the Board will terminate on September 4, 1977, and shall nominate, after consultation with the other members of the Board, five initial members to serve for a succeeding term to expire September 4, 1978, and five initial members to serve for a succeeding term to expire September 4, 1979. Each such category of initial members shall include at least one but no more than two public representatives, broker-dealer representatives and bank representatives.

(iii) In each year, prior to March 15, 1977 and prior to February 15 of each year thereafter, the Board shall appoint a Nominating Committee composed of eleven members. The membership of the Nominating Committee shall consist of the five members of the Board whose terms expire during such year and six persons who are not members of the Board, two of whom shall be associated with and representative of bank dealers, two of whom shall be associated with and representative of municipal securities brokers and municipal securities dealers other than bank

[1] *Italics* in paragraph (i) indicate additions; brackets indicate deletions. The text of paragraphs (ii) through (vii) is new.

dealers, and two of whom shall not be associated with any broker, dealer, or municipal securities dealer. In appointing persons to serve on the Nominating Committee, the Board shall take into consideration such factors as the need to achieve broad geographic representation on such Committee, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented on such Committee.

(iv) Not later than April 15, 1977 and March 15 of each year thereafter, the Nominating Committee shall publish a notice in a financial journal having general national circulation among members of the municipal securities industry, soliciting public recommendations for nomination for the positions on the Board to be filled in such year. Such notice shall require that recommendations be accompanied by a statement of the position for which the person is recommended, the background and qualifications for membership on the Board of the person recommended and information concerning such person's association with any broker, dealer or municipal securities dealer. The Nominating Committee shall accept recommendations pursuant to such notice for a period of at least 60 days. Any interested member of the public, whether or not associated with a municipal securities broker or municipal securities dealer, may submit recommendations to the Nominating Committee. The names of all persons recommended to the Nominating Committee shall be made available to the public upon request.

(v) Not later than July 15, 1977 and June 15 of each year thereafter, the Nominating Committee shall nominate three persons for each of the Board positions to be filled and shall submit such nominations to the Board. In making such nominations, the Nominating Committee shall take into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. Each nomination shall be accompanied by a statement indicating the position for which such person is nominated, the nominee's qualifications to serve as a member of the Board, and information concerning the nominee's association with any broker, dealer, or municipal securities dealer. The names of the nominees will be confidential.

(vi) The Board will elect the ten initial members of the Board nominated in accordance with paragraph (d)(ii) of this rule for the terms for which they are nominated and shall elect from the slate of nominees submitted by the Nominating Committee one person for each of the other Board positions to be filled, taking into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. Newly elected members of the Board will assume office on September 5 in the year in which they are elected.

(vii) The public representatives on the Board will, prior to their assumption of office, be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities.

[FR Doc.77-2735 Filed 1-26-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a); that the National Market Advisory Board will conduct open meetings on February 14 and 15, 1977 in the Basement Auditorium, United California Bank, 707 Wilshire Boulevard, Los Angeles, California. Initial notice of this meeting was published in the FEDERAL REGISTER on December 28, 1976.

The Board will also conduct open meetings on March 14 and 15, and April 18 and 19, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. The summarized agenda for these meetings will be published in the FEDERAL REGISTER at a later date.

The summarized agenda for the Februrary meeting is as follows:

1. Discussion of the Board's report to the Securities and Exchange Commission regarding restrictions on off-board transactions in listed securities by exchange members.

2. Discussion of possible pilot projects relevant to issues considered, or to be considered, by the Board.

3. Discussion of future agenda of the Board and enumeration of topics which should be further considered prior to September, 1977.

4. Discussion of such other matters as may properly be brought before the Board.

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.

JANUARY 19, 1977.

[FR Doc.77-2732 Filed 1-26-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

BOISE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Boise District Advisory Council will hold a public meeting at 9:30 a.m., Monday, February 14, 1977, at the Royal Restaurant, 1112 Main Street in Boise, Idaho, to discuss such business as may be presented by members and the staff of the Small Business Administration. For further information write or call Oliver T. Davis, U.S. Small Business Administration, P.O. Box 2618, Boise, Idaho 83701 (208) 342-2516.

Dated: January 19, 1977.

HENRY V. Z. HYDE, JR.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-2599 Filed 1-26-77; 8:45 am]

[Declaration of Disaster Loan Area #1284]

CALIFORNIA

Declaration of Disaster Loan Area

East Rosewood Court within the City of Ontario in San Bernardino County, California, constitutes a disaster area because of damage resulting from a fire on December 15, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 21, 1977, and for economic injury until the close of business on October 21, 1977, at:

Small Business Administration, District Office, 350S Figureroa St.—6th Floor, Los Angeles, California 90071.

or other locally announced locations.

Dated: January 18, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-2592 Filed 1-26-77;8:45 am]

[Application No. 06/06-5183]

FIRST VALLEY LTD.

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 First Valley Limited (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1976).

The officers, directors and stockholders are as follows:

Manuel A. Ferran, President, General Manager, Director and 6.6% Stockholder, 435 Amherst Drive, NE, Albuquerque, New Mexico 87107.

Lenton Malry, Vice President, Director and 6.6% Stockholder, 3000 Sandta Clara, SE, Albuquerque, New Mexico 87106.

Sosimo Padilla, Treasurer and Director, 3920 Las Vegas Drive, SW, Albuquerque, New Mexico 87105.

Larry L. Lamb, Secretary, Director and 6.7% Stockholder, 4804 Ridgecrest Circle, SE, Albuquerque, New Mexico 87108.

Bernard P. Metzgar, Director and 6.6% Stockholder, 9508 Parsifal Place, NE, Albuquerque, New Mexico 87111.

Wilfred J. Brandlwine, 60% Stockholder, 1423 South Club, Carlsbad, New Mexico 88220.

Farrell L. Lines, 6.6% Stockholder, 13201 Cedar Brook, NE, Albuquerque, New Mexico 87111.

The Applicant, a New Mexico Corporation, will be located at 1900 Bridge Boulevard, S.W., Albuquerque, New Mexico 87105.

It will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock to seven individuals.

The Applicant will not concentrate its investments in any particular industry. 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 owners 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 February 11, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Albuquerque, New Mexico.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 19, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-2596 Filed 1-26-77;8:45 am]

LOS ANGELES DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Los Angeles District Advisory Council will hold a public meeting at 12:00 noon, Wednesday, March 2, 1977, at the Taix Les Freres French Restaurant, 1911 West Sunset Boulevard, Los Angeles, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For luncheon reservations and further information write or call Stewart L. Rollins, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 90071, (213) 688-2977.

Dated: January 19, 1977.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-2597 Filed 1-26-77;8:45 am]

LOUISVILLE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Louisville District Advisory Council will hold a public meeting from 9:00 a.m., until 5:00 p.m., April 14, 1977, and will convene again at 9:00 a.m., until 12 o'clock noon, Friday, April 15, 1977, at the Natural Bridge State Resort Park, Slade, Kentucky, to discuss such business as may be presented by members and the staff of the Small Business Administration. For further information write or call R. B. Blankenship, U.S. Small Business Administration, Federal Office Building, Room 188, P.O. Box 3517 (502) 352-5978.

Dated: January 19, 1977.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-2598 Filed 1-26-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

CERTAIN ALLOY TOOL STEEL QUANTITATIVE LIMITATIONS

Reallocation

By Proclamation 4445 of June 11, 1976 (41 FR 24101, June 15, 1976), as modified by Proclamation 4477 of November 16, 1976 (41 FR 50969), temporary quantitative limitations were placed on the importation into the United States of certain articles of stainless or alloy tool steel. Pursuant to paragraph (6) of Proclamation 4445, the authority to make changes in the quantitative restrictions provided for by Proclamation 4445, as modified, is delegated to the Special Representative for Trade Negotiations. Pursuant to subparagraph (d) of headnote 2, subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS), the Special Representative may allocate or reallocate a specific quota quantity to any country or instrumentality subject to restriction if he determines that it is necessary or appropriate to do so in order to assure equitable treatment.

In order to provide equitable treatment for Austria regarding the importation of certain alloy tool steel, I have determined that it is appropriate to provide a separate quota quantity for Austria for the restraint periods beginning June 14, 1977 and June 14, 1978 for alloy tool steel of the type provided for in item 923.26, subpart A, part 2 of the Appendix to the TSUS.

Accordingly, pursuant to paragraph (6) of Proclamation 4445, of June 11, 1976, and subparagraph (d) of headnote 2, subpart A, part 2 of the Appendix to the TSUS, item 923.26 is hereby modified as follows:

[In short tons]

Item	Articles	Quota quantity effective on or after—		
		June 14, 1976	June 14, 1977	June 14, 1978
	Alloy tool steel of the types provided for in items 608.52, 608.76, 608.78, 608.85, 608.88, 609.06, 609.07, and 609.08:			
923.26	Other (see headnote 2(a)(iii)):			
	Japan	3,500	3,700	3,800
	European Economic Community	3,400	3,500	3,600
	Canada	1,900	2,000	2,000
	Sweden	8,500	8,600	8,700
	Austria (for the periods beginning on or after June 14, 1977)		2,322	2,385
	Other:			
	Countries (including Austria for the period ending June 13, 1977) entitled to the rate of duty column No. 1 (total)	3,600	1,378	1,415
	Other (total)	6	6	6

This modification will be effective January 27, 1977.

Signed: January 19, 1977.

FREDERICK B. DENT,
Special Representative for Trade Negotiations.

[FR Doc.77-2529 Filed 1-26-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/22]

UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Meeting

The U.S. Advisory Commission on International Educational and Cultural Affairs will meet in open session in Ottawa, Canada, on February 18 and 19 from approximately 9:00 a.m. until 5:00 p.m.

On February 18 the Commission will meet with Canadian government and university officials to discuss ways in which international educational and cultural exchange programs can contribute to improved relations between Canada and the United States. The Canadian government will determine the sites for the meetings.

On February 19 from 9:00 a.m. until 12:00 noon, the Commission will meet in the American Embassy, 100 Wellington Street. There will be one item on the agenda: A general discussion of the Commission's activities in 1977.

Anyone wishing to attend any part of these sessions must advise the Staff Director no later than February 14, 1977. Telephone: (202) 632-2764. Members of the public will be accommodated according to the space available.

Dated: January 18, 1977.

W. H. WELD, Jr.,
Staff Director, Commission Secretariat.

[FR Doc.77-2558 Filed 1-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. EP-1, Notice 1]

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Notice of Proposed Procedures

The Federal Railroad Administration (FRA) is in the process of developing specific implementing instructions which

incorporate the general procedures established by the Secretary of Transportation in DOT Order 5610.1B, "Procedures for Considering Environmental Impacts" (39 FR 35234). These instructions will be issued as an internal FRA Order, and will establish procedures and define the responsibilities of individual offices within FRA for insuring full consideration of the environmental impacts of all major Federal actions undertaken by this agency in compliance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Department of Transportation Act (49 U.S.C. 1651 et seq.), and various other environmental statutes and administrative procedures cited in the proposed Order.

The proposed procedures include the identification of specific programs under the jurisdiction of the FRA within which individual actions are to be considered "major Federal actions" which must be subjected to an environmental assessment to determine their specific environmental effects. This assessment will provide the basis for a determination as to the appropriateness of a negative declaration or the necessity for the preparation of an environmental impact statement in compliance with NEPA. Instructions for the preparation of either a negative declaration or an environmental impact statement include guidelines as to their form and content as well as specific assignment of responsibility for the various aspects of the environmental process to appropriate offices within FRA. In addition, staff responsibilities are also assigned to assure that there will be the opportunity for open citizen involvement in the environmental analysis of all major FRA actions which will significantly affect the quality of the human environment.

These proposed procedures are being published for public comment in compliance with the guidelines of the Council on Environmental Quality (40 CFR Part 1500), and the provisions of paragraph 4a of DOT Order 5610.1B, "Procedures for Considering Environmental Impacts". Interested persons are invited to participate by submitting written comments on the proposed procedures. Communications should identify the FRA docket number, and should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

Communications received before March 14, 1977, will be considered before these procedures are finalized.

All comments received will be available for examination by interested persons at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

In consideration of the foregoing, the following "Procedures for Considering Environmental Impacts" are proposed to read as stated below.

This notice is issued under authority of the National Environmental Policy Act, 42 U.S.C. 4321 et seq; Executive Order 11514, 35 FR 4247; Council on Environmental Quality Guidelines 40 CFR 1500, and DOT Order 5610.1B.

Issued in Washington, D.C. on January 19, 1977.

ASAPH H. HALL,
Administrator.

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

1. *Purpose.* This Order establishes procedures for the consideration, preparation, and processing of environmental impact statements and related documents for FRA actions.

2. *Authority.* This Order implements DOT Order 5610.1B, dated September 30, 1974 and provides instructions for implementing section 102(2)(C) of the National Environmental Policy Act (hereinafter "NEPA"), section 4(f) of the Department of Transportation Act of 1966 (45 U.S.C. 1653(f), hereinafter "the DOT Act"), section 309 of the Clean Air Act of 1970, as amended (42 U.S.C. 1857 et seq., hereinafter "the Clean Air Act"), section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470(f), hereinafter "the Historic Preservation Act"), sections 303 and 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), section 2 of the Fish and Wildlife Coordination Act (16 U.S.C. 662), and various Executive Orders relating to environmental impacts.

3. *Background*—(a) *The National Environmental Policy Act (NEPA)* establishes a broad national policy to promote efforts to improve the relationship between people and their environment and provides for the creation of the Council on Environmental Quality (SEQ). NEPA sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws of the U.S. shall be interpreted and administered in accordance with those policies and goals.

(b) *Section 102 of NEPA* is designed to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2)(C) requires that all agencies of the Federal Government shall:

> Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) The environmental impact of the proposed action,
>
> (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) Alternatives to the proposed action,
>
> (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.
>
> Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, to the Council on Environmental Quality and to the public as provided by Section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes.

(c) *Section 102(2)(A) of NEPA* requires all agencies to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment * * *."

(d) *Guidelines from the President's Council on Environmental Quality,* published in 38 FR 20549, 40 CFR 1500 et seq., August 1, 1973, provides guidance to agencies for preparation of environmental impact statements.

(e) *DOT Order 5610.1B,* Procedures for Considering Environmental Impacts, published in 39 FR 35234, September 30, 1974, establishes general procedures to be employed by the Department of Transportation, and directs that each operating administration in the Department issue implementing instructions which incorporate the general procedures of the Order and apply them with more specificity to the programs of the operating administration.

(f) *Section 4(f) of the DOT Act* states, "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges, and historic sites. The Secretary * * * shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

(g) *Section 106 of the National Historic Preservation Act* requires the head of any Federal agency having jurisdiction over a Federal or federally-assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in the National Register of Historic Places, and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the proposed undertaking.

For additional background, refer to paragraph 2, "Background" of DOT Or-

der 5610.1B, "Procedures for Considering Environmental Impacts."

4. *Definitions*—(a) *Environmental Assessment.* This is an administrative record which describes the probable impact of the proposed action on the quality of the human environment. This record is used to determine the significance of the environmental impact of the proposed action, and the need for the preparation of a negative declaration or an environmental impact statement.

(b) *Environmental Impact Statement.* This is a report required by section 102 (2) (C) of the NEPA to accompany a proposal for any major Federal action which significantly affects the human environment through the review process.

(c) *Negative Declaration.* This is a report which is required to be prepared to accompany a proposal for any major Federal action which does not significantly affect the quality of the human environment through the review process.

(d) *4(f) Determination.* This is a document which must be prepared with respect to any program or project which requires the use of any land from any public park, recreation area, wildlife and waterfowl refuge, or historic site of national, State, or local significance as determined by the Federal, State or local officials having jurisdiction thereof. The determination must document that (1) there is no feasible and prudent alternative to the use of such land, and (2) such program or project includes all possibe planning to minimize harm resulting from such use.

(e) *Major Federal Action Significantly Affecting the Quality of the Human Environment.* The following actions are to be considered major Federal actions significantly affecting the quality of the human environment:

(1) Any action producing an effect that is not minimal on properties protected under section 4(f) of the DOT Act, or section 106 of the Historic Preservation Act;

(2) Any action that is likely to be highly controversial on environmental grounds;

(3) Any action that is likely to have a significant adverse impact on natural, ecological, cultural, or scenic resources of national, State or local significance;

(4) Any action that is likely to be controversial regarding relocation housing;

(5) Any action that (A) divides or disrupts an established community or disrupts orderly, planned development or is inconsistent with plans or goals that have been adopted by the community in which the project is located; or (B) causes increased congestion;

(6) Any action that (A) is inconsistent with any Federal, State or local standard relating to the environment; or (B) has a significantly detrimental impact on air or water quality or on ambient noise levels for adjoining areas, or involves the possibility of contamination of public water supply system, or affects ground water, flooding, erosion, or sedimentation, or

(7) Other action that directly or indirectly significantly affects human beings by creating an adverse impact on the enviroment.

5. *Action Covered*—(a) *General.* An environmental assessment must be performed for all major FRA actions. Section 3.b of the DOT Order 5610 sets forth general categories of actions that require such an assessment, and section 3.c. sets forth those categories that do not require such an assessment. Section 3.c.(7) permits the operating administrations to exempt certain activities from the requirement of preparing an assessment.

(b) *Environmental Assessment Required.* Actions within the following categories are major FRA actions that will require environmental assessment to determine whether individual projects or classes of projects significantly affect the quality of the human environment and must therefore be the subject of an environmental impact statement:

(1) Demonstration projects:

(2) Financing (through redeemable preference shares and loan guarantees) of construction, rehabilitation or improvement of railroad facilities or equipment;

(3) Financing of capital expenditures (through grants and loan guarantees) for intercity rail passenger service;

(4) Financing (through grants) for the rehabilitation improvement or conversion of railroad passenger terminals;

(5) Financing (through grants) for rehabilitation and improvement projects requiring new rights-of-way in conjunction with the continuation of local rail freight service; and

(6) Construction activities undertaken in conjunction with the Northeast Corridor Rail Passenger Service Improvement Program (NECIP) other than those activities which do not involve, either by themselves or as integral components of larger projects, sufficiently serious effects to justify the costs of completing an Environmental Impact Statement.

(c) *Class of Actions.* A general class of actions may be covered by a single environmental assessment, negative declaration, or environmental impact statement when the environmental impacts of all the actions (and alternatives thereto) are substantially similar.

6. *Environmental Assessments*—(a) *Scope.* The environmental assessment should utilize an interdisciplinary approach in identifying the type, degree of effect, and probability of occurrence of primary, secondary and cumulative potential environmental impacts (positive and negative) of the proposed action and of alternative courses of action. The depth of coverage should be consistent with the magnitude of the project and its expected environmental effects.

(b) *Documentation.* Documents used as a basis for the assessment must be included in the program file to support the assessment, and to assist in the preparation of any subsequent documents required by this Order.

(c) *Timing.* The environmental impacts of a proposed action covered by this Order should be assessed concurrently with the initial technical and economic studies.

(d) *Staff Responsibilities.*—(1) Program Office.

(i) Determine, regarding each program action, the necessity for an environmental assessment.

(ii) Prepare the necessary environmental assessments for each program action that is subject to this Order.

(iii) Determine whether preparation of a negative declaration or environmental impact statement is appropriate for each of its program actions.

(2) Office of Policy and Program Development—RPD.

(i) Provide the program office with advice concerning the scope and content of an environmental assessment.

(3) Office of the Chief Counsel—RCC.

(i) Provide advice and assistance in interpreting and applying the requirements for an environmental assessment to program offices and RPD.

(ii) Review for legal sufficiency the program office's determination regarding the necessity for an environmental assessment.

(iii) Review for legal sufficiency each program office determination as to whether a negative declaration or an environmental impact statement should be prepared.

7. *Negative Declarations.* A negative declaration shall be prepared for all major actions which have been determined to have no significant environmental impact.

(a) *Coordination.* A negative declaration need not be coordinated outside the FRA, but must be made available to the public upon request.

(b) *4(f) Determination.* A 4(f) determination may be required even though a negative declaration is appropriate for a particular action. In this case the material set forth in section 11(b)(11) below shall be set forth in a separate document accompanying the negative declaration.

(c) *Staff Responsibility*—(1) Program Office.

(i) Prepare the negative declaration and necessary supporting documentation.

(ii) Decide whether a 4(f) determination is necessary, and if so, prepare the required documentation.

(2) Office of Policy and Program Development.

(i) Review for concurrence all negative declarations.

(ii) Review for concurrence all decisions concerning the need for a 4(f) determination and all 4(f) determinations prepared in conjunction with a negative declaration.

(iii) Maintain lists of negative declarations and proposed negative declarations.

(3) Office of the Chief Counsel.

(i) Review for legal sufficiency all negative declarations.

(ii) Review for legal sufficiency all 4(f) determinations prepared in conjunction with a negative declaration.

(4) Federal Railroad Administrator—ROA.

(i) Approve all negative declarations and associated 4(f) determinations.

8. *Form and Content of Negative Declarations.* All negative declarations shall be prepared in accordance with the format below. The negative declaration should include and identify clearly a description of the project, action or proposal, and sufficient data and environmental findings to support the conclusion as to the impact upon the quality of the human environment.

NEGATIVE DECLARATION FOR FEDERAL RAILROAD ADMINISTRATION PROJECT, ACTION OR PROPOSAL

The following project (action or proposal) has been reviewed and it has been determined that the project (action or proposal) will have no foreseeable significant impact upon the quality of the human environment.

(a) Description of project (action or proposal).

(b) Environmental data and analysis.

(c) Conclusion.

Date

Signature of Originator of Negative Declaration

9. *Citizen Involvement Procedures*—(a) *Timing.* After it has been determined that an environmental impact statement is required for a particular FRA action, citizen involvement in the environmental analysis is encouraged and should be sought as early as possible.

(b) *Staff Responsibilities*—(1) Program Office.

(i) Implement citizen involvement procedures, including development of mailing lists of parties interested in each of its programs.

(ii) Notify parties interested in a program of the decision to prepare an environmental impact statement and solicit their comments on the environmental effects of the proposed program action at an early stage in the preparation of the draft impact statement.

(2) Office of Policy and Program Development.

(i) Provide advice and assistance to program offices in applying citizen involvement procedures.

(ii) Maintain a list of actions for which negative declarations or environmental impact statements are being prepared by FRA and submit a current list of these actions to the Assistant Secretary for Environment, Safety and Consumer Affairs (TES) and CEQ not less than quarterly. This list shall be available to the public upon request.

(3) Office of the Chief Counsel.

(i) Determine whether or not a hearing is required or appropriate with respect to FRA actions, and provide legal counsel at such hearings as necessary.

10. *Environmental Impact Statements*—(a) *Timing.* (1) Draft statements shall be prepared early enough in the development of a project so that analysis of the environmental effects and exploration of alternatives to the proposed action are significant inputs to the decision making process.

(2) A time period for comments on the draft statement must be specified. This period may not be less than 45 days from the date of the Federal Register notice of availability of the statement that is published by CEQ. Requests for extensions of the period for comment shall be granted whenever possible.

(3) For actions involving a public hearing, the draft statement must be made available to the public at least 30 days prior to the hearing.

(4) (i) A draft environmental impact statement must be available to Federal, State, and local agencies and to the public at least 90 days prior to any major administrative action on a proposal or project.

(ii) A final enviromnnatel[73] god nigh

(ii) A final environmental impact statement must be made available to those who commented on the draft and to the public at least 30 days prior to any major administrative action on a proposal or project.

(iii) If the final environmental impact statement is filed with CEQ within 90 days after a draft statement has been circulated for comment, furnished to the CEQ and made public pursuant to this section, the 30-day period provided for in subsection (a)(4)(ii) of this section and the 90-day period may run concurrently.

(iv) Exceptions to these time periods may be made for emergency procurement or when advance public disclosure will result in significant added costs of procurement to the Government.

(b) *Staff Responsibility*—(1) Program Office.

(i) Coordinate all communications with an applicant or prospective applicant concerning environmental matters covered by this Order.

(ii) Prepare the draft environmental impact statement for each of its program actions.

(iii) Decide whether a 4(f) determination is necessary, and if so, prepare the required documentation.

(iv) In consultation with RPD, prepare lists of agencies having jurisdiction or special expertise and interested parties to whom the draft environmental impact statement should be distributed for comment.

(v) Review and analyze comments submitted in response to the draft statement and prepare final environmental impact statement.

(vi) Determine whether a change made in a proposed action after approval of the final statement is substantial, or new information regarding environmental impacts is significant.

(vii) Notify RPD and RCC of any substantial changes made in a proposed action after approval of a final statement, or of significant new information regarding the environmental impacts of the proposed action.

(viii) Assure, through internal supervision, funding agreements, and project review procedures, that any actions set forth in an approved environmental impact statement to minimize adverse impacts are carried out.

(2) Office of Policy and Program Development.

(i) Review for concurrence decisions to prepare an environmental impact statement.

(ii) Review for concurrence all decisions concerning the need for a 4(f) determination and all 4(f) determinations prepared in conjunction with an environmental impact statement.

(iii) Circulate the draft statement for comment to agencies and interested parties identified in cooperation with the program office, to CEQ (five copies, and to TES (two copies).

(iv) Review for concurrence all final statements.

(v) Provide TES two copies of the final statement and copies of all comments submitted on the draft, and coordinate TES concurrence.

(vi) Provide for required distribution of final statement: CEQ (five copies); appropriate State, regional, and metropolitan clearinghouses; appropriate public places such as local public libraries, FRA regional offices, offices of applicant or grantee; appropriate offices of EPA; all Federal, State and local agencies and private organizations who commented substantively on the draft statement; and individuals who request copies.

(vii) Consult with TES and CEQ on the need for, or desirability of, recirculating an amended statement when a substantial change is made in a proposed action after approval of the final statement, or significant new information regarding environmental impacts comes to light.

(3) Office of the Chief Counsel—RCC.

(i) Review for legal sufficiency the draft environmental impact statement.

(ii) Review for legal sufficiency the final environmental impact statement.

(iii) Review for legal sufficiency all 4(f) determinations prepared in conjunction with an environmental impact statement.

(iv) Review for legal sufficiency any deviation from action to minimize environmental impacts set forth in an approved final statement.

(4) Federal Railroad Administrator—ROA.

(i) Approve all draft and final environmental impact statements and 4(f) determinations originating in FRA, after concurrence of TES, TES concurrence may be assumed unless, within two weeks of receipt of a final statement, TES notifies FRA to the contrary.

(c) *Decisions reserved to the Secretary.* If an action requires the personal approval of the Secretary or Deputy Secretary pursuant to a request by either of them, TES, TGC, or FRA, the statement shall be accompanied by a brief cover memorandum from the Administrator requesting the Secretary's or Deputy Secretary's approval of the action.

(1) The memorandum shall have signature lines for the concurrence of the

Assistant Secretary for Environment, Safety, and Consumer Affairs, the General Counsel, and the Deputy Secretary and for the approval of the Secretary or Deputy Secretary.

(2) TES, in conjunction with the Executive Secretary, is responsible for informing the Assistant Secretary for Congressional and Intergovernmental Affairs and the departmental Office of Public Affairs of the Secretary's decisions so they, in coordination with the FRA, may take the appropriate actions.

11. *Form and Content of Environmental Impact Statement.* All environmental impact statements shall be prepared in accordance with the format below.

(a) *Form.* (1) Each statement will be headed as follows:

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

Draft (Final) Environmental Impact Statement pursuant to section 102(2)(C) (42 U.S.C. 4332 (2)(C).)

(2) The heading specified in paragraph (1) shall be modified to indicate that the statement also covers section 4(f) of the DOT Act and/or section 106 of the Historic Preservation Act, as appropriate.

(3) The format for the summary to accompany draft and final environmental statements is as follows:

SUMMARY

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

(check one) ( ) Draft ( ) Final

(name, address and telephone number of contact individual)

(i) Name of Action (check one) ( ) Administrative Action. ( ) Legislative action.

(ii) Brief description of action indicating what States (and counties) are particularly affected.

(iii) Summary of environmental impacts.

(iv) List of the alternatives considered, their environmental impacts.

(v)(A) (For draft statement) List all Federal, State, and local agencies and other parties from which comments have been requested.

(B) (For final statements) List all Federal, State and local agencies and other sources from which written comments have been received.

(vi) Dates the draft statement and the final statement if issued were made available to the Council on Environmental Quality and the public.

(b) *General Content.* This subsection is intended to provide guidance on the content of environmental statements. Additional guidance is expected to be obtained from research reports, guidance on methodology, and other technical material which is pertinent to evaluation of related environmental factors. The following points are to be covered, where relevant.

(1) A description of the proposed action, a statement of its purpose, the nature and extent of the FRA's involvement in the proposed action, and a description of the environment affected, including summary technical data, maps, diagrams, and other information adequate to permit commenting offices and the public to assess the potential environmental impacts.

(i) Highly technical and specialized analyses and data should be avoided in the body of the draft or final statement.

(ii) The sources of data used to identify, quantitfy, or evaluate any environmental consequence should be noted.

(2) The relationship of the proposed action to the adopted or proposed land use plans, policies, controls, and objectives issued by governments having jurisdiction over affected communities.

(3) The probable impact of the proposed action on the environment. This requires assessment of both the positive and the negative environmental effects, including primary, secondary and other foreseeable effects within the following areas:

(i) Standards Concerning Noise, Air and Water Pollution. The statement shall reflect sufficient analysis to predict the effects of the proposed action on attainment and maintenance of any applicable environmental standards established by law or administrative determination. The following documentation must be included:

(A) Consultation with the agency responsible for the State water pollution control program about consistency of the proposed action with standards and regulations regarding storm sewer damage, sedimentation control, and other non-point source discharges.

(B) The comments or determinations of the offices charged with administration of the State's implementation plan for air quality on the consistency of the project with State plans for the implementation of ambient air quality standards.

(C) Conformity to adopted noise standards, compatible, if appropriate, with different land uses.

(ii) Relocation Housing. Where relocation housing will be involved, information should be provided which discusses the availability of relocation housing (see requirements in 49 CFR 25.53; DOT 5620.1, Replacement Housing Policy, dated June 24, 1970).

(iii) Energy Supply and Natural Resources Development. Where applicable, the statement shall reflect consideration of whether the project or program will have any effect on either the production or consumption of energy and other natural resources and discuss such effects if they are significant.

(iv) Flood Hazard Evaluation. When an alternative under consideration encroaches on a flood plain, the statement shall include evidence that studies have been made and evidence that consultations with agencies with special expertise have been carried out. Necessary measures to handle flood hazard problems shall be described, in compliance with Executive Order 11296 and Flood Hazard Guidelines for Federal Executive Agencies promulgated by the Water Resources Council.

(v) Wetlands or Coastal Zones. Where wetlands or coastal zones are involved, the statement shall include:

(A) Information on location, types, and extent of wetlands areas which might be affected by the proposed action.

(B) An assessment of the impacts expected to result from both construction and operation of the project on the wetlands and associated wildlife, and measures to minimize adverse impacts.

(C) A statement by the appropriate representative of the Department of the Interior, and any other responsible officials with special expertise, setting forth their views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the nation, and recommendations as to whether the proposed action should proceed and, if applicable, along what alternative route or under what mitigating conditions.

(D) Where applicable, a discussion of how the proposed action relates to the State coastal zone management program for the particular State in which the project is located.

(vi) Construction Impacts. Statements should appropriately address such matters as the following, identifying any special problem areas:

(A) Noise impacts from construction and any specifications setting maximum noise levels.

(B) Disposal of spoil and effect on borrow areas and disposal sites (include any specifications).

(C) Measures to minimize effects on traffic and pedestrians.

(D) Consideration of non-point source pollution such as might result from water runoff.

(vii) Land Use and Urban Growth. The statement shall include, to the extent relevant and predictable:

(A) The effect of the proposed action on land use, development patterns, and urban growth.

(B) Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new development and any problems or issues which would arise in connection with these facilities and the comments of agencies that would provide these facilities.

(4) Alternatives to the proposed action, including those not within the authority of the FRA. Section 102(2)(E) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources".

