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federal register

BOOK 1 OF 2 BOOKS

MONDAY, JULY 26, 1976

highlights

NOTICE REGARDING PRIVACY ACT PUBLICATION GUIDELINES

The Office of the Federal Register announces that Privacy Act Publication Guidelines for Federal agencies will appear in the "Federal Register" issue of Wednesday, July 28, 1976.

PART I:

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reminders

(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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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Twelve agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR

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 trial program are invited. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Title 3—The President

Executive Order 11927 • July 22, 1976

Amending Executive Order No. 11861,[1] as Amended, Placing Certain Positions In Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11861 of May 21, 1975, as amended, placing certain positions in level IV of the Executive Schedule, is further amended by deleting "Assistant" in subsection (10) and by inserting "Counselor" in lieu thereof.

SEC. 2. Section 2 of Executive Order No. 11861 of May 21, 1975, as amended, placing certain positions in level V of the Executive Schedule, is further amended by adding thereto "(9) Deputy Assistant Secretary for Housing, Department of Housing and Urban Development.".

Gerald R. Ford

THE WHITE HOUSE,
July 22, 1976.

[FR Doc.76-21689 Filed 7-22-76;12:37 pm]

[1] 40 FR 22531; 3A CFR, 1975 Comp., p. 164.

rules and regulations

Title 7—Agriculture

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

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Rate of Assessment

This document authorizes $26,822 of Washington Cherry Marketing Committee expenses, under Marketing Order No. 923, for the 1976–77 fiscal period and fixes the rate of assessment at $0.60 per ton of cherries shipped outside the production area. Such assessments are to be paid to the committee by each first handler as his pro rata share of program expenses.

On June 20, 1976, notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 26923) regarding proposed expenses and the related rate of assessment for the period April 1, 1976, through March 31, 1977, under the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington. The notice invited interested persons to submit written data, views, or arguments through July 16, 1976. No such material was submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matter presented, including the proposals set forth in the notice which were submitted by the Washington Cherry Marketing Committee (established under the marketing agreement and order), it is hereby found and determined that:

§ 923.216 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington Cherry Marketing Committee during the period April 1, 1976, through March 31, 1977, will amount to $26,822.

(b) *Rate of Assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 923.41, is fixed at $0.60 per ton of sweet cherries.

(c) *Terms.* Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective terms in said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of sweet cherries grown in the designated counties in Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable cherries handled during the aforesaid period; and (3) such period began on April 1, 1976, and said rate of assessment will automatically apply to all such cherries beginning with such date.

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

Dated: July 21, 1976.

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

[FR Doc.76–21511 Filed 7–23–76;8:45 am]

[Prune Reg. 14]

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Limitation of Shipments

This regulation requires fresh Washington-Oregon Prunes, during the period August 1, 1976, through August 31, 1977, to grade U.S. No. 1, except for off-color and an additional tolerance for defects, and be at least 1¼ inches in diameter. A minimum quantity exemption is also provided. These requirements are designed to provide consumers with an ample supply of acceptable quality fresh prunes.

On June 29, 1976, notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 26704), regarding a proposed regulation to be made effective pursuant to the marketing agreement and Order No. 924, as amended, (7 CFR Part 924), regulating the handling of prunes grown in designated counties in Washington and in Umatilla County, Oregon. This notice allowed interested persons until July 14, 1976, to file written data, views, or arguments pertaining thereto. None were submitted. The proposed regulation was recommended by the Washington-Oregon Fresh Prune Marketing Committee established pursuant to the said amended marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This regulation is based upon an appraisal of the crop and current and prospective market conditions. Fresh shipments of Washington-Oregon Prunes are expected to start on or about August 1, 1976, and total 22,000 tons, compared with 22,462 tons last season. Hence, ample supplies of fresh prunes meeting the regulation requirements should be available to fill fresh market needs. The regulation is designed to prevent the handling of low quality and small size prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers consistent with the objectives of the act.

The provision which excepts the Brooks variety of prunes from the requirements of this regulation recognizes the fact that prunes of this variety are primarily consumed locally, that they do not withstand shipment well, and that the amount of prunes of this variety produced is insignificant compared to the total supply. Individual shipments, not exceeding 500 pounds of the Stanley or Merton varieties of prunes, subject to necessary safeguards, are excepted from these requirements because the production of these varieties is relatively small and those few which are produced are primarily consumed locally or are sold for home use and not for resale. Individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton varieties of prunes sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of prunes so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impracticable to regulate the handling of such shipments due to the nearness of the source of supply.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee, and other available information, it is hereby found and determined that the regulation as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (41 FR 26704), and no objection to this regulation or such effective date was received; (2)

compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such prunes are expected to begin on or about the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act.

§ 924.314 Prune Regulation 14.

Order. (a) Prune Regulation 13, (40 FR 30929) is hereby terminated on August 1, 1976.

(b) During the period August 1, 1976, through August 31, 1977, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade U.S. No. 1, except that only two-thirds of the surface of the prune is required to be purplish color; and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided,* That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defects listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade; *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay; or

(2) Such prunes are handled in accordance with paragraph (c) of this section.

(c) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of prunes of the Stanley or Merton varieties or 150 pounds net weight of prunes of any variety other than Stanley or Merton which meets each of the following requirements may be handled without regard to the provisions of paragraph (b) of this section and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(d) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520–51.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (June 5, 1972) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 15, 1972); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: July 21, 1976.

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

[FR Doc.76-21510 Filed 7-23-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 6, Amdt. 7]

PART 120—BUSINESS LOAN POLICY

Charges and Interest Rates

A proposal was issued on June 1, 1976, (41 FR 22103) to amend the Business Loan Policy Regulations to permit fluctuations in the interest rate to occur as frequently as quarterly on those immediate participation and guaranty loans to small business utilizing a fluctuating rate of interest. Heretofore, such fluctuations have been allowed to be effective no oftener than semi-annually.

This amendment will allow lenders participating with SBA to establish in their lending instruments (with the concurrence of the small business borrowers) authority in adjusting interest rates on their fluctuating-interest rate loans quarterly, semi-annually, or upon the expiration of any interval that has a duration of three months or more. The result intended is that this type of SBA participation loan be administered by private lenders keeping with the methods they employ in non-SBA commercial lending.

Interested persons were given 15 days in which to submit written comments thereon, and no adverse comment was received.

Accordingly, Part 120 of Chapter I, Title 13 of the Code of Federal Regulations is hereby amended by revising subdivisions (ii) and (iii) of § 120.3(b)(2) to read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) *Charges and interest rates* * * *

(2) *Interest.* (i) * * *

(ii) Subject to the approval of SBA, a participating financial institution may establish such rate of interest on its share of an immediate participation loan as shall be legal and reasonable. A lending institution may be given the option of utilizing a fluctuating rate of interest on its share of an immediate participation loan. The fluctuations may occur no more often than quarterly, and must rise or fall on the same basis.

(iii) Subject to the approval of SBA, the interest rate on guaranteed loans may be established by the participating financial institution at a rate that shall be legal and reasonable. Subject to the above guidelines, lending institutions may be given the option of utilizing a fluctuating rate of interest. The fluctuations may occur no more often than quarterly, and must rise or fall on the same basis.

* * * * *

Effective date: This amendment shall become effective on July 26, 1976.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: July 13, 1976.

MITCHELL KOBELINSKI,
Administrator.

[FR Doc.76-21553 Filed 7-23-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-10, Amdt. 39-2676]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair 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 Canadair CL-44D4 and CL-44J type airplanes.

There have been reports of fatigue cracks developing in the retraction actuator lever attachment bolts for the nose gear. Since this is a deficiency which can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which will require an inspection and eventual replacement of the bolts.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days:

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:

CANADAIR: Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories, that have not been altered in accordance with Canadair Service Information Circular No. 387-CL44.

Compliance required as indicated.

Affects the nose landing gear retraction actuator lever attachment bolts.