(5) Any probable adverse environmental effect which cannot be avoided, such as water or air pollution, undesirable land use patterns, or impacts on public parks and recreation areas, wildlife and waterfowl refuges, or historic sites, damage to life systems, traffic congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of NEPA, 42 U.S.C. 4331(b).

(6) The relationship beween local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section shall contain a brief discussion of the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts and the extent to which the action irreversibly curtails the range or potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

(8) An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action. If a cost-benefit analysis has been performed, the extent to which environmental costs have been reflected in the analysis should be stated.

(9) A discussion of problems and objections raised by other Federal agencies, State and local entities and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section may be added at the end of the review process to the final text of the environmental statement.)

(10) Underlying studies, reports, and other information obtained and considered in preparing each section of the statement should be identified.

(11) Publicly-Owned Parklands, Recreational Areas, Wildlife and Waterfowl Refuges, and Historic Sites (§ 4(f), DOT Act).

(i) Protected land proposed to be used. Describe any publicly owned land from a public park, recreation area or wildlife and waterfowl refuge or any land from an historic site which would be effected or taken by the proposed program or project, including the size of the land proposed to be affected or taken, available activities on the land, use, patronage, unique or irreplaceable qualities, relationship to other similarly used land in the vicinity of the proposed project, and maps, plans, slides, photographs, and drawings in sufficient scale and detail to show clearly the proposed project. Include a description of impacts of the proposed program or project on the land and changes in vehicular or pedestrian access.

(ii) Significant area. Include a statement of the national, State, or local significance of the entire park, recreation area, wildlife or waterfowl refuge, or historic site as determined by the Federal, State or local officials having jurisdiction thereof. In the absence of such a statement, protected land is presumed to be located in an area of national, State or local significance. Any statement of insignificance by the official having jurisdiction is reviewed by FRA to determine whether such statement is capricious. Where land proposed to be used is part of Federal lands administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the lands are in fact being used for public park, recreation, wildlife, waterfowl, or historic purposes.

(iii) Alternatives. Where applicable include similar data for each alternative design or location. For each alternative, include detailed cost estimates (with figures showing percentage differences in total project costs), analysis of technical feasibility, analysis of any unique problems, and evidence that the monetary cost, resource consumption, community disruption, or other economic and social costs from the alternatives would reach extraordinary magnitudes.

(iv) Describe all planning undertaken to minimize harm to the protected area and state the actions taken or to be taken to implement this planning. Measures to minimize harm may include the following:

(A) Measures to maintain or enhance the natural beauty of the land used;

(B) Replacement of land and facilities, providing land or facilities, or providing for functional replacement of the facility; and

(C) Design measures to minimize harm; e.g., tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths, and noise mitigation measures. Design measures should be proposed and selected with the assistance of appropriate interdisciplinary design personnel.

(v) Evidence of concurrence or description of efforts to obtain concurrence of Federal, State, or local officials having jurisdiction over the property regarding the action proposed and the measures planned to minimize harm.

(vi) If land acquired with Federal grant money (Department of Housing and Urban Development "open space" funds or Bureau of Outdoor Recreation "land and water conservation" funds) is involved, the final statement shall include evidence of concurrence or description of efforts to obtain concurrence of the grantor agency.

(vii) If Federal lands or interests in lands are involved in railroad-highway grade crossing or railroad-highway bridge projects, the final environmental statement shall include the results of the filing with the Secretary of the Department supervising such lands or interests as required by 23 U.S.C. 317.

(viii) The General Counsel (TGC) will determine application of section 4(f) to public interests in land, such as easements, reversions, etc.

(ix) A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

(12) Properties and Sites of Historic and Cultural Significance. The statement should document actions taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archeological, or cultural significance which would be affected by the proposed action.

(i) Draft environmental statements should include identification, through consulting the National Register and applying the National Register Criteria (36 CFR Part 800), of properties that are included in or eligible for inclusion in the National Register of Historic Places that may be affected by the project. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register.

(ii) If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 CFR Part 800) indicates that the proposed action will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the draft environmental statement should document the effect. Evaluation of the effect should be made in consultation with the State Historic Preservation Officer (SHPO) and in accordance with the ACHP's Criteria of Adverse Effect (36 CFR Part 800).

(iii) Determinations of no adverse effect should be documented in the draft statement with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate State Historic Preservation Officer, and any results obtained by submitting the determination to the ACHP for review.

(iv) If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental statement should include either an executed Memorandum of Agreement or comments from the Council after consideration of the project at a meeting of the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36 CFR Part 800.

(v) To determine whether the project will have an effect on properties of State or local historical, architectural, archaeological, or cultural significance not included in or eligible for inclusion in the National Register, the program office shall consult with the State Historic Preservation Officer, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise about the property. If publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge would be used, the information required under paragraph 11(b) of the body of this Order (see especially subparagraph 11.(b)(11)), should be sought concurrently.

APPENDIX A—PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS NORTHEAST CORRIDOR PROJECT

1. *Purpose.* This Appendix establishes staff responsibilities for the coordination of consideration of environmental impacts resulting from major FRA actions undertaken by the Northeast Corridor Project ("NECP"). All provisions of this Order, except those relating to staff responsibilities, shall apply to the Northeast Corridor Rail Passenger Service Improvement Program ("NECIP") to the same extent as they apply to other FRA programs. For the purpose of this Appendix "project action" shall mean any NECP action taken pursant to Title VII of the RRRRA.

2. *Environmental Assessments.* Staff responsibilities.

(a) *Northeast Corridor Project—NECP.*

(1) Determine, regarding each project action, the necessity for an environmental assessment.

(2) Prepare the environmental assessments for each project action as determined necessary under subparagraph (1).

(3) Determine whether preparation of a negative declaration or environmental impact statement is appropriate for each of its project actions.

(b) *Office of the Chief Counsel—RCC.*

(1) Review for legal sufficiency each NECP determination under subparagraph (a)(1) that the preparation of an environmental assessment is not necessary.

(2) Advise NECP with respect to the legal sufficiency of its determination as to whether a negative declaration or an environmental impact statement should be prepared.

(c) *Office of Policy & Program Development—RPD.*

(1) Advise NECP regarding practices and procedures in making the determinations required under this section and in preparing environmental assessments.

3. *Negative Declarations.* Staff Responsibilities.

(a) *Northeast Corridor Project.*

(1) Prepare negative declarations and necessary supporting documentation.

(2) When necessary, prepare the documentation for a 4(f) determination.

(3) Approve all negative declarations and associated 4(f) determinations.

(b) *Office of the Chief Counsel.*

(1) Review for legal sufficiency all negative declarations and accompanying 4(f) statements.

(c) *Office of Policy & Program Development.*

(1) Advise NECP regarding practices and procedures in preparing negative declarations and associated 4(f) statements.

(2) Maintain lists of negative declarations and proposed negative declarations.

(d) *Federal Railroad Administrator.*

(1) Approve all negative declarations and associated 4(f) determinations for NECP project actions that NECP in its discretion determines (i) establish or change major project policy, or (ii) are likely to be highly controversial.

4. *Citizen Involvement Procedures.* Staff Responsibilities.

(a) *Northeast Corridor Project.*

(1) Implement citizen involvement procedures with respect to NECP project actions, including the development of mailing lists of interested parties.

(2) Notify interested parties of the decision to prepare an environmental impact statement and solicit their comments on the enevironmental effects of the proposed project action at an early stage in the preparation of the draft impact statement.

(3) Report to RPD monthly on the status of preparation of all negative declarations and environmental impact statements concerning NECIP project actions.

(4) Consult with RCC concerning the requirement or appropriateness of a hearing with respect to project actions.

(b) *Office of the Chief Counsel.*

(1) Determine with respect to NECP project actions whether or not a hearing is legally required, or advise NECP as to whether a hearing is appropriate, and provide legal counsel at such hearings as necessary.

(c) *Office of Policy & Program Development.*

(1) Provide advice and assistance to NECP program offices in applying citizen involvement procedures.

(2) Maintain lists of actions for which negative declarations or environmental impact statements are being prepared by NECP and submit a current list of these actions to TES and CEQ not less than quarterly. This list shall be available to the public upon request.

5. *Environmental Impact Statements.* Staff Responsibilities.

(a) *Northeast Corridor Project.*

(1) Coordinate all communications with an applicant or prospective applicant concerning environmental matters covered by this Order.

(2) Prepare draft environmental impact statements for project actions for which the preparation of an environmental impact statement is determined appropriate under section 2(a)(3) of this Appendix.

(3) In consultation with RCC prepare lists of agencies and interested parties to whom the draft environmental impact statement should be distributed for comment.

(4) Circulate the draft statement for comment to agencies and interested parties identified in the program list required to be prepared under subparagraph (3) above, and to CEQ (five copies), TES (two copies), and RPD (two copies).

(5) Review and analyze comments submitted in response to the draft statement and prepare the final environmental impact statement.

(6) Provide TES and RPD two copies of the final statement, and copies of all comments submitted on the draft, and coordinate TES concurrence.

(7) Provide for required distribution of final statement to CEQ (five copies), appropriate State, regional, and metropolitan clearinghouses; appropriate public places such as local public libraries, FRA regional offices, offices of applicant or grantee, appropriate offices of EPA, all Federal, State and local agencies, and private organizations who commented substantively on the draft statement, and individuals who request copies.

(8) Assure, through internal supervision, funding agreements and project review procedures, that any actions set forth in an approved environmental impact statement to minimize adverse impacts are carried out.

(9) Determine when a change made in a proposed action after approval of the final statement is substantial, or new information regarding environmental impacts is significant.

(10) Notify RCC of any substantial changes made in a proposed action after approval of a final statement, or of significant new information regarding the environmental impacts of the proposed action.

(11) Consult with TES, CEQ and RCC on the need for, or desirability of, recirculating an amended statement when a substantial change is made in a proposed action after approval of the final statement, or significant new information regarding environmental impacts comes to light after concurrence of TES.

(12) Approve all draft and final impact statements and 4(f) determinations for NECP project actions. Concurrence by TES may be assumed, unless TES, within two weeks of receipt of a final statement, notifies FRA to the contrary.

(b) *Office of the Chief Counsel.*

(1) Review for legal sufficiency all draft environmental impact statements.

(2) Review for legal sufficiency all final environmental impact statements.

(3) Review for legal sufficiency all 4(f) determinations.

(4) Review for legal sufficiency any deviation from actions to minimize environmental impacts set forth in an approved final statement.

(5) Review for legal sufficiency any NECP determination concerning whether a change made in a proposed action after approval of the final statement is substantial, or new information regarding environmental impacts is significant.

(6) Review for legal sufficiency any NECP determination regarding consultation with TES and CEQ concerning the need for, or desirability of, recirculating an amended statement when a substantial change is made in a proposed action after approval of the final statement, or significant new information regarding environmental impacts comes to light.

(7) Respond to Freedom of Information Act requests for access to, or copies of, draft or final statements and comments.

(c) *Office of Policy & Program Development.*

(1) Provide NECP with advice concerning practices and procedures applicable to the preparation and circulation of draft and final environmental impact statements.

(d) *Federal Railroad Administrator.*

(1) Approve, after concurrence of TES, all draft and final impact statements and 4(f) determinations for project actions which NECP in its discretion determines (i) establish or change major project policy, or (ii) are likely to be highly controversial. Concurrence by TES may be assumed, unless TES, within two weeks of receipt of a final statement, notifies FRA to the contrary.

[FR Doc.77-2575 Filed 1-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX 77-2; Notice 1]

H. C. M. COMPANY, INC.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

H. C. M. Company, Inc. of Yakima, Washington, has petitioned for a 3-year exemption from 49 CFR 571.121 Motor Vehicle Safety Standard No. 121 Air Brake Systems, on the basis that compliance would cause it substantial economic hardship.

The petitioner is a manufacturer of "straddle trailers" which it defines as "a specialized agricultural commodity hauling trailer which features 'drive over' hydraulic lifting arms which suspend

the load for transit." H. C. M. manufactured eight straddle trailers in 1975 and "no other vehicles." The vehicles are equipped with air brake systems but, according to petitioner, "there are no manufacturers currently making components which can be adopted to these axles to achieve the requirements of Motor Vehicle Safety Standard 121 with regard to 'antiskid'." A mechanical spring parking brake could be added to achieve compliance but that "would cause over-width of the vehicle" which would mean it could be neither sold nor operated. Petitioner argues that the exemption would be in the public interest since fruit producers and haulers have found the trailer uniquely suitable to their needs. An exemption can be viewed as consistent with the objectives of the National Traffic and Motor Vehicle Safety Act since "the (current) air brakes have a safety record of 100 percent." The company had a net income of $16,250 in the fiscal year ending December 31, 1975. A denial would cause the demise of the company.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise or judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for exemption of the H. C. M. Company, Inc. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventl 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: February 22, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410), delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on January 17, 1977.

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

[FR Doc.77-2380 Filed 1-26-77;8:45 am]

[Docket No. IP75-2; Notice 2]

TOYOTA MOTOR SALES, USA INC.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice grants the petition by Toyota Motor Sales, USA Inc. (Toyota) 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 a noncompliance with 49 CFR 571.101, Federal Motor Vehicle Safety Standard No. 101, Control Location, Identification, and Illumination, on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on November 26, 1975, (40 FR 54852) and an opportunity afforded for comment.

Toyota discovered that about 69,000 1974 Corona model vehicles were manufactured "without word identification on the headlamps, hazard warning signal, and washer-wiper controls" as required by S4.2 of Standard No. 101. The company believes that this "technical noncompliance" will have no effect upon motor vehicle safety as the controls in question "were identified by symbols on the controls and an explanation of the symbols appeared in the owner's manual."

Two comments were received on the petition. General Motors supported the petition "to the extent that the identification of vehicle controls solely by the use of symbols without accompanying word identification will have no effect on motor vehicle safety". The petition was opposed by Moray Leonard Fleming of Ringwood, New Jersey, owner of one of the affected Toyotas. In Mr. Fleming's opinion the hazard warning switch is poorly identified, both at its location in the vehicle and in the operator's manual. According to this Toyota owner "it was three months before I knew what the switch was for, or how to work it. I am still concerned that other drivers of my vehicle, or future owners, may not know what this switch is for".

The NHTSA considers that the symbols identifying the lighting and windshield wiper-wash controls are sufficiently clear to designate functions without verbal identification. The hazard warning signal control, however, has only been mandated on passenger cars since January 1, 1969, and its symbol, one triangle within another, allowed only since January 1, 1972. Mr. Fleming's comment was taken seriously as an indication that both the control and its symbol might still be unfamiliar to the motoring public. However, a review of the agency's consumer complaint files has turned up no complaints whatever regarding the hazard warning system control or its identification on the Toyota or on any other passenger car. Further, the agency recently proposed (41 FR 46460) that many controls be identified by symbols alone, with words simply as an optional supplement. The public comments filed with NHTSA support the proposal. Accordingly, it is hereby found that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and the petition of Toyota Motor Sales, USA Inc. is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on January 17, 1977.

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

[FR Doc.77-2381 Filed 1-26-77;8:45 am]

TRUCK AND BUS SAFETY SUBCOMMITTEES

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council. The subcommittees will meet on February 24 from 9:00 a.m. to 12:00 noon at the Granada Royale Hotel, 1635 N. Scottsdale Road, Tempe, Arizona.

The agenda will consist of the Task Force report on organization and discussion of future activities and old/new business.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meetings. Any member of the public may present a written statement to the subcommittees at any time.

This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on January 19, 1977.

WILLIAM H. MARSH,
Executive Secretary.

[FR Doc.77-2551 Filed 1-26-77;8:45 am]

[Docket No. FE76-1; Notice 2]

AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES FOR 1981-84 MODEL YEARS

Invitation for Applications for Financial Assistance to Rulemaking Participants

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Invitation for applications for financial assistance.

SUMMARY: This notice invites applications for financial assistance from parties who wish to participate in the rulemaking proceeding for the development of average fuel economy standards for passenger automobiles manufactured in model years 1981-84. The National Highway Traffic Safety Administration (NHTSA) may provide financial assistance to individuals or organizations which can effectively supplement the record of that proceeding but which are financially unable to participate.

DATES: DEADLINE FOR SUBMISSION OF APPLICATIONS: February 11, 1977.

ADDRESSES: SUBMIT APPLICATIONS TO: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Applications should be clearly marked for the attention of the Director of the Office of Automotive Fuel Economy.

FOR FURTHER INFORMATION CONTACT:

Roger Fairchild, Office of Chief Counsel (N40-30), National Highway Traffic Safety Administration, 400 7th Street, S.W., Washington, D.C. 20590, (202-426-2993).

SUPPLEMENTARY INFORMATION: On January 13, 1977, the Department of Transportation (DOT), in conjunction with NHTSA, published a notice (41 FR 2863) establishing a demonstration program of one year duration for funding of individuals or organizations which desire to participate in designated NHTSA proceedings under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, the Motor Vehicle Information and Cost Savings Act, as amended, and the Highway Safety Act of 1966, as amended.

Under regulations set forth in the notice for conducting the demonstration program, applications for assistance for participating in the proceeding are to be submitted in response to an invitation which will usually be published along with the initial FEDERAL REGISTER notice commencing the proceeding. Due to the limited funds available for the demonstration program, NHTSA will publish invitations primarily for those proceedings with the greatest potential impact on the general public. After the deadline specified in an invitation for submission of applications, all those applications submitted before the deadline will be evaluated by a panel of NHTSA and DOT officials to determine whether each applicant is eligible to receive funding under the regulations. In general, an applicant is deemed eligible if (1) it represents an interest the representation of which can reasonably be expected to contribute to a full and fair determination of the issues in the proceeding, (2) its participation is reasonably necessary to represent that interest, (3) it can competently represent that interest, and (4) it lacks sufficient financial resources to participate in the absence of such assistance. If more than one applicant representing the same or similar interest is deemed eligible, the panel either will select the applicant which can make the strongest presentation or, will select more than one applicant if the eligible applicants seek to present significantly different points of view or proposals. Conpensation is available only for reasonable out-of-pocket expenses necessary to the applicant's participation. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim. Interested persons may obtain a copy of the regulations for the demonstration program from the person identified above as the contact for further information.

This notice initiates the above procedures with respect to the 1981-84 passenger automobile average fuel economy standards rulemaking proceeding. Section 502(a)(3) of the Motor Vehicle Information and Cost Savings Act provides for the issuance, by July 1, 1977, of average fuel economy standards for in each of the model years 1981 through 1984. These standards must be set at a level which is the maximum feasible average fuel economy level and which results in steady progress toward meeting the statutorily imposed 1985 standard of 27.5 miles per gallon. The Administrator commenced this proceeding on September 23, 1976, by publishing an ANPRM (41 FR 41713) soliciting certain specified technical and economic information relevant to establishing these standards.

Although the 1981-84 standards proceeding was initiated before the commencement of the financial assistance demonstration program, and notwithstanding the limited time remaining for development of useful, detailed comments, NHTSA deems it appropriate to solicit funding applications for this proceeding. The importance of these fuel economy standards to the general public requires the encouragement of public participation in the rulemaking proceeding.

These standards pose significant issues relating to energy conservation, the environment, vehicle safety, consumer preferences regarding vehicle size, design and performance, and the costs of acquiring, maintaining and operating vehicles. For example, if the entire passenger automobile fleet averaged 27.5 miles per gallon, the daily savings in gasoline consumption would be up to two million barrels compared to the gasoline that would be consumed if the average were that of the model year 1975 fleet. These savings would aid in the short run in lessening this country's dependence on foreign petroleum and thereby aid in solving the associated problems regarding international balance of payments and this country's vulnerability to future interruptions of its petroleum supply. The 1973-74 interruption significantly affected individual mobility and many aspects of the national economy. The standards may have an environmental impact of concern to many persons since reducing gasoline consumption will contribute to reducing the need for additional exploration, extraction, transportation, and refining of petroleum and other sources of hydrocarbon liquid fuels for motor vehicles.

One of the means of improving fuel economy, reducing vehicle weight, may increase the chance of occupant injury in motor vehicle accidents. Thus, one issue will be whether there will be any need for compensatory safety measures. Part of the effort to reduce vehicle weight will probably entail substituting light weight materials like aluminum and plastics. Such substitution raises questions regarding the effects of decreased demand for steel, the possibility of solid waste disposal problems associated with the increased use of plastics, and increased consumption of scarce natural resources.

In addition to changes in vehicle weight, the standards may also lead manufacturers to make changes in vehicle interior and exterior size, noise, and acceleration capability. The effect of the changes on the range of consumer choice and on the acceptability of new vehicles to consumers will be another issue.

Each application submitted pursuant to this notice should identify which of these or other issues the applicant proposes to address and the manner in which the applicant proposes to do so.

Applicants are urged to submit their applications by the deadline specified above. Under the regulations for the demonstration program, consideration of late applications is at the discretion of the panel of officials that will review the applications.

Issued on January 24, 1977.

JOHN W. SNOW,
Administrator.

[FR Doc.77-2737 Filed 1-26-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF

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 dangerous to the public interest.

Abbott, Gilbert S., Route 5, Box 347, Shelbyville, Kentucky, convicted on September 17, 1965, in the Tremble Circuit Court, Bedford, Kentucky.

Allen, Rodney D., Sr., Box 584, Cass Lake, Minnesota, convicted on November 13, 1972, in the Minnesota District Court, Ninth Judicial District, Cass County, Minnesota.

Barnett, Lonnie R., 4218 South Juneau, Seattle, Washington, convicted on July 2, 1968, in the Superior Court, Kings County, Washington.

Beeler, Lawrence E., 226 Orchas Street, Port Angeles, Washington, convicted on April 17, 1974, in the Superior Court of Callum County, Washington.

Bend, J. T., 5441 Arlington Street, St. Louis, Missouri, convicted on October 20, 1972, in the United States District Court, Eastern District, Missouri.

Brown, Jack L., 3016 E. Presidio, Tucson, Arizona, convicted on March 21, 1947, in the District Court, Clovis, New Mexico.

Campbell, David M., 209 West Tobias Street, Flint, Michigan, convicted on or about November 28, 1972, in the Genesee Circuit Court, Michigan.

Carmichael, Jack L., 2027 South Perkins, Indianapolis, Indiana, convicted on March 1, 1957, in the Circuit Court in and for Scott County, Indiana.

Carter, Edward J., 888 Pallister, Detroit, Michigan, convicted on September 12, 1963, in the Recorder's Court, Detroit, Michigan.

Chartier, Earl H., Rt. 1, Waukomis, Oklahoma, convicted on May 28, 1969, in the District Court of Garfield County, Oklahoma.

Cherry, Douglas W., R.D. 4, Box 448½, Lehigh Drive, Leechburg, Pennsylvania, convicted on June 20, 1973, in the Court of Common Pleas, Armstrong County, Pennsylvania.

Colson, Charles W., 1350 Ballantrae Lane, McLean, Virginia, convicted on June 3, 1974, in the United States District Court, Washington, D.C.

Combs, Robert L., 629 Warwick Drive, Montgomery, Alabama, convicted on June 30, 1972, in Montgomery County Court, Montgomery, Alabama.

Cornett, David A., 308 Pine, Manton, Michigan, convicted on March 8, 1974, in the Wexford County Circuit Court, Cadillac, Michigan.

Davis, Otee, 1380 Shawmut Place, St. Louis, Missouri, convicted on July 7, 1972, in the United States District Court, Eastern District, Missouri.

Delrow, Michael Allen, 727 East Lincoln, Little Chute, Wisconsin, convicted on December 27, 1973, in the Circuit Court, Waupaca County, Wisconsin.

Dublin, Hugh P., Jr., Route #1, Tennessee Colony, Texas, convicted on September 30, 1963, in the Criminal District Court No. 5, Harris County, Texas.

Ervin, James C., 1906 South 17th Street, Yakima, Washington, convicted on October 6, 1945, in the Yakima County Superior Court, Yakima, Washington.

Fyffe, Randy L., 5868 South Villa Lane, Indianapolis, Indiana, convicted on October 19, 1962, in the Court of Common Pleas, Montgomery County, Ohio.

Fiveash, Roy J., Route 1, Box 304–A, Saucier, Mississippi, convicted on April 5, 1972, in the United States District Court, Southern District, Mississippi.

Fowler, Kenneth, Route 6, Box 20, Lebanon, Tennessee, convicted on December 11, 1974, in the Criminal Court of Wilson County, Tennessee.

Frederick, Vernon C., III, 2901 Westheimer, Houston, Texas, convicted on March 2, 1972, in the 176th District Court of Harris County, Texas.

Gambill, Robert B., Route 6, Box 361–A, North Wilkesboro, North Carolina, convicted on January 27, 1959, in the Wilkes County Superior Court, Wilkesboro, North Carolina; and on August 3, 1959, in the Catawba County Superior Court, North Carolina.

Gunnoe, Frank J., P.O. Box 15061, Marmet, West Virginia, convicted on December 9, 1960, in the Intermediate Court for Kanawha County, West Virginia.

Hafner, Francis J., 70 Ashford Avenue, Pittsburgh, Pennsylvania, convicted on October 23, 1952, on February 26, 1953, on November 24, 1953, in a Special Court Martial, United States Navy, Philadelphia; and on March 31, 1954, in a General Court Martial, United States Navy, Philadelphia; and on June 28, 1955, in a General Court Martial, United States Navy, Boston, Massachusetts; and on May 27, 1957, in the Allegheny County Court, Pennsylvania.

Hall, Calvin Arthur, 1329 N. Second Avenue, Upland, California, convicted on December 7, 1956, in the Superior Court, Los Angeles County, California.

Harmon, Martin C., Route 1, Box 18AA, Hereford, Arizona, convicted on September 19, 1950, in the Boyd Circuit Court, Ashland, Kentucky.

Harrigan, Jack T., Jr., 2105 Anderson Street, Petersburg, Virginia, convicted on January 15, 1969, in the Criminal Court, Sullivan County, Blountville, Tennessee.

Hawkins, Frankie A., 712 West Taylor, Lovington, New Mexico, convicted on October 20, 1970, in the Lea County District Court, Lovington, New Mexico.

Hiller, Henry E., 369 15th Street, Box 215, Pomeroy, Washington, convicted on June 5, 1973, in the Garfield County Superior Court, Pomeroy, Washington.

Hollingshead, Ronald L., 4821 Sahler Street, Omaha, Nebraska, convicted on March 4, 1968, in the District Court, Washington County, Blair, Nebraska.

Jones, Jack Lee, Box 93, Clarksburg, Missouri, convicted on January 2, 1968, in the Circuit Court of Moniteau County, Missouri.

Kiernan, Eugene A., Jr., 334 S. Whiting Street, Alexandria, Virginia, convicted on February 9, 1971, in the City of Alexandria Circuit Court, Virginia.

Lee, Joe R., 2500 Minor Avenue East, Seattle, Washington, convicted on June 12, 1959, in the Superior Court, King County, Washington.

Lock, Charles W., 3622 Deerford Avenue, Lakewood, California, convicted on March 2, 1967, Los Angeles County Superior Court, Long Beach, California.

McCreary, Sheila K., 508 Hammond Street, Newport News, Virginia, convicted on March 29, 1973, in the Hustings Court, Newport News, Virginia.

McNemar, Kenneth L., Jr., 6229 Tanager, Houston, Texas, convicted on September 26, 1972, in the 180th District Court, Harris County, Texas.

Mars, Robert L., 1044 Southwest McFadden, Chehalis, Washington, convicted on February 22, 1974, in the Superior Court of Washington.

Marshbanks, Rothey Eugene, 7712 E. Waverly, Tucson, Arizona, convicted on or about January 24, 1968, in the United States District Court for the Eastern District of Maryland.

Miller, Steven C., 512 East Wilcox Avenue, Peoria, Illinois, convicted on June 4, 1973, in the United States District Court for the Northern District of Illinois, Eastern Division.

Morgan, Joseph W., 4000 Boardman Street, Minneapolis, Minnesota, convicted on September 8, 1967, on October 31, 1967, and on November 18, 1970, in the District Court, Hennepin County, Minnesota; and on December 17, 1970, in the District Court, Second Judicial District, Ramsey County, Minnesota.

Morningstar, Rex E., Rural Route 3, Cassopolis, Michigan, convicted on November 9, 1973, in the Cass County Circuit Court, Michigan.

Nalepinski, Donald E., Route #4, Box 24A, Sparta, Wisconsin, convicted on February 12, 1974, in the Circuit Court, Grant County, Wisconsin.

Oliver, Kelly M., 114 South 44th, Muskogee, Oklahoma, convicted on June 26, 1975, in the Oklahoma County District Court, Oklahoma City, Oklahoma.

Parker, Warren J., 5125 East Washington, Stockton, California, convicted on December 27, 1955, in the Superior Court of California, in the County of San Madeo; and on September 12, 1960, in the Superior Court of California, County of San Francisco.

Ponder, Leon C., Route 1, Box 281–A, Brent, Alabama, convicted on September 7, 1973, in the United States District Court for the Northern District of Alabama.

Pugh, Jeffrey C., Box 911, Ferrum College, Ferrum, Virginia, convicted on April 10, 1973, in the Circuit Court of Franklin County, Rocky Mount, Virginia.

Pyron, Wayne E., 6276 North 12th Street, Oak Dale, Minnesota, convicted on March 19, 1971, in the Superior Court of Baldwin County, Georgia.

Raia, Leo Lee, 4337 Fyler Street, St. Louis, Missouri, convicted on July 10, 1969, in the United States District Court, Eastern District of Missouri.

Rice, Jack M., 1807 South Third Street, Enid, Oklahoma, convicted on November 12, 1923, in the District Court, Cimarron County, Oklahoma.

Ross, Gerald W., 311 Barbieri, Arma, Kansas, convicted on January 12, 1971, in the District Court, Crawford County, Pittsburgh, Kansas.

Ruh, Duane R., 3112 West Glendale Avenue, Milwaukee, Wisconsin, convicted on May 24, 1965, in the Circuit Court, Milwaukee County, Wisconsin.

Sass, Verne A., 114 McKinley Avenue, Kellogg, Indiana, convicted on September 29, 1931, in the United States District Court for the Western District of Missouri.

Simard, Marvin E., 13060 11th Avenue, Seattle, Washington, convicted on January 25, 1973, in the Superior Court, County of King, Seattle, Washington.

Smith, Thomas D., 28487 Bridge Street, Garden City, Michigan, convicted on November 12, 1965, in the Oakland County Circuit Court, Pontiac, Michigan.

Swinson, John Lee, Route No. 1, Box 184, Vestaburg, Michigan, convicted on January 23, 1956, in the Circuit Court of Gratiot County, Michigan.

Wasserman, Donald M., 15620 Spring Mill Road, Mishawaka, Indiana, convicted on August 3, 1956, in the United States District Court, Eastern District of Michigan, Southern Division, Detroit, Michigan.

Watson, Tony M., Route 3, Berry, Alabama, convicted on November 18, 1972, in the United States District Court, Northern District of Alabama, Tuscaloosa, Alabama.

Wolfe, Steven J., 1901 Old Concord Road, Smyrna, Georgia, convicted on February 8, 1967, in the Spartanburg County Criminal Court, Spartanburg, South Carolina.

Signed at Washington, D.C., this 17th day of January 1977.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.77-2626 Filed 1-26-77;8:45 am]

[Notice No. 77-2]

TECHNICAL SUBCOMMITTEE OF THE ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L.

92–463), notice is hereby given that a closed meeting of the Technical Subcommittee to the Advisory Committee on Explosives Tagging will be held on February 23 and 24, 1977, in Room 5041, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., beginning at 9:00 a.m. (e.s.t.).

The Technical Subcommittee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information from a person privileged or confidential within the ambit of Title 5, United States Code, section 552(b)(4). Accordingly, the meeting of the Technical Subcommittee of the Advisory Committee on Explosive Tagging will, under authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Acohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, Room 8233.

Signed: January 21, 1977.

REX D. DAVIS,
Director.