(a) Within the next 25 landings after the effective date of this airworthiness directive, unless already accomplished within the last 225 landings, inspect bolts, P/N 44-85279, for cracks using a magnaflux inspection procedure in accordance with Canadair Service Information Circular No. 387-CL44, dated May 15, 1975, or an approved equivalent inspection.

(b) Replace cracked bolts with new parts of the same part number or P/N VS2738

(VOI-SHAN), or with FAA approved equivalent parts, before further flight, in accordance with the replacement instructions as specified in Canadair Service Information Circular No. 387-CL44.

(c) Within the next 250 landings after the effective date of this AD, accomplish the following:

(1) Replace all bolts, P/N 44-85279, regardless of condition, with bolts, P/N VS2738 (VOI-SHAN), or with FAA approved equivalent bolts. VOI-SHAN bolts are identified by part number impression stamp on the bolt head.

(d) Replacement bolts, P/N VS2738 (VOI-SHAN), must be inspected for cracks at intervals not to exceed 250 landings in accordance with the procedure of paragraph (a).

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

(f) 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 compliance time specified in this AD.

This amendment is effective July 28, 1976.

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

Issued in Jamaica, N.Y., on July 14, 1976.

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

[FR Doc.76-21264 Filed 7-23-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 12—RULES RELATING TO REPARATION PROCEEDINGS

Filing Fees

On January 27, 1976, the Commodity Futures Trading Commission published in the FEDERAL REGISTER, 41 FR 3994, Rules Relating to Reparation Proceedings. Those rules provided, in § 12.27, that a formal adjudicatory proceeding would commence only upon the payment of an appropriate filing fee. After further consideration of the filing fee requirements of the rules, the Commission believes that the validity of the fee structure contained in § 12.27 of the Rules Relating to Reparations is not free from doubt in light of two United States Supreme Court decisions which address themselves to the validity of agency fees imposed pursuant to section 483a of the Independent Offices Appropriations Act of 1952, 31 U.S.C. 483a.[1] In order to remove any question as to the validity of § 12.27 of its reparations rules, the Commission has determined to amend § 12.27 to require a nominal fee of $25.00 in all reparation proceedings thereby permitting no serious dispute that the benefit to the applicant exceeds the fee.[2] To reflect this determination the Commission hereby adopts the following amendment to the Rules Relating to Reparation Proceedings.

1. Section 12.27 of Part 12 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 12.27 Filing fees.

(a) Prior to the institution of a formal adjudicatory proceeding in accordance with § 12.31, the Commission shall serve upon the complainant and registrant a notice informing the parties that the Commission is of the opinion that the facts warrant the institution of a formal adjudicatory proceeding. In the event such notice is sent, a formal adjudicatory proceeding shall commence upon payment by the complainant, within a reasonable period of time, of a filing fee of $25.00.

(b) Payment of the filing fee shall be by check or money order, payable to the Treasury of the United States.

2. In addition, the authority citation for Part 12 of Chapter 1 of Title 17 of the Code of Federal Regulations is amended to read as follows:

AUTHORITY: (Pub. L. 93-463, Sec. 101(a)(3), 88 Stat. 1391 (7 U.S.C. 4j); Sec. 106, 88 Stat. 1393 (7 U.S.C. 18); 31 U.S.C. 483a).

The foregoing changes are effective immediately. The Commission finds the foregoing action relieves a burden heretofore imposed and otherwise relates solely to agency practice and procedures. For these reasons the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

(Pub. L. 93-463, Sec. 101(a)(3), 88 Stat. 1391 (7 U.S.C. 4j); Sec. 106, 88 Stat. 1393 (7 U.S.C. 18); 31 U.S.C. 483a.)

Issued in Washington, D.C. on July 21, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc.76-21451 Filed 7-23-76;8:45 am]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12624]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Securities Transaction Fees

The Securities and Exchange Commission (the "Commission") today announced the adoption of Rule 31-1 (17 CFR 240.31-1 effective immediately, providing certain exemptions from the requirements of section 31 of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) that certain fees be payable to the Commission on the sales of securities registered on national securities exchanges and occurring on such exchanges or in the over-the-counter market. The Commission has adopted § 240.31-1 in accordance with the Administrative Procedure Act, 5 U.S.C. 553(d)(1), and pursuant to its authority under sections 2, 3, 23 and 31 of the Securities Exchange Act of 1934, 15 U.S.C. 78 b, c, w, and ee. Section 240.31-1 was published for comment on April 23, 1976 (41 FR 16980).[1] The comment period expired on May 24, 1976 and no written comments concerning the proposed rule were received.

Prior to the effective date of the Securities Acts Amendments of 1975 ("1975 Amendments") to section 31 of the Act,[2] the payment of a transaction fee on the sale of securities was required only for transactions effected on a national securities exchange. In order to ensure "even-handed treatment," however, for transactions in exchange-listed securities occurring on national securities exchanges and in the over-the-counter market, the 1975 Amendments expanded the scope of section 31 of the Act to encompass also transactions in securities registered on any national exchange, which transactions are effected by a registered broker or dealer otherwise than on such an exchange.[3]

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[1] National Cable Television v. United States, 415 U.S. 336 (1974); Federal Power Commission v. New England Power Company, 415 U.S. 345 (1974).

[2] The filing fees were imposed by the Commission pursuant to the authority contained in section 483a. The authority citation of the rules as originally published contains an error, having referred to 7 U.S.C. 483a rather than 31 U.S.C. 483a. This error is being corrected.

[1] Securities Exchange Act Release No. 12348 (April 15, 1976); 9 SEC Docket 415 (April 27, 1976).

[2] 89 Stat. 170 (1975).

[3] 89 Stat. 162 (1975); See S. Rep. No. 94-75, 94th Cong., 1st Sess. 139-40. The text of section 31 of the Act, as amended, is:

"Every national securities exchange shall pay to the Commission on or before March 15 of each calendar year a fee in an amount equal to one three-hundredths of 1 per centum of the aggregate dollar amount of the sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange during each preceding calendar year to which this section applies. Every registered broker and dealer shall pay to the Commission on or before March 15 of each calendar year a fee in an amount equal to one three-hundredths of 1 per centum of the aggregate dollar amount of the sales of securities registered on a national securities exchange (other than bonds, debentures, and other evidences of indebtedness) transacted by such broker or dealer otherwise than on such an exchange during each preceding calendar year: Provided, however, That no payment shall be required for any calendar year in which such payment would be less than one hundred dollars. The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system."

In addition, the 1975 Amendments to section 31 of the Act modified the description of debt securities excluded from the imposition of the transaction fees, and increased the fee to one three-hundredths of one percent (one cent for each three hundred dollars or fraction thereof) of the total dollar sales volume for the year of securities covered by the Section.[4] Payment of the transaction fees incurred in a preceding calendar year must be made to the Commission on or before March 15 of the following year.

Fees under section 31 of the Act become applicable when a security not traded on any exchange is admitted to exchange trading for the first time. The fees are not applicable to transactions occurring after a security, as a result of delisting or termination of unlisted trading privileges, is no longer admitted to trading on any exchange. Notice of new listings, delistings and terminations of unlisted trading privileges will be published on a daily basis in the "SEC News Digest," under the heading, "Listing, Delisting and Unlisted Trading Actions."