[FR Doc.77–2627 Filed 1–26–77;8:45 am]

VETERANS ADMINISTRATION

SPECIAL MEDICAL ADVISORY GROUP

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Special Medical Advisory Group, authorized by 38 U.S.C. 4112(a), will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC on February 28, and March 1, 1977. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The general session will convene at 8:30 a.m. on February 28. It will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mr. R. E. Lindsey, Executive Secretary, Special Medical Advisory Group, Veterans Administration Central Office (Phone 202–389–2588), prior to February 25, 1977.

Dated: January 21, 1977.

By direction of the Administrator.

ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.77–2640 Filed 1–26–77;8:45 am]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Friday, February 18, 1977, at 1:30 p.m., the Des Moines Regional Office Station Committee on Educational Allowances shall at Room 1021, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Mankato State University, Estherville Branch, Estherville, Iowa 51334, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 19, 1977.

ROBERT L. WINTERS,
Director, VA Regional Office.

[FR Doc.77–2651 Filed 1–26–77;8:45 am]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Friday, February 18, 1977, at 11:00 a.m., the Des Moines Regional Office Station Committee on Educational Allowances shall at Room 1021, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Mankato State University, Algona Branch, Algona, Iowa 50511, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 19, 1977.

ROBERT L. WINTERS,
Director, VA Regional Office.

[FR Doc.77–2652 Filed 1–26–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 312]

ASSIGNMENT OF HEARINGS

JANUARY 24, 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 141033 Sub 16, Continental Contract Carrier, Corp., now being assigned March 10, 1977 (2 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 83539 Sub 439, C & H Transportation Co., Inc., now being assigned March 14, 1977, at San Francisco, Calif., in a hearing room to be later designated.

FF–C 63, Western Pacific Transport Company San Francisco, California And Western Pacific Railroad Company San Francisco, California—Investigation of Operations—now being assigned March 8, 1977 (2 days), at Carson City, Nevada, in a hearing room to be later designated.

MC–C 9100 Western Pacific Transport Company, San Francisco, California and Western Pacific Railroad Company, San Francisco, California—Investigation of Operation—now being assigned March 8, 1977 (2 days), at Carson City, Nevada, in a hearing room to be later designated.

MC 136786 Sub 91, Robco Transportation, Inc. now assigned February 1, 1977 for continued hearings at Washington, D.C. is postponed until February 2, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC–C–8917, Dignan Trucking, Inc., et al V. Southern Maryland Transportation Co., Inc., now assigned January 27, 1977, at Washington, D.C. is postponed to March 3, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 107515 (Sub-1009), Refrigerated Transport Co., Inc., now assigned January 25, 1977 at Chicago, Illinois is canceled and the application is dismissed.

MC–F–12822, Overnite Transportation Company—Purchase—O'nan Transportation Company, Inc., and MC 109533 (Sub-No. 75), Overnite Transportation Company, Inc., now assigned March 15, 1977, at Louisville, Ky. will be held at the Stouffers Louisville Inn, 120 W. Broadway.

MC 142442 Custom Skin Company, application dismissed.

MC 68100 (Sub-No. 17), D. P. Bonham Transfer, Inc., application dismissed.

MC–F 12811, Chicago-St. Louis Transport, Inc.—Purchase—Airline Cartage, Inc. and MC 134493 (Sub. No. 2), Chicago-St. Louis Transport, Inc. now assigned March 21, 1977 at Chicago, Illinois and will be held in Room 1319, Everett Mckinley Dirksen Building, 219 South Dearborn Street.

MC 114533 Sub 343, Bankers Dispatch Corporation now assigned March 14, 1977 at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC–F 12836, Lime City Trucking Company, Inc.—Purchase—Robert O., Evans dba Johnson Express Line and MC 20872 Sub 16, Lime City Trucking Company, Inc. now assigned February 28, 1977 at Chicago, Illinois and will be held in Room 209, 536 South Clark Street.

AB 57 Sub 2, Soo Line Railroad Company Abandonment Between Raco Junction and Raco in Luce and Chippewa Counties, Michigan now assigned February 23, 1977 at Sault Ste. Marie, Michigan and will be held in the County Commissioner's Room, 3rd Floor of Chippewa County Court House, Bingham Avenue at Maple & Spruce Street.

MC 126986 Sub 9, Dufour Brothers, Inc. now assigned March 22, 1977 at Pittsfield, Massachusetts and will be held in Superior Court, Berkshire County Court House, 76 East Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–2726 Filed 1–26–11;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 24, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be estblished at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before February 11, 1977.

FSA No. 43309—*Vinyl Acetate from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–652), for interested rail carriers. Rates on vinyl acetate, in tank-car loads, as described in the application, from South Bay City and Texas City, Texas, to Dayton, N.J., and Elkton, Maryland.

Grounds for relief—Market competition.

Tariff—Supplement 27 to Southwestern Freight Bureau, Agent, tariff 12–J, I.C.C.

No. 5219. Rates are published to become effective on February 21, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–2721 Filed 1–26–77;8:45 am]

[No. 36508]

MDWEST FREIGHT CAR COMPANY—PETITION FOR DECLARATORY ORDER—SWITCHING CHARGES AT CLINTON, ILLINOIS

Directing Modified Procedure for This Proceeding

It appearing, That, upon referral order by the Circuit Court of Cook County, Illinois Law Division, the Midwest Freight Car Company, filed a petition on January 10, 1977, seeking a declaratory order under section 554(e) of the Administrative Procedure Act with respect to certain questions as described in the petition; and good cause appearing therefor:

It is ordered, That this matter appears susceptible of handling under the modified procedure, and therefore petitioner and Illinois Central Gulf Railroad Company, complainant in the court action, and any interested parties subsequently permitted to intervene, should comply with rules 45 to 54, inclusive, of the Commission's General Rules of Practice, and the filing and service of the pleadings is to be as follows: (a) opening statement of facts and argument by petitioner and any parties supporting petitioner on or before 20 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by replicant and any supporting parties; and (c) reply by petitioner and any supporting parties 20 days thereafter.

It is further ordered, That any pleadings filed responsive to this order shall be served upon all parties subsequently permitted to intervene.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by forwarding appropriate notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 17th day of January, 1977.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[Docket No. 36508]

MIDWEST FREIGHT CAR COMPANY—PETITION FOR DECLARATORY ORDER—SWITCHING CHARGES AT CLINTON, ILLINOIS

Instituting Proceeding

• *Purpose:* The purpose of this notice is to inform the public that upon petition by the Midwest Freight Car Company and pursuant to the Administrative Procedure Act (5 U.S.C. 554(e)) a declaratory order is sought in regard to charges for certain switching services. •

The Illinois Central Gulf Railroad filed an action at law in the Circuit Court of Cook County, Illinois Law Division, *Illinois Central Gulf Railroad Company* v. *Midwest Freight Car Company*, No. 76 L 21052, seeking to recover $421.14 for switching services rendered petitioner Midwest Freight Car Company at Clinton, Ill., during the period between April 3, 1973 and February 11, 1976. On December 30, 1976, Midwest filed a counterclaim in that action seeking recovery of $36,385.10 in charges paid to the said railroad for switching at Clinton during the period between November 17, 1973, and October 28, 1976.

A petition for a declaratory order was filed by Midwest pursuant to a referral order of January 4, 1977, from the Court to decide:

(1) Whether or not the switching charges involved in the complaint and counterclaim were applicable to the switching services re-

ferred to therein under section 6 of the Interstate Commerce Act.

(2) Whether or not such switching charges, if applicable to such services, were just and reasonable as applied thereto under section 1 of the Interstate Commerce Act.

Petitioner Midwest operates a railroad freight car manufacturing and repair facility at Clinton which is served exclusively by the Illinois Central Gulf Railroad. The charges sought to be collected by the Illinois Central Gulf Railroad are for switching of new and rebuilt cars to and from weighing scales for purposes of determining the tare weight of the cars prior to the first line-haul movement. The charges which Midwest seeks to recover are charges paid for switching railroad-owned and privately-owned freight cars to its facility for repairs. Midwest alleges in its instant petition that neither of these types of switching movements are covered by published switching charges, but, instead, are included as an element in line-haul rates with no further charges being justified.

By order served concurrently with this publication, the proceeding is being set for handling under the modified procedure. Oral hearings do not appear necessary at this time and are not contemplated.

Any interested parties subsequently permitted to intervene should comply with rules 45 to 54 (49 CFR 1100.45 to 1100.54), inclusive, of the Commission's General Rules of Practice, and the filing and service of pleadings is to be as follows: (a) opening statement of facts and arguments by petitioner and any parties supporting petitioner on or before 20 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by replicant and any supporting parties; and (c) reply by petitioner and any supporting parties 20 days thereafter.

All written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C.

Issued in Washington, D.C., January 17, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2723 Filed 1-26-77;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 7]

JANUARY 18, 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 5227 (Sub-No. 23TA), filed January 4, 1977. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from the plantsite and storage facilities of Tote Systems, Division of Hoover Ball and Bearing Co., at or near Dyersburg, Tenn., 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. P. A. Hartwig, Sales Manager, Tote Systems, Division of Hoover Ball and Bearing Co., P.O. Box 456, Beatrice, Nebr. 68310. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 17605 (Sub-No. 3TA), filed January 7, 1977. Applicant: RONALD E. WATSON, P.O. Box 184, Ross, Ohio 45061. Applicant's representative: John L. Alden, 1396 W. Fifth Ave., Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular and irregular routes, transporting: *Paper and paper products and papermill products*, from the facilities of Champion International Corporation, at Cincinnati, Ohio, to points in Ohio, Illinois and Indiana as follows: from the facilities of Champion International Corporation, at Cincinnati, Ohio, over U.S. Highway 127, to junction Bypass U.S. Highway 50, thence over Bypass U.S. Highway 50 to Cleves, Ohio, thence over U.S. Highway 50 to junction U.S. Highway 31, thence over U.S. Highway 31 to Sellersburg, Ind., and thence over U.S. Highway 31E to Jeffersonville, Ind.; and from the facilities of Champion International Corporation, at Cincinnati, Ohio, over U.S. Highway 127 to Greenville, Ohio, thence over Ohio Highway 571 (formerly Ohio Highway 71) to the Ohio-Indiana State line, thence over Indiana Highway 32 via Muncie, Ind., to Anderson, Ind., thence over Indiana Highway 9 via Alexandria, Ind., to Marion, Ind. (also from Muncie over Indiana Highway 3 to junction Indiana Highway 18, thence over Indiana Highway 18 to Marion; also from junction Indiana Highways 3 and 28 over Indiana Highway 28 to junction Indiana Highway 9, thence to Marion as specified above), thence over Indiana Highway 15 to Wabash, Ind., thence over U.S. Highway 24 to the Indiana-Illinois State line, and thence over irregular routes, to points in that part of Illinois bounded by a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Jacksonville, Ill., thence along U.S. Highway 67 to the Illinois-Iowa State line, at Rock Island, Ill., thence along the Illinois-Iowa State line to the Illinois-Wisconsin State line.

Thence along the Illinois-Wisconsin State line to Lake Michigan, thence along the shore of Lake Michigan, to the Illinois-Indiana State line, and thence along the Illinois-Indiana State line to the point of beginning, including the points named and points on the indicated portions of the highways specified; and service is authorized to and from all intermediate points on the above-specified regular routes, from the facilities of Champion International Corporation, at Cincinnati, Ohio, over irregular routes, to Columbus, Connersville, Ft. Wayne, and Madison, Ind., and points in Ohio; Paper and paper products, over irregular routes, from the facilities of Champion International Corporation, at Cincinnati, Ohio, to points in that part of Illinois on and north of U.S. Highway 40, east of U.S. Highway 67, and south of U.S. Highway 36, those in that part of Indiana on and north of U.S. Highway 40 (except Fort Wayne, Ind.), those in that part of Michigan on and south of Michigan Highway 21, and to Milwaukee, Racine and Beloit, Wis.; St. Louis, Mo.; Erie, Pa.; and Buffalo and Rochester, N.Y.

Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

NOTE.—The destination territory is identical to that presently held by the applicant. By this application, applicant seeks to serve the new warehousing facilities utilized by its existing contract shipper, under a continuing contract with Champion International Corporation, for 180 days.

No. MC 29120 (Sub-No. 199TA), filed January 5, 1977. Applicant: ALL-AMERICAN, INC., 900 W. Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or*

microwave ovens and such commodities as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies, and accessories, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Indiana, Ohio and Michigan, restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 61396 (Sub-No. 320TA), filed January 4, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, from the plantsites and storage facilities of ConAgra, Inc., at Omaha, Nebr., to joints in Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ed Duncza, Supervisor, of Fleet Operations, ConAgra, Inc., 200 Kiewit Plaza, Omaha, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 103066 (Sub-No. 51TA), filed January 4, 1976. Applicant: STONE TRUCKING CO., 4927 S. Tacoma, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: C. L. Phillips, Room 248, 1411 N. Classen, Classen Terrace Bldg., Oklahoma City, Okla. 73106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products*, as defined by the Commission, from Madison and Omaha, Nebr., to points in Massachusetts, New York, New Jersey and Pennsylvania, and from Memphis, Tenn., to points in New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Company, Greyhound Tower, 111 W. Clarendon Ave., Phoenix, Ariz. 85077. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 112184 (Sub-No. 50TA), filed December 17, 1976. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, 11250 Kinsman Road, Newbury, Ohio 44065. Applicant's representative: John P. McMahon, 100 E. Broad St. Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk (except corn oil, in bulk), from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, with no transportation for compensation on return except as otherwise provided, restricted to service performed under a continuing contract with Car-Mi, Inc., of Dayton, Ohio, for 180 days. Supporting shipper: Car-Mi, Inc., P.O. Box 14303. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 112963 (Sub-No. 63TA), filed January 4, 1977. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Naples, N.Y., to Laconia, N.H., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: White Mountain Vineyard, Inc., R.F.D. No. 2, Province Road, Laconia, N.H. 03246. Send protests to: D. W. Hammons, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, Mass. 02114.

No. MC 114004 (Sub-No. 158TA), filed January 7, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), *and buildings*, in sections, moving on wheeled undercarriages (except prefabricated building) from Lindsay and Dinuba, Calif.; Berthoud, Colo.; Lake City and Oneco, Fla.; Ellaville and Woodbury, Ga.; Monroe, Ind.; Dryden and Reed City, Mich.; Slayton, Minn.; Sherman, Miss.; Central City and York, Nebr.; Lillington, N.C.; Claysburg, Pa.; Buffalo, N.Y.; Wills Point, Commerce and Honey Grove, Tex.; and Mt. Jackson, Va., to points in the United States including Alaska, but excluding Hawaii, for 180 days. Supporting shipper: Champion Home Builders Co., 5573 N. St., Dryden, Mich. 48428. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 110420 (Sub-No. 763TA), filed January 7, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plantsite and storage facilities of Archer Daniels Midland Company, at Decatur, Ill., to points in the United States (except Alaska and Hawaii), restricted to traffic originating and destined to points named, for 180 days. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 114045 (Sub-No. 454TA), filed January 7, 1976. 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: *Photographic materials, supplies and equipment*, in vehicles equipped with mechanical refrigeration, from Teterboro, N.J., to Salt Lake City, Utah, for 180 days. Supporting shipper: Agfa-Gevaert, Inc., 275 North St., Teterboro, N.J. 07608. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 114569 (Sub-No. 158TA), filed January 3, 1977. Applicant: SHAFFER 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: *Dairy products*, from Lena, Wis., to New York City, N.Y. and its commercial zone for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frigo Cheese, Box 158, Lena, Wis. 54139. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. 869, Harrisburg Pa. 17108.

No. MC 114969 (Sub-No. 56TA), filed January 7, 1976. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Middletown Ohio, to points in Indiana, Illinois, Michigan and Kentucky for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vistron Corporation, 313 Midland Bldg., Cleveland, Ohio 44115. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 115904 (Sub-No. 68TA) (Correction), filed December 16, 1976, published in the FEDERAL REGISTER issue of January 5, 1977, and republished as corrected this issue. Applicant: GROVER TRUCKING CO., 1710 W. Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Bldg.,

Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard;* (2) *Gypsum wallboard paper;* (1) from the facilities of American Gypsum, at or near Albuquerque, N. Mex., to points in Arizona and Colorado; and (2) from Denver, Colo., and points in the commercial zone thereof to the plantsite of American Gypsum, at or near Albuquerque, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Gypsum Company, P.O. Box 6345, Albuquerque, N. Mex. 87107. Send protests to: Interstate Commerce Commission, Barney L. Hardin, District Supervisor, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724. The purpose of this republication is to correct the commodity description in this proceeding.

No. MC 116254 (Sub-No. 174TA), filed January 4, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum ingots*, in dump vehicles, from the plantsite of Texas Reduction Corp., at or near Alvin, Tex., to points in Colbert, Franklin and Lauderdale Counties, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Reduction Corporation, P.O. Box 791, Alvin, Tex. 77511. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 116254 (Sub-No. 175TA), filed January 4, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys*, in dump vehicles, from Selma, Dallas County, Ala., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Reduction Corporation, P.O. Box 791, Alvin, Tex. 77511. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 123392 (Sub-No. 71TA), filed January 5, 1977. Applicant: JACK B. KELLEY, INC., Rt. 1, Box 400, U.S. 66 West at Kelley Drive, Amarillo, Tex. 79106. Applicant's representative: Weldon M. Teague (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium*, in bulk, from the facilities at Union Carbide Corporation, at or near Bushton, Kans., to points in the United States (except Hawaii), Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Carbide Corporation, 270 Park Ave., New York, N.Y. 10017. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 128527 (Sub-No. 73TA), filed January 6, 1977. Applicant: MAY TRUCKING COMPANY, Box 398, Payette, Idaho 83661. Applicant's representative: Edward G. Rawle, 4635 S. W. Lake View Blvd., Lake Oswego, Oreg. 97034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, ABS pipe, paneling, particleboard, moldings, metal articles, windows and furniture*, from the plantsite of Champion Home Builders, Weiser Products Division, at or near Weiser, Idaho, to Champion Homes, at or near Brigham City, Utah, for 180 days. Supporting shipper: Champion Home Builders, Weiser Products Division, Weiser Industrial Park, Weiser, Idaho 83672. Send protests to: Barney L. Hardin, District Supervisor, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724.

No. MC 129032 (Sub-No. 31TA), filed January 4, 1977. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 40th West Ave., P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John Paul Fischer, 256 Montgomery St., San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafood*, from the plantsite and storage facilities of Kelley-Clarke Co., of Seattle and Bekkingham, Wash., to Ft. Worth and Amarillo, Tex.; St. Louis and Kansas City, Mo.; and Davenport, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kelley-Clarke Company, 2460 Sixth Ave., South, C-34010, Seattle, Wash. 98124. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 136825 (Sub-No. 3TA), filed January 5, 1976. Applicant: ENDICOTT TRUCKING CO., 1193 Refugee Road, P.O. Box 705, Columbus, Ohio 43207. Applicant's representative: Richard H. Brandon, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by electronic equipment and supply stores, between the facilities of Radio Shack, Division of Tandy Corporation, at Groveport, Ohio, on the one hand, and, on the other, points in Wisconsin, under a continuing contract with Radio Shack, Division of Tandy Corporation, for 180 days: Supporting shipper: Radio Shack, Division of Tandy Corporation, 4343 Williams Road, Groveport, Ohio 43215. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 138080 (Sub-No. 8TA), filed January 7, 1977. Applicant: EDWARD R. WOLFE, doing business as WOLFE TRUCKING, Bend, Oreg. 97701. Applicant's representative: Edward R. Wolfe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed agri gypsum rock*, in bulk, in vehicles equipped with hydraulic dump beds, from Empire, Nev., to points in Crook, Deschutes and Jefferson Counties, Oreg., under a continuing contract with Midstate Fertilizer Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midstate Fertilizer Company, Box 488, Redmond, Oreg. 97756. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW. Yamhill St., Portland, Oreg. 97204.

No. MC 138522 (Sub-No. 3TA) (Correction), filed December 13, 1976, published in the FEDERAL REGISTER issue of December 27, 1976, and republished as corrected this issue. Applicant: R. G. STANKO EXPRESS, INC., West Highway 20, P.O. Box 509, Gordon, Nebr. 69343. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, 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 facilities of Nebraska Beef Packers Co., at or near Gordon, Nebr., and the facilities of Stanko Packing Company, at or near Gering, Nebr., to points in the United States (except Alaska and Hawaii); and (2) *Such commodities* as are used by meat packers in the conduct of their business, from points in the United States (except Alaska and Hawaii), to the facilities of Nebraska Beef Packers Co., at or near Gordon, Nebr., and the facilities of Stanko Packing Company, at or near Gering, Nebr. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract with Nebraska Beef Packers Co., of Gordon, Nebr., and Stanko Packing Company, doing business as Nebraska Beef Packers, of Gering, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: R. G. Stanko, Secretary-Treasurer, Nebraska Beef Packers Company, Gering, Nebr. 69343. R. C. Stanko, Secretary-Treasurer, Stanko Packing Co., dba, Nebraska Beef Packers, Gering, Nebr. 69314. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508. The purpose is to add part (2) of the application, and to add the destination points, which was omitted in the previous publication.

No. MC 139091 (Sub-No. 16TA), filed January 6, 1976. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays St., P.O. Box 4625 CDU, Amarillo, Tex. 79105. Applicant's representative: Clayton J. Logan, P.O. Box 30038, Amarillo, Tex. 79120. Authority sought to operate as a *contract 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 of Swift Fresh Meats Co., at or near Grand Island, Nebr., and Glenwood, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, under a continuing contract with Swift Fresh Meats Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Fresh Meats Co., 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139193 (Sub-No. 52TA) filed January 5, 1976. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies, and accessories related thereto, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., under a continuing contract with Litton Microwave Cooking Products, Litton Systems, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 61231 (Sub-No. 98TA), filed January 4, 1977. Applicant: ACE LINES, INC., 4143 East 43rd St., Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite products, vermiculite products, and insulation,* from the plantsite of W. R. Grace & Co., at Milwaukee, Wis., to points in Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority, Supporting shipper: Construction Products Division, W. R. Grace & Co., 62 Whittemore Ave., Cambridge, Mass. 02140. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139482 (Sub-No. 10TA), filed January 4, 1977. Applicant: NEW ULM FREIGHT LINES, INC., County Road No. 29 West, P.O. Box 347, New Ulm, Minn. 56073. Applicant's representative: Samuel Rubenstein, 301 N. Fifth St., Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens* and such commodities as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereto, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Minnesota, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, Virginia, New York, Connecticut and Massachusetts, restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141811 (Sub-No. 3TA), filed January 4, 1977. Applicant: SCHEDULED TRANSPORT, INC., Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Applicant's representative: Donald W. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank vehicles, from East Gary, Ind., to Fremont, Ohio. Restriction: Restricted to traffic having an immediately prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hubbard Milling Company, 424 N. Front St., Mankato, Minn. 56001. Send protests to: Fran Sterling, Transportation Assistant, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 141914 (Sub-No. 4TA), filed January 7, 1977. Applicant: FRANK & SON, INC., Rt. 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Curtains and draperies*, from Skowhegan, Maine, to points in Arizona, California, Colorado, Oregon, Texas, Utah and Washington; (2) *Molded pulp articles, plastic plates, knives and spoons*, from Waterville, Maine, to points in Alabama, Arkansas, Arizona, New Mexico, Louisiana, Oklahoma, Tennessee and Texas; and (3) *Wood turnings, dowells and golf tees*, from Guildford Maine, to points in California and Utah, for 180 days. Supporting shippers: (1) Pride Golf Tee Co., Guildford, Maine 04443. (2) Sunrise Drapery Co., Inc., 10 Walnut St., Skowhegan, Maine 04976, and (3) Keyes Fibre Co., Waterville, Maine 04901. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

PASSENGER APPLICATION

No. MC 61016 (Sub-No. 45TA), filed January 4, 1976. Applicant: PETER PAN BUS LINES, INC., 1776 Main St., Springfield, Mass. 01103. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, between Springfield, Mass., and The Bridgeport Jai-Alai Fronton, located at Bridgeport, Conn., restricted to the transportation of passengers originating at or destined to The Bridgeport, Conn., Jai-Alai Fronton, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 8 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: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 436 Dwight St., Room 338, Springfield, Mass. 01103.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2719 Filed 1-26-77;8:45 am]

[Notice No. 8]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 19, 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 28060 (Sub-No. 32TA), filed January 7, 1977. Applicant: WILLERS, INC., 1400 N. Cliff Ave., Sioux Falls, S. Dak. 57104. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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), in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Landy of Wisconsin, Eau Claire, Wis., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Landy of Wisconsin, Inc., P.O. Box 1265, Eau Claire, Wis. 54701. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 32948 (Sub-No. 21TA), filed January 5, 1977. Applicant: P.A.K. TRANSPORT, INC., Meadow Road, P.O. Box 187, Newport, N.H. 03773. Applicant's representative: R. Peter Decato, 20 W. Park St., Lebanon, N.H. 03776. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, between points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York and New Jersey, for 180 days. Supporting shipper: Connecticut Valley Chepping Corp., R.F.D. 32, Plymouth, N.H. 03264. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 208 Federal Bldg., 55 Plesant St., Concord, N.H. 03301.

No. MC 59856 (Sub-No. 71TA), filed January 6, 1977. Applicant: SALT CREEK FREIGHTWAYS, P.O. Box 39, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, Suite 805 Midland Bank Bldg., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring the use of special equipment and Classes A and B explosives), serving the mine and processing plantsite of Mineral Exploration, Wamsutter, Wyo., as an off-route point in connection with carrier's otherwise authorized regular-route operation. Applicant intends to tack its existing authority with MC 59856 Sub-No. 24, applicant also intends to interline at Denver, Colo.; Rapid City, S. Dak.; Billings, Great Falls and Missoula, Mont.; Idaho Falls, Idaho; Casper, Wyo.; and Rawlins, Wyo., for 180 days. Supporting shipper: Mineral Exploration Company, P.O. Box 2674, Casper, Wyo. 82602. Send protests to: P. A. Naughton, District Supervisor, Room 105 Federal Bldg., and U.S. Courthouse, 111 S. Wolcott St., Casper, Wyo. 82601.

No. MC 78725 (Sub-No. 4 TA), filed January 6, 1977. Applicant: ROLLAND GUENTHER, doing business as, R. GUENTHER TRUCKING, 3905 Kraus Lane Ross, Ross, Ohio 45061. Applicant's representative: John L. Alden, 1396 W. Fifth Ave., Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular and irregular routes, transporting: *Paper and paper products*, over regular routes, from the facilities of Champion International Corporation, at Cincinnati, Ohio, to Chicago, Ill., serving the intermediate points of Hammond, Muncie and Richmond, Ind., and the off-route points of De Kalb, La Salle, and Peoria, Ill., and those in Illinois within 30 miles of Chicago: from the facilities of Champion International Corporation, at Cincinnati, Ohio, over U.S. Highway 127 to Eaton, Ohio, thence over U.S. Highway 35 to junction Indiana Highway 28, thence over Indiana Highway 28 to junction U.S. Highway 52, thence over U.S. Highway 52 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 6, thence over U.S. Highway 6, to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to Chicago, Ill.; *Paper and paper products*, over irregular routes; from the facilities of Champion International Corporation, at Cincinnati, Ohio, to points in Ohio, those in that part of Illinois on and north of U.S. Highway 40 (except Chicago and points in Illinois within 30 miles of Chicago, and De Kalb, La Salle, and Peoria, Ill.), those in that part of Indiana on and north of U.S. Highway 40 (except Hammond, Muncie and Richmond), those in that part of Michigan on and south of Michigan Highway 21, Milwaukee, Racine and Beloit, Wis.; St. Louis, Mo.; Erie, Pa., and Buffalo and Rochester, N.Y.

NOTE.—The destination territory is identical to that presently held by the applicant. By this application applicant seeks to serve the new warehousing facilities utilized by its existing contract shipper, under a continuing contract with Champion International Corporation, or 180 days. Supporting Shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send Protests To: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 108207 (Sub-No. 452 TA), filed January 4, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molding compounds; granulated resin; and liquid plastics*, in refrigerated equipment (except in bulk), from Los Angeles, Calif., to points in Arizona, New Mexico, Texas, Louisiana, Mississippi, Arkansas, Oklahoma, Kansas, Missouri, Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, South Dakota, and Memphis, Tenn., for 180 days. Supporting shipper: Furane Plastics, Inc., 5121 San Fernando Road, West, Los Angeles, Calif. 90039. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 108937 (Sub-No. 43 TA), filed January 10, 1977. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, Minn. 55113. Applicant's representative: Raymond L. Stevens, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereto, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Wisconsin, restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak, for 180 days. Supporting Shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 111274 (Sub-No. 17 TA), filed January 3, 1977. Applicant: ELMER C. SCHMIDGALL AND BENJAMIN G. SCHMIDGALL, doing business as, SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Box

356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mine roof bolts*, from Marion, Ill., to points in Colorado, New Mexico, Wyoming, Utah, Idaho and Arizona, under a continuing contract with Pattin-Marion, Division of the Eastern Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Pattin-Marion, Division of the Eastern Company, P.O. Box 339, Marion, Ill. 62959. Send Protests To: Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 111812 (Sub-No. 526 TA), filed January 5, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., 900 W. Delaware, P.O. Box 1233, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereto, from the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., to points in New Mexico, Arizona, California, Utah, Oregon, Washington and Montana, restricted to traffic originating at the above-named facilities in Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send Protests To: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 117940 (Sub-No. 206 TA), filed January 7, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereo, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 124078 (Sub-No. 711 TA), filed January 6, 1977. Applicant: SCHWERMAN TRUCKING COMPANY, 611 S. 28th St., Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Middletown, Ohio, to points in Indiana, Illinois, Michigan and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vistron Corporation, 313 Midland Bldg., Cleveland, Ohio 44115. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 124221 (Sub-No. 57 TA), filed January 3, 1977. Applicant: HOWARD BAER, P.O. Box, Route 98W, Morton, Ill. 61550. Applicant's representative: Robert Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise*, as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials* and supplies used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Louisville, Ky., to Houston and Dallas, Tex. Restriction: The operations authorized herein are subject to the following conditions: The authority granted herein is restricted to the transportation of traffic originating at or destined to a facility of the Kroger Company. The operations authorized herein are limited to a transportation service to be performed under a continuing contract with the Kroger Company, of Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: The Kroger Co., 1014 Vine St., Cincinnati, Ohio 45201. Send Protests To: Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 127253 (Sub-No. 54 TA), (Correction) filed December 17, 1976, published in the FEDERAL REGISTER issue of January 14, 1977, and republished as corrected this issue. Applicant: R. A. CORBETT TRANSPORT, INC., P.O. Box 728, Waskom, Tex. 75692. Applicant's representative: Kenneth Sitton, FM 9 South, Waskom, Tex. 75692. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contaminated water*, from Tinker Air Force Base, Okla., to Grand Prairie, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Department of Defense, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send Protests To: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242. The purpose of this republication is to correct docket number MC 127253 (Sub-No. 54), in lieu of MC 12725 (Sub-No. 543), which was previously published in error.

No. MC 139495 (Sub-No. 185 TA), filed January 6, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th St., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: James E. McCarty, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Light bulbs*, from the plantsite and storage facilities utilized by North American Philips Lighting Corporation at or near Lynn, Mass., to Toledo, Ohio and Detroit, Mich. Applicant intends to tack its existing authority with MC 139495 Sub-No. 4, for 180 days. Supporting shipper: North American Philips Lighting Corp., Banks St., Hightstown, N.J. 08520. Send Protests To: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 139999 (Sub-No. 18TA), filed January 5, 1977. Applicant: RED-FEATHER FAST FREIGHT, INC., 2606 N. 11th St., Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 520 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouses products*, from the plantsite of Dubuque Packing, Co., at or near Mankato, Kans., to points in Rhode Island, Connecticut, Illinois, Indiana, Iowa, Michigan, Missouri, New Jersey, New York, Nebraska, Ohio, Pennsylvania and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ray Bliesmer, Plant Manager, Dubuque Packing Company, P.O. Box 283, Mankato, Kans. 66956. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 141781 (Sub-No. 1TA), filed January 10, 1977. Applicant: LARSON TRANSFER & STORAGE CO., INC., P.O. Box 877, Minneapolis, Minn. 55440. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and/or microwave ovens and such commodities* as are used in the manufacture of electric ranges and/or microwave ovens, including materials, supplies and accessories related thereto, between the plantsite and/or storage facilities utilized by Litton Microwave Cooking Products, at Sioux Falls, S. Dak., on the one hand, and, on the other, points in Minnesota

and Wisconsin, restricted to traffic originating at or destined to the above-named facilities at Sioux Falls, S. Dak., for 180 days. Supporting shipper: Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane, Minneapolis, Minn. 55441. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, 414 Federal Bldg. and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141804 (Sub-No. 40TA), filed January 5, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Individually portioned control packaged foodstuffs*, not frozen (except meat, meat products and meat by-products), from the plantsite and storage facilities of Serv-A-Portion, Inc., at or near Chatsworth, Calif., to points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, West Virginia, Delaware, Washington, D.C., Virginia, North Carolina, South Carolina, Florida, Ohio, Tennessee, Texas, Oklahoma, Missouri and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Serv-A-Portion, Inc., 9140 Lurline Ave., Chatsworth, Calif. 91311. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141849 (Sub-No. 1TA), filed January 5, 1977. Applicant: RAY LOCKRIDGE TRUCKING, INC., 95 Lawrenceville Industrial Park Circle, N.E., Lawrenceville, Ga. 30245. Applicant's representative: Virgil H. Smith, Suite 12, 1578 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet backing and textile products*, from the facilities of Amoco Fabrics Co., Patchogue Plymouth Division, at Hazlehurst, Ga., to points in Los Angeles, San Bernardino and Orange Counties, and Bakersfield and Fresno, Calif., under a continuing contract with Amoco Fabric Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Fabric Co., P.O. Box 836, Hazlehurst, Ga. 31539. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 142224 (Sub-No. 1TA), filed January 10, 1977. Applicant: CHARLES GAJDA AND CHESTER GAJDA, doing business as, GAJDA TRUCKING COMPANY, R.D. No. 3, Volant, Pa. 16156. Applicant's representative: John A. Pillar, 205 Ross St., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Millscale*, in bulk, in dump vehicles, from Sharon, Wheatland, Koppel and Beaver Falls, Pa., to Niagara Falls, N.Y.; Steubenville, Ohio; and Alloy, W. Va., under a continuing contract with P. Pettler Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: P. Pettler Company, 7th Avenue at 27th St., Beaver Falls, Pa. 15010. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 142361 (Sub-No. 1TA), filed January 6, 1977. Applicant: RISBERG TRUCK SERVICE, INC., 2339 S.E. Grand Ave., Portland, Oreg. 97214. Applicant's representative: Jerry R. Woods, Suite 1440, 200 Market Bldg., Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles, commodities requiring special equipment, household goods, and Classes A and B explosives), between the facilities of Pay Less Drug Stores Northwest, Inc., located in California, Colorado, Idaho, Oregon, and Washington, on the one hand, and, on the other, points in California, Colorado, Idaho, Nevada, Oregon, Utah and Washington, under a continuing contract with Pay Less Drug Stores Northwest, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pay Less Drug Stores Northwest, Inc., 10605 S.W. Allen Blvd., Beaverton, Oreg. 97005. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oreg. 97204.

No. MC 142677TA (amendment), filed November 29, 1976, published in the FR issue of December 13, 1976, and republished as corrected this issue. Applicant: SHELBY BODY SHOP, INC., U.S. Highway 74, Route 9, Box 22, Shelby, N.C. 28150. 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: (1) *Wrecked and disabled trucks, wrecked and disabled tractors and wrecked and disabled trailers* (other than those designed to be drawn by passenger vehicles), from points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia and West Virginia, to points in Cleveland County, N.C.; and (2) *Wrecked and disabled trucks, wrecked and disabled tractors and wrecked and disabled trailers* (other than those designed to be drawn by passenger vehicles), from points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia and Wisconsin, to points in Gaston County, N.C.; Restriction: Restricted to a transportation service performed by use of wrecker equipment and/or lowboy semitrailers, only; (3) *Replacement vehicles*, for the vehicles named in (1) above, from points in Cleveland County, N.C., to the origin points as described in (1) above; and (4) *Replacement vehicles*, for the vehicles named in (2) above, from points in Gaston County, N.C., to the origin points as described in (2) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Beaunit Corporation (Trucking Div.), 607 Charles St.; PPG Ind. (Trucking Div.), P.O. Box 288, Kings Mountain, N.C. 28086. and Carolina Freight Carriers Corp., P.O. Box 697, Cherryville, N.C. 28021. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205. The purpose of this republication is to amend the commodity description in parts (1) and (2) of this proceeding.

No. MC 142742 (Sub-No. 1TA), filed January 3, 1977. Applicant: RICHARD OLOFFSON, doing business as RICH'S AG SERVICE, P.O. Box 147, Manlius, Ill. 61338. Applicant's representative: Samuel Harrod, 107 E. Eureka Ave., Eureka, Ill. 61530. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry yeast*, in bags, from the facilities of Miller Brewing Co., Juneau, Wis., to the facilities of Cargill, Inc., Princeton, Ill.; (2) *Animal feed*, dry, in bags, from the facilities of Thiel Milling Co., Slinger, Wis., to the facilities of Cargill, Inc., Princeton, Ill.; (3) *Animal feed*, dry, in bulk or in bags, from the facilities of Cargill, Inc., Janesville, Wis., to the facilities of Cargill, Inc., Princeton, Ill.; (4) *Vitamin and drug premixes*, dry, in bags, from the facilities of Cadco, Inc., Des Moines, Iowa, to the facilities of Cargill, Inc., Princeton, Ill.; (5) *Vitamin supplements*, dry, in bags, from the facilities of Hoffman-LaRoche, Ames, Iowa, to the facilities of Cargill, Inc., Princeton, Ill.; (6) *Minerals*, dry, in bulk, from the facilities of International Mineral, Corp., Montpelier, Iowa, to the facilities of Cargill, Inc., Princeton, Ill.; (7) *Animal feed*, dry, in bags, from the facilities of Cargill, Inc., West Branch, Iowa, to the facilities of Cargill, Inc., Princeton, Ill.; and (8) *Minerals*, dry, in bags, from the facilities of Kings Castle, Marion, Iowa, to the facilities of Cargill, Inc., Princeton, Ill., under a continuing contract with Cargill, Inc., Nutrena Feed Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Cargill, Inc., Nutrena Feed Division, Cargill

Bldg., Minneapolis, Minn. 55402. Send protests to: Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142749 (Sub-No. 1TA), filed January 4, 1977. Applicant: BUDDY L. INC., 804 N. Rogers St., Irving, Tex. 75061. Applicant's representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lead*, from the plantsites of Dixie Metals Co., at Dallas, Tex., and Heflin, La., to the plantsites of General Battery Corp., at Selma, Ala., City of Industry, Calif.; Opa-Locka, Fla.; Frankfort, Ind.; Salina, Kans.; and Greer, S.C.; and (2) Lead scrap and junk batteries, from the plantsites of General Battery Corp., at Salina, Kans., and Greer, S.C., to the plantsites of Dixie Metals Co., at Dallas, Tex., and Heflin, La., under a continuing contract with Dixie Metals Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Metals Co., 3030 McGowan St., Dallas, Tex. 75202. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 142765TA (correction), filed December 28, 1976, published in the FR issue of January 14, 1977, and republished as corrected this issue. Applicant: AMERICAN TRANSPORTATION, INC., P.O. BOX 2379, Trenton, N.J. 08601. Applicant's representative: Mel P. Booker, Jr., 118 N. St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or sold by direct sale houses (except commodities in bulk), from the facilities of Amway Corp., located at or near Dayton, N.J., to points in Delaware, Maryland, New Jersey, Connecticut, points in Rockland, Orange, Westchester and Putnam Counties, N.Y.; points in that part of Virginia on and north of Interstate Highway 64; points in that part of West Virginia on and north of U.S. Highway 60 and Interstate Highway 64; and points in Pennsylvania east of the western boundaries of Potter, Clinton, Centre, Blair and Bedford Counties, Pa., and Washington, D.C., under a continuing contract with Amway Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amway Corporation, Regional Distribution Center, Box 900 Monmouth Junction Road, Dayton, N.J. 08810. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608. The purpose of this republication is to add Washington, D.C., as a destination point in this proceeding.

No. MC 142766 (Sub-No. 1TA), filed January 6, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. 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: (1) *Chemicals, cleaning, washing, scouring, defoaming compounds;* and (2) *Materials, equipment and supplies* used in the manufacture and sale of the foregoing commodities, between Harrison, Kearny, Edison, Middlesex, N.J., on the one hand, and, on the other, Jacksonville, Tampa and Miami, Fla.; Houston, Tex.; Crossett, Ark.; and Ferguson, Miss., restricted against the transportation of commodities in bulk, under a continuing contract with Drew Chemical Corporation, Harrison, N.J., for 180 days. Supporting shipper: Chemical Corp., 102 Essex St., Harrison, N.J. 07029. Send protests to: Julia M. Papp, Transportation Assistant, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 142783TA, filed January 5, 1977. Applicant: BIRD MOTOR LINES, INC., 4301 B Pleasantdale Road, Doraville, Ga. 30340. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, food-treating compounds, spices, extracts, additives, candles, cards and advertising paraphernalia and materials, equipment and supplies* used in the packaging, sale, and distribution of the foregoing commodities, in vehicles equipped with mechanical distribution; and (2) Commodities, the transportation of which is exempt or partially exempt from regulation under the provisions of Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, between Atlanta, Ga., and its commercial zone, on the one hand, and on the other, points in Florida, Georgia, Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, Tennessee, Kentucky, Ohio, West Virginia, Pennsylvania, New York, New Jersey, Mississippi, Illinois, Indiana and the District of Columbia, under a continuing contract with Nationwide Fund Raisers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nationwide Fund Raisers, Inc., 4301 Plesantdale Road, Atlanta, Ga. 30340. Send protests to: Sara K. Davis, transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 142784TA, filed January 5, 1977. Applicant: RICHARD H. GRAVES, R.F.D., Center Conway, N.H. 03813. Applicant's representative: Richard H. Graves (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from Fryeburg, Maine, to Walton and Deposit, N.Y., and Honesdale, Pa.; and (2) *Wooden pallets*, from Walton and Deposit, N.Y., and Honesdale, Pa., to Fryeburg, Maine, under a continuing contract with S. J. Bailey & Sons, Inc., for 180 days. Supporting shipper: S. J. Bailey & Sons, Inc., Box 239, Clarks Summit, Pa. 18411. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 142785TA, filed January 7, 1977. Applicant: BROTHERLY LOVE EXPRESS, INC., 2451 Montrose St., Philadelphia, Pa. 19145. Applicant's representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel*, in coils, sheets and lengths of flat, corrugated steel in sheets, from the plantsite and facilities utilized by Western Steel Company, at Philadelphia, Pa., to points in Connecticut, Delaware, Georgia, Florida, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee and Virginia; and (2) (a) *Returned shipments* of the commodities described in (1) above, and used in the manufacture, sales and distribution of the commodities described (b) *Materials, equipment and supplies* in (1) above, from points in Connecticut, Delaware, Georgia, Florida, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee and Virginia, to the plantsite and facilities utilized by Western Steel Company, at Philadelphia, Pa., in (2) (a) and (b) above, under a continuing contract with Western Steel Company, for 180 days. Supporting shipper: Western Steel Company, 4424 Paul St., Philadelphia, Pa. 19124. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

PASSENGER APPLICATIONS

No. MC 141447 (Sub-No. 2TA), filed January 5, 1977. Applicant: AUTOBUS DES BOIS-FRANCS LTEE, P.O. Box 1134, R.R. No. 1, Plessisville, Quebec. Applicant's representative: Guy Poliquin, Room 140, 580 E. Grande-Allee, Quebec, Quebec G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, from points on the International Boundary line in the States of Maine, New Hampshire, Vermont, New York and Michigan, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Trois-Rivieres, Victoriaville and Plessisville, Quebec, for 180 days. Supporting shipper: Agence de Voyages Plessis Enrg., R.R. 1, Plessisville, Quebec. Send protests to: Ross J. Seymour, District Supevisor, Interstate Commerce Commission, Bureau of Operations, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 141449 (Sub-No. 1TA), filed January 5, 1977. Applicant: TRANSPORT FONTAINE LTEE, No. 1 Main St., St-Gervais (Bellechasse), Quebec. Applicant's representative: Guy Poliquin, Room 140, 580 E. Grande-Allee, Quebec, Quebec G1R 2K3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, from points on the International Boundary line, in the states of Maine, New Hampshire, Vermont, New York and Michigan, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Levis and Quebec, Quebec, for 180 days. Supporting shipper: Quebec Monde Agence Voyage S.P.A.R., 225 est, Blvd., Charest, Quebec 2, Quebec. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 208 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2720 Filed 1-26-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

JANUARY 21, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before February 7, 1977. A copy must also be served upon applicant on its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 61825 (Sub-E756), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry Jordan, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* between points in Idaho, Montana, North Dakota, Oregon, and Washington, and points in California, Nevada, South Dakota, Utah, and Wyoming on and northwest of a line beginning at San Francisco, Calif., and extending northeast along Interstate Highway 80 to junction California Highway 4, thence east along California Highway 4 to junction California Highway 26, thence northeast along California Highway 26 to junction California Highway 88, thence northeast along California Highway 88 to junction Nevada Highway 88, thence north along Nevada Highway 88 to junction U.S. Highway 395, thence north along U.S. Highway 395 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 50 Alternate, thence north along U.S. Highway 50 Alternate to junction Nevada Highway 2, thence northeast along Nevada Highway 2 to the Nevada-Utah State line, thence north along the Nevada-Utah State line to junction Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 187, thence north along U.S. Highway 187 to junction Wyoming Highway 28, thence northeast along Wyoming Highway 28 to junction U.S. Highway 287, thence north along U.S. Highway 287 to junction Wyoming Highway 789, thence northeast along Wyoming Highway 789 to junction U.S. Highway 26, thence northeast along U.S. Highway 26 to junction U.S. Highway 20, thence north along U.S. Highway 20 to junction U.S. Highway 16, thence east along U.S. Highway 16 to junction Interstate Highway 90, thence east along Interstate Highway 90 to junction U.S. Highway 14 Alternate, thence southeast along U.S. Highway 14 Alternate to junction U.S. Highway 385, thence southeast along U.S. Highway 385 to junction South Dakota Highway 40.

Thence east along South Dakota Highway 40 to Rapid City, S. Dak., thence east along U.S. Highway 14 to Box Elder, S. Dak., thence north along unnumbered Highway to the Elk Creek, thence east along the Elk Creek to the Cheyenne River, thence northeast along the Cheyenne River to Lake Oake, thence northeast along Lake Oake to junction U.S. Highway 212, thence east along U.S. Highway 212 to junction South Dakota Highway 45, thence north along South Dakota Highway 45 to junction South Dakota Highway 20, thence east along South Dakota Highway 20 to junction South Dakota Highway 37, thence north along South Dakota Highway 37 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction South Dakota Highway 10, thence east along South Dakota Highway 10 to the South Dakota-Minnesota State line, on the one hand, and, on the other, those points in Georgia on and east of a line beginning at the South Carolina-Georgia State line and extending southwest along U.S. Highway 29 to junction U.S. Highway 129, thence south along U.S. Highway 129 to Macon, Georgia, and thence south along U.S. Highway 41 to the Georgia-Florida State line. The purpose of the filing is to eliminate the gateway of Bassett, Va.

No. MC 61825 (Sub-E757), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. BOX 385, Collinsville, Va. 24078. Applicant's representative: Harry Jordan, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Oregon and Washington, and points in California, Idaho, Montana, Nevada, and points in North Dakota on and northwest of a line beginning at San Francisco, Calif., and extending northeast along Interstate Highway 80 to junction California Highway 4, thence east along California Highway 4 to junction California Highway 160, thence north along California Highway 160 to junction California Highway 12, thence east along California Highway 12 to junction California Highway 88, thence east along California Highway 88 to junction Nevada Highway 88, thence north along Nevada Highway 88, to junction U.S. Highway 395, thence north along U.S. Highway 395 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Nevada Highway 21, thence north along Nevada Highway 21 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction Interstate Highway 80 N, thence east along Interstate Highway 80 N to junction Interstate Highway 15 W, thence northeast along Interstate Highway 15 W to junction U.S. Highway 191, thence north along U.S. Highway 191 to junction U.S. Highway 287, thence east along U.S. Highway 287 to the Montana-Wyoming State line, thence north and thence east along the Montana-Wyoming State line to junction U.S. Highway 212, thence northeast long U.S. Highway 212 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction North Dakota Highway 41, thence north along North Dakota Highway 41 to junction North Dakota Highway 200.

Thence east along North Dakota Highway 200 to junction North Dakota Highway 3, thence north along North Dakota Highway 3 to junction North Dakota Highway 19, thence east along North Dakota Highway 19 to junction North Dakota Highway 20, thence north along North Dakota Highway 20 to junction North Dakota Highway 17, thence east along North Dakota Highway 17 to junction North Dakota Highway 1, thence north along North Dakota Highway 1 to junction North Dakota Highway 5, thence east along North Dakota Highway 5 to junction North Dakota Highway 18, thence north along North Dakota Highway 18 to the United States-Canadian International Boundary line, on the one hand, and, on the other, those points in Georgia on and bounded by a line beginning at the South Carolina-Georgia State line and extending southwest along U.S.

Highway 29 to junction U.S. Highway 129, thence south along U.S. Highway 129 to Macon, Ga., thence south along U.S. Highway 41 to junction U.S. Highway 341, thence northwest along U.S. Highway 341 to junction U.S. Highway 41, thence north along U.S. Highway 41 to junction U.S. Highway 19, thence north along U.S. Highway 19 to junction U.S. Highway 76, thence east along U.S. Highway 76 to junction Georgia Highway 75, thence north along Georgia Highway 75 to the Georgia-North Caroline State line, thence east along the Georgia-North Carolina State line to the Georgia-South Carolina State line, and thence south to point of beginning. The purpose of this filing is to eliminate the gateway of Bassett, Va.

No. MC 61825 (Sub-E758), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Washington, and points in California, Idaho, Montana, and Oregon on and northwest of a line beginning at Eureka, Calif., and extending south along U.S. Highway 1 to junction California Highway 36, thence east along California Highway 36 to junction California Highway 3, thence northeast along California Highway 3 to junction California Highway 299, thence east along California Highway 299 to junction U.S. Highway 395, thence north along U.S. Highway 395 to junction Oregon Highway 31, thence northwest along Oregon Highway 31 to junction U.S. Highway 97, thence north along U.S. Highway 97 to junction Oregon Highway 218, thence east along Oregon Highway 218 to junction Oregon Highway 19, thence north along Oregon Highway 19 to junction Oregon Highway 206, thence east along Oregon Highway 206 to junction Oregon Highway 74, thence east along Oregon Highway 74 to junction U.S. Highway 395, thence northeast along U.S. Highway 395 to junction Oregon Highway 11, thence northeast along Oregon Highway 11 to the Oregon-Washington State line, thence east along the Oregon-Washington State line to the Wahington-Idaho State line, thence north along the Washington-Idaho State line to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction Montana Highway 200, thence east along Montana Highway 200 to junction U.S. Highway 87, thence northeast along U.S. Highway 87 to junction Montana Highway 232, thence north along Montana Highway 232 to junction Montana Highway 233, and thence north along Montana Highway 233 to the United States-Canadian International Boundary line, on the one hand, and, on the other, those points in Georgia on and bounded by a line beginning at the Tennessee-Georgia State line and extending south along Georgia Highway 71 to junction U.S. Highway 41, thence south along U.S. Highway 41 to junction Georgia Highway 53, thence south along Georgia Highway 53 to junction U.S. Highway 27, thence south along U.S. Highway 27 to junction Georgia Highway 100, thence south along Georgia Highway 100 to junction Georgia Highway 166, thence west along Georgia Highway 166 to the Georgia-Alabama State line, thence south along the Georgia-Alabama State line to the Georgia-Florida State line, thence southeast along the Georgia-Florida State line to junction U.S. Highway 41, thence north along U.S. Highway 41 to junction U.S. Highway 341, thence northwest along U.S. Highway 341 to junction U.S. Highway 41, thence north along U.S. Highway 41 to junction U.S. Highway 19, thence north along U.S. Highway 19 to junction U.S. Highway 76, thence east along U.S. Highway 76 to junction Georgia Highway 75, thence north along Georgia Highway 75 to the Georgia-North Carolina State line, thence west along the Georgia-North Carolina State line to the Georgia-Tennessee State line, and thence west along the Georgia-Tennessee State line to point of beginning. The purpose of this filing is to eliminate the gateway of Basset, Va.

No. MC 61825 (Sub E759), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, from points in Georgia on and east of a line beginning at the South Carolina-Georgia State line and extending southwest along U.S. Highway 29 to junction U.S. Highway 129, thence south along U.S. Highway 129 to junction U.S. Highway 23, thence southeast along U.S. Highway 23 to junction U.S. Highway 441, thence south along U.S. Highway 441 to junction Georgia Highway 158, thence southeast along Georgia Highway 158 to junction U.S. Highway 82, thence east along U.S. Highway 82 to junction U.S. Highway 1, thence southeast along U.S. Highway 1 to the Georgia-Florida State line, to points in Washington, and points in California, Idaho, Montana, Nevada, and Oregon on and northwest of a line beginning at Fort Bragg, Calif., and extending south along California Highway 1 to junction California Highway 20, thence southeast along California Highway 20 to junction California Highway 16, thence southeast along California Highway 16 to Sacramento, Calif., thence northeast along Interstate Highway 80 to junction U.S. Highway 95, thence northeast along U.S. Highway 95 to the Oregon-Idaho State line, thence north along the Oregon-Idaho State line to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction U.S. Highway 95, thence north along U.S. Highway 95 to junction Idaho Highway 13, thence north along Idaho Highway 13 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 10, thence south along U.S. Highway 10 to junction U.S. Highway 91, thence north along U.S. Highway 91 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 191, thence north along U.S. Highway 191 to junction U.S. Highway 87, thence east along U.S. Highway 87 to junction Montana Highway 200, thence east along Montana Highway 200 to junction Mountain Highway 13, thence north along Montana Highway 13 to junction U.S. Highway 2, thence east along U.S. Highway 2 to junction Montana Highway 16, thence north along Montana Highway 16 to junction Montana Highway 5, thence east along Montana Highway 5 to the Montana-North Dakota State line, and thence north along the Montana-North Dakota State line to the United States-Canadian International Boundary line, restricted against the transportation of those commodities requiring special equipment. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, and Bedford, Va.

No. MC 61825 (Sub-No. E777), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, between points in Delaware, on the one hand, and, on the other points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Bassett, Va.

No. MC 61825 (Sub E785), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, New Furniture* and *Furniture parts*, from New York, N.Y., and points in New Jersey on and south of U.S. Highway 202, and points in Pennsylvania on and south of a line beginning at New Jersey-Pennsylvania State line and extending southwest along U.S. Highway 202 to Norristown, Pa., thence west along U.S. Highway 422 to junction U.S. Highway 322, thence west along U.S. Highway 322 to Harrisburg, Pa., thence southwest along U.S. Highway 15 to junction U.S. Highway 15 Business, thence south along U.S. Highway 15 Business to junction U.S. Highway 15, and thence south along U.S. Highway 15 to the Pennsylvania-Maryland State line, to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted against the transportation of Class A and B Explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of Roanoke, Va.

No. MC 61825 (Sub E786), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, New furniture*, and *Furniture parts*, from points in Maryland on and north of a line beginning at the Pennsylvania-Maryland State line and extending east along U.S. Highway 40, thence east along U.S. Highway 40 Alternate to junction U.S. Highway 40 near Frederick, Md., thence east along U.S. Highway 40 to junction Maryland Highway 144, thence east along Maryland Highway 144 to Baltimore, Md., thence to the Chesapeake Bay, thence northeast along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and thence east along the Chesapeake and Delaware Canal to the Maryland-Delaware State line, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and points in Nebraska, North Dakota and South Dakota on and west of a line beginning at the Kansas-Nebraska State line and extending north along Nebraska Highway 161 to junction U.S. Highway 34, thence northeast along U.S. Highway 34 to junction Nebraska Highway 61, thence north along Nebraska Highway 61 to junction U.S. Highway 6, thence northwest along U.S. Highway 6 to the Nebraska-Colorado State line, thence north along the Nebraska-Colorado State line to junction Nebraska Highway 27, thence north along Nebraska Highway 27 to junction U.S. Highway 26, thence northwest along U.S. Highway 26 to junction Nebraska Highway 29, thence north along Nebraska Highway 29 to junction U.S. Highway 20, thence west along U.S. Highway 20 to the Nebraska-Wyoming State line, thence north along the Nebraska-Wyoming State line to the Nebraska-South Dakota State line, thence east along the Nebraska-South Dakota State line to junction South Dakota Highway 71, thence north along South Dakota Highway 71 to junction U.S. Highway 385, thence southeast along U.S. Highway 385 to junction South Dakota Highway 79, thence north along South Dakota Highway 79 to junction South Dakota Highway 168, thence northwest along South Dakota Highway 168 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction North Dakota Highway 21, thence east along North Dakota Highway 21 to junction North Dakota Highway 22, thence north along North Dakota Highway 22 to junction North Dakota Highway 23, thence east along North Dakota Highway 23 to junction U.S. Highway 83, and thence north along U.S. Highway 83 to the United States-Canadian International Boundary line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of Roanoke, Va.

No. MC 61825 (Sub E787), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, New furniture*, and *Furniture parts*, from points in Maryland on and north of a line beginning at the Pennsylvania-Maryland State line and extending south along Interstate Highway 81 to junction U.S. Highway 40, thence east along U.S. Highway 40 to Hagerstown, Md., thence east along U.S. Highway 40 Alternate to junction U.S. Highway 40 near Frederick, Md., thence east along U.S. Highway 40 to junction Maryland Highway 144, thence east along Maryland Highway 144 to Baltimore, Md., thence to the Chesapeake Bay, thence northeast along the shores of the Chesapeake Bay and Elk River to the Chesapeake and Delaware Canal, and thence east along the Chesapeake and Delaware Canal to the Maryland-Delaware State line, to points in Nebraska, North Dakota, and South Dakota on and east of a line beginning at the Kansas-Nebraska State line and extending north along Nebraska Highway 161 to junction U.S. Highway 34, thence northeast along U.S. Highway 34 to junction Nebraska Highway 61, thence north along Nebraska Highway 61 to junction U.S. Highway 6, thence northwest along U.S. Highway 6 to the Nebraska-Colorado State line, thence north along the Nebraska-Colorado State line to junction Nebraska Highway 27, thence north along Nebraska Highway 27 to junction U.S. Highway 26, thence northwest along U.S. Highway 26 to junction Nebraska Highway 29, thence north along Nebraska Highway 29 to junction U.S. Highway 20, thence west along U.S. Highway 20 to the Nebraska-Wyoming State line, thence north along the Nebraska-Wyoming State line to the Nebraska-South Dakota State line, thence east along the Nebraska-South Dakota State line to junction South Dakota Highway 71, thence north along South Dakota Highway 71 to junction U.S. Highway 385, thence southeast along U.S. Highway 385 to junction South Dakota Highway 79, thence north along South Dakota Highway 79 to junction South Dakota Highway 168, thence northwest along South Dakota Highway 168 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction North Dakota Highway 21, thence east along North Dakota Highway 21 to junction North Dakota Highway 22, thence north along North Dakota Highway 22 to junction North Dakota Highway 23, thence east along North Dakota Highway 23 to junction U.S. Highway 83, and thence north along U.S. Highway 83 to the United States-Canadian International Boundary line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of Roanoke, Va.

No. MC 61825 (Sub-E788), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clocks, New Furniture*, and *Furniture parts*, from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to New York, New York, and Newark, New Jersey, and points in New Jersey within 15 miles of Newark, N.J., restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. (2) *Materials, equipment and supplies*, used in the manufacture and distribution of clocks, new furniture, and furniture parts (except in bulk), from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to New York, New York, and Newark, New Jersey, and points in New Jersey within 15 miles of Newark, N.J., restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va., and Baltimore, Md.

No. MC 61825 (Sub-No. E801), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts*, from those points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 52 to the North Carolina-South Carolina State line, and points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending south along U.S. Highway 221 to junction South Carolina Highway 176, thence southeast along South Carolina Highway 176 to junction U.S. Highway 52, thence south along U.S. Highway 52 to junction South Carolina Highway 7, thence south along South Carolina Highway 7 to junction South Carolina Highway 171, thence south along South Carolina Highway 171 to the Atlantic Ocean, to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted against the transportation of class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate gateway of Ridgeway, Va.

No. MC 61825 (Sub-No. E802), filed March 5, 1976. Applicant: ROY STONE

TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts,* from points in South Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line and extending south along U.S. Highway 25 to junction U.S. Highway 221, thence south along U.S. Highway 221 to the South Carolina-Georgia State line, thence southeast along the South Carolina-Georgia State line to the Atlantic Ocean, thence northeast along the Atlantic Coast to Folly Beach, S.C., thence north along South Carolina Highway 171 to junction South Carolina Highway 7, thence north along South Carolina Highway 7 to junction U.S. Highway 52, thence north along U.S. Highway 52 to junction U.S. Highway 176, thence northwest along U.S. Highway 176 to junction U.S. Highway 221, thence north along U.S. Highway 221 to the South Carolina-North Carolina State line, and thence west along the South Carolina-North Carolina State line to point of beginning, to points in California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and points in Arizona, Colorado, Nebraska, and New Mexico on, north and west of a line beginning at the United States-Mexico International Boundary line near Douglas, Ariz., and extending north along U.S. Highway 666 to junction U.S. Highway 550, thence east along U.S. Highway 550 to junction New Mexico Highway 17, thence northeast along New Mexico Highway 17 to junction Colorado Highway 17, thence northeast along Colorado Highway 17 to junction Colorado Highway 140, thence east along Colorado Highway 140 to junction U.S. Highway 160, thence east along U.S. Highway 160 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction Colorado Highway 96, thence east along Colorado Highway 96 to the Colorado-Kansas State line, thence north along the Colorado-Kansas State line to the Kansas-Nebraska State line, thence east along the Kansas-Nebraska State line to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction Nebraska Highway 74, thence east along Nebraska Highway 74 to junction Nebraska Highway 14, thence north along Nebraska Highway 14 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction Nebraska Highway 66, thence east along Nebraska Highway 66 to junction U.S. Highway 34, and thence east along U.S. Highway 34 to the Nebraska-Iowa State line, restricted against the transpotration of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of Ridgeway, Va.

No. MC 61825 (Sub-No. E803), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture and furniture parts*, from points in South Carolina on and west of a line beginning at the North Carolina-South Carolina State line and extending south along U.S. Highway 25 to junction U.S. Highway 221, and thence south along U.S. Highway 221 to the South Carolina-Georgia State line, to points in California, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington, and Wyoming, and points in Arizona, Colorado, Nebraska, and South Dakota on and northwest of a line beginning at the United States-Mexico International Boundary line near Lakeville, Ariz., and extending north along Arizona Highway 85 to junction Arizona Highway 86, thence east along Arizona Highway 86 to junction Indian Trail 15, thence north along Indian Trail 15 to junction Arizona Highway 93, thence north along Arizona Highway 93 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction Arizona Highway 64, thence northeast along Arizona Highway 64 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction U.S. Highway 160, thence northeast along U.S. Highway 160 to junction U.S. Highway 550, thence north along U.S. Highway 550 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Colorado Highway 135, thence north along Colorado Highway 135 to junction Taylor Road, thence northeast along Taylor Road to junction Rainbow Lane, thence east along Rainbow Lane to junction Colorado Highway 306, thence east along Colorado Highway 306 to junction U.S. Highway 24, thence south along U.S. Highway 24 to junction U.S. Highway 285, thence northeast along U.S. Highway 285 to junction U.S. Highway 85, thence north along U.S. Highway 85 to the Colorado-Wyoming State line.