In section 31 of the Act, as amended, Congress gave the Commission the authority to exempt certain sales of securities from the imposition of transaction fees. In enacting the 1975 Amendments to section 31 of the Act, Congress intended that the Commission exempt certain sales of securities connected with the underwriting process and other sales of securities which are essentially non-secondary market transactions.[5]

Accordingly, § 240.31–1 exempts from the imposition of transaction fees under section 31 of the Act: (1) Any sale of securities offered pursuant to an effective registration statement under the Securities Act of 1933; (2) certain other sales in connection with the offering of securities; (3) certain sales in connection with tender and exchange offers,[6] the exercise of warrants and rights and the conversion of convertible securities; and (4) any sale of securities listed on a national exchange, effected by a registered broker or dealer in a foreign nation or on a foreign exchange, and not reported to, nor required to be reported to, the Consolidated Tape Association.[7]

The Commission is considering making minor amendments to SEC Form X–17A–10 to allow for the reporting and payment of the fee on an annual basis only. In no case, however, shall payment of transaction fees to the Commission occur later than March 15 of each calendar year for sales transacted during the previous calendar year. The first date by which exchanges and registered broker-dealers must pay the new section 31 fees, as amended, is March 15, 1977. As provided by 17 CFR 240.0–9, "All payment of fees shall be made in cash, certified check, personal check or by U.S. postal money order, bank cashier's check, or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission."

The Commission is adopting § 240.31–1 under the authority of sections 2, 3, 23 and 31 of the Securities Exchange Act of 1934, Pub. L. No. 291, §§ 2, 3, 23, and 31, as amended (15 U.S.C. 78b, 78c, 78w, and 78ee). The Commission finds that § 240.31–1 does not impose unnecessary burdens on competition. Further, since § 240.31–1 only recognizes exemptions from section 31 of the Act, the Commission is authorized under 5 U.S.C. 553(d)(1), to adopt § 240.31–1, effective immediately. Accordingly, pursuant to the authorities cited herein, the Commission hereby adopts § 240.31–1, effective immediately.[8] The text of § 240.31–1 is as follows:

[4] At the election of the payer, the date of a transaction subject to section 31 of the Act may continue to be either the trade date or the settlement date, consistent with whatever is its present practice.

[5] The Commission recognizes that a registered offering of securities by an issuer does not in every case involve the services of an underwriter. Nevertheless, the exemption for registered offerings contained in § 240.31–1 encompasses such distributions because they are clearly not the type of secondary market transaction which Congress intended to be subject to the fee.

[6] The term "exchange offer," as it is used here and in paragraph (c) of § 240.31–1, refers to the exchange of one security for another, and does not refer to the distribution of securities pursuant to special rules, and through the facilities, of a securities exchange.

[7] The "Preliminary Notes" included within § 240.31–1, infra, are intended to clarify which registered broker or dealer in a transaction incurs the fee, and the basis for determining the fee in connection with transactions in, and related to, put and call options.

The fee is applicable to transactions in exchange-traded put or call option contracts. It should be noted, however, that the Commission has not yet authorized trading in put options upon exchanges.

All options listed on national securities exchanges are issued by the Options Clearing Corporation pursuant to an effective registration statement under the Securities Act of 1933. Transactions in such securities, nevertheless, have been excluded from the exemption for registered offerings because those securities are issued in the course of the type of secondary market trading which Congress intended to be subject to a transaction fee.

Under paragraph (a) of § 240.31–1, the sale of securities delivered in satisfaction of an oversubscription of an offering would be exempt from the fee. Other sales, however, of securities acquired in the course of stabilizing purchases covered by § 240.10b–7 would be subject to the fee.

[8] The extension of transaction fees to over-the-counter sales of covered securities became effective on January 1, 1976. Such fees, however, covering calendar year 1976, are not actually payable to the Commission until March 15, 1977. Persons computing transaction fees payable at that time may determine transactions upon which the fee is paid, for all of 1976, in light of the rule adopted herein.

SECURITIES TRANSACTION FEES

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary notes. A "covered" security is any security (other than a bond, debenture or other evidence of indebtedness) which is registered on a national securities exchange under section 12(b) of the Act or which is the subject of unlisted trading privileges on such an exchange under section 12(f) of the Act. If the sale of a security covered by section 31 is effected on a national securities exchange, the transaction fee must be paid by that exchange. With regard to sales of covered securities effected otherwise than on a national securities exchange, the fee is to be paid by the registered broker or dealer on the sale side of the transaction. When there is no registered broker or dealer on the sale side of the transaction (as, for example, where a third market dealer purchases securities for its own account from a public customer), the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. Where no registered broker or dealer is involved in the transaction, no fee arises.

The fee for options transactions occurring on an exchange is to be paid by the exchange itself or the Options Clearing Corporation on behalf of the exchange, and such a fee is to be computed on the basis of the option premium (market price) for the sale of the option, and the exercise price of the option in the event of its exercise. In addition, any sale of covered securities, occurring otherwise than on a national securities exchange, to or by a person exercising an option contract shall require payment of a section 31 fee, in an amount determined on the basis of the exercise price, by the registered broker or dealer selling the securities. If there is no registered broker or dealer on the sale side of such a transaction, then the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. If no registered broker or dealer is involved in the transaction, no fee arises.

The following shall be exempt from section 31 of the Act: (a) Transactions in securities offered pursuant to an effective registration statement under the Securities Act of 1933 (except transactions in put or call options issued by the Options Clearing Corporation) or offered in accordance with an exemption from registration afforded by section 3(a) or 3(b) thereof, or a rule thereunder;

(b) Transactions by an issuer not involving any public offering within the meaning of section 4(2) of the Securities Act of 1933;

(c) The purchase or sale of securities pursuant to and in consummation of a tender or exchange offer;

(d) The purchase or sale of securities upon the exercise of a warrant or right (except a put or call), or upon

the conversion of a convertible security;

(e) Transactions which are executed outside the United States and are not reported, or required to be reported, to the Consolidated Tape Association pursuant to Rule 17a–15 under the Act, and any approved plan filed thereunder.

(Secs. 2, 3, 23, Pub. L. No. 291, 48 Stat. 881, 882, 901, as amended, (15 U.S.C. 78b, 78c, and 78w); Sec. 31, Pub. L. No. 291, 48 Stat. 904, as amended by Pub. L. No. 258, 58 Stat. 117, and as amended by Sec. 22, Pub. L. No. 94–29, 89 Stat. 162 (15 U.S.C. 78ee).)

By the Commission.

JULY 14, 1976.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.76–21543 Filed 7–23–76;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R–447; Opinion No. 623]

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

Order on Completion of Judicial Review Regarding Utility Employment Discriminatory Practices

JULY 15, 1976.

The National Association for the Advancement of Colored People, The National Urban League, The Mexican American Legal Defense and Educational Fund, The National Organization for Women, The Women's Equity Action League, The League of United Latin American Citizens (in California), The Association for the Betterment of Black Edison Employees, The Office of Communications of the United Church of Christ, The Center for Community Change, The American G.I. Forum (in California), The Mexican American Political Association, United Native Americans, Inc., Docket No. R–447.

The United States Supreme Court, in National Association for the Advancement of Colored People, et al. v. F.P.C., Nos. 74–1608 and 74–1619, ___ U.S. ___, 44 L.W. 4659, decided May 19, 1976, affirmed the opinion of the Court of Appeals for the District of Columbia that the Commission has jurisdiction to consider in our regulatory functions, evidence of employment discrimination by regulated entities. The court, however, limited the Commission's role to disallowance of "illegal, unnecessary, or duplicative costs" when such costs "can be or have been demonstrably quantified by judicial decree or the final action of an administrative agency charged with consideration of such matters. * * *"

Administratively, the proceeding arose before the Commission upon petition of the N.A.A.C.P. and a 1972 Opinion of the Commission (No. 623), 48 F.P.C. 40, 371, in which it stated the Commission's policy and legal position relative to utility employment discriminatory practices. The Commission there stated, 48 F.P.C. 42:

> The Commission is mindful and fully supportive of the National policies of this Nation directed at the elimination of discriminatory treatment of persons based upon race, creed, color, religion, sex or national origin. * * * [However,] [t]he Commisison lacks legal authority to promulgate equal employment opportunity regulations covering employment practices of those systems which it regulates as natural gas companies, public utilities or licensees, because it lacks the requisite delegation of Congressional authority to act in that area. As pointed out * * * regulation of this type is the province of a specific number of departments and agencies of the Federal Government, and state agencies.* * * The Commisison welcomes judicial review and final resolution of the findings and considerations set forth in this Opinion.