Thence east along the Colorado-Wyoming State line to the Colorado-Nebraska State line, thence east along the Colorado-Nebraska State line to junction Nebraska Highway 71, thence north along Nebraska Highway 71 to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction U.S. Highway 385, thence north along U.S. Highway 385 to junction Nebraska Highway 2 thence east along Nebraska Highway 2 to Mullen, Nebr., thence northeast along unnumbered highway to Valentine, Nebr., thence north along U.S. Highway 83 to the Nebraska-South Dakota State line, thence east along the Nebraska-South Dakota State line to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction South Dakota Highway 46, thence east along South Dakota Highway 46 to junction South Dakota Highway 10, and thence east along South Dakota Highway 10 to the South Dakota-Iowa State line, thence north along the South Dakota-Iowa State line, thence north along the South Dakota-Iowa State line, to junction South Dakota-Minnesota State line, thence north to the South Dakota-Minnesota State to junction North Dakota-Minnesota State line, and thence north to the North Dakota-Minnesota State line, restricted against the transportation of Classes A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateway of Ridgeway, Va.

No. MC-61825 (Sub-No. E804), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts*, from points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extendign south along U.S. Highway 421 to junction U.S. Highway 321, thence southeast along U.S. Highway 321 to junction U.S. Highway 321A, thence southeast along U.S. Highway 321A to junction U.S Highway 321, thence southeast along U.S. Highway 321 to junction North Carolina Highway 127, thence south along North Carolina Highway 127 to junction North Carolina Highway 10, thence southwest along North Carolina Highway 10 to junction North Carolina Highway 18, thence south along North Carolina Highway 18 to junction U.S. Highway 74, thence east along U.S. Highway 74 to junction North Carolina Highway 216, thence southwest along North Carolina Highway 216 to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction U.S. Highway 52, thence north along U.S. Highway 52 to the North Carolina-Virginia State line, thence west along the North Carolina-Virginia State line to the North Carolina-Tennessee State line, and thence south along the North Carolina-Tennessee State line to point of beginning, to points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and points in Colorado, Nebraska, and New Mexico on, west and north of a line beginning at the Texas-New Mexico State line and extending north along U.S. Highway 285 to junction U.S. Highway 285 Alternate, thence north along U.S. Highway 285 Alternate to junction U.S. Highway 285, thence northwest along U.S. Highway 285 to junction New Mexico Highway 3, thence north along New Mexico Highway 3 to junction U.S. Highway 85, thence northeast along U.S. Highway 85 to junction U.S. Highway 160.

Thence east along U.S. Highway 160 to junction U.S. Highway 350, thence northeast along U.S. Highway 350 to junction U.S. Highway 50, thence east along U.S. Highway 50 to Fort Lyon, Colo., thence north along unnumbered highway to junction Colorado Highway 96 at Haswell, Colo., thence east along Colorado Highway 96 to junction U.S. Highway 287, thence north along U.S.

Highway 287 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction U.S. Highway 385, thence north along U.S. Highway 385 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Colorado-Kansas State line, thence north along the Colorado-Kansas State line to the Kansas-Nebraska State line, thence east along the Kansas-Nebraska State line to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction U.S. Highway 30, thence northeast along U.S. Highway 30 to junction Nebraska Highway 15, thence north along Nebraska Highway 15 to junction Nebraska Highway 91, thence east along Nebraska Highway 91 to junction U.S. Highway 275, thence north along U.S. Highway 275 to junction Nebraska Highway 9, thence north along Nebraska Highway 9 to junction Nebraska Highway 51, and thence east along Nebraska Highway 51 to the Nebraska-Iowa State line, restricted against the transportation of Classes A and B explosives, commodities in bulk, and those requiring special equipment.

The purpose of this filing is to eliminate the gateways of Lynchburg, and Bedford, Va.

No. MC-61825 (Sub-No. E805), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts*, from those points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending southeast along U.S. Highway 19E to junction North Carolina Highway 194, thence south along North Carolina Highway 194 to junction U.S. Highway 221, thence south along U.S. Highway 221 to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction North Carolina Highway 216, thence northeast along North Carolina Highway 216 to junction U.S. Highway 74, thence west along U.S. Highway 74 to junction North Carolina Highway 18, thence north along North Carolina Highway 18 to junction North Carolina Highway 10, thence northeast along North Carolina Highway 10 to junction North Carolina Highway 127, thence north along North Carolina Highway 127 to junction U.S. Highway 321, thence northwest along U.S. Highway 321 to junction U.S. Highway 321 Alternate, thence northwest along U.S. Highway 321 Alternate to junction U.S. Highway 321, thence northwest along U.S. Highway 321 to junction U.S. Highway 421, thence northwest along U.S. Highway 421 to the North Carolina-Tennessee State line, and thence southwest along North Carolina-Tennessee State line to point of beginning, to points in Arizona, California, Idaho, Montana, Neveda, North Dakota, Oregon, Utah, Washington, and Wyoming, and points in Colorado, Nebraska, New Mexico, and South Dakota on, north and west of a line beginning at the United States-Mexico International Boundary line at the New Mexico-Texas State line and extending north along U.S. Highway 85 to junction New Mexico Highway 52, thence north along New Mexico Highway 52 to junction New Mexico Highway 78, thence north along New Mexico Highway 78 to junction U.S. Highway 60, thence west along U.S. Highway 60 to junction to New Mexico Highway 117, thence north along New Mexico Highway 117 to junction U.S. Highway 66.

Thence northwest along U.S. Highway 66 to junction New Mexico Highway 57, thence north along New Mexico Highway 57 to junction New Mexico Highway 44, thence southeast along New Mexico Highway 44 to junction New Mexico Highway 96, thence north along New Mexico Highway 96 to junction New Mexico Highway 112, thence north along New Mexico Highway 112 to junction U.S. Highway 84, thence north along U.S. Highway 84 to junction New Mexico Highway 17, thence northeast along New Mexico Highway 17 to junction Colorado Highway 17, thence northeast along Colorado Highway 17 to junction U.S. Highway 285, thence north along U.S. Highway 285 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction Interstate Highway 80S, thence east along Interstate Highway 80S to junction Interstate Highway 80, thence east along Interstate 80 to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction Nebraska Highway 2, thence southeast along Nebraska Highway 2 to junction Nebraska Highway 91, thence east along Nebraska Highway 91 to junction Nebraska Highway 7, thence north along Nebraska Highway 7 to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Nebraska Highway 11, thence north along Nebraska Highway 11 to junction U.S. Highway 18, thence northeast along U.S. Highway 18 to junction South Dakota Highway 37, thence north along South Dakota Highway 37 to junction South Dakota Highway 44, thence east along South Dakota Highway 44 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction U.S. Highway 16, thence east along U.S. Highway 16 to the South Dakota-Minnesota State line, Restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment. The purpose of this filing is to eliminate the gateways of Lynchburg and Bedford, Va.

No. MC-61825 (Sub-No. E809), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, new furniture, and furniture parts*, from those points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending south along U.S. Highway 129 to Andrews, N.C. thence northeast along U.S. Highway 19 to junction North Carolina Highway 28, thence southeast along North Carolina Highway 28 to junction U.S. Highway 441, thence south along U.S. Highway 441 to the North Carolina-Georgia State line, thence east along the North Carolina-Georgia State line to the North Carolina-South Carolina State line to junction U.S. Highway 221, thence north along U.S. Highway 221 to junction North Carolina Highway 194, thence north along North Carolina Highway 194 to junction U.S. Highway 19E, thence northwest along U.S. Highway 19E to the North Carolina-Tennessee State line, thence southwest along the North Carolina-Tennessee State line to point of beginning, to points in Oregon and Washington, and points in California, Idaho, Montana, Nevada, and North Dakota on, north and west of a line beginning at Monterey, California and extending east along California Highway 68 to junction U.S. Highway 101, thence northwest along U.S. Highway 101 to junction California Highway 17, thence north along California Highway 17 to junction unnumbered Highway at Milpitas, Calif., thence east along unnumbered Highway to junction Interstate Highway 680, thence north along Interstate Highway 680 to junction Interstate Highway 580, thence southeast along Interstate Highway 580 to junction Interstate Highway 5, thence east along Interstate Highway 5 to junction California Highway 132, thence east along California Highway 132 to junction California Highway 108, thence northeast along California Highway 108 to junction California Highway 120,

Thence east along California Highway 120 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 8A, thence north along Nevada Highway 8A to junction Nevada Highway 82, thence north along Nevada Highway 82 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Nevada Highway 46, thence north along Nevada Highway 46 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction U.S. Highway 93 Alternate, thence northeast along U.S. Highway 93 Alternate to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Idaho Highway 22, thence northeast along Idaho Highway 22 to junction U.S. Highway 91, thence north along U.S. Highway 91 to the Idaho-Montana State line, thence east along the Idaho-Montana State line to the Idaho-Wyoming-Montana State line, thence north and east along the Wyoming-Montana State line to junction U.S. Highway 212, thence northeast along U.S. Highway 212 to junction U.S. Highway 10, thence northeast along U.S. Highway 10 to junction U.S. Highway 12,

thence east along U.S. Highway 12 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction North Dakota Highway 21, thence east along North Dakota Highway 21 to junction North Dakota Highway 22, thence north along North Dakota Highway 22 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction North Dakota Highway 31, thence north along North Dakota Highway 31 to junction North Dakota Highway 200A, thence east along North Dakota Highway 200A to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction North Dakota Highway 200,

Thence east along North Dakota Highway 200 to junction North Dakota Highway 41, thence north along North Dakota Highway 41 to junction U.S. Highway 52, thence southeast along U.S. Highway 52 to junction North Dakota Highway 14, thence north along North Dakota Highway 14 to junction U.S. Highway 2, thence east along U.S. Highway 2 to junction North Dakota Highway 3, thence north along North Dakota Highway 3 to junction North Dakota Highway 66, thence east along North Dakota Highway 66 to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction North Dakota Highway 5, thence east along North Dakota Highway 5 to junction North Dakota Highway 20, thence north along North Dakota Highway 20 to the United States-Canadian International Boundary line, restricted against the transportation of Class A and B explosives, commodities in bulk, and those requiring special equipment.

The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E809), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, materials, equipment, and supplies*, used in the manufacture and distribution of clocks, new furniture and furniture parts (except in bulk), from points in Idaho, Montana, North Dakota, Oregon, and Washington, and points in California, Colorado, Nebraska, Nevada, South Dakota, Utah, and Wyoming on, west and north of a line beginning at San Diego, Calif., and extending east along Interstate Highway 8 to junction California Highway 67, thence north along California Highway 67 to junction California Highway 78, thence east along California Highway 78 to junction California Highway 79, thence north along California Highway 79 to junction California Highway 71, thence east along California Highway 71 to junction California Highway 74, thence northeast along California Highway 74 to junction California Highway 111, thence east along California Highway 111 to junction Interstate Highway 10 at Indio, California, thence west along Interstate Highway 10 to junction Interstate Highway 15, thence northeast along Interstate Highway 15 to junction California Highway 127, thence north along California Highway 127 to junction Nevada Highway 29, thence north along Nevada Highway 29 to junction U.S. Highway 95, thence northwest along U.S. Highway 95 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Utah Highway 56, thence east along Utah Highway 56 to junction Utah Highway 14, thence east along Utah Highway 14 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction Utah Highway 12, thence northeast along Utah Highway 12 to junction Utah Highway 24, thence northeast along Utah Highway 24 to junction Interstate Highway 70, thence east along Interstate Highway 70 to junction U.S. Highway 163, thence southeast along U.S. Highway 163 to junction Utah Highway 128, thence northeast along Utah Highway 128 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction U.S. Highway 50 at Grand Junction, Colo., thence west along U.S. Highway 50 to junction Colorado Highway 139.

Thence north along Colorado Highway 139 to junction Colorado Highway 64, thence northwest along Colorado Highway 64 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction Colorado Highway 789, thence north along Colorado Highway 789 to junction Wyoming Highway 789, thence north along Wyoming Highway 789 to junction Wyoming Highway 70, thence east along Wyoming Highway 70 to junction Wyoming Highway 230, thence north along Wyoming Highway 230 to junction Wyoming Highway 130, thence east along Wyoming Highway 130 to junction U.S. Highway 287, thence north along U.S. Highway 287 to junction Wyoming Highway 34, thence northeast along Wyoming Highway 34 to junction U.S. Highway 87, thence north along U.S. Highway 87 to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Nebraska Highway 61, thence north along Nebraska Highway 61 to junction South Dakota Highway 73, thence north along South Dakota Highway 73 to junction U.S. Highway 18, thence east along U.S. Highway 18 to junction U.S. Highway 183, thence north along U.S. Highway 183, to junction U.S. Highway 16, thence east along U.S. Highway 16 to junction South Dakota Highway 45, thence north along South Dakota Highway 45 to junction South Dakota Highway 34, thence east along South Dakota Highway 34 to junction South Dakota Highway 25, thence north along South Dakota Highway 25 to junction U.S. Highway 14, and thence east along U.S. Highway 14 to the South Dakota-Minnesota State line, to points in South Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 25 to junction South Carolina Highway 11, thence west along South Carolina Highway 11 to junction U.S. Highway 276, thence south along U.S. Highway 276 to junction South Carolina Highway 186.

Thence south along South Carolina Highway 186 to junction South Carolina Highway 135, thence south along South Carolina Highway 135 to junction U.S. Highway 178, thence south along U.S. Highway 178 to junction South Carolina Highway 28, thence southeast along South Carolina Highway 28 to the South Carolina-Georgia State line, thence southeast along the South Carolina-Georgia State line to the Atlantic Ocean, thence northeast along the Atlantic Coast to the Edisto River, thence north along the Edisto River to junction U.S. Highway 15, thence north along U.S. Highway 15 to junction U.S. Highway 178, thence northwest along U.S. Highway 178 to junction U.S. Highway 21, thence northwest along U.S. Highway 21 to junction South Carolina Highway 6, thence northwest along South Carolina Highway 6 to junction South Carolina Highway 60, thence east along South Carolina Highway 60 to junction U.S. Highway 176, thence northwest along U.S. Highway 176 to junction U.S. Highway 221, thence north along U.S. Highway 221 to the South Carolina-North Carolina State line, and thence west along the South Carolina-North Carolina State line to point of beginning, restricted against the transportation of those commodities requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E811), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, materials, equipment, and supplies* used in the manufacture and distribution of clocks, new furniture and furniture parts (except in bulk), from points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington, and Wyoming, and points in Colorado, Nebraska, New Mexico, and South Dakota on, north and west of a line beginning at the United States-Mexico International Boundary line and extending north along the New Mexico-Texas State line to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction New Mexico Highway 52, thence north along New Mexico Highway 52 to junction New Mexico Highway 78, thence north along New Mexico Highway 78 to junction U.S. Highway 60, thence west along U.S. Highway 60 to junction New Mexico Highway 117, thence north along New Mexico Highway 117 to junction U.S. Highway 66, thence northwest along U.S. Highway 66 to junction New Mexico Highway 57, thence north along New Mexico Highway 57 to junction New Mexico Highway 44. thence southeast along New Mexico Highway 44 to junction New Mexico Highway 96, thence north along New Mexico Highway 96 to junction New Mexico Highway 112, thence north along New Mexico Highway 112 to junction

U.S. Highway 84, thence north along U.S. Highway 84 to junction New Mexico Highway 17, thence northeast along New Mexico Highway 17 to junction Colorado Highway 17, thence northeast along Colorado Highway 17 to junction U.S. Highway 285, thence north along U.S. Highway 285 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction Interstate Highway 80S, thence east along Interstate Highway 80S to junction Interstate Highway 80.

Thence east along Interstate Highway 80 to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction Nebraska Highway 2, thence southeast along Nebraska Highway 2 to junction Nebraska Highway 91, thence east along Nebraska Highway 91 to junction Nebraska Highway 7, thence north along Nebraska Highway 7 to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Nebraska Highway 11, thence north along Nebraska Highway 11 to junction U.S. Highway 18, thence northeast along U.S. Highway 18 to junction South Dakota Highway 37, thence north along South Dakota Highway 37 to junction South Dakota Highway 44, thence east along South Dakota Highway 44 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction U.S. Highway 16, and thence east along U.S. Highway 16 to the South Dakota-Minnesota State line, to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending southeast along U.S. Highway 19E to junction North Carolina Highway 194, thence south along North Carolina Highway 194 to junction U.S. Highway 221, thence south along U.S. Highway 221 to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction North Carolina Highway 216, thence northeast along North Carolina Highway 216 to junction U.S. Highway 74, thence west along U.S. Highway 74 to junction North Carolina Highway 18, thence north along North Carolina Highway 18 to junction North Carolina Highway 10, thence northeast along North Carolina Highway 10 to junction North Carolina Highway 127, thence north along North Carolina Highway 127 to junction U.S. Highway 321, thence northwest along U.S. Highway 321 to junction U.S. Highway 321 Alternate, thence northwest along U.S. Highway 321 Alternate to junction U.S. Highway 321, thence northwest along U.S. Highway 321 to junction U.S. Highway 421, thence northwest along U.S. Highway 421 to the North Carolina-Tennessee State line, and thence southwest along the North Carolina-Tennessee State line to point of beginning, restricted against the transportation of those commodities requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-No. E812), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clocks, materials, equipment, and supplies* used in the manufacture and distribution of clocks, new furniture and furniture parts (except in bulk), from points in Oregon and Washington, and points in California, Idaho, Montana, Nevada, and North Dakota on, north and west of a line beginning at Monterey, Calif., and extending east along California Highway 68 to junction U.S. Highway 101, thence northwest along U.S. Highway 101 to junction California Highway 17, thence north along California Highway 17 to junction unnumbered highway at Milpitas, Calif., thence east along unnumbered highway to junction Interstate Highway 680, thence north along Interstate Highway 680 to junction Interstate Highway 580, thence southeast along Interstate Highway 580 to junction Interstate Highway 5, thence east along Interstate Highway 5 to junction California Highway 132, thence east along California Highway 132 to junction California Highway 108, thence northeast along California Highway 108 to junction California Highway 120, thence east along California Highway 120 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 8A, thence north along Nevada Highway 8A to junction Nevada Highway 82, thence north along Nevada Highway 82 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction Nevada Highway 46, thence north along Nevada Highway 46 to junction U.S. Highway 40, thence east along U.S. Highway 40 to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction U.S. Highway 93 Alternate.

Thence northeast along U.S. Highway 93 Alternate to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction Idaho Highway 22, thence northeast along Idaho Highway 22 to junction U.S. Highway 91, thence north along U.S. Highway 91 to the Idaho-Montana State line, thence east along the Idaho-Montana State line to the Idaho-Montana-Wyoming State line, thence north and thence east along the Montana-Wyoming State line to junction U.S. Highway 212, thence northeast along U.S. Highway 212 to junction U.S. Highway 10, thence northeast along U.S. Highway 10 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 85, thence north along U.S. Highway 85 to junction North Dakota Highway 21, thence east along North Dakota Highway 21 to junction North Dakota Highway 22, thence north along North Dakota Highway 22 to junction U.S. Highway 10, thence east along U.S. Highway 10 to junction North Dakota Highway 31, thence north along North Dakota Highway 31 to junction North Dakota Highway 200A, thence east along North Dakota Highway 200A to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction North Dakota Highway 200, thence east along North Dakota Highway 200 to junction North Dakota Highway 41, thence north along North Dakota Highway 41 to junction U.S. Highway 52, thence southeast along U.S. Highway 52 to junction North Dakota Highway 14, thence north along North Dakota Highway 14 to junction U.S. Highway 2, thence east along U.S. Highway 2 to junction North Dakota Highway 3, thence north along North Dakota Highway 3 to junction North Dakota Highway 66, thence east along North Dakota Highway 66 to junction U.S. Highway 281.

Thence north along U.S. Highway 281 to junction North Dakota Highway 5, thence east along North Dakota Highway 5 to junction North Dakota Highway 20, thence north along North Dakota Highway 20 to the United States-Canadian International Boundary line, to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending south along U.S. Highway 129 to Andrews, N.C., thence northeast along U.S. Highway 19 to junction North Carolina Highway 28, thence southeast along North Carolina Highway 28 to junction U.S. Highway 441, thence south along U.S. Highway 441 to the North Carolina-Georgia State line, thence east along the North Carolina-Georgia State line to the North Carolina-South Carolina State line, thence east along North Carolina-South Carolina State line to junction U.S. Highway 221, thence north along U.S. Highway 221 to junction North Carolina Highway 194, thence north along North Carolina Highway 194 to junction U.S. Highway 19E, thence northwest along U.S. Highway 19E to the North Carolina-Tennessee State line, thence southwest along the North Carolina-Tennessee State line to point of beginning, restricted against the transportation of those commodities requiring special equipment. The purpose of this filing is to eliminate the gateways of Bedford and Lynchburg, Va.

No. MC 61825 (Sub-E817), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture, Furniture parts*, and *Furniture materials* (except in bulk, from points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and points in Colorado, Nebraska, and New Mexico on and northwest of a line beginning at the Texas-New Mexico State line and extending north along U.S. Highway 54 to junction New Mexico Highway 3, thence north along New Mexico Highway 3 to junction Colorado

Highway 159, thence north along Colorado Highway 159 to junction U.S. Highway 160, thence east along U.S. Highway 160 to junction Colorado Highway 10, thence northeast along Colorado Highway 167 to junction Colorado Highway 96, thence east along Colorado Highway 96 to junction Colorado Highway 71, thence north along Colorado Highway 71 to junction U.S. Highway 24, thence east along U.S. Highway 24 to the Colorado-Kansas State line, thence north along the Colorado-Kansas State line, to the Colorado-Nebraska State line, thence north along the Colorado-Nebraska State line to junction Nebraska Highway 23, thence east along Nebraska Highway 23 to junction U.S. Highway 283, thence north along U.S. Highway 283 to junction U.S. Highway 30, thence east along U.S. Highway 30 to junction U.S. Highway 183, thence north along U.S. Highway 183 to junction Nebraska Highway 70, thence northeast along Nebraska Highway 70 to junction U.S. Highway 275, thence east along U.S. Highway 275 to junction Nebraska Highway 35, thence northeast along Nebraska Highway 35 to junction U S. Highway 73, and thence north along U.S. Highway 73 to the Nebraska-Iowa State line, to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending south along North Carolina Highway 226 to junction North Carolina Highway 197, thence southwest along North Carolina Highway 197 to junction U.S. Highway 23, thence south along U.S. Highway 23 to junction U.S. Highway 25, thence south along U.S. Highway 25 to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction U.S. Highway 221, thence north along U.S. Highway 221 to junction U.S. Highway 321, thence northwest along U.S. 321 to junction U.S. Highway 421, thence north along U.S. Highway 421 to the North Carolina-Tennessee State line, and thence southwest along the North Carolina-Tennessee State line to point of beginning. The purpose of this filing is to eliminate the gateway of Bassett, Va.

No. MC 61825 (Sub-E818), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collingsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture, Furniture parts*, and *Furniture materials*, except in bulk, from points in Idaho, Montana, Oregon, and Washington, and points in California, Nevada, North Dakota, South Dakota, Utah, and Wyoming on, north and west of a line beginning at the United States-Mexico International Boundary line and extending north along California Highway 111 to junction Interstate Highway 10, thence west along Interstate Highway 10 to junction U.S. Highway 395, thence north along U.S. Highway 395 to junction U.S. Highway 66, thence north along U.S. Highway 66 to junction Interstate Highway 15, thence northeast along Interstate Highway 15 to junction California Highway 127, thence north along California Highway 127 to junction California Highway 178, thence north along California Highway 178 to junction Nevada Highway 52, thence northeast along Nevada Highway 52 to junction Nevada Highway 16, thence north along Nevada Highway 16 to junction U.S. Highway 95, thence northwest along U.S. Highway 95 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Nevada Highway 25, thence east along Nevada Highway 25 to junction Utah Highway 56, thence east along Utah Highway 56 to junction U.S. Highway 91, thence northeast along U.S. Highway 91 to junction Utah Highway 20, thence southeast along Utah Highway 20 to junction U.S. Highway 89, thence northeast along U.S. Highway 89 to junction Interstate Highway 70, thence east along Interstate Highway 70 to junction Utah Highway 10.

Thence northeast along Utah Highway 10 to junction U.S. Highway 6, thence northwest along U.S. Highway 6 to junction U.S. Highway 89, thence north along U.S. Highway 89 to junction U.S. Highway 189, thence north along U.S. Highway 189 to junction U.S. Highway 187, thence southeast along U.S. Highway 187 to junction Wyoming Highway 28, thence northeast along Wyoming Highway 28 to junction U.S. Highway 287, thence north along U.S. Highway 287 to junction Wyoming Highway 789, thence northeast along Wyoming Highway 789 to junction U.S. Highway 16, thence northeast along U.S. Highway 16 to junction Interstate Highway 90, thence east along Interstate Highway 90 to Rapid City, S. Dak., thence northwest along U.S. Highway 14 to junction South Dakota Highway 34, thence east along South Dakota Highway 34 to junction South Dakota Highway 73, thence north along South Dakota Highway 73 to junction U.S. Highway 212, thence east along U.S. Highway 212 to junction South Dakota Highway 47, thence north along South Dakota Highway 47 to junction U.S. Highway 12, thence east along U.S. Highway 12 to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction North Dakota Highway 11, thence east along North Dakota Highway 11 to junction North Dakota Highway 1, thence north along North Dakota Highway 1 to junction North Dakota Highway 46, thence east along North Dakota Highway 46 to junction North Dakota Highway 18, thence north along North Dakota Highway 18 to junction U.S. Highway 10, and thence east along U.S. Highway 10 to the North Dakota-Minnesota State line, to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending south along U.S. Highway 129 to junction U.S. Highway 19 at Andrews, North Carolina, thence northeast along U.S. Highway 19 to junction North Carolina Highway 28.

Thence south along North Carolina Highway 28 to junction U.S. Highway 23, thence south along U.S. Highway 23 to the North Carolina-Georgia State line, thence east along the North Carolina-Georgia State line to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction U.S. Highway 25, thence north along U.S. Highway 25 to junction U.S. Highway 23, thence north along U.S. Highway 23 to junction North Carolina Highway 197, thence northeast along North Carolina Highway 197 to junction North Carolina Highway 226, thence north along North Carolina Highway 226 to the North Carolina-Tennessee State line, and thence southwest along the North Carolina-Tennessee State line to point of beginning. The purpose of this filing is to eliminate the gateways of Bassett, Va.

No. MC 61825 (Sub-E819), filed March 5, 1976. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture, Furniture parts*, and *Furniture materials*, from points in Oregon and Washington, and points in California, Idaho, Montana, Nevada, and North Dakota on, north and west of a line beginning at Santa Barbara, California and extending northwest along U.S. Highway 101 to junction California Highway 41, thence northeast along California Highway 41 to junction California Highway 198, thence east along California Highway 198 to junction California Highway 43, thence south along California Highway 43 to junction California Highway 137, thence northeast along California Highway 137 to junction California Highway 99, thence northwest along California Highway 99 to junction California Highway 41, thence north along California Highway 41 to junction California Highway 49, thence northwest along California Highway 49 to junction California Highway 120, thence east along California Highway 120 to junction U.S. Highway 395, thence southeast along U.S. Highway 395 to junction U.S. Highway 6, thence northeast along U.S. Highway 6 to junction U.S. Highway 93, thence north along U.S. Highway 93 to junction U.S. Highway 26, thence northeast along U.S. Highway 26 to junction U.S. Highway 20, thence east along U.S. Highway 20 to junction U.S. Highway 191, thence northeast along U.S. Highway 191 to the Montana-Wyoming State line, thence north and thence east along the Montana-Wyoming State line to junction U.S. Highway 212, thence northeast along U.S. Highway 212 to junction U.S. Highway 10.

Thence northeast along U.S. Highway 10 to junction U.S. Highway 83, thence north along U.S. Highway 83 to junction North Dakota Highway 41, thence north along North Dakota Highway 41 to junction North Dakota Highway 200, thence east along North Dakota Highway 200 to junction North Dakota Highway 14, thence north along North Dakota Highway 14 to junction U.S. Highway 52, thence southeast along U.S. Highway 52

to junction North Dakota Highway 3, thence north along North Dakota Highway 3 to junction U.S. Highway 2, thence east along U.S. Highway 2 to junction U.S. Highway 281, thence north along U.S. Highway 281 to junction North Dakota Highway 5, thence east along North Dakota Highway 5 to junction North Dakota Highway 1, thence north along North Dakota Highway 1 to the United States-Canadian International Boundary line, to points in North Carolina on and southwest of a line beginning at the Tennessee-North Carolina State line and extending south along U.S. 129 to Andrews, North Carolina, thence northeast along U.S. Highway 19 to junction North Carolina Highway 28, thence south along North Carolina 28 to junction U.S. Highway 23, thence south along U.S. Highway 23 to the North Carolina-Georgia State line. The purpose of this filing is to eliminate the gateways of Basset, Va.

No. MC 107012 (Sub-No. E16) (partial correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of August 26, 1975, and republished, as corrected, this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (C) *New furniture*, crated, from Los Angeles County, Calif., to points in Maine, New Hampshire, and Vermont. (Greene County, Ark.) * The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this partial correction is to include Part (C) that was omitted in prior publication. The remainder of this letter notice remains as previously published.

No. MC 108449 (Sub-No. E196), filed June 4, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road, C, St. Paul, Minn. 55113. Applicant's representative: W. A. Mylienbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in Wisconsin in and north and east of Ozaukee, Washington, Dodge, Columbia, Sauk, Juneau, Wood, Marathon, Lincoln, Oneida, and Vilas Counties, Wis., to points in Iowa on and north of a line beginning at the Iowa-Nebraska State line and extending along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 24, thence along Iowa Highway 24 to junction Iowa Highway 139, thence along Iowa Highway 139 to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateway of Winona, Minn.

No. MC 112070 (Sub-No. E41), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Pennsylvania, on the one hand, and, on the other, poin's in Iowa; (b) between points in Pennsylvania, on the one hand, and, on the other, those points in Michigan on and west of a line beginning at the International Boundary line between United States and Canada, and extending along Interstate Highway 75, thence along Interstate Highway 75 to the Michigan State line at or near St. Ignace, Mich. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 112070 (Sub-No. E43), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Indiana, on the one hand, and, on the other, points in Iowa, Wisconsin and Minnesota; (b) between points in Indiana, on the one hand, and, on the other, points in Nebraska, South Dakota, Colorado, Kansas, and Wyoming. The purpose of this filing is to eliminate the gateway of points of Illinois.

No. MC 112070 (Sub-No. E44), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between those points in Nebraska on and east of a line beginning at the South Dakota-Nebraska State line, and extending along U.S. Highway 81, thence along U.S. Highway 81 to junction Nebraska Highway 92, thence west along Nebraska Highway 92 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Nebraska State line, on the one hand, and, on the other, those points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E45), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Nebraska, on the one hand, and, on the other, points in Kentucky, Arkansas and Tennessee. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E46), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colorado 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, Enid, Okla., and points within 90 miles thereof. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E47), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Tennessee, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 112070 (Sub-No. E48), filed June 4, 1974. Applicant: GRAY MOVING STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household* goods, as defined by the Commission, between points in Tennessee, on the one hand, and, on the other, points in Colorado, Kansas and Wyoming. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E49), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Colorado, on the one hand, and, on the other, points in Arkansas. The prpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E50), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Brown, Doniphan, and Atchison Counties, Kans., on the one hand, and, on the other, those points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending along Oklahoma Highway 74, to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to junction U.S. Highway 64, thence along

U.S. Highway 64 to the Oklahoma-Arkansas State line; (b) those points in Kansas on and north of a line beginning at the Colorado-Kansas State line, and extending along Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 15, thence along Kansas Highway 15 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E51), filed June 4, 1974. Applicnt: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Kansas, on the one hand, and, on the other, those points in Arkansas on and north of a line beginning at the Oklahoma-Arkansas State line, and extending along Arkansas Highway 16 to junction Arkansas Highway 23, thence along Arkansas Highway 23 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Tennessee State line; (b) between points in Kansas, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E52), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between those points in Kansas on and east of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 81, thence along U.S. Highway 81 to junction Kansas Highway 18, thence along Kansas Highway 18 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction Kansas Highway 57, thence east on Kansas Highway 57 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Kansas-Oklahoma State line, on the one hand, and, on the other, those points in Oklahoma on and west of a line beginning at the Missouri-Oklahoma State line, and extending along Interstate Highway 44 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Oklahoma-Texas State line; (b) between those points in Kansas on and east of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 159, thence along U.S. Highway 159 to U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 31, thence along Kansas Highway 31 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Kansas-Oklahoma State line, on the one hand, and, on the other, to those points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Texas State line; (c) between points in Cherokee and Crawford Counties, Kans., on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E53), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Kentucky, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC 112070 (Sub-No. E54), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in South Dakota on and east of the Missouri River, on the one hand, and, on the other, points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 75, thence along U.S. Highway to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC–112070 (Sub-No. E55), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between those points in Michigan on and south of a line beginning at Lake Michigan, and extending along Michigan Highway 32, thence along Michigan Highway 32 to Lake Huron, at or near Alpena, Mich., on the one hand, and, on the other, points in South Dakota; (b) between points in Michigan, on the one hand, and, on the other, to those points in South Dakota on and west and south of a line beginning at the North Dakota-South Dakota State line, and extending along U.S. Highway 83 to junction U.S. Highway 14, thence along U.S. Highway 14 to the South Dakota-Minnesota State line. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 112070 (Sub-No. E56), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois, on the one hand, and, on the other, points in Colorado, South Dakota and Wyoming. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114868 (Sub-No. E3), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C., 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland (except points in Garrett and Allegany Counties), on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 114868 (Sub-No. E25), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio on and west of Interstate Highway 75, on the one hand, and, on the other, points in Berkeley, Hampshire, Morgan, and Jefferson Counties, W. Va. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 119767 (Sub-No. E48), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs* (except frozen), from Coloma, Mich., to Minneapolis and St. Paul, Minn. The purpose of this filing is to eliminate the gateway of points in Wisconsin on and south of U.S. Highway 10 (except Milwaukee).

No. MC 119767 (Sub-No. E54), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned food* (except dairy products, frozen fruit, frozen vegetables, frozen berries and commodities in bulk, in tank vehicles), from points in Indiana on and north of U.S. Highway 24 to points in Missouri on and east of U.S. Highway 65 and on and west of U.S. Highway 63. The purpose of this filing is to eliminate the gateway of points in Wisconsin within 75 miles of Beaver Dam, Wis. (except Brookfield, Cudahy,

Darien, Waukesha, Kenosha, Waupaca, Hilbert, Kaukauna, Mayville, and Watertown, Wis. and points within their respective commercial zones and defined by the Commission).

No. MC 119767 (Sub-No. E56), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except dairy products, frozen foods, frozen fruit, frozen vegetables, frozen berries and commodities in bulk, in tank vehicles), from Coloma, Mich., to points in Laclede, Webster, Wright, Douglas, and Ozark Counties, Mo. and points in Dallas, Greene, Christian, and Taney Counties, Mo. on and east of U.S. Highway 65. The purpose of this filing is to eliminate the *gateways* of points in Walworth and Racine Counties, Wis.

No. MC 119767 (Sub-No. E57), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products, dairy products and by-products, and materials, supplies and equipment* used in the preparation, packing, and sale of these commodities (except in bulk), between points in that part of Illinois on, north and east of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line, on the one hand, and, on the other, points in that part of Minnesota on and north of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 14 to New Ulm, Minn., thence along Minnesota Highway 15 to junction U.S. Highway 212, thence along U.S. Highway 212 to the Minnesota-Wisconsin State line, including all points in McLeod, Hennepin, and Washington Counties, Minn. The purpose of this filing is to eliminate the *gateways* of Minneapolis, Minn. and points in the Towns of Rock Elm and Spring Lake, Pierce County, Wis., those in the Towns of Eau Galle, Weston, and Dunn, Dunn County, Wis. and those in the Towns of Waubeck, Waterville, and Durand, Pepin County, Wis.

No. MC 119767 (Sub-No. E58), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products, dairy products and by-products, and materials, supplies and equipment* used in the preparation, packing and sale of these commodities (except in bulk), between points in Indiana, on the one hand, and, on the other, points in Minnesota on and north of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30 to junction Minnesota Highway 60 at or near St. James, Minn., thence along Minnesota Highway 60 to junction U.S. Highway 169 near Mankato, Minn., thence along U.S. Highway 169 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Mississippi River at or near Red Wing, Minn. The purpose of this filing is to eliminate the *gateways* of Minneapolis, Minn. and points in the Towns of Rock Elm and Spring Lake, Pierce County, Wis., those in the Towns of Eau Galle, Weston, and Dunn, Dunn County, Wis., and those in the Towns of Waubeck, Waterville, and Durand, Pepin County, Wis.

No. MC 119767 (Sub-No. E59), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products, dairy products and by-products, and materials, supplies and equipment* used in the preparation, packing, and sale of these commodities (except in bulk), between points in Illinois, on the one hand, and, on the other, points in Minnesota on and north of U.S. Highway 12. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn. and points in the Towns of Rock Elm and Spring Lake, Pierce County, Wis., those in the Towns of Eau Galle, Weston, and Dunn, Dunn County, Wis., and those in the Towns of Waubeck, Waterville, and Durand, Pepin County, Wis.

No. MC 119767 (Sub-No. E60), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products and dairy products* (except in bulk, in tank vehicles), from Chicago, Ill., and points in its commercial zone, to points in that part of the Lower Peninsula of Michigan on, north, and east of a line beginning at Lake Michigan near Ludington, Mich., and extending along U.S. Highway 10 to junction U.S. Highway 27, thence along U.S. Highway 27 to Lansing, Mich., thence along U.S. Highway 127 to Jackson, Mich., thence along Interstate Highway 94 to junction Michigan Highway 52, thence along Michigan Highway 52 to the Ohio-Michigan State line. The purpose of this filing is to eliminate the gateway of points in Wisconsin (except Racine, Kenosha, Milwaukee, Brookfield, Fort Atkinson and points in their respective commercial zones).

No. MC 119767 (Sub-No. E61), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared food products and dairy products* (except in bulk, in tank vehicles), from points in Illinois on and north of a line beginning at the Mississippi River near Moline, Ill. and extending along Illinois Highway 2 to junction Winnebago-Ogle County line, thence along the southern boundary of Winnebago, Boone, McHenry and Lake Counties, Ill. to Lake Michigan, to points in that part of the Lower Peninsula of Michigan on, north and east of a line beginning at Lake Michigan near Muskegon, Mich., and extending along Interstate Highway 96 to junction Michigan Highway 37, thence along Michigan Highway 37 to junction Michigan Highway 89, thence along Michigan Highway 89 to junction Interstate Highway 69, thence along Interstate Highway 69 to the Indiana-Michigan State line (except Grand Rapids, Mich.). The purpose of this filing is to eliminate the gateway of points in Wisconsin (except Racine, Kenosha, Milwaukee, Brookfield, Fort Atkinson and their respective commercial zones).

No. MC 119767 (Sub-No. E62), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such glassware, glass containers and closures for glass containers* as are materials, supplies, and equipment used or useful in the preparation, packing, and sale of prepared food products, dairy products and by-products, from points in Indiana on and west of a line beginning at Lake Michigan and extending along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 57, thence along Indiana Highway 57 to the Indiana-Kentucky State line, to points in Minnesota and points in Iowa on and north of Iowa Highway 18. The purpose of this filing is to eliminate the gateway of Burlington, Wis.

No. MC 119767 (Sub-No. E63), filed June 4, 1974. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (ex-

cept frozen foods), from points in Minnesota on and south of U.S. Highway 12, to points in Ohio on and west of a line beginning at the Sandusky, Ohio and extending south along Ohio Highway 4 to Marion, Ohio, and thence south along U.S. Highway 23 to Portsmouth, Ohio. The purpose of this filing is to eliminate the gateway of points in Wisconsin (except Fort Atkinson, Brookfield, and the commercial zones thereof as defined by the Commission, and Milwaukee, Wis. and except points in Douglas, Bayfield, Ashland, Iron, Vilas, Forest, Florence, Marinette and Door Counties).

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-2722 Filed 1-26-77; 8:45 am]

[Notice No. 12]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder tansfer applications filed under section 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 February 28, 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 demed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76841, filed November 26, 1976. Transferee: O'BOYLE TRANSFER CO., INC., 1800 N Western Avenue, Chicago, Illinois, 60647. Transferor: Carl O. Minnberg, doing business as Calder's Van Company, 1800 N. Western Avenue, Chicago, Illinois, 60647. Applicants' representative: Walter N. New, 10 S. La Salle Street, Chicago, Illinois, 60603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 95293, issued August 26, 1974, as follows: Household goods as defined by the Commission, Between Chicago, Evanston City and points in New Trier and Niles Townships, Ill., on the one hand, and, on the other, points in Minnesota, Iowa, Nebraska, Wisconsin, Ohio, and Indiana. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-7685, filed December 3, 1976. Transferee: O'CONNOR BROTHERS MOVING AND STORAGE CO., INC., 429-37 Schiller St., Elizabeth, New Jersey 07206. Transferor: Patrick J. O'Connor, Jewel O'Connor, Administratrix, doing business as O'Connor Brothers, 429-37 Schiller St., Elizabeth, New Jersey 07206. Applicants' representative: Frank O'Conor, 429-37 Schiller St., Elizabeth, New Jersey, 07206. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 8526, issued December 5, 1973, as follows: Household goods, between points in Essex, Union, Hudson, and Middlesex Counties, N.J., on the one hand, and, on the other, points in New Jersey and New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76872, filed December 15, 1977. Transferee: SALMON RIVER STAGES, INC., P.O. Box 806, Salmon, Idaho 83467. Transferor: Billie G. Peterson, doing business as Salmon River Stages, P.O. Box 806, Salmon, Idaho 83467. Applicant's representative: Billy G. Peterson, Box 806, Salmon, Idaho 83467. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 1578 issued August 8, 1975, as follows: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, over specified regular routes between Pocatello, Idaho, and Salmon, Idaho, serving all intermediate points, and the off-route point of Challis, Idaho; Between Idaho Falls, Idaho, and Salmon, Idaho, serving all intermediate points; Between Roberts, Idaho, and Idaho Falls, Idaho, serving all intermediate points; and Between junction Idaho Highway 28 and unnumbered highway (known as Pole Line Road), and the site of the Atomic Energy Plant, serving all intermediate points. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76873, filed December 14, 1976. Transferee: MOTOR LEASING CO., 905 Smelter Ave., P.O. Box 652, Great Falls, Montana, 59403. Transferor: Glacier Transportation, 812 19th St. N., Great Falls, Montana. Applicant's representative: J. Ward Kencke, P.O. Box 652, Great Falls, Montana, 59403. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-29477 issued June 24, 1970, as follows: (A) *Passengers and their baggage, and express and mail,* in the same vehicle with passengers, over specified regular routes, between Great Falls, Mont., and Choteau, Mont., serving all intermediate points: *Passengers and their baggage,* from the 15th day of June to the 15th day of September each year, inclusive, over specified regular route between Browning, Mont., on the one hand, and, on the other, Glacier Park Mont.: *Passengers and their baggage, and express* in the same vehicle with passengers, over specified regular route, between Choteau, Mont., and Browning, Mont., serving all intermediate points: (Incidental charter operations may be conducted pursuant to Section 208(c) of the Interstate Commerce Act. (B) *Passengers and their baggage and express,* in the same vehicle with passengers, over specified regular route, between junction U.S. Highway 89 and Montana Highway 219 and Pendroy, Mont., serving no intermediate points: *Passengers and their baggage,* over specified regular route, between Browning, Mont., and Kalispell, Mont., serving no intermediate points: *Passengers and their baggage,* between Browning, Mont., and Glacier Park, Mont., serving no intermediate points: The filed after January 1, 1967, and, therefore, no incidental charter operations are authorized. *Passengers and their baggage* in the same vehicle with passengers, in special and charter operations, over irregular routes, Beginning and ending at points on the routes next above, and extending to points in the United States (including Alaska, but excluding Hawaii). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210 a(b).

No. MC-FC-76875 filed December 14, 1976. Transferee: MUSTANG TRANSPORTATION INCORPORATED, 3804 Jensen Drive, P.O. Box 21201, Houston, Texas 77026. Transferor: Ramsey Truck Lines, Inc., P.O. Box 1031, Houston, Texas 77001. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Virginia 22101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC-133506, issued December 9, 1969, as follows: Oilfield equipment and pipe when moving as oilfield equipment and trenching machines and numerous other specified commodities between points in Texas. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-76887, filed December 21, 1976. Transferee: CENTER ENTERPRISES, INC., 5450 South Center Avenue, Summit, Illinois 60501. Transferor: O. K. Motor Service, Inc., 5450 South Center Avenue, Summit, Illinois 60501. Applicant's representative: Carl L. Steiner, Attorney at Law, Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, Illinois 60603. Au-

thority sought for purchase by transferee of the operating rights as set forth in Certificates No. MC–52587, MC–52587 (Sub-No. 1), MC–52587 (Sub-No. 2), MC–52587 (Sub-No. 7), MC–52587 (Sub-No. 9), and MC–52587 (Sub-No. 10), issued September 27, 1941, November 19, 1942, April 13, 1940, December 16, 1954, April 27, 1959, and April 25, 1968, respectively as follows: General commodities with the usual exceptions over specified regular routes between specified points in Illinois, Wisconsin, and Indiana; also malt beverages, newspapers, and magazines from Chicago, Ill. to specified points in Wisconsin, and iron and steel articles from the plant site of the Jones & Laughlin Steel Corp. located in Putnam County, Ill. to points in Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76889 filed December 21, 1976. Transferee: EABORN TRUCK SERVICE, INC., 1300 Crafton Boulevard, Pittsburgh, Pennsylvania 15205. Transferor: William R. Eaborn, doing business as Eaborn Truck Service, 1300 Crafton Boulevard, Pittsburgh, Pennsylvania 15205. Applicants' representative: Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, Pennsylvania 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC–120757 (Sub-No. 1) issued January 28, 1965, corresponding in scope to certificate of public convenience and necessity No. 86527, dated July 27, 1959, issued by the Pennsylvania Public Utility Commission, as follows: To transport, as a Class B carrier, household goods and office furnishings, in use, between points in the Borough of Carnegie and the City of Pittsburgh, Allegheny County, and within five (5) miles by the usually traveled highways of the limits of the said borough. To transport, as a Class D carrier, household goods and office furnishings, in use, from points in the Borough of Carnegie and the City of Pittsburgh, Allegheny County, and within five (5) miles by the usually traveled highways of the limits of the said borough to other points within seventy-five (75) miles by the usually traveled highways of the limits of the said borough, and vice versa. To transport, as a Class B Carrier, property, excluding store equipment in use, between points in the Borough of Carnegie, Allegheny County, and within five (5) miles by the usually traveled highways of the limits of said borough. To transport, as a Class C carrier, property from points in the Borough of Carnegie, Allegheny County, and within five (5) miles by the usually traveled highways of the limits of said borough to points within thirty-five (35) miles by the usually traveled highways of the limits of said borough; and subject to the following conditions is necessary or proper for the service, accommodation or convenience of the public: First: That the rights, powers and privileges herein granted pertaining to the transportation of property for O. Hommel Company, shall be limited and restricted to the following points of destination: Boroughs of Carnegie, Heidelberg, Rosslyn Farms, Bridgeville, and the Townships of Scott and Collier. Second: That no right, power or privilege is granted to transport to or from the City of Pittsburgh, property, weighing less than six hundred (600) pounds, except freight from The Bell Telephone Company, Union Electric Steel Company, O. Hommel Company and the Superior Steel Company. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76896, filed December 28, 1976. Transferee: Jekel Moving & Storage Co., 405 36th St., S.E., Grand Rapids, Mich. 49508. Transferor: Robert Jekel and David Jekel, doing business as Jekel Moving & Storage Co., 405 36th St., SE., Grand Rapids, Mich. 49508. Applicants' representative: William B. Elmer, Attorney-at-Law, 21635 East Nine Mile Road, St. Clair Shores, Mich. 49508. Authority sought for purchase by transferee of the operating rights set forth in Certificates Nos. MC–98391 (Sub-No. 2 and MC–98391 (Sub-No. 3), issued September 26, 1975 and May 14, 1975, respectively, to transferor as follows: Household goods as defined by the Commission, between points in Allegan, Barry, Ionia, Kent and Ottawa Counties, Mich., on the one hand, and, on the other, points in Michigan; and between Grand Rapids, Mich., and points in Michigan within 80 miles of Grand Rapids, on the one hand, and, on the other, points in Indiana, Illinois, Ohio, Pennsylvania, New York, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC–76897, filed December 28, 1976. Transferee: ROBERT J. GARTNER, 3325 West 2nd St., Grand Island, Nebraska 68801. Transferor: Johnsrud Transport, Inc., Highway 9 West, P.O. Box 447, Cresco, Iowa 52136. Applicants' representative: Bruce A. Bullock, Attorney at Law, 530 Univvac Building, Omaha, Nebraska 68106; Patrick E. Quinn, Attorney at Law, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought for purchase by transferee that portion of the operating rights of transferor, as set forth in Certificate No. MC 128075 (Sub-No. 14), issued November 20, 1972, as follows: *Furniture,* from Minneapolis and St. Paul, Minn., to Riceville, Iowa, and points within 30 miles of Riceville, and *Emigrant movables,* between Osage, Iowa, and points in Iowa within 30 miles of Osage, on the one hand, and, on the other, points in Minnesota, and *fertilizer,* from points in Wisconsin to points in Mitchell County, Iowa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76899, filed December 27, 1976. Transferee: DELTA TRANSPORT CORPORATION, 217 Washington Avenue, Carlstadt, N.J. 07072. Transferor: First Transport Corporation, 250 Stanley St., New Britain, Conn. 06050. Applicants' representative: James E. Mahoney, Attorney-at-Law, 84 State St., Boston, Mass. 02109. Authority sought for purchase for transferee of the operating rights set forth in Certificate of Registration No. MC–87335 (Sub-No. 4), issued September 12, 1973, to transferor, as follows: General commodities, with specified exceptions, within Connecticut. Transferee is a carrier holding authority from this Commission under Certificate No. MC–93147. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC–76900, filed December 27, 1976. Transferee: RONALD JOSEPH FIORILLO, doing business as RONALD FIORILLO TRUCKING, 1081 Ogden Ave., Bronx, N.Y. 10452. Transferor: Tomaselli Bros. Inc., 60 Thompson St., New York, N.Y. 10012. Applicants' representative: Bruce J. Robbins, Attorney-at-Law, One Lefrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC–39429, issued June 16, 1943, as follows: Wines, liquors, and groceries, from New York, N.Y., to points in Passaic, Bergen, Union, Essex, Hudson, Middlesex, and Monmouth Counties, N.J. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC–76904, filed December 28, 1976. Transferee: WALLACE TRANSPORT INC., P.O. Box 214, Somers Point, N.J. 08244. Transferor: Johnsrud Transport, Inc., Highway 9 West, P.O. Box 447, Cresco, Iowa 52136. Applicants' representative: Raymond A. Thistle Jr., Attorney at Law, Suite 1012, Four Penn Center Plaza, Philadelphia, Pa.; Patrick E. Quinn, Attorney at Law, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC–128075 (Sub-No. 22), issued October 8, 1976, as follows: Cheese, in mixed loads with milk and whey, and milk and whey in mixed loads with cheese, over irregular routes, from the facilities of Associated Milk Producers, Inc., at Rochester, Minn., Parkston, S. Dak. and Blair, Portage and Madison, Wis., to the above-named shipper's facilities at Mason City, Iowa, and *butter* and *cheese,* in mixed loads with milk and whey, and *milk* and *whey,* in mixed loads with butter and cheese, from the facilities of Associated Milk Producers, Inc., at points in Iowa and Minnesota to points in Connecticut, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–2724 Filed 1–26–77;8:45 am]

[Notice No. 109]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JANUARY 27, 1977.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, 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. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 16, 1977. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76390. By order of January 12, 1977 Division 3, acting as an Appellate Division, approved the transfer to Utah Moving & Storage Company, a corporation, Salt Lake City, Utah, of Certificate No. MC 59462 issued by the Commission October 2, 1945, to Hadley Transfer & Storage Company, Salt Lake City, Utah, authorizing the transportation of general commodities between points in Salt Lake City, Utah, and household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, on the one hand, and, on the other, points in Wyoming and those in Idaho, except those north of Salmon River Canyon. Thomas M. Zarr, Esquire, Nelson, Harding, Richards, Leonard & Tate, P.O. Box 2465 Salt Lake City, Utah 84110.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2725 Filed 1-26-77;8:45 am]

[Vol. No. 1]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

JANUARY 21, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. 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 itme. A copy of the protest shall be served concurrently upon petitioner's representative or petitioner if no representative is named.

No. MC 20861 (Sub-No. 4) (Notice of filing of petition to modify territorial description), filed December 6, 1976. Petitioner: FROZEN FOOD DELIVERY SERVICE, INC., 300 West St., Berlin, Mass. 01513. Petitioner's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Petitioner holds a motor *contract carrier* Permit in No. MC 20861 (Sub-No. 4), issued March 18, 1974, authorizing transportation, as pertinent, over irregular routes, of *frozen fruits* and *frozen vegetables*, from Taunton and Southborough, Mass., to points in Connecticut, Rhode Island, and New Hampshire, under a continuing contract, or contracts, with Newton Acres, Inc. By the instant petition, petitioner seeks to broaden the territorial description above through the addition of an additional territorial description to read as follows: "from Seabrook, N.J., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, under a continuing contract, or contracts, with Newton Acres, Inc."

No. MC 108207 (Sub-No. 1) (Notice of filing of petition to remove restrictions), filed December 16, 1976, Petitioner: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Dallas, Tex. 75222. Petitioner's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Petitioner holds a motor *common carrier* certificate in No. MC 108207 (Sub-No. 1), issued June 18, 1952, authorizing transportation, as pertinent, over irregular routes, of (1) *Frozen foods, and meats, meat products, and meat by-products* as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon), dairy products as defined by the Commission, salad dressing, yeast, and uncooked bakery goods; and (2) *frozen foods, and meats, meat products, and meat by-products* as defined by the Commission (except canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon), generally (a) between points in Texas, Louisiana, Illinois, Michigan, Missouri, Oklahoma, Arkansas, and Mississippi; and (b) between Memphis, Tenn., on the one hand, and, on the other, points in Texas, Louisiana, Michigan, Oklahoma, Missouri, Arkansas, Illinois and Mississippi. The territory has been condensed and does not exactly follow language contained in the original Certificate. By the instant petition, petitioner seeks to remove the restrictions in (1) and (2) above.

No. MC 128527 (Sub-No. 38) (Notice of filing of petition to remove restriction), filed December 20, 1976. Petitioner: MAY TRUCKING COMPANY, a Corporation, P.O. Box 398, Payette, Idaho 83661. Petitioner's representative: Edward G. Rawle, 4635 S.W. Lakeview Blvd., Lake Oswego, Oreg. 97034. Petitioner holds a motor *common carrier* Certificate in No. MC 128527 (Sub-No. 38), issued May 15, 1974, authorizing transportation over irregular routes, of *lumber, lumber mill products, particle board, and hardboard paneling*, used in the manufacture of mobile homes, recreational vehicles, and campers, between points in California, on the one hand, and, on the other, points in Ada, Canyon, Payette, and Washington Counties, Idaho, restricted to the transportation of shipments originating at the above-named origin points and destined to the above-named destination points.

By the instant petition, petitioner seeks to delete the restriction "used in the manufacture of mobile homes, recreational vehicles and campers" from the above authority.

No. MC 136408 (Sub-No. 22) (Notice of filing of petition to modify territorial description), filed November 22, 1976. Petitioner: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Petitioner's representative: William J. Hanlon, 55 Madison Avenue, Morristown, N.J. 07960. Petitioner holds a motor *contract carrier* Permit in No. MC 136408 (Sub-No. 22), issued June 29, 1976, authorizing transportation over irregular routes, of *chemicals* (except in bulk in tank vehicles), from Wallingford, Conn., and Linden, N.J., to points in Ohio, Michigan, Indiana, and Illinois, under a continuing contract, or contracts with American Cyanamid Co., of Wayne, N.J. By the instant petition, petitioner seeks to broaden the territorial description above by adding Bound Brook, N.J., as an additional origin point in the authority above.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

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 protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest 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 a concise statement of protestant's interest in the proceeding and copies of its conflicting

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 111045 (Sub-No. 126) (Republication), filed November 17, 1975, published in the FEDERAL REGISTER issue of December 24, 1975, and republished this issue. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. Douglas Harris, 1406 Union Bank Building, Montgomery, Ala. 36104. An Order of the Commission, Review Board Number 2, dated December 13, 1976, and served January 17, 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 (1) *cleaning compounds*, in bulk, in tank vehicles, from points in Dade County, Fla., to points in New Jersey, New York, and Connecticut; and (2) *materials* used in the manufacture of cleaning compounds, in bulk in tank vehicles, from Fla.; that applicant is fit, willing, and Connecticut, to points in Dade County, Fla.; 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.

NOTE.—The purpose of this republication is to indicate the addition of an additional commodity and territorial description in (2) above, in accplicant's grant of authority.

No. MC 141034 (Sub-No. 2) (Republication), filed March 26, 1976, published in the FEDERAL REGISTER issue of May 20, 1976, and republished this issue. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, Mass. 01607. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. An order of the Commission, Review Board Number 1, dated December 10, 1976, and served December 27, 1976, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of (1) *malt beverages and beverage containers*, between Merrimack, N.H., and East Cambridge, Mass.; and (2) *beverage containers*, between Merrimack, N.H., and Lawrence, Mass., under a continuing contract, or contracts, with Anheuser-Busch, of St. Louis, Mo., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

NOTE.—The purpose of this republication is to (I) indicate the nonradial grant of authority in (1) and (2) above rather than radial; and (II) indicate the addition of *beverage containers* as an additional commodity in (1) above, in applicant's grant of authority.

No. W-101 (exemption section 303(e) (2) (Republication), filed July 26, 1968, and published in the FEDERAL REGISTER issue of August 7, 1968, and republished this issue. An Order by the Commission, General Session, dated December 15, 1976, and served December 28, 1976, directs further processing of the proceeding below: Authority sought for cancellation of the above-noted exemption in the name of the RAYMOND INTERNATIONAL, INC., P.O. Box 22718, Houston, Tex. 77027, and reissuance of same to HOFFMAN INTERNATIONAL, INC. (formerly Hoffman Rigging & Crane Service, Inc.), a motor carrier, 560 Cortland St., Belleville, N.J. 07109. Applicant's attorney: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Exemption sought to be cancelled and reissued: Transportation, in interstate or foreign commerce, as a water contract carrier (1) by derricks and/or barges and tugs from and to ports on the Atlantic and Gulf coasts of heavy or bulky articles such as tanks, boilers, airplanes, cracking chambers, machinery and similar pieces of freight, and (2) by towing vessels and derrick lighters of contractors' equipment and material, consisting of steam shovels, pile driving rigs, trucks, bulldozers, ditching machines, caterpillar cranes, compressors, dredges, derrick lighters, and other miscellaneous heavy and bulky material used in construction work between construction sites, along the Atlantic coast, on Long Island, N.Y., and along Long Island Sound, Block Island Sound, and their tributary waterways, Narrangansett Bay, Providence River, and in the area defined in the order of March 26, 1941, in Ex Parte No. 140, Determination of the Limits of New York Harbor and Harbors Contiguous Thereto.

NOTE.—(1) This transaction is related to the purchase transaction previously described on November 8, 1972 in the FEDERAL REGISTER at No. MC-F-11701 wherein Hoffman International, Inc. (formerly Hoffman Rigging & Crane Service, Inc.), a motor carrier, proposed to purchase the certificated water carrier operating rights and certain other property of Raymond International, Inc. Authority to acquire the said certificated rights and property was granted by order of the Commission, Division 3, acting as an Appellate Division, served November 8, 1973.

NOTE.—(2) To facilitate processing of this proceeding, copies of all protests should be served upon applicant's and their representative.

NOTE.—(3): (a) The transaction proposed in No. W-101 will be processed under the modified procedure. Applicants have been directed to file opening verified statements in support of the application within 30 days or less of the date of this notice. Protestants must file their verified statements in opposition to the application within 30 days or less of the date of this notice. Applicants must file verified statements in reply within 65 days or less of the date of this notice. (b) All protesting parties as well as applicants must comply with applicable provisions of section 1100.45(b), 1100.46(b), and 1100.47–1100.54, inclusive of the Commission's General Rules of Practice, relating to modified procedure, except that the original and one copy of any statement made pursuant to section 1100.51 shall be filed with the Commission. (c) Copies of any verified statements in opposition must be served upon applicant's and their representative, and a copy of each statement filed with the Commission shall so certify. Similarly, applicants have been directed to serve copies of their verified statements upon protestants. (d) Except for good cause shown, preliminary motions and requests for cross-examination of witnesses or for other relief will not be acted upon prior to the date on or before which all verified statements are required to be filed.

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

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 particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. 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 1485 (Sub-No. 13), filed December 27, 1976. Applicant: SCHROLL TRANSPORTATION, INC., 360 Governor Street, East Hartford, Conn. 06108. Applicant's representative: Hugh M. Joseloff, 80 State Street, Hartford, Conn. 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, cooked, cured, or preserved*, from the plantsites of M. M. Mades Co., Inc., located in Manchester and Bedford, N.H., to points in Connecticut, Massachusetts and Rhode Island.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Hartford, Conn. or Boston, Mass.

No. MC 2052 (Sub-No. 10), filed December 22, 1976. Applicant: BLAIR TRANSFER, INC., 203 South 9th Street, Blair, Nebr. 68008. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Omaha, Nebr., and Oakland, Iowa, to points in Maryland, New York, Ohio, Pennsylvania, West Virginia, and the District of Columbia, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 2135 (Sub-No. 14) (Correction) filed November 12, 1976, published in the FEDERAL REGISTER issue of December 9, 1976, and republished as corrected this issue. Applicant: D. J. McNICHOL CO., a Corporation, 6951 Norwitch Drive, Philadelphia, Pa. 19153. Applicant's representative. Harold P. Boss, 1100 Seventeenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such foods, commodities and equipment* as are used in connection with the operation of cafeterias, "whether or not the shipment is moving to or from a cafeteria." (1) from Philadelphia, Pa., to the District of Columbia and points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and Virginia; and to transport on return to Philadelphia, shipments which have been accepted by a consignee and which are subsequently to be returned to ARA Services, Inc., located at Philadelphia; and (2) between Philadelphia, Pa., on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont, under a continuing contract or contracts with ARA Services, Inc.

NOTE.—Applicant states that the only new territorial authority sought herein is described in "(2)" above. Applicant's permit, No. MC 2135 (Sub-No. 11), authorizes operations from and to the points described in "(1)" above. However, the commodity authorization therein does not specifically include the words "whether or not the shipment is moving to or from a cafeteria." In applicant's opinion, it is now authorized to transport shipments of commodities authorized in its permits, whether or not the shipment is moving to or from a cafeteria, when such service is, in fact, rendered under contract with ARA Services, Inc., within its authorized territory, Applicant is concurrently filing with the Commission a motion to dismiss that portion of the instant application described in "(1)" above, primarily on the ground that applicant may now render such service under its MC 2135 (Sub-No. 11) permit. Dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

The purpose of this republication is to include applicant's statement "whether or not the shipment is moving to or from a cafeteria", as stated above and to also include the "note" and dual operations statement which was inadvertently excluded in the FEDERAL REGISTER.