The administrative record upon which the Commission rendered Opinion No. 623 has been returned to the Commission thus completing the judicial review process.[1]

44 LW 4659–60

> The issue in this case is to what extent, if any, the Federal Power Commission in the performance of its functions under the Federal Power Act, * * * and the Natural Gas Act, * * * has authority to prohibit discriminatory employment practices on the part of its regulatees.
>
> * * * * *

44 LW 4662

> * * * [T]he parties point to nothing in the Acts or their legislative histories to indicate that the elimination of employment discrimination was one of the purposes that Congress had in mind when it enacted this legislation * * * [T]he Federal Power Commission is authorized to consider the consequences of discriminatory employment practices on the part of its regulatees only insofar as such consequences are directly related to the Commission's establishment of just and reasonable rates in the public interest. * * *

The Commission's General Counsel, by memorandum of May 20, 1976, to the Commission's Chief Accountant,[2] has directed attention to the accounting and auditing procedures of the Commission which the Supreme Court accepted as adequate in discharging the Commission's ratemaking consideration of any employment discrimination practices of its regulatees. The Supreme Court's opinion states, in part:

44 LW 4661

> * * * The Commission clearly has the duty to prevent its regulatees from charging rates based upon illegal, duplicative, or unnecessary labor costs. To the extent that such costs are demonstrably the product of a regulatee's discriminatory employment practices, the Commission should disallow them. For example, when a company complies with a backpay award resulting from a finding of employment discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, it pays twice for work that was performed only once. The amount of the backpay award, therefore, can and should be disallowed as an unnecessary cost in a ratemaking proceeding.
>
> To the extent that these and other similar costs, such as attorneys' fees, can be or have been demonstrably quantified by judicial decree or the final action of an administrative agency charged with consideration of such matters, the Commission clearly should treat these costs as it treats any other illegal, unnecessary or duplicative cost. We were told by counsel during oral argument that the Commission would routinely disallow the costs of a backpay award resulting from an order of the National Labor Relations Board or the decree of a court based upon a finding of an unfair labor practice. The governing principle is no different in the area of discriminatory employment practices. * * * The present Commission practice, we are told, is to consider such questions only in individual ratemaking proceedings under its detailed accounting procedures. Assuming that the Commission continues that practice, it has ample authority to consider whatever evidence and make whatever inquiries are necessary to determine whether a regulatee has incurred unnecessary or illegitimate costs because of racially discriminatory employment practices. * * *

The Commission finds: It is necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 792, et seq, and the Natural Gas Act, 15 U.S.C. 717, et seq, to order as hereinafter provided.

The Commission orders: (A) The administrative proceeding in the above entitled rulemaking, R–447, is supplemented by the inclusion of this further order.

(B) The accounting and auditing procedures of the Commission as referred to in the May 20, 1976, memorandum of the General Counsel to the Chief Accountant (Appendix A below) shall continue to be utilized to implement the duties and responsibilities of the Commission in employment discrimination matters, all in the manner set forth in the Opinion of the Supreme Court of May 19, 1976, National Association for the Advancement of Colored People, et al., v. F.P.C., Nos. 74–1608 and 74–1619.

(C) The Secretary shall serve copies of this order upon all public utilities, licensees, and natural gas companies, and all parties to R–447, and shall cause the order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

To: Chief Accountant
From: General Counsel
Subject: *N.A.A.C.P.* v. *F.P.C.*, Opinion, 5/19/76.

MAY 20, 1976.

The Supreme Court adopted the FPC's position on equal employment discrimination matters, as that position was briefed and presented to the Court on oral argument.

[1] Opinion No. 623, though technically vacated and remanded to the Commission for further proceeding, 520 F.2d 432, 447 (1975), was largely affirmed by the Court of Appeals. The Supreme Court's Opinion of May 19, 1976, in effect, clarifies legal precepts as discussed in the Court of Appeals Opinion. The fundamental issue with which the Commission was basically concerned in seeking certiorari before the Supreme Court has been resolved. As stated in the Supreme Court's Opinion:

[2] Copy attached below as Appendix A.

The Court concluded that:

* * * Commission is authorized to consider the consequences of discriminatory employment practices on the part of its regulatees only insofar as such consequences are directly related to the Commission's establishment of just and reasonable rates * * * (P. 9)

In describing what this consideration should be, the Court adopted as the "governing principle" the disallowance for ratemaking purposes of "* * * illegal, duplicative or unnecessary labor costs" which are "demonstrably the product of a regulatee's discriminatory employment practices * * *". The costs which are so demonstrable are those which "* * * can be or have been demonstrably quantified by judicial decree or the final action of an administrative agency charged with consideration of such matters * * *". (P. 6) The final administrative agency action, at the Federal level, is that of the Equal Employment Opportunity Commission, not the FPC. The Court concluded that the Federal Power Commission does not have as one of its legislative purposes, "* * * the elimination of employment discrimination * * *", and therefore the Congress did not instruct the Commission "* * * to take original jurisdiction over the processing of charges of unfair labor practices on the part of its regulatees. * * * (PP. 8–9)

Quantifiable costs which you may find in connection with Court decrees and decisions of the EEOC are as follows (P. 5, concurring opinion of Mr. Justice Powell P. 2):

* * * (1) duplicative labor costs incurred in the form of back pay recoveries by employees who have proven that they were discriminatorily denied employment or advancement, (2) the costs of losing valuable government contracts terminated because of employment discrimination, (3) the costs of legal proceedings in either of these two categories * * *

The Court accepted my representation that extant accounting and auditing procedures of the FPC would result in the "routine disallowance" of costs of the above types—illegal, duplicative or unnecessary labor charges. The Court approved this type of administrative procedure (PP. 6–7).

You may wish to advise your auditors of these conclusions of the Court as a part of the OAF accounting manual, by incorporation in a memorandum or in some other manner.

I am forwarding copies of this memorandum to the Chiefs, Bureau of Natural Gas and Bureau of Power.

DREXEL D. JOURNEY,
General Counsel.

[FR Doc.76-21454 Filed 7-23-76;8:45 am]

[Docket No. RM74-15; Order No. 541-A]

PART 35—FILING OF RATE SCHEDULES

Fixed Rate Contract Provisions In Initial and Superseding Electric Rate Schedules; Order Modifying Rulemaking and Denying Rehearing, Correction

JUNE 29, 1976.

On page 27830, in the 2nd Full Paragraph, 1st Line: Please omit sentence the beginning "These arguments * * *." Published in the FEDERAL REGISTER 7-7-76.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21457 Filed 7-23-76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

Chloramphenicol Injection

The Food and Drug Administration approves a new animal drug application (65-463V) filed by Rachelle Laboratories, Inc., 700 Henry Ford Ave., P.O. Box 2029, Long Beach, CA 90801, proposing the safe and effective use of chloramphenicol injection in dogs for treating enteritis, tonsillitis, and infections of the respiratory and urinary tracts caused by organisms susceptible to chloramphenicol. The application is approved, effective July 26, 1976.

The Commissioner is amending Part 555 (21 CFR Part 555) to reflect this approval.

In accordance with § 514.111(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 555.210 is amended by revising the first sentence in paragraph (a)(1) and by revising paragraph (c)(2) to read as follows:

§ 555.210 Chloramphenicol injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol injection is a solution containing chloramphenicol and one or more suitable and harmless buffers and preservatives in an organic solvent vehicle. * * *

* * * * *

(c) * * *

(2) *Sponsor.* See Nos. 000196, 010271, and 11757 in § 510.600(c) of this chapter.

* * * * *

Effective date: This amendment shall be effective July 26, 1976.

(Sec. 512(i), 82 Stat. 37 (21 U.S.C. 260b(i)).)

Dated: July 19, 1976.

PHILIP D. CAZIER,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.76-21513 Filed 7-23-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Docket No. 35867][1]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, ON CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 15th day of April 1976. Rules Proposed in Docket No. 35867 Modified and Adopted; Rules Proposed in Docket 35867 (Sub-No. 1) Not Adopted.