No. MC 5623 (Sub-No. 30), filed December 14, 1976. Applicant: ARROW TRUCKING CO., a Corporation, P.O. Box 7280, Tulsa, Okla. 74105. 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: *Refractories and refractory products*, (1) from the plantsite of North American Refractories Co., located at or near White Cloud, Mich., to points in Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Louisiana, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wyoming; and (2) from the plantsites of North American Refractories Co., located in Berks, Huntingdon, and Clearfield Counties, Pa., to points in Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, and Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, Ohio.

No. MC 15643 (Sub-No. 7), filed December 10, 1976. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, Calif. 92138. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with similar application(s) at San Diego, Calif.

No. MC 19945 (Sub-No. 62), filed December 28, 1976. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from the plantsite of Cargill, Inc., located at Cahokia, Ill., to points in Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 22229 (Sub-No. 112), filed December 16, 1976. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue, S.E., Atlanta, Ga. 30316. Applicant's representative: Harold H. Clokey, 1740 The Equitable Building, Atlanta, Ga. 30303. 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 warehouse facilities of Springport Steel Container Corporation, located at or near Springport, Mich., as an off-route point in connection with applicant presently authorized regular-route operations between Lansing, Mich., and Detroit, Mich., and between Jackson, Mich., and Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich. and Washington, D.C.

No. MC 29079 (Sub-No. 91), filed December 14, 1976. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union, P.O. Box 935, Kokomo, Ind. 46901. Applicant's representative: Richard H. Streeter, 704 Southern Building, 15th & H Streets, N.W. Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers*, herbicides and pesticides (except commodities in bulk), from the plantsite of Knox Fertilizer, located at or near Knox, Ind., to points in Iowa, Kansas, Nebraska and Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 41951 (Sub-No. 31), filed December 16, 1976. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, Md. 21613. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 08096. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Hallwood, Va., to points in Illinois, Indiana, Michigan, Ohio and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 59117 (Sub-No. 53), filed December 17, 1976. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, 101 East Excelsior, Vinita, Okla. 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor*, from the plantsites of Oklahoma Nitrogen Corporation and Bison Chemical Company located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 73165 (Sub-No. 397), filed December 16, 1976. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd Street, 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: *Cooling towers, and accessories, materials and supplies* used for cooling towers (except commodities in bulk), from the facilities of E. D. Goodfellow, Inc., located at Tulsa, Okla., 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 Tulsa, Okla. or Memphis, Tenn.

No. MC 76032 (Sub-No. 322), filed December 15, 1976. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. 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), Between Memphis, Tenn., and Kansas City, Mo., as an alternate route for operating convenience only: From Memphis, Tenn., over Interstate Highway 40 to junction Interstate Highway 55, thence over Interstate Highway 55 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 60, located at or near Willow Springs, Mo., thence over U.S. Highway 60 to junction U.S. Highway 65, located at or near Springfield, Mo., thence over U.S. Highway 65 to junction Interstate Highway 44, thence over Interstate Highway 44 to junction Missouri Highway 13, thence over Missouri Highway 13 to junction Missouri Highway 7, located at or near Clinton, Mo., thence over Missouri Highway 7 to junction U.S. Highway 71, located at or near Harrisonville, Mo., thence over U.S. Highway 71 to Kansas City, Mo., and return over the same route, restricted against the handling of local and interline traffic moving between Memphis, Tenn., and Kansas City, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo. or Chicago, Ill.

No. MC 82492 (Sub-No. 140), filed December 16, 1976. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined 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 plantsites and warehouse facilities of Wilson Foods Corporation, located at or near Albert Lea, Minn., to points in Pennsylvania on and west of U.S. Highway 219, and points in that part of New York in and west of Broome, Cortland, Onondaga and Oswego Counties, N.Y., restricted to the transportation of traffic originating at the above-named origin and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 98327 (Sub-No. 21), filed January 7, 1977. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, Calif. 94621. Applicant's representative: Michael J. O'Neil (same address as applicant). 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, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), between Portland, Oreg. and the junction of U.S. Highway 20 and Oregon Highway 22; From Portland, Oreg. over Interstate Highway 5 to its junction with Oregon Highway 22, thence over Oregon Highway 22 to its junction with U.S. Highway 20, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points and serving the termini for the purposes of joinder only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requets it be held at either San Francisco, Calif. or Portland, Oreg.

No. MC 99019 (Sub-No. 8), filed December 16, 1976. Applicant: KILLIAN-BLACK TRUCKING, INC., Roseville and Hydraulic Streets, Buffalo, N.Y. 14210. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank vehicles, from points in New York, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 100666 (Sub-No. 339), filed December 17, 1976. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the plantsite of Louisiana-Pacific Corporation located at or near Clayton, Ala., to points in Arkansas, Louisiana, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 103051 (Sub-No. 384), filed December 13, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., P.O. Box 90408, 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid pepper mash*, in bulk, in tank vehicles, from Edenton, N.C. and points in Bertie and Chowan Counties, N.C., to Cades, La.; and (2) *liquid sugar, and blends thereof*, in bulk, in tank vehicles, from Chalmette, Gramercy, Houma, Mathews, Reserve and Supreme, La., to Wilson, N.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, Tenn. or Atlanta, Ga.

No. MC 105813 (Sub-No. 218), filed December 16, 1976. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, earthenware and ceramics*, from Miami, Fla., 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 it be held at Miami, Fla.

No. MC 107403 (Sub-No. 993) (amendment), filed December 3, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores and minerals* (except salt, lime, limestone and fluorspar products), dry, in tank or hopper type vehicles, from the plantsite of C-E

Minerals, located at Wilmington, Del., to points in Ohio and Pennsylvania.

NOTE.—The purpose of this republication is to amend applicant's request for authority. Common control may be involved. If a hearing is deemed necessary, the appliacnt requests it be held at Washington, D.C.

No. MC 112617 (Sub-No. 358), filed December 10, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: C. R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Terre Haute, Ind., to points in Illinois, Indiana, and Ohio, and St. Louis, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 113267 (Sub-No. 346), filed December 17, 1976. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A.M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses* 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, in tank vehicles and hides), from the plantsite and warehouse facilities utilized by Landy of Wisconsin, Inc., located at or near Eau Claire, Wis., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Minneapolis, Minn.

No. MC 113388 (Sub-No. 113), filed December 17, 1976. Applicant: LESTER C. NEWTON TRUCKING CO., a Corporation, P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, food ingredients, animal foods, animal food ingredients and meat by-products* (except in bulk), between the warehouses of Beatrice Foods Co., located at Scranton, Pa. and at or near Allentown, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the transportation of traffic orginating at the above named origins and destined to the above destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 367), filed December 17, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rock crusher equipment;* and (2) *parts and attachments* for rock crusher equipment, from the plant site of Hewitt-Robbins, Inc., located in Richland County, S.C., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with similar application(s) at either Atlanta, Ga. or Washington, D.C.

No. MC 114457 (Sub-No. 281), filed December 27, 1976. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 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) *Malt beverages and related advertising materials*, from Latrobe, Pa., to Ann Arbor, Mich.; and (2) *empty used containers*, from Ann Arbor, Mich., to Latrobe, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Paul, Minn. or Chicago, Ill.

No. MC 114725 (Sub-No. 77), filed December 27, 1976. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles, from Shickley, Nebr., to points in Illinois, Iowa, and Kansas.

NOTE: If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 114890 (Sub-No. 74), filed December 23, 1976. Applicant: C. E. REYNOLDS TRANSPORT, INC., P.O. Box A, Joplin, Mo. 64801. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor*, from the plantsites of Oklahoma Nitrogen Corporation and Bison Chemical Company located at or near Woodward, Okla., to points in Arkansas, Iowa, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE: If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City or Tulsa, Okla.

No. MC 115215 (Sub-No. 24), filed December 21, 1976. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, Fla. 32347. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, poles, posts, timbers, particle board and forest products* (except commodities in bulk), (1) from points in Alabama, North Carolina, South Carolina and Tennessee, to points in Georgia, (2) from points in Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, to points in Florida; and (3) from points in Florida, to points in Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jacksonville, Fla. or Atlanta, Ga.

No. MC 115322 (Sub-No. 125), filed December 15, 1976. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods* (except commodities in bulk), from Tupelo, Miss. and Red Bay, Ala., to points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Mobile or Montgomery, Ala.

No. MC 115904 (Sub-No. 69), filed December 27, 1976. Applicant: GROVER TRUCKING CO., a Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard*, from the facilities of American Gypsum Company located at or near Albuquerque, N. Mex., to points in Arizona and Colorado; and (2) *gypsum wallboard paper*, from Denver, Colo., and points in its Commercial Zone, to the plantsite of American Gypsum Company located at or near Albuquerque, N. Mex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albuquerque, N. Mex., or Washington, D.C.

No. MC 118142 (Sub-No. 141), filed December 27, 1976. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. 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 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Omaha, Nebr. and Oakland, Iowa, to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 118202 (Sub-No. 67), filed December 27, 1976. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing houses* (except hides and commodities in bulk) from the plantsite and storage facilities of Royal Packing Company, Inc., located at or near National Stockyards, National City, Ill., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, restricted to traffic originating at the above-named plantsite and storage facilities and destined to the above listed states.

NOTE.—Applicant holds motor contract carrier authority in No. MC 134631 and subs numbers thereunder, therefore dual operations may be involved. An application is now pending to convert this contract carrier authority to common carrier authority in MC 118202 (Sub-No. 60). If a hearing is deemed necessary, applicant requests that it be held at either Minneapolis-St. Paul, Minn., or St. Louis, Mo.

No. MC 118831 (Sub-No. 145) (Correction), filed November 12, 1976, published in the FEDERAL REGISTER issue of December 16, 1976, and republished this issue. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kyanite*, dry, in bulk, from points in Appamottox, Buckingham, Charlotte, Cumberland and Prince Edward Counties, Va., to points in North Carolina, South Carolina, Pennsylvania and Richmond and Norfolk, Va.

NOTE.—Applicant seeks to tack the requested authority with its Sub-No. 32 authority at points in North Carolina to transport Kyanite, dry, in bulk, in tank or hopper type vehicles, from points in Appomattox, Buckingham, Charlotte, Cumberland, and Prince Edward Counties, Va., to points in Georgia. The purpose of this republication is to correct applicant's request for authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 119619 (Sub-No. 96), filed December 16, 1976. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food poducts* (except commodities in bulk), from the plantsite and facilities utilized by DCA Food Industries, Inc., located at Hillsdale and Jonesville, Mich., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 123157 (Sub-No. 29), filed December 28, 1976. Applicant: CTI, A Corporation, P.O. Box 397, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flyash*, in bulk, from Arizona and Nevada to Arizona, California, Colorado, Nevada, New Mexico and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz., or Las Vegas, Nev.

No. MC 123329 (Sub-No. 28), filed December 15, 1976. Applicant: H. M. TRIMBLE & SONS LTD., a Corporation, P.O. Box 3500, Calgary Alberta Canada T2P 2P9. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quicklime*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located in Washington, to points in Idaho, Oregon and Washington, restricted to traffic originating at Langley, British Columbia, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at any city in Washington, Idaho or Oregon.

No. MC 124711 (Sub-No. 42), filed December 16, 1976. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor*, from the plantsites of Oklahoma Nitrogen Corporation and Bison Chemical Company, located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City or Tulsa, Okla.

No. MC 125522 (Sub.-No. 9) (Correction), filed November 12, 1976. Published in the FEDERAL REGISTER issue of December 16, 1976, republished as corrected this issue. Applicant: SUNBURY TRANSPORT LIMITED, Hoyt New Brunswick Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard, gypsum board, plasterboard, plywood and asphalt products* (except in bulk) *and waste paper*, from points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont to ports of entry on the International boundary line between the United States and Canada located at or near Houlton, Vanceboro, Calais, Madawaska, Fort Kent and Jackman, Maine, restricted to the transportation of traffic destined to Buctouche, St. John, Sussex and St. George, New Brunswick and Debert, Nova Scotia.

NOTE.—The purpose of this republication is to correct the above restriction which was published in error. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Maine or Boston, Mass.

No. MC 126844 (Sub-No. 34), filed December 15, 1976. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D. Jones, 2033 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Joan of Arc and Co., located at or near Turkey, N.C., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 127095 (Sub-No. 5), filed December 21, 1976. Applicant: KEYS TRUCKING COMPANY, INC., 902 South Randolph Street, Arlington, Va. 22204. Applicant's representative: Bernard J. Hasson, Jr., 927 15th Street NW, Suite 306, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from the plantsite of Charles F. Meyer & Sons, Inc., located at or near Lothian, Md., to the plantsite of Gray Concrete Pipe Co., Inc., located at or near Springfield, Va., under a continuing contract, or contracts, with Gray Concrete Pipe Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128841 (Sub-No. 17), filed December 27, 1976. Applicant: MUR-GAIL, INC., 301 North Fifth Street, Minneapolis, Minn. 55403. Applicant's representative: Samuel Rubenstein (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Merchandise* handled by retail hardware stores, in shipper owned or

leased trailers, from Brookings, S. Dak., to points in Arkansas, Arizona, California, Colorado, Idaho, Kansas, Kentucky, Missouri, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah and Washington; and (2) *merchandise* being returned, from the destination states named in (1) above to the origin point named in (1) above; (1) and (2) above are under a continuing contract, or contracts, with Coast to Coast Stores Central Organization, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 128988 (Sub-No. 91) (Amendment), filed November 22, 1976, published in the FEDERAL REGISTER issue of December 23, 1976, and republished this issue. Applicant: JO/KEL, INC., 159 South Seventh Avenue, Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pumps, pump motors, heat transfer equipment and related parts thereof* used in the production of electric power (except commodities which by reasosn of size or weight require the use of special equipment, and commodities in bulk), from Huntington Park, Orange and El Cajon, Calif., to points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasco County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, under a continuing contract, or contracts, with Westinghouse Electric Corporation, located at Pittsburgh, Pa.

NOTE.—The purpose of this republication is to amend applicant's request for authority. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif. or Pittsbugh, Pa.

No. MC 129068 (Sub-No. 35), filed December 10, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 S. Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: Jack L. Griffin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* designed to be drawn by passenger automobile (excluding recreational vehicles such as travel trailers and campers) in secondary movements; and (2) *buildings* complete or in sections mounted on wheeled undercarriages (excluding modular units and prefabricated buildings), from Louisiana and Texas to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas or Austin, Tex.

No. MC 129387 (Sub-No. 29) Correction), filed November 26, 1976, published in the FEDERAL REGISTER issue of January 13, 1977, republished as corrected this issue. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Hwy. 14E, Huron, S. Dak. 57350. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mechandise* as is dealt in by retail and wholesale department and hardware stores (except commodities in bulk), (1) from points in that part of the United States in and east of Alabama, New York, Pennsylvania, Tennessee, Virginia and West Virginia, to the facilities of Coast to Coast Stores Central Organization, Inc., at or near Crawfordsville, Ind.; (2) from points in that part of the United States in and east of Alabama, Indiana, Kentucky, Michigan and Tennessee, to the facilities of Coast to Coast Stores Central Organization, Inc., located at Kansas City, Mo.; and (3) from points in that part of the United States in and east of Alabama, Illinois, Missouri, Tennessee and Wisconsin, to the facilities of Coast to Coast Stores Central organization, Inc., at or near Brookings, S. Dak., and Springfield, Oreg.

NOTE.—The purpose of this republication is to correct the applicant's name which was published in error. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 129615 (Sub-No. 23) (Correction), filed November 26, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, a Corporation, P.O. Box 545, 123 N. First Street, Decatur, Ind. 46733. Applicant's representative: Robert Loser, Chamber Commerce Building, Suite 1009, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fifth wheel travel trailers*, between points in Elkhart County, Ind., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii. Note: The purpose of this republication is to correct applicant's request for authority, and to indicate the correct name of applicant.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 133689 (Sub-No. 94), filed December 16, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., 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: *Carpeting, hard surface floor covering, wallboard, wall panels, floor screens, ceiling panels, insulation materials, advertising material, materials and accessories and supplies* used in the installation of the above described commodities, (except commodities in bulk), from the plantsite and storage facilities of Armstrong Cork Co., located in Lancaster County, Pa., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 95), filed December 17, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., 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: *Foodstuffs and other articles* distributed by health food stores (except commodities in bulk), between the facilities of General Nutrition Mills, Inc., located at or near Fargo, N. Dak., and Pittsburgh, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 98), filed December 17, 1976. Applicant: OVERLAND EXPRESS, INC., 719 First St., S.W., 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: *Animal and poultry feed* (except commodities in bulk), from Mankato, Minn., to points in Illinois, Indiana and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134105 (Sub-No. 18) filed December 18, 1976. Applicant: CELERYVALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, Tenn. 37402. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined 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 plant site and warehouse facilities of Wilson Foods Corporation, located at or near Cedar Rapids, Iowa, to points in North Carolina, South Carolina and Tennessee, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas, Tex. or Kansas City, Mo.

No. MC 134323 (Sub-No. 91), filed December 17, 1976. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 South 14th, P.O. Box 81849. Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular

routes, transporting: *Chemicals, plastic materials, and plastic products, and equipment, materials and supplies* used in the manufacture and distribution thereof (except in bulk), (1) between the facilities of Union Carbide Corporation located at or near North Seadrift, Texas City and Houston, Tex., and Taft, La., on the one hand, and, on the other, points in Alabama, Arizona, California, Connecticut, Florida, Georgia, Idaho, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and the District of Columbia; and (2) from the storage facilities of Union Carbide Corporation located at or near New Orleans, La., to points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Union Carbide Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York City, N.Y. or Lincoln, Nebr.

No. MC 134599 (Sub-No. 152), filed December 16, 1976. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums, aquarium accessories, and household pet cages, supplies and equipment*, (except in bulk and those which because of size and weight require the use of special handling or equipment), between East Paterson, Maywood, and Lodi, N.J., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Idaho, Kentucky, Mississippi, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia and Wyoming, under a continuing contract or contracts with Mattel, Inc.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 153), filed December 16, 1976. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items* (except in bulk and those which because of size and weight require special handling or equipment), from Sulphur Springs, Tex., to Centralia and Ashley, Ill., under a continuing contract or contracts with Hollywood Brands, Division of Consolidated Foods Corporation.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr., or Salt Lake City, Utah.

No. MC 135078 (Sub-No. 11), filed November 19, 1976. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Floor covering and floor tile*, from Lancaster, Pa., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Washington, Wyoming and Utah; (b) *carpet*, from Ware, Mass., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; (c) *carpet lining*, from Derby and Shelton, Conn., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted in parts (a), (b), and (c) above to traffic moving for the account of William Volker & Company and further restricted to traffic originating at the named origins and destined to the name destination states; (2) *new finished furniture*, from Taylor and San Marcos, Tex., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Masschusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Caroiina, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, and West Virginia, under continuing contract or contracts with Kerr-Ben Furniture Manufacturing Company, Inc., a subsidiary of William Volker & Company, of East Taylor, Tex., restricted to traffic moving from the facilities of Kerr-Ben Furniture Manufacturing Company, Inc., a subsidiary of William Volker & Company and destined to the named destination states;

(3) *Carpeting and rugs*, from points in Laurens County, Ga., Washington County, Miss., and Dillon County, S.C.; to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon and Washington, restricted to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states; (4) *floor covering, floor tile, carpet padding and lining, and materials, equipment and supplies* used in the installation thereof, from Anaheim and South Gate, Calif., to points in Washington, Oregon, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana, restricted to traffic originating at the named origins and destined to the named destination states; (5) *new furniture*, crated, from Taylor and San Marcos, Tex., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted to traffic originating at the named origins and destined to the named destination states; (6) *window rollers, slats, window shades, shutters, and roller fixtures*, from Ogdensburg, N.Y.; and Chicago, Ill., to points in California, Colorado, Missouri, Nebraska, Oregon, Texas, Utah, and Washington, restricted to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states; (7) *floor covering and rugs*, from Crow Agency, Mont.; to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri and Louisiana, restricted to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states,

(8) *New unfinished furniture*, (a) from Loveland, Colo.; to points in New Mexico and Texas; and (b) from Spangle, Wash., to points in Montana, Utah, and Idaho, restricted in (a) and (b) above to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states, (9) *new finished furniture*, from Portland, Oreg.; to points in Missouri, Kansas, Nebraska, Idaho, Montana, Colorado, Utah, California, Arizona, New Mexico, Texas, Oklahoma, Washington, and Nevada, restricted to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states; (10) (a) *bed frames and accessories*, from Benicia, Calif., to points in Washington, Montana, New Mexico, Arizona, Texas, Oregon, Colorado, Idaho and Utah; and (b) *carpet tacking strip and materials and equipment* used for the installation of carpet, from City of Industry and Los Angeles, Calif.; to points in New Mexico, Colorado, Texas, Oklahoma, Idaho, Utah, Arizona, Kansas, Missouri, Louisiana, and Nebraska, restricted in parts (a) and (b) to traffic moving for the account of William Volker & Company and to traffic originating at the named origins and destined to the named destination states; (11) *floor covering, floor title and rugs*, from the facilities of William Volker & Company located at or near Merced, Calif.; to points in Washington, Oregon, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, South Dakota, Nebraska Kansas, Oklahoma,

Texas, Iowa, Missouri, Arkansas and Louisiana, restricted to traffic moving for the account of William Volker & Company and originating at the named origin and destined to the named destination states; (1) *new finished furniture*, from the facilities of William Volker & Company points located at or near Cameron, Tex., to Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico and Oklahoma, restricted to traffic moving for the account of William Volker & Company and originating at the named origin and destined to the named destination states;

(13) *floor covering, floor tile, carpet padding, and carpet lining*, from Milwaukee, Wis., and Libertyville, Waukegan, and Kankakee, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota, restricted to traffic moving for the account of William Volker & Company and originating at the named origins and destined to the named destination states; (14) *new finished furniture*, from Canby, Oreg., to points in Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the named origins and destined to the named destination states; (15) *such commodities* as are dealt in and used by manufacturers and wholesalers of household furnishings (except commodities in bulk, commodities which because of their size or weight require special equipment for loading and unloading, lumber and construction and building materials), between points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted to traffic moving for the account of William Volker & Company and to traffic originating at and/or destined to the suppliers, customers or facilities of or utilized by William Volker & Company; (16) *carpet padding and materials and supplies* used in the installation of carpet padding (except commodities in bulk), from Grafton, W. Va., and Dyersburg, Tenn., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted to traffic moving for the account of William Volker & Company and originating at the named origins and destined to the named destination states; and (17) *carpet lining and padding*, from Norfolk, Va., to points in Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, restricted to traffic moving for the account of William Volker & Company and originating at the named origins and destined to the named destination states.

NOTE.—The purpose of this application is to convert applicant's contract carrier authority to common. Applicants holds contract carrier authority in MC 135007 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif., or Omaha, Nebr.

No. MC 135598 (Sub-No. 6), filed December 17, 1976. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 546, Quincy, Ill. 62301. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed, dry animal and poultry mineral mixtures*, in bulk, from Quincy, Ill., to points in Iowa, Missouri and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 138144 (Sub-No. 14), filed December 13, 1976. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the facilities of Ratzlaff Logging and Lumber, Inc., located at or near Princeton and Onamia, Minn., to points in Wisconsin on and south of U.S. Highway 10.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 138144 (Sub-No. 16), filed December 27, 1976. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, lumber mill products, poles, posts and pilings*, from Beardstown, Ill., to points in Illinois, Iowa, Minnesota, Missouri and Wisconsin.

NOTE.—Applicant is seeking contract carrier authority in MC 138144 (Sub-No. 7); therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 138359 (Sub-No. 5), filed December 16, 1976. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, Minn. 55350. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer spreading equipment*, from Hutchinson, Minn., to points in Illinois, Indiana, Iowa, Nebraska, North Dakota, South Dakota and Wisconsin; and (2) *parts and materials* used in the manufacture of (1) above, from Armstrong, Iowa and Chicago, Ill., to Hutchinson, Minn., under a continuing contract, or contracts, with Ag Systems, Inc. located at Hutchinson, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 138875 (Sub-No. 39), (Correction) filed November 17, 1976, published in the FEDERAL REGISTER issue of January 6, 1977, republished as corrected this issue. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank L. Sigloh, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and potato products*, other than frozen, from points in Idaho and those in Washington and Oregon (including Metolius), located east of U.S. Highway 97, to points in Connecticut, Delaware, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Virginia, West Virginia and the District of Columbia.

NOTE.—The purpose of this republication is to indicate the destinations which were previously omitted. If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho or Washington, D.C.

No. MC 139876 (Sub-No. 3), filed December 22, 1976. Applicant: A B C TRANSIT CO., INC., 7860 "F" Street, Omaha, Nebr. 68127. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract 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 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Omaha, Nebr., and Oakland, Iowa, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Ohio, Tennessee and Wisconsin, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds common carrier authority in No. MC 139686, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 140789 (Sub-No. 2), filed December 20, 1976. Applicant: P.D.Q., INC. OF MIAMI, 3395 NW 107th Street, Miami, Fla. 33167. Applicant's representative: H. Neil Garson, 1400 North Uhle Street, Suite 404, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, commodities of unusual value, household good as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Broward, Dade and Palm Beach Counties, Fla., restricted to shipments originating at or destined to the facilities utilized by ABC-Trans Nation-

al Transport Inc. located at Miami, Fla., and further restricted to shipments moving on freight forwarder freight bills or bills of lading issued by ABC-Trans National Transport, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 141247 (Sub-No. 7), filed December 17, 1976. Applicant: LAWRENCE PILGRIM, doing business as PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, Ga. 30528. Applicant's representative: Jeffrey Kohlman, Suite 400, 1447 Peachtree St., N.E., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Cleveland, Ga., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, and West Virginia, under a continuing contract, or contracts, with Appalachian Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 141431 (Sub-No. 2), filed December 17, 1976. Applicant: CAL-VALLEY TRANSPORTATION, INC., P.O. Box 217, 7916 West Bellevue, Atwater, Calif. 95301. Applicant's representative: William D. Taylor, 100 Pine Street, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, moving in equipment requiring mechanical refrigeration, (1) from Watsonville and Atwater, Calif., to points in the United States (except Alaska and Hawaii); and (2) from Bear Lake and Decatur, Mich., to points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Big Valley Marketing Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 142289 (Sub-No. 4), filed December 10, 1976. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Jean R. Hecht (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Uncrated doors, and materials and supplies* used in connection therewith, from Sunbury, Pa., to Ormrod, Pa. and Lakewood, N.J.; and (2) *uncrated, rejected and returned materials*, from Ormrod, Pa. and Lakewood, N.J., to Sunbury, Pa., under a continuing contract or contracts with Level Line, Inc.

NOTE.—Applicant holds common carrier authority in MC 5970 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 142548 (Sub-No. 2), filed December 13, 1976. Applicant: STALEY EXPRESS, INC., 2501 N. Brush College Road, Decatur, Ill. 62526. Applicant's representative: Fritz R. Kahn, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tire parts, inner tubes, inner tube parts, and equipment, materials and supplies* used and useful in the manufacture, distribution or repair thereof, between Decatur, Ill., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, and Missouri, restricted to the transportation of shipments originating at or destined to the plantsites or storage facilities of the Firestone Tire & Rubber Company located at Decatur, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Springfield, Ill. or Washington, D.C.

No. MC 142571 (Sub-No. 1) filed December 20, 1976. Applicant: METROPOLITAN ARMORED CAR, INC., 1410 East 17th Avenue, Columbus, Ohio 43211. Applicant's representative: Edwin H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial abrasives*, in armored car service, from the facilities of the General Electric Company, Specialty Materials Department, located at Worthington, Ohio, to Romulus, Mich., under a continuing contract, or contracts, with The General Electric Company, Specialty Materials Department.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, Ohio.

No. MC 142754, filed December 8, 1976. Applicant: PIROLLO TRANSPORT CO., INC., 6312 Hooker Street, Pittsburgh, Pa. 15206. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor oil, lubricants and undercoating compounds*, in drums and cases, from Buffalo, N.Y.; Emlenton and Warren, Pa.; and St. Mary, and Congo, W. Va., to the warehouses of Ross Oil Corporation, located at West Palm Beach, Miami and Opa Locka, Fla., under a continuing contract, or contracts, with Ross Oil Corporation; and (2) *frozen citrus juice concentrate*, in refrigerated vehicles, from points in Florida, to the plantsite of Daily Juice Products, Inc., located in Verona, Pa., under a continuing contract, or contracts, with Daily Juice Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 142756, filed December 10, 1976. Applicant: EL PASO E-Z MOVERS, INC., 9700 Railroad Drive, El Paso, Tex. 79924. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments, between points in El Paso County, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at El Paso, Tex.

No. MC 142773 filed December 20, 1976. Applicant: PRATHER AUTO SALES, INC., Box 165, Louisville, Ill., 62858. Applicant's representative: Edward G. Finnegan, 188 West Randolph Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles* when moving therewith in secondary movements in truckaway or transporter services, (1) between points in Illinois and Lake County, Ind., on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Oklahoma and Wisconsin; and (2) between points in Illinois, on the one hand, and, on the other, Indianapolis and Merrillville, Ind. and points in Lake County, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

PASSENGER APPLICATIONS

No. MC 2890 (Sub-No. 51), filed December 17, 1976. Applicant: AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, Calif. 90021. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special, one-way, and round-trip operations, from points in Hendricks, Marion, Putman, Clay, Vigo, Allen, Hancock, Henry and Wayne Counties, Ind., DuPage, Bureau, LaSalle, Peoria, Cook, Madison and St. Clair Counties, Ill., and St. Louis County, Mo., to points in the United States including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago or Springfield, Ill. or Indianapolis, Ind.

No. MC 95466 (Sub-No. 6), filed December 23, 1976. Applicant: DATTCO, INC., 99 Newington Avenue, New Britain, Conn. 06051. Applicant's representative: William C. Mitchell, Jr., 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at points in Hartford and New Haven Counties, Conn., and extending to Atlantic City, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of 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 protest shall comply with Special Rules 240 (c) or 240(d) of the Commission's General Rules of Practice (40 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.

No. MC-F-13072. Authority sought for purchase by HILLDRUP TRANSFER AND STORAGE, INC., 300 Central Road, Fredericksburg, VA., 22401, of the operating rights of HILLDRUP TRANSFER & STORAGE OF KEY WEST, INC., 1st and Maloney Streets, Key West, FL., 33040, and for acquisition by CHARLES G. McDANIEL, 300 Central Road, Fredericksburg, VA., 22401, of control of such rights through the purchase. Applicants' attorney: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C., 20006. Operating rights sought to be transferred: Used household goods, as a common carrier over irregular routes betwen points in Monroe and Dade Counties, Fla. Vendee is authorized to operate as a common carrier in Delaware, Florida, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13073. Authority sought for purchase by BOULEVARD STORAGE & MOVING CO., INC., 2620 West Wisconsin Avenue, Milwaukee, WI., 53233, of the operating rights of CENTRAL MOVING & STORAGE CORPORATION, 3526 West Kiehnan Avenue, Milwaukee, WI., 53209, and for acquisition by T. E. NEUBAUER, and JANET M. NEUBAUER, both of 1407 E. Goodrich La., Milwaukee, WI., 53217, and W. A. MOORE, 1616 W. Bender Road, Milwaukee, WI., 53209, of control of such rights through the purchase. Applicants' attorney: William D. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI., 53203. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes between points in Milwaukee County, Wis., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, Minnesota, Iowa and Michigan. Vendee is authorized to operate as a *common carrier* in Wisconsin, Illinois, Michigan, Indiana, Ohio, Minnesota, and Iowa. Application has not been filed for temporary authority.