The Commission on July 5, 1973, instituted a rulemaking proceeding (38 FR 20852) under docket No. 35867 to consider the revision of regulations which govern the construction, filing, and posting of tariffs of common carriers of property by motor vehicle and tariffs of common carriers of property by water which contain joint motor-water rates or provisions governing such rates. Many substantial and important changes were proposed. It was indicated that the regulations needed revising for the purposes of, among other things, (1) updating; (2) clarifying; (3) incorporating the modifying provisions of general special permission authorities; (4) adding restrictions to eliminate or correct practices which have been the source of justifiable complaint; (5) canceling regulations no longer needed; and (6) accomplishing overall tariff simplification and improvement.

The Commission on July 16, 1974, instituted a related rulemaking proceeding (39 FR 4787) under docket No. 35867 (Sub-No. 1) to consider the amendment of the regulations which were proposed under docket No. 35867 for the purpose of including therein regulations for the prescription of standard headings and standard item numbers for assignment to the most commonly published rules in tariffs of Class I common carriers of property by motor vehicle and in tariffs of publishing agents of common carriers of property by motor vehicle.

The participation was substantial. Upon consideration of the entire record, the Commission has concluded that the regulations proposed in docket No. 35867 should be modified and adopted as modified and that the regulations proposed in docket No. 35867 (Sub-No. 1) should not be adopted.

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[1] This proceeding is consolidated with Docket No. 35867 (Sub-No. 1), Standard Headings and Standard Item Numbers for Commonly Published Rules in Tariffs of Class I Motor Common Carriers of Property and of Agents.

The adopted regulations will be published in Part 1310, and the present regulations in Subpart B of Part 1307 will be revoked. Tariff publications filed on and after the effective date of the regulations must conform therewith. Tariff publications already on file on the effective date must conform one year later.

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 15th day of April 1976.

It appearing that the notices of proposed rulemaking in these consolidated proceedings having been published in the August 3, 1973, and February 7, 1974, issues of the FEDERAL REGISTER (38 FR 20852 and 39 FR 4787, respectively), a full investigation of the matters and things involved having been made, and the Commission on this date having entered its report setting forth its findings and conclusions, which report is hereby referred to and made a part hereof; wherefore:

It is ordered, That Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended as follows:

1. Subpart B (Tariff Circular MF No. 3) of Part 1307 is revoked.

2. Part 1310 (Tariff Circular No. MF5) reading as set forth below.

(Secs. 204, 217, 49 Stat. 546 as amended, 560, as amended, sec. 210a as amended, 52 Stat. 1238, as amended; (49 U.S.C. 304, 317, 310a).)

It is further ordered, That those provisions in Subpart B not proposed to be republished in Part 1310, as for example § 1307.50; will nevertheless be incorporated in Part 1310 if and when they become effective.

It is further ordered, That the revocation of Subpart B of Part 1307 and the addition of Part 1310 be, and they are hereby, approved and they are made effective April 15, 1977.

It is further ordered, That the regulations proposed in the notice of proposed rulemaking and order entered in docket No. 35867 (Sub-No. 1) not be adopted.

It is further ordered, That these proceedings be, and they are hereby, discontinued.

And it is further ordered, That notice of this order be given to the general public by mailing a copy to each party of record in dockets Nos. 35867 and 35867 (Sub-No. 1), to the Governor of every State, to the public utilities commissions or other regulatory commissions or boards of each State having jurisdiction over transportation, to every common carrier of property by motor vehicle, and to every common carrier of property by water, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission, Division 2.

ROBERT L. OSWALD,
Secretary.

§§ 1307.21–1307.50 [Removed]

1. In Part 1307, §§ 1307.21–1307.50 (Subpart B) are removed.

2. Part 1310 is added to read as follows:

Sec.
1310.0 General provisions.
1310.1 Filing tariffs (rule 1).
1310.2 Posting tariffs (rule 2).
1310.3 ICC tariff numbers (rule 3).
1310.4 Form, size, and printing (rule 4).
1310.5 Title page of original tariffs (rule 5).
1310.6 Contents of tariff (rule 6).
1310.7 Statement of rates (rule 7).
1310.8 Routing (rule 8).
1310.9 Supplements (rule 9).
1310.10 Amendments (rule 10).
1310.11 Transfer or cancellation of provisions (rule 11).
1310.12 Expiration dates (rule 12).
1310.13 Sectional tariffs (rule 13).
1310.14 Suspended matter (rule 14).
1310.15 Terminal and other service—charges and allowances (rule 15).
1310.16 Distance rates (rule 16).
1310.17 Classification, exceptions, rules, and dangerous articles tariffs; precedence of class rates (rule 17).
1310.18 Rate basis tariffs (rule 18).
1310.19 Tariffs listing carriers' operating authority (rule 19).
1310.20 Participating carrier tariffs (rule 20).
1310.21 Tariffs of joint agents (rule 21).
1310.22 Seasonal matter-water rates (rule 22).
1310.23 Rates prescribed by Commission (rule 23).
1310.24 Tariff indexes (rule 24).
1310.25 Transfer of operations—change in name and control (rule 25).
1310.26 Applications for special tariff authority (rule 26).
1310.27 Concurrences or powers of attorney-transfer of agent (rule 27).
1310.28 Provisions which may be filed on less than 30 days' notice (rule 28).
1310.29 Commodity rates determined by the use of rate base numbers (rule 29).
1310.30 Substituted service (rail for motor) (rule 30).
1310.31 Transmission of publications to subscribers (rule 31).
1310.32 Claims rules (rule 32).
1310.33 Export and import traffic—ocean carriers (rule 33).

AUTHORITY: The provisions of this Part 1310 issued under secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, as amended, 52 Stat. 1238, as amended; 49 U.S.C. 304, 317, 310a.

§ 1310.0 General provisions.

(a) *General.* (1) Every problem that might arise cannot be anticipated in regulations. It is intended by the Commission that the contents of each tariff be so published that the size of the printed characters, the proportion and distribution of blank space allowed on a page, the system used for indentation or setting off material, the breaking up of lengthy material into smaller units, and the like, are such as to permit prolonged reading, without straining of the eyes, by the average person, and to permit any one with reasonable technical transportation knowledge and experience to understand the application. The Commission expects the cooperation in this respect of all persons associated with the construction of tariffs, and reserves the right to require modification or reissue of a tariff which it considers as not affording the public this accommodation to which it is lawfully entitled.

(2) The Commission expects all carriers to observe strict compliance with its posting regulations, and to control and direct the practices of their publishing agents or representatives toward making possible such compliance without exception.

(3) Nothing in paragraphs (a)(1) and (2) of this section shall be construed as being a relaxation of any of the regulations in this part.

(b) *Application of this part 1310.* (1) Subject to the provisions of paragraph (b)(3) of this section, the regulations promulgated in this part shall govern the construction, publication, filing, posting, and keeping open for public inspection of

(i) Any tariff filed under section 217 of the Act by a motor carrier or its agent;

(ii) Any tariff filed under section 306 of the Act by a water carrier or its agent which contains any joint motor-water rate or any provision governing the application of such rate; and

(iii) Any tariff which contains a through route and a joint rate over the lines of a common carrier by motor vehicle or by motor vehicle jointly with a common carrier by water, subject to the Interstate Commerce Act, on the one hand, and an ocean carrier (see § 1310.0 (f)(21)), on the other hand, for the transportation of property between any place in the United States and any place in a foreign country. See § 1310.33 Export and Import Traffic—Ocean Carriers.

The regulations in this part shall also apply to any tariff filed under section 217 of the Act containing any joint rate or provision for the transportation of property over a motor carrier of property jointly with a common carrier of passengers by motor vehicle having authority from this Commission to transport property together with passengers in the same vehicle, or jointly with a carrier of property by air as authorized by the Federal Aviation Act of 1958.

(2) Carriers (other than motor common carriers of property) and freight forwarders whose rates are on file with the Interstate Commerce Commission may participate in tariffs subject to the regulations of this part which are exclusively distance guides (§ 1310.16 (rule 16)), or classifications or dangerous articles tariffs (§ 1310.17 (rule 17)) and also in participating carriers tariffs (§ 1310.20 (rule 20)) but only to the extent necessary to establish participation in such other tariffs.

(3) When a joint rate is published to apply over a route including rail carrier

service, the regulations of this part do not apply to the rate and related provisions. Such rates and related provisions may, however, be filed in tariffs which are otherwise subject to this part when:

(i) Such rates and provisions specifically applying thereto constitute a relatively small part of the total volume of the tariff; or

(ii) The rail participation is only with respect to substituted service (rail substituted for motor carrier service).

Such portions of the tariff as pertain to such intermodal transportation (other than substituted service) shall, however, comply with the regulations otherwise governing the publication of rates, routes, and provisions which include rail carrier participation unless incompatible with the regulations of this part.

(4) For regulations for water common carrier tariffs not governed hereby, part 1300 and subpart A of part 1308 of Title 49 of Chapter X of the Code of Federal Regulations (Tariff Circular Nos. 20 and 22, or reissues thereof) should be referred to.

(c) *Conformity required.* (1) Except as otherwise authorized by special tariff authority, all tariff publications filed on or after April 15, 1977, must conform to the regulations in this part. Except as otherwise authorized by special tariff authority or in §§ 1310.3(b)(3), 1310.4(a), 1310.4(e)(1), 1310.4(f)(3), 1310.4(h), and 1310.27(a) (rules 3, 4, and 27), all tariff publications filed prior to April 15, 1977, which do not conform to the regulations in this part shall be brought into conformity therewith on or before April 15, 1978.

(2) For reasons it considers to be sufficient, the Commission may direct the reissue of any tariff, power of attorney, or concurrence at any time. However, prior to April 15, 1982, the Commission will not strike from its files, nor direct the reissue of, powers of attorney and concurrences already on file on April 15, 1977, solely because they are on the old previously prescribed MFXA and MFXC forms.

(d) *Intrastate, liability and information-only provisions.* A tariff may include provisions having intrastate application only, provided they are so indicated (see § 1310.6(n)(6) (rule 6)), and a tariff may be indicated as a joint filing with state regulatory bodies. Provisions indicated as "For Information Purposes Only" provisions which explain the plan of the tariff or the manner in which the tariff should be used, to assist the tariff user, may be included provided they are not contrary to the annual application of the tariff. Except as specifically authorized or required by this Commission, provisions pertaining to such matters as liability of the carrier for loss, damage or overcharge, transportation not subject to economic regulation by this Commission, and advertising or promotional material, may not be included in the tariff.

(e) *Carrier liability for violations.* Carriers have a positive duty under the Act to file with this Commission and to post for public inspection all of their tariffs required by the Act. The Act places upon the Commission the obligation to issue regulations prescribing the manner in which tariffs shall be constructed, filed and posted. The law prescribes penalties against carriers for failure to comply with the Act and the regulations, and also for charging, demanding, collecting, or receiving any rate which is not in their tariffs in effect at the time. The tender of a tariff and its receipt by the Commission does not relieve any carrier participating therein from liability for violation of the Act itself or of regulations issued under the authority of the Act.

(f) *Definition of terms used in this part.* (1) "Act" means the Interstate Commerce Act, as amended.

(2) "Agent" means a person or corporation duly authorized under this part by a carrier to publish rates and provisions for that carrier's account in tariffs published in the name of the agent.

(3) "Bound tariff" means a tariff consisting of a single sheet, or two or more sheets bound at left edge in pamphlet or book form.

(4) "Carrier" means a motor or water carrier (also a rail carrier of property, an air carrier of property, and an ocean carrier of property to the extent the regulations apply as set forth in paragraphs (b)(3) and (b)(1) of this section, and § 1310.33, respectively).

(5) "Classification" means a publication containing a list of articles or commodities and the classes or ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations.

(6) "Class I," "Class II," and "Class III" motor carriers are as defined in the Commission's Uniform System of Accounts for Motor Carriers, § 1240.5 of this title.

(7) "Class rate" means a rate which applies on any one or more of various articles according to the class or rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff. It does not include a so-called freight, all kinds commodity rate which applies on commodities or articles in general, and which limits the scope by definition as to the maximum and/or minimum classification or exception class or rating to which they are assigned but otherwise has none of the characteristics of a class rate. Nor does it include a so-called column-commodity or commodity-column rate which applies on commodities according to the column number to which they are assigned and are based on the particular rate-basis number applicable between points of origin and destination in class rate tariffs, but otherwise has none of the characteristics of a class rate. "Class tariffs" are those which contain class rates.

(8) "Commission" means the Interstate Commerce Commission.

(9) "Commodity rate" means a rate published to apply on a commodity or commodities which are specifically named or described in the tariff in which the rate is published or in a separate commodity list. "Commodity tariffs" are those which contain commodity rates.

(10) "Item" means a tariff provision of any kind bearing an "item number" designation.

(11) "Joint motor-ocean rate" means a jont rate over a joint route consisting of at least one motor segment and one ocean segment. It includes one embracing more than one such segment, and in any sequence.

(12) "Joint motor-rail rate" means a joint rate over a joint route consisting of at least one motor segment and one rail segment. It includes one embracing more than one such segment, and in any sequence.

(13) "Joint motor-water-ocean rate" means a joint rate over a joint route consisting of at least one motor segment, one water segment, and one ocean segment. It includes ones embracing more han one such segment, and in any sequence.

(14) "Joint motor-water-rail rate" means a joint rate over a joint route consisting of at least one motor segment, one water segment, and one rail segment. It It includes ones embracing more than one such segment, and in any sequence.

(15) "Joint motor-water rate" means a joint rate over a joint route consisting of at least one motor segment and one water segment. It includes ones embracing more than one such segment, and in any sequence.

(16) "Joint rate" means a rate that applies over the lines or routes of two or more carriers and that is made by arrangement or agreement between such carriers evidenced by concurrence or power of attorney. "Joint tariffs" are those which contain joint rates.

(17) "Local rate" means a rate that applies over the lines or routes of one carrier only. "Local tariffs" are those which contain local rates.

(18) "Loose-leaf page amendment" means a publication consisting of a single sheet issued to and containing any amendment to a loose-leaf tariff identified thereon.

(19) "Loose-leaf tariff" means a tariff (not a bound tariff) consisting of loose-leaf pages.

(20) "Motor carrier" means a common carrier of property by motor vehicle (and also a common carrier of passengers to the extent the regulations apply as set forth in paragraph (b)(1) of this section).

(21) "Ocean carrier" means a vessel-operating common carrier by water engaged in the foreign commerce of the United States as defined in the Shipping Act, 1916.

(22) "Original tariff" means the tariff as originally filed excluding supplements or other amendments thereto, if any.

(23) "Post" refers to the maintenance of a file of tariffs which the public may inspect.

(24) "Proportional rate" means a rate published to apply only on traffic originating beyond the point from which such rate applies, destined beyond the point to which such rate applies, or originating and destined beyond the points from and to which such rate applies. "Proportional tariffs" are those which contain proportional rates.

(25) "Rail carrier" means a common carrier of property by railroad.

(26) "Station" of a carrier means the terminal, office (other than principal office), or other facility maintained by or for such carrier.

(27) "Supplement" means a publication, indicated as a supplement, consisting of a single sheet, or two or more sheets bound at the left edge in pamphlet or book form issued to and directing the amendment or the cancellation of the tariff.

(28) "Tariff" means a publication containing one or more rates, charges, classification ratings, rules, regulations, or other provisions, or any combination thereof, of one or more common carriers, together with its supplements or loose-leaf page amendments thereto, if any.

(29) "Tariff publication" means an original tariff, a supplement, or a loose-leaf page amendment.