MOTOR CARRIER OF PASSENGERS

No. MC-F-13076. Authority sought for purchase by CARL R. BIEBER, INC., dba, CARL R. BIEBER TOURWAYS, Vine and Baldy Streets, Kutztown, PA., 19530, of apportion of the operating rights of PHILBORO COACH CORPORATION, DBA PHILBORO COACH, T/A GRAY LINE MOTOR TOURS, P.O. Box 418 North Broadway, Pitman, N.J., 08071, and for acquisition by CARL R. BIEBER, of the Kutztown, PA., 19530 address, of control of such rights through the purchase. Applicants' attorneys: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA., 22312, and John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, N.W. Washington, D.C., 20004. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as a common carrier over regular routes (A) between Philadelphia, Pa., and Allentown, Pa., serving all intermediate points; (B) between Philadelphia, Pa., and Allentown, Pa., serving all intermediate points; between junction Pennsylvania Turnpike Delaware River Extension and Pennsylvania Turnpike Northeast Extension, and junction unnumbered highway (formerly Pennsylvania Highway 731) and the Pennsylvania Turnpike Delaware River Extension serving all intermediate points; between the Pennsylvania Turnpike Northeast Extension Lansdale Interchange, and junction Pennsylvania Highway 63 and U.S. Highway 309, serving all intermediate points; between the Pennsylvania Turnpike Northeast Extension Quakertown Interchange, and Quakertown, Pa., serving all intermediate points; (C) between Philadelphia, Pa., and Allentown, Pa., serving all intermediate points, including Bethlehem, Coopersburg, Quakertown, Sellersville, and Ambler, Pa.: Passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, as a common carrier over irregular routes from points in Bucks County, Pa., and those within 5 miles of the regular routes specified under (A) above, and those within 5 miles of the rail routes of the Reading Company in Lehigh and Northampton Counties, Pa., to points in Connecticut, New York, New Jersey, Maryland, Delaware, Virginia, and the District of Columbia, and return. Vendee is authorized to operate as a common carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13077. Authority sought for purchase by ROBCO TRANSPORTATION, INC., P.O. Box 12729, 309 Fifth Avenue N.W., New Brighton, MN., 55112, of the operating rights of DM'S TRUCKS, 1000 First National Bank Building, Minneapolis, MN., 55402, and for acquisition by C. H. ROBINSON CO., 7525 Mitchell Road, Eden Prairie, MN., 55343, of control of such rights through the purchase. Applicants' attorneys: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN., 55402, and Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, MN., 55343. Operating rights sought to be transferred: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), as a common carrier over irregular routes from points in Kansas except Kansas City, Kans., to Springfield and Macon, Mo., with no transportation for compensation on return except as otherwise authorized, with restrictions. Vendee is authorized to operate as a common carrier in all the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under Section 210a(b).

NOTE.—MC-136786 (Sub-No. 107) is a directly related matter.

No. MC-F-13078. Authority sought for purchase by COLDWAY FOOD EXPRESS, INC., Route 20 North P.O. Box 747, Sidney, OH., 45365, of the operating rights of FOODWAY EXPRESS, INC., Suite 300, Three Penn Center Plaza, Philadelphia, PA., 19102, and for acquisition by JOHN L. MAURER, 437 Pinehurst, Sidney, OH., 45365, and JOSEPH M. SCANLAN, 111 West Washington St., Chicago, IL., 60602, of control of such rights through the purchase. Applicants' attorney: Joseph M. Scanlan, 111 West Washington St., Chicago, IL., 60602. Operating rights sought to be transferred: Fresh processed, and canned fruits, produce, and food products, nuts, peanut oil, peanut butter, batteries, and battery parts as a common carrier over irregular routes between New York, N.Y., and Philadelphia, Pa., as follows: from New York across the Hudson River (also via Hudson vehicular tunnel) and over city streets and connecting highways to Jersey City, N.J., thence over U.S. Highway 1 to Philadelphia; from New York to Jersey City as specified above, thence over New Jersey Highway 25 to Camden, N.J., and thence across the Delaware River to Philadelphia; and return over these routes to New York, service is authorized to and from the intermediate and off-route points of Camden, Jersey City, Elizabeth, New Brunswick, Newark, Paterson and Trenton, N.J.; fresh fruits and fresh vegetables, between New York, N.Y., and Jersey City, N.J., on the one hand, and, on the other, U.S. Naval Air Station, Lakehurst, N.J., U.S. Merchant Marine Academy, Kings Point, L.I., N.Y., Camp Upton, Yaphank, L.I., N.Y., U.S. Naval Hospital, Brentwood, L.I., N.Y. Port Slocum, New Rochelle, N.Y., Camp Shanks, Orangeburg, N.Y., U.S.

Military Academy, West Point, N.Y., and Stewart Field, Newburg, N.Y.; fruits, and fresh vegetables, poultry, eggs, dairy products, meats, meat products and fish, between New York and Jersey City, on the one hand, and on the other, Mitchel Field, Garden City, L.I., N.Y., U.S. Naval Separation Center, Lido Beach, L.I., N.Y., Greenhaven Prison, Stormville, N.Y., U.S. Naval Training Station and U.S. Naval Separation Center, Sampson, N.Y., Fort Monmouth, N.J., Fort Hancock, Red Bank, N.J., Camp Kilmer, New Brunswick N.J., and Fort Dix, N.J. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority.

No. MC–F–13080. Authority sought for purchase by BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Parkway, Dover, OH., 44622, of a portion of the operating rights of A. J. WEIGAND, INC., P.O. Box 130, Dover, OH., 44622, and for acquisition by HAROLD BAKER, SR., Stone Creek, OH., 43840, of control of such rights through the purchase. Applicants' attorney: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, OH., 43017. Operating rights sought to be transferred: *Steel and steel products*, as a *common* carrier over irregular routes from Dover, Ohio, and points within two miles of Dover, not including New Philadelphia, Ohio, to points in that part of New York on and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line, those parts of Maryland and Pennsylvania on and west of U.S. Highway 11, including Wilkes-Barre, Sunbury, and Harrisburg, Pa., that part of West Virginia, on, north, and west of a line beginning at the Maryland-West Virginia State line, and extending along U.S. Highway 220 to junction U.S. Highway 33 thence along U.S. Highway 33 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction U.S. Highway 60, and thence along U.S. Highway 60 to the West Virginia-Kentucky State line, that part of Kentucky, on, north and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 60 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 41 and thence along U.S. Highway 41 to the Ohio River, that part of Michigan and on and south of a line beginning at Muskegon, Mich., and extending along Michigan Highway 20 to Bay City, Mich.

Thence along Michigan Highway 25 to Huron City, Mich., that part of Illinois on and east of U.S. Highway 51 and on and north of U.S. Highway 36, and points in Indiana, and *machinery and machinery parts* used in the manufacture of *Steel and steel products*, from points in the destination territory specified above to Dover, Ohio, and points within two miles thereof, not including New Philadelphia, Ohio, *truck parts, accessories, and equipment, and trailer parts, accessories, and equipment*, from Chicago, Ill., Detroit and Pontiac, Mich., Hillside, N.J., and Clearfield, Pittsburgh, Uniontown and Washington, Pa., to Dover, Ohio, with no transportation for compensation on return except as otherwise authorized, from Dover, Ohio to Clearfield, Pa., with no transportation for compensation on return except as otherwise authorized, *sheet steel and sheet steel products*, from the site of the plant of the Reeves Steel and Manufacturing Company, near Dover, Ohio, to points in Pennsylvania east of U.S. Highway 11, except Wilkes-Barre, Sunbury, and Harrisburg, Pa., *Sheet steel and sheet steel products* (except articles requiring special equipment), from the site of Reeves Steel and Manufacturing Co. plant at Dover, Ohio to points in that part of New York east of a line beginning at Oswego, N.Y. and extending along New York Highway 57 to Syracuse, N.Y. and thence along U.S. Highway 11 to the New York-Pennsylvania state line points in New Jersey, points in that part of Maryland east of U.S. Highway 11 and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a (b).

No. MC–F–13082. Authority sought for purchase by A & H, INC., Old Highway 11, Footville, WI., 53537, of a portion of the operating rights of JOHNSRUD TRANSPORT, INC., Highway 9 West, P.O. Box 447, Cresco, IA., 52136, and for acquisition by FERALD O. ARNESON, EDWARD K. HOERLER, and WILLIS E. HOERLER, all of Footville, WI., 53537, of control of such rights through the purchase. Applicants' attorney: Patrick E. Quinn, P.O. Box 82028, Lincoln, NB., 68051. Operating rights sought to be transferred: *Foodstuffs* (except commodities in bulk), as a *common carrier* over irregular routes from the facilities of Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, Kentucky, New York, Pennsylvania, Louisiana, Arkansas, Alabama, Georgia, Mississippi, Tennessee, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, Maryland, New Jersey, Delaware, West Virginia, Virginia, North Carolina, and South Carolina, and the District of Columbia, restricted to the transportation of shipments originating at the named origin and destined to the named States; *meat, meat products, and meat by-products* as described in Section A of Appendi 1 to the report of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides), and foodstuffs, canning plant materials, equipment and supplies, except commodities in bulk, from points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Illinois, Michigan, Indiana, Ohio, New York, Pennsylvania, New Jersey, Louisiana, Arkansas, Mississippi, Alabama, and Georgia, to facilities of Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to the transportation of shipments originating at the named origins and destined to the named destinations. Vendee is authorized to operate as a common carrier in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a (b).

No. MC–F–13083. Authority sought for purchase by SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI., 48706, of the operating rights of RED LINE EXPRESS, INC., PHILIP R. JOELSON, Trustee in Bankruptcy, 6180 Benore Road, Toledo, OH., 43612, and for acquisition by GARY L. SHORT, 459 South River Road, Bay City, MI., 48706, of control of such rights through the purchase. Applicants' attorneys: John P. McMahon, 100 E. Broad St., Columbus, OH., 43215, Arthur R. Cline, 420 Security Building, Toledo, OH., 43604. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Elmore, Ohio, and Toledo, Ohio, serving no intermediate points: from Elmore over Ohio Highway 51 to Toledo, and return over the same route, with restrictions. Under a certificate of Registration in Docket No. MC 15394 (Sub-No. 4), property, as a common carrier solely within the State of Ohio. Vendee is authorized to operate as a common carrier in Michigan and Ohio. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 108382 (Sub-No. 26) is a directly related matter.

No. MC–F–13084. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS., 66207, of the operating rights of HERMAN O. E. LAGERBERG, DBA BARTLETT'S EXPRESS, 71 Harrison Street, Keene, N.H., 03431, and for acquisition by GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, MO., 64113, of control of such rights through the purchase. Applicants' attorneys: Leonard Kofkin, 39 South La Salle Street, Chicago, IL., 60603; David B. Schneider, P.O. Box 7270, Shawnee Mission, KS. 66207; and John Reynolds, 73 Court Street, Keene, N.H., 03431. Operating rights sought to be transferred: General commodities with exceptions, as a common carrier (A) over regular routes, between Keene, NH, and Boston MA, from Keene over New Hampshire Highway 12 to the New Hampshire-Massachusetts State Line, thence over Massachusetts Highway 12

to Fitchburg, MA, and thence over Massachusetts Highway 2 to Boston, and return over the same route, serving all intermediate points and specified off-route; (B) over irregular routes, between Keene, NH, on the one hand, and, on the other, Bellows Falls, VT, and points and places in Massachusetts and New Hampshire north and east of a line beginning at Keene, NH, and extending in a southeasterly direction to Worcester, MA, and thence along Massachusetts Highway 9 to Boston, including points on the Highway indicated. Vendee is authorized to operate as a common carrier in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–13087. Authority sought for purchase by RALPH OWNBEY, an individual, dba TWIN STATE COACH LINES, P. O. Box 826, Bristol, VA., 24201, of the operating rights and property of BLACK AND WHITE TRANSIT COMPANY, INC., P.O. Box 402, Grundy VA., 24614, and for acquisition by RALPH OWNBEY, of the Bristol, VA., 24201 address, of control of such rights through the purchase. Applicants' attorney: Michael L. Rigsby, 200 West Grace Street, Richmond, VA., 23220. Operating rights sought to be transferred: *Passengers and their baggage,* and *express and newspapers in the same vehicle with passengers,* as a *common carrier* over regular routes between Pikeville, Ky., and Grundy, Va., serving all intermediate points, between Hellier, Ky., and Elkhorn City, Ky., serving all intermediate points, between the Kentucky-Virginia State line near Breaks, Va., and junction Virginia Secondary Highway 609 and U.S. Highway 460 near Bigrock, Va., serving all intermediate points, between Pikeville, Ky., and Jenkins, Ky., serving all intermediate points, between Bluefield, W. Va., and Grundy, Va., serving all intermediate points; between Huntington, W. Va., and Pikeville, Ky., serving all intermediate points; between Elkhorn City, Ky., and Pikeville, Ky., serving all intermediate points, between Mouthcard, Ky., and Belcher, Ky., serving all intermediate points; *Passengers and their baggage, newspapers, and express* (not to exceed 100 pounds in weight or 60 inches in length), between Claypool Hill, Va., and Bristol, Tenn., serving all intermediate points between Claypool Hill and Abingdon, Va.; Passengers and their baggage, in the same vehicle with passengers, in special and charter operations, in round-trip sightseeing or pleasure tours, as a common carrier over irregular routes beginning and ending at Bluefield, W. Va., and points in Mingo and Wayne Counties, W. Va., Buchanan, Tazewell, and Dickenson Counties, Va., and Pike and Letcher Counties, Ky., and extending to points in the United States (except Alaska and Hawaii). Vendee is authorized to operate as a common carrier in Virginia, West Virginia, Kentucky, and Tennessee. Application has been filed for temporary authority under section 210a (b).

No. MC–F–13090. Authority sought for purchase by HALLAMORE MOTOR TRANSPORTATION, INC., 795 Plymouth Street, Holbrook, MA 02343, of the operating rights of LAWRENCE TRANSPORT, INC., Main Street, Stratford, CT., 06497, and for acquisition by JOSEPH L. BARRY, JR., 38 Pleasant St., Whitman, MA., and DENNIS E. BARRY, 44 Hillview Ave., Holbrook, MA., of control of such rights through the purchase. Applicant's attorney: Frank J. Weiner, 15 Court Square, Boston, Massachusetts, 02108. Operating rights sought to be transferred: *Scrap rubber,* as a *common carrier* over irregular routes from Bridgeport, Conn., to Boston, Mass., from New York, N.Y., Jersey City, Newark, Perth Amboy, Butler, and Carteret, N.J., Philadelphia, Pa., and Providence, R.I., to Naugatuck, Conn.; *scrap materials,* from Bridgeport, New Haven, Ansonia, Stamford, Danbury, Bethel, Naugatuck, Waterbury, and Waterville, Conn., Port Chester and Tarrytown, N.Y., to New York, N.Y., Newark, Jersey City, Perth Amboy, Butler, and Carteret, N.J., Philadelphia, PA., and Providence, R.I.,; *lumber and masons' supplies,* from New York, N.Y., to Stratford, Conn., return with no transportation for compensation, except as otherwise authorized, to the above specified origin; *scrap paper,* between New Haven and Bridgeport, Conn., on the one hand, and, on the other, Haverhill, Mass., from New York, N.Y., Jersey City, Newark, Perth Amboy, Butler, and Carteret, N.J., Philadelphia, Pa., and Providence, R.I., to New Haven, Conn., with no transportation for compensation on return except as otherwise authorized; *machinery, factory equipment, and stock,* between Stratford, Conn., and points and places in Connecticut within 75 miles of Stratford, on the one hand, and, on the other, points and places in New York, Rhode Island, Pennsylvania, New Jersey, and Massachusetts; household goods between Stratford, Conn., and points and places in Connecticut within 20 miles of Stratford, on the one hand, and, on the other, points and places in New York, Rhode Island, Pennsylavnia, New Jersey, and Massachusetts. Vendee is authorized to operate as a *common carrier,* in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13091. Authority sought for control by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA of NEVADA FREIGHT LINES, INC., 301 E. Commercial Row, Reno, NV 89501, and for acquisition by M. D. GILARDY, L. A. DORE', JR., and E. R. PRESTON, all of the Oakland, CA 94601 address, of control of NEVADA FREIGHT LINES, INC., through the acquisition by M. D. GILARDY, L. A. DORE', JR., and E. R. PRESTON. Applicants' attorneys: Marvin Handler, 100 Pine Street, San Francisco, CA 94111, and John P. Meyer, 16110 Rhyolite Circle, Reno, NV 89511. Operating rights sought to be controlled: Under a certificate of Registration in Docket No. MC–97526 (Sub-No. 1) covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Nevada. Vendee is authorized to operate as a common carrier in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–98327 (Sub-No. 21) is a directly related matter.

MOTOR CARRIER OF PASSENGERS

No. MC–F–13092. Authority sought for purchase by JIGGETTS TRANSPORTATION SERVICE, INC., 24 Washington Ave., Paterson, N.J. 07501, of the operating rights and property of CHEETAH CHARTER BUS SERVICE CO., INC., Samuel J. Landau, Trustee, DBA CHEETAH TOURS, 405 Lexington Ave., N.Y., N.Y. 10013, and for acquisition by GEORGE and MARTHA JIGGETTS, both of 24 Washington Ave., Paterson, N.J. 07501, of control of such rights through the purchase. Applicants' attorney: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J. 07006. Operating rights sought to be transferred: *Passengers and their baggage, in round-trip charter operations,* as a *common carrier* over irregular routes beginning and ending in that part of New York County, N.Y., bounded on the south by 110th Street, on the west by the New York-New Jersey State line, and on the north and east by Bronx and Queens Counties, N.Y., and extending to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia; West Virginia, and the District of Columbia, and Monmouth, Ocean, Atlantic, and Cape May Counties, N.J. Vendee is authorized to operate as a common carrier in New York, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and New Jersey. Application has been filed for temporary authority under section 210a(b).

NOTICE

WILLAMETTE-WESTERN CORPORATION, Foot of North Portsmouth Avenue, Portland, Oregon 97203, represented by Mr. Norman E. Sutherland, White, Sutherland, Parks & Allen, Attorneys at law, 1200 Jackson Tower, Portland, Oregon 97205, hereby gives notice that, on the 13th day of September, 1976, it filed with the Interstate

Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for authority to purchase the operating authority of Atlas Tug Service, held by Rainier National Bank, Guardian of the Estate of Bert Howard and Lester Howard doing business as, with the elimination of duplicating authority, which application is assigned Finance Docket No. 28293.

Atlas Tug Service, pursuant to authority granted in Docket No. W-401, is authorized to perform general towage between ports and points along the Columbia River and its tributaries below and including Bonneville, Oregon, and along the Willamette River and its tributaries below its confluence with the Yamhill River. Operations proposed by Willamette-Western Corporation would be an extension of its present authority permitting general towage to Bonneville, Oregon, on the Columbia River and to the confluence of the Yamhill River on the Willamette River.

Willamette-Western Corporation operates pursuant to a certificate issued in Docket No. W-643 as a common carrier by water between points along the Columbia River and its tributaries below Vancouver, Washington and on the Willamette River below Portland, Oregon, including the ports named.

Willamette-Western has been continuously engaged in the business, among others, of operating tugs and barges on the Columbia and Willamette since incorporation in 1937. Transferee originally operated under the name of Willamette Tug and Barge Company (250 I.C.C. 818). On February 1, 1967, a new certificate was issued in Docket No. W-643 to transferee pursuant to a change of corporate name and a request to this Commission for its order approving the change in name. Transferee operates 34 tugs and 37 cargo barges together with pile drivers, dredges and derrick barges. Transferor, Atlas Tug Service, has been engaged in the operation of tugs and the towing of logs and other traffic on the Columbia and Rivers since inception of the partnership in 1938 pursuant to an oral agreement. No application for temporary authority has been filed under Section 311(b).

In the opinion of the applicant, 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 C.F.R. 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.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

WILLAMETTE-WESTERN CORPORATION

NOTICE

SSI RAIL CORP., Two Embarcadero Center, San Francisco, California 94111 and ITEL CORPORATION, One Embarcadero Center, San Francisco, California 94111, represented by David M. Schwartz, Sullivan & Worcester, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036 and Martin D. Goodman, SSI Rail Corp., Two Embarcadero Center, San Francisco, California 94111 hereby give notice that on the 7th day of January, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing SSI Rail Corp. to acquire common control of the Hartford and Slocomb Railroad Company, an Alabama corporation and now a wholly-owned subsidiary of SSI Rail Corp., and of the McCloud River Railroad Company, a California corporation, including the latter's motor carrier operations, its division the Ahnapee & Western Railway Company of Algoma, Wisconsin, and its wholly-owned subsidiary McCloud River Trucking Company of McCloud, California, by means of purchase of the McCloud River Railroad Company's capital stock from Champion International Corporation, which application is assigned Finance Docket No. 28371.

The nature of the transaction proposed in the application is the purchase of the capital stock of McCloud River Railroad Company from Champion International Corporation by SSI Rail Corp. and approval of common control by SSI Rail Corp. and its parent Itel Corporation of the McCloud River Railroad Company, its motor carrier operations and its division Ahnapee and Western Railway Company, its wholly-owned subsidiary McCloud River Trucking Company, and Hartford and Slocomb Railroad Company. The latter is presently a wholly-owned subsidiary of SSI Rail Corp. The McCloud River Railroad Company operates 80 miles of railroad in the State of California; the Ahnapee and Western Railway Company operates 14 miles of railroad in Wisconsin; and the Hartford and Slocomb Railroad Company operates 22 miles of railroad in Alabama. The McCloud River Railroad Company holds a motor carrier certificate from the Interstate Commerce Commission in No. MC 28759 and the McCloud River Trucking Company holds a California certificate registered with the Interstate Commerce Commission in No. MC 125604 (Sub-No. 2). Common control by the McCloud River Railroad Company and in turn, United States Plywood Corporation, now Champion International Corporation, of the various McCloud River Railroad operations has previously been approved by the Interstate Commerce Commission in No. MC-F-8981.

In the opinion of the applicant, 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 C.F.R. 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.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90

days after the publication of notice of the application in the FEDERAL REGISTER.

SSI RAIL CORP., ITEL CORPORATION

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

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 Rule 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 96961 (Sub-No. 3). (Amendment), filed October 29, 1976, published in the FEDERAL REGISTER issue of December 2, 1976, and republished this issue. Applicant: WEST TENNESSEE MOTOR EXPRESS, INC., Faydur Court, Nashville, Tenn. 37210. Applicant's representative: Don R. Binkely, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities* (except commodities in bulk, household goods and commodities which because of size and weight require special equipment), (1) Between Nashville, Tenn., and Humboldt, Tenn., serving Bruceton, Tenn., and all intermediate points between Bruceton and Humboldt: From Nashville, Tenn., over U.S. Highway 70 to Huntingdon, Tenn., thence over alternate U.S. Highway 70 to Atwood, Tenn., thence over U.S. Highway 79 to Humboldt, and return over the same route, restricted against the transportation of traffic originating at or destined to Humboldt; (2) Between Huntingdon, Tenn. and South Fulton, Tenn., serving all intermediate points: From Huntingdon, Tenn. over Tennessee Highway 22 to Martin, Tenn., thence over U.S. Highway 45E to South Fulton, Tenn., and return over the same route; (3) Between South Fulton, Tenn. and Troy, Tenn., serving all intermediate points: From South Fulton, Tenn. over U.S. Highway 51 to Troy, Tenn., and return over the same route; (4) Between Troy, Tenn. and Tiptonville, Tenn., serving all intermediate points: From Troy, Tenn. over Tennessee Highway 21 to Tiptonville, Tenn., and return over the same route;

(5) Between Tiptonville, Tenn., and Dyersburg, Tenn., serving all intermediate points: From Tiptonville, Tenn. over Tennessee Highway 78 to Dyersburg, Tenn., and return over the same route; (6) Between Dyersburg, Tenn. and Brownsville, Tenn., serving all intermediate points: From Dyersburg, Tenn. over U.S. Highway 51 to the junction of Tennessee Highway 20, thence over Tennessee Highway 20 to the junction of Tennessee Highway 54, thence over Tennessee Highway 54 to Brownsville, Tenn., and return over the same route, restricted against traffic originating at or destined to Brownsville, Tenn.; (7) Between the junction of Tennessee Highway 54 and Tennessee Highway 20 and Bells, Tenn., serving all intermediate points: From the junction of Tennessee Highway 54 and Tennessee Highway 20 over Tennessee Highway 20 to Bells, Tenn., and return over the same route, restricted against traffic originating at or destined to Bells, Tenn.; (8) Between Dyersburg, Tenn. and Troy, Tenn., serving all intermediate points: From Dyersburg over U.S. Highway 51 to Troy, and return over the same route; (9) Between Dyersburg, Tenn. and Milan, Tenn., serving all intermediate points.: From Dyersburg over Tennessee Highway 104 to its junction with Tennessee Highway 77, thence over Tennessee Highway 104 (also Tennessee Highway 77) to Milan, and return over the same route; (10) Between Trenton, Tenn., and Union City, Tenn., serving all intermediate points: From Trenton over U.S. Highway 45W to Union City, and return over the same route; (11) Between Newbern, Tenn. and Dyer, Tenn., serving all intermediate points: From Newborn over Tennessee Highway 77 to Dyer, and return over the same route; (12) Between Milan, Tenn. and Martin, Tenn., serving all intermediate points: From Milan over U.S. Highway 45E to Martin, and return over the same route; (13) Between Trenton, Tenn. and Bradford, Tenn., serving all intermediate points: From Trenton over Tennessee Highway 54 to Bradford, and return over the same route; (14) Between Greenfield, Tenn. and McKenzie Tenn., serving all intermediate points: From Greenfield over Tennessee Highway 124 to McKenzie, and return over the same route;

(15) Between McKenzie, Tenn. and Atwood, Tenn., serving all intermediate points: From McKenzie over U.S. Highway 79 to Atwood, and return over the same route; (16) Between Camden, Tenn., and Buchanan, Tenn., serving all intermediate points: From Camden over Tennessee Highway 69 to Paris, thence over U.S. Highway 641 to Puryear, thence over Tennessee Highway 140 to Buchanan, and return over the same route; (17) Between Paris, Tenn. and Dresden, Tenn., serving all intermediate points: From Paris over Tennessee Highway 54 to Dresden, and return over the same route. (18) Between Paris, Tenn. and McKenzie, Tenn., serving all intermediate points: From Paris over U.S. Highway 79 to McKenzie, and return over the same route. (19) Between Trenton, Tenn. and Alamo, Tenn., serving all intermediate points: From Trenton over Tennessee Highway 54 to Alamo, and return over the same route. (20) Between Memphis, Tenn., and Paris Landing, Tenn., serving points in Carroll and Henry Counties, Tenn., as intermediate and off-route points: (a) From Memphis over Interstate Highway 40 to junction U.S. Highway 70, thence over U.S. Highway 70 to Huntingdon, Tenn., thence over Tennessee Highway 22 to McKenzie, Tenn., thence over U.S. Highway 79 to Paris Landing, and return over the same route; (b) From Memphis over Interstate Highway 40 to junction Tennessee Highway 22, thence over Tennessee Highway 22 to McKenzie, Tenn., thence over U.S. Highway 79 to Paris Landing, and return over the same route; and (c) From Memphis over Interstate Highway 40 to junction Tennessee Highway 69, thence over Tennessee Highway 69 to Paris, Tenn., thence over U.S. Highway 79 to Paris Landing, and return over the same route, restricted in (20) (a), (b), and (c) above against joinder with previously authorized routes, (except that joinder shall be authorized with all authorities to perform service from Memphis, Tenn., to Dyer, Rutherford, Trenton, and/or Bradford, Tenn., and return); and

(21) Between Memphis, Tenn., and Big Sandy, Tenn., serving no intermediate points: From Memphis over Interstate Highway 40 to the junction of Tennessee Highway 69, thence over Tennessee Highway 69 to Camden, Tenn., thence over Tennessee Highway 69 Alternate to Big Sandy, and return over the same route. Alternate routes for operating convenience only: (22) Between Nashville, Tenn., and the junction of U.S. Highway 70 and Tennessee Highway 69, for the purpose of joinder only: From Nashville, over Interstate Highway 40 to junction Tennessee Highway 46, thence over Tennessee Highway 46 to the junction of U.S. Highway 70, and return over the same route; (23) Between Nashville, Tenn., and Camden, Tenn., for the purpose of joinder only: From Nashville over Interstate Highway 40 to junction Tennessee Highway 69, thence over Tennessee Highway 69 to Camden, and return over the same route; (24) Between Nashville, Tenn., and Milan, Tenn., for purposes of joinder only: From Nashville over Interstate Highway 40 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 45 East, thence over U.S. Highway 45 East to Milan, and return over the same route; and (25) Between Nashville, Tenn., and the junction of Tennessee Highway 20 and Tennessee Highway 54 for the purpose of joinder only: From Nashville over Interstate Highway 40 to junction Tennessee Highway 20 to the junction of Tennessee Highway 54, and return over the same route.

NOTE.—The purpose of this filing is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. The application is being republished to amend applicant request for authority. This matter is directly related to a Section 5(2) finance proceeding in No. MC-F-13011, published in the FEDERAL REGISTER issue of

November 18, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

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 Passengers (49 CFR 1042.2(c)(9)).

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 PASSENGERS

No. MC–1515 (Deviation No. 717) (Cancels Deviation No. 150), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed January 11, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Dallas, Tex., over the Dallas-Fort Worth Toll Road to Fort Worth, Tex., with the following access routes: (1) From Grand Prairie, Tex., over city streets to junction Dallas-Fort Worth Toll Road, and (2) From Arlington, Tex., over city streets to junction Dallas-Fort Worth Toll Road and return over the same routes for operating convenience only. The notice indicates that the carrier presently authorized to transport passengers and the same property over a pertinent service route as follows: From El Paso, Tex., over U.S. Highway 80 to Dallas, Tex., and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

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.

Florida Docket No. 770029–CCT filed January 12, 1977. Applicant: SMALLEY TRANSPORTATION COMPANY, 2202—38th Street, Tampa, Fla. 33605. Applicant's representative: David C. G. Kerr and Ansley Watson, Jr., 512 N. Florida Ave., P.O. Box 1531, Tampa, Fla. 33601. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Applicant seeks an extension of its Certificate No. 1013, pursuant to Section 323.03, Florida Statutes, so as to authorize the transportation, as a *common carrier*, of *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, garments on hangers, and commodities in vehicles equipped with mechanical refrigeration), over regular routes and on regular schedules, (1) Between all points in Dade and Broward Counties, Fla., using I–95, U.S. 1, U.S. 41 and U.S. 441, and using all other roads in said counties as alternate routes; (2) Between Sarasota, Fla., and Naples, Fla., using U.S. 41, serving all intermediate points on U.S. 41, and using the following as an alternate route for operating convenience: State Road 675 from U.S. 301 to junction with State Road 70, State Road 70 to Arcadia, Fla., State Road 31 from Arcadia to junction with State Road 80, State Road 80 to Fort Myers, Fla.; (3) Between Orlando, Fla., on the one hand, and, on the other, all points in Dade and Broward Counties, Fla., using U.S. 441, Sunshine State Parkway (Florida's Turnpike), and I–95, serving no intermediate points; and

(4) Between Jacksonville, Fla., on the one hand, and, on the other, all points in Dade and Broward Counties, Fla., using I–95, and serving no intermediate points. Applicant seeks authority to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority sought herein, and further seeks authority to tack or join the authority sought herein with its present authority under FPSC Certificate No. 1013 and Interstate Commerce Commission Certificate of Registration No. MC 121667 and subs. Applicant also seeks authority to operate over the following alternate routes for operating convenience only and serving no points on said routes not otherwise authorized to be served: (A) I–4 between Orlando, Fla., and its junction with I–95; (B) Sunshine State Parkway between I–4 and Broward County, Fla.; (C) State Road 60 between the eastern Polk County Line and the Sunshine State Parkway; (D) State Road 84 (Everglades Parkway) between Naples, Fla., and Broward County, Fla.; (E) U.S. 41 between Naples, Fla., and Dade County, Fla.; (F) State Road 80 between Fort Myers, Fla., and its junction with U.S. 27, and U.S. 27 to the Broward County Line, and (G) U.S. 27 between Polk County, Fla., and Broward County, Fla. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, Fla. 32304 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–2559 Filed 1–26–77;8:45 am]