(30) "Through rate" means the total rate from point of origin to destination. It may be a local rate, a joint rate, or combination of separately established rates.

(31) "Unit" means a tariff provision of any kind set apart by use of a number designation (other than item) or by employment of line or space separations, or because of its obvious independent completeness in itself.

(32) "Water carrier" means a common carrier of property by water subject to part III of the Act.

§ 1310.1 Filing tariffs (rule 1).

(a) *Where to file.* Except as otherwise authorized, all tariff publications sent for filing should be addressed:

Interstate Commerce Commission, Bureau of Traffic, Washington, D.C. 20423

and every package marked prominently with the word "Tariffs."

(b) *Number of copies required.* Unless additional copies are requested by the Commission, and except as otherwise provided in the regulations in this part, two copies of every tariff publication must be filed with the Commission. When a tariff publication is published and filed in the name of more than one agent, as a joint-agency issue, each such agent must file the required number of copies.

(c) *Letters of transmittal.* (1) All tariff publications filed with the Commission must be accompanied by a letter of transmittal listing them. The letter shall be prepared on durable paper not less than 8 by 10½ nor more than 8½ by 11 inches in size in substantially the following form:

(Name of carrier or agent in full)

(Street address or R.F.D. Number)

(City, state, etc. and ZIP code)

(Date)

Transmittal No. ____
Interstate Commerce Commission, Bureau of Traffic—Tariffs, Washington, D.C. 20423

The accompanying publication which is listed below is sent to you for filing in compliance with the requirements of the Interstate Commerce Act.

Supplement or Page No.	ICC (MF-I.C.C.) No.

(Signature of person issuing publication or other authorized person)

(Title)

If more than one publication is shown or if listed on attached sheets, the letter shall be suitably adapted. The use of the transmittal number is for the carrier's own identification purposes and may be omitted. If because of the quantity and bulk of the material being transmitted, more than one package is used, one should include the original, and each of the others a copy, each indicating how many packages make up the whole. If a receipt from the Commission is desired, a duplicate marked "Receipt Requested" must be furnished, together with a self-addressed return envelope. The envelope must provide the postage needed, by, for example, a stamp embossed as part of the envelope itself, or guarantee by the sender's U.S. Postal Service permit number. In no case may loose stamps or envelopes with stamps affixed be supplied. A separate letter of transmittal must accompany the filing by each agent in the case of a tariff publication issued jointly by two or more agents.

(2) A letter of transmittal accompanying a tariff publication filed in the carrier's name must be signed by the person issuing the tariff publication or by a person duly authorized by the carrier to perform this service, as evidenced by a letter of authorization (see paragraph (d) of this section).

(3) A letter of transmittal accompanying a tariff publication filed in the name of an individual as agent or alternate agent must be signed by that individual, and such authority may not be delegated.

(4) A letter of transmittal accompanying a tariff publication filed in the name of a corporation as agent must be signed by a duly authorized tariff-publishing officer. See § 1310.27(f) (rule 27).

(d) *Letters of authorization.* (1) A letter of transmittal of a carrier should be signed by the person shown on the title page of the tariff publication as the one issuing it. If it is not, then the signer must be specifically authorized to do so. The authorization must be prepared on durable paper not less than 8 by 10½ nor more than 8½ by 11 inches in size in the following form:

LETTER OF AUTHORIZATION

(Complete name of carrier)

Docket No. MC—____

(Street address or R.F.D. number)

(City, state, etc. and ZIP code)

(Date)

Interstate Commerce Commission, Bureau of Traffic—Tariffs, Washington, D.C. 20423

This is to certify that ____
(Name of individual authorized to act)

is hereby authorized to sign letters of transmittal and transmit to the Commission thereunder for filing in compliance with the Interstate Commerce Act, as amended, tariffs, supplements, or loose-leaf amendments issued in the name and MF-I.C.C. or ICC series of the carrier named herein.

All such tariffs, supplements, and pages are to be considered the official filings of the carrier named herein when tendered for filing by the individual named in the first paragraph hereof.

(Name of carrier)

By: ____
(Signature)

(Title)

Verification:

The above statement was subscribed and sworn to before me this _____ day of _____, 19____.

(Notary Public)

The authorizing letter must be signed by the owner, a partner or an officer, as the case may be, of the carrier. If such a letter does not accompany the publication or has not previously been filed, the publication may be returned to the sender.

(2) A letter of authorization may only be issued in favor of a single individual. It may not authorize two or more individuals, a firm, or a corporation to act. A carrier that has given a power of attorney to a corporation may designate the officially appointed tariff issuing officer of the corporation without naming the officer. Only one letter may be effective at any one time.

(3) A letter of authorization may not cancel a previous one. Cancellation shall be made by a separate notice prepared on durable paper not less than 8 by 10½ nor more than 8½ by 11 inches in size in the following form:

CANCELLATION OF LETTER OF AUTHORIZATION

(Complete name of carrier)

Docket No. MC-____

(Street address or R.F.D. number)

(City, state, etc. and ZIP code)

(Date)

Interstate Commerce Commission, Bureau of Traffic—Tariffs, Washington, D.C. 20423

Effective _____, 19____, the letter of authorization dated _____, 19____, issued by the carrier named above in favor of

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(Name of individual formerly authorized to act)

is hereby withdrawn and canceled.

(Name of carrier)

By: ____
(Signature)

(Title)

Copy to: _____
(Name of representative)
_____
(Street address or R.F.D. number)
_____
(City, state, etc. and ZIP Code)

The effective date specified should take into account the necessary time enroute to the Commission. If the date shown is prior to that on which it is received, the Commission considers the prior authority canceled on the date received. Only publications received on and after that date, or the date shown on the notice (if later), are considered affected thereby. It must be signed by the owner, a partner, or an officer of the carrier. The representative whose authority is being canceled shall be furnished with a copy of the cancellation notice at the same time the notice is sent to the Commission.

(e) *Tariff publications not consecutively numbered.* An original tariff, a supplement, or an original or revised page tendered for filing which is out of the sequence required by the regulations of this part must be accompanied by a separate letter affirming that a publication bearing the skipped over designation will be filed and when, which in no case may be a date after the published effective date of the publication not in sequence.

(f) *Concurrences and powers of attorney required.* Any participation by a carrier in a tariff publication other than its own issue must be supported by a power of attorney or concurrence, whichever is appropriate (see § 1310.27 (rule 27)). If it is not already on file with the Commission, it must accompany the publication being filed.

(g) *Period of notice required.* (1) The Act requires that all changes in rates or charges, or in rules or other provisions that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not 30 days' notice has been given. Therefore, except as otherwise authorized by the Commission, 30 days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby.

(2) Notice commences to run with the date the tariff publication is received by the Commission in Washington, D.C. Thus, a publication received any time during one calendar day has on the next calendar day (whatever it may be) accounted for one day of the required thirty days, and then on the thirtieth day following the date on which it was received has accounted for the full thirty days. For example, a publication received on a March 1st date must have an effective date of March 31st or later; one received April 1st needs an effective date of May 1st or later.

(3) Rates, charges, rules, or other provisions which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, canceled, or withdrawn, unless otherwise authorized by the Commission.

(h) *Other filing requirements.* (1) A tariff publication received by the Commission will not be returned unless formally rejected (see paragraph (i) of this section), except as provided in paragraph (d)(1) of this section or under the following circumstances. If, before the filing is received by the Commission, the carrier or agent advises that it is withdrawing its tender for filing and requests that it be returned not accepted, the Commission will take such a request under consideration but compliance is not to be assumed. Verbal requests must be confirmed in writing promptly, and be signed by an authorized person. A purported filing which is absent one or more essentials (such as an ICC designation, or a title page) will be returned as not a bonafide tariff publication.

(2) No package containing any tariff publication will be accepted unless all charges applicable to the transmission thereof have been paid.

(3) A joint tariff publication filed by a carrier or a tariff publication filed by an agent will constitute filing for all carriers participants therein.

(4) All rates used in making combination through rates for interstate shipments, including rates between points in one state, must be filed with the Commission and posted for public inspection and they can be changed as to such traffic only in accordance with the provisions of the Act, and as amended.

(i) *Rejection of tariff publications.* Any tariff publication tendered for filing which:

(1) Fails to give lawful notice of changes in rates, charges, or other provisions which it proposes to establish; or

(2) Fails to meet the requirements of the regulations in this part; or

(3) Violates any order of the Commission or of a court is subject to rejection by the Commission. When a tariff publication is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or agent who tendered it for filing, in writing, of the reasons for rejection. The several copies will ordinarily be returned. The Commission may at its discretion retain one or more copies for its own information use, but the tariff publication is nevertheless rejected and may not be applied.

(j) *Rejection or suspension of revocation notice.* A notice of the partial or complete revocation of a concurrence or power of attorney may be rejected in the same manner as a tariff publication where the effectiveness of such notice would require the establishment of rates or charges in violation of

(1) An order of the Commission;

(2) An order of a court; or

(3) The regulations in this part.

Any such notice of revocation which would require the establishment of rates or charges of doubtful lawfulness may be suspended.

§ 1310.2 Posting tariffs (rule 2).

(a) *Introduction to posting requirements.* Under the Interstate Commerce Act, carriers are required to keep open to public inspection their tariffs naming rates and charges, in such form and manner as the Commission by regulation shall prescribe. The file of tariffs posted and maintained for public inspection shall be in a complete, accessible and usable form and shall be available for inspection during the ordinary business hours of the carrier. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquiries opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire. A carrier performing local pickup or delivery service for another carrier within the latter's bonafide terminal area and not named as a participant in its tariffs is not required to post such tariffs.

(b) *What tariffs must be posted at principal office.* Except as otherwise provided in paragraph (e) of this section, each motor or water carrier shall post at its principal office a complete set of all tariffs of its own issue and all tariffs to which it is a party. (A water carrier is required under the regulations in this part to post only such tariffs which contain any joint motor-water rate or any joint motor-water-ocean rate (see § 1310.33) or provision governing the application of such rate. For other regulations governing the posting of tariffs by water carriers see Part 1305.) Only tariffs in effect or issued but not yet in effect are required to be posted hereunder.

(c) *What tariffs must be posted at stations.* Each motor or water carrier shall also post tariffs at each station (see § 1310.0(f)(26)) at which it receives freight for transportation and at which it employs the person in charge of that station exclusively or jointly with another carrier. Except as otherwise provided in paragraphs (e) and (f) of this section, the tariffs that must be posted at such station are those of the carrier's own issue and those to which the carrier is a party which contain the following:

(1) Any effective, or published but not yet effective, rate published to apply for account of the carrier from or at such station, or any origin in that station's terminal area. (A water carrier under the regulations in this part need post only when a joint motor-water rate or a joint motor-water-ocean rate as authorized in § 1310.33.)

(2) A motor carrier (or water carrier if a joint motor-water-ocean rate) receiving shipments at a port for delivery to points in the United States under joint through rate and route arrangements with an ocean carrier (§ 1310.0(f)(21)) shall also post at its station at such port the tariffs naming such rates and its governing tariffs. See § 1310.33.

(3) Any effective, or published but not yet effective, provision governing the application of any such rate.

(d) *Period of notice.* Except as otherwise authorized, each tariff publication must be posted continuously from a date at least 30 days prior to the effective date. When the Commission permits or requires a different period of notice for filing, the tariff publication shall be posted at least that number of days before the effective date. The carrier shall at the time of posting stamp or write thereon such posting date.

(e) *Exception as to posting by Class III motor carriers.* A Class III motor carrier may at any location dispense with or discontinue the posting of a tariff (other than those specified in paragraph (g) of this section) in which the carrier participates solely as to joint-rate application, provided that the public file of its connecting carrier or carriers contains the tariff, and also subject to the provisions of paragraph (h) of this section.

(f) *Exception as to posting at stations.* A carrier may discontinue the posting of a posted tariff (other than those specified in paragraph (g) of this section) if for six months time no request has been made to inspect the tariff and the carrier has not used it (including the prior issue if not in effect six months), but subject to the provisions of paragraph (h) of this section. If posting of a tariff is discontinued, the authority under this paragraph also extends to the reissues.

(g) *Freight classifications and dangerous articles tariffs.* When reference is made to this paragraph, the tariffs are those providing classifications of freight and those containing the U.S. Department of Transportation's regulations governing the acceptance and transportation of dangerous articles (hazardous materials).

(h) *Conditions: non-posted tariffs.* When a request is received at a station or principal office to post at that place a tariff the posting of which had been dispensed with or discontinued at that location under the provisions of paragraphs (e) or (f) of this section, the requested tariff, and all tariffs governing the application thereof, shall be posted at that station or principal office within 20 calendar days and posting of the tariff and its reissues shall be continued for at least six consecutive months. (After that time, the provisions of paragraphs (e) and (f) of this section may again be used.) Any carrier availing itself of the authority herein to dispense with or discontinue posting of a tariff at a location shall display continuously in a conspicuous place at that station or that principal office a notice printed in large type as follows:

With only such exceptions as have been specifically authorized by the Interstate Commerce Commission, all tariffs containing rates, and governing tariffs, effective or published but not yet effective, for the account of this carrier applying from or at this terminal area are on file in this office. [In the case of a carrier participating in a through route and joint rate with an ocean carrier and the station is at the port where shipments are received for delivery to points in the United States, the words "or applying from a foreign country when this carrier receives import shipments at this terminal area for transportation under a joint rate arrangement with an ocean carrier" shall be inserted between "area" and "are".] The tariffs may be inspected during ordinary business hours by any person upon request and without assignment of any reason for such inspection. The employee on duty in this office will lend any assistance desired in securing information therefrom. [In the case of a principal office, omit the words "applying from or at this terminal area." In the case of a water carrier, insert the words "joint motor-water" or "joint motor-water-ocean" or both, if appropriate, immediately following the word "containing." In the case of a Class III carrier maintaining no tariff file at its principal office or at a station, this paragraph should be omitted from the notice posted at that location.]

If request is made for an effective tariff or tariffs naming rates or governing provisions for the account of this carrier applying from or at this terminal area which is not posted here under authorization of the Interstate Commerce Commission, the employee on duty here will arrange to have such tariff or tariffs posted within 20 days and thereafter maintain posting until authorized otherwise. (In the case of a principal office, omit the words "applying from or at this terminal area.")

[This paragraph to be used where the affected location is a station, not the principal office, but not as to a Class III motor carrier that does not maintain a complete file at any office.] In addition, a complete file of all this company's tariffs is maintained and kept available for public inspection at (here identify the location).

(A Class III carrier not posting a tariff under authority of paragraph (e) of this section shall add the following to the notice.) Any tariff naming joint-line rates not posted here under authorization of the Interstate Commerce Commission may be inspected at (here show name of connecting carrier and location of its files containing such tariff and reference to the complete file at its principal office if one is maintained there).

§ 1310.3 ICC tariff numbers (rule 3).

(a) *Nonapplication of this section.* The regulations in this section shall not apply to emergency temporary authority tariffs (see § 1310.28(i) (rule 28)). See also § 1310.21 (rule 21) as to joint agents.

(b) *ICC numbers to be printed on tariffs.* (1) Each tariff shall be assigned an ICC number. The numbers shall run consecutively beginning with the next unused consecutive number in the issuing carrier's or agent's ICC series. If the last tariff filed was designated MF-I.C.C. No. 14 under the former regulations, the next tariff shall be designated ICC 15, followed by 16, 17 and so on. If a carrier or agent has not previously filed a tariff, the number series shall commence with ICC 1.

(2) The title page of the original tariff (bound and loose-leaf) and of any supplement thereto, and any revised title page of a loose-leaf tariff shall show the ICC number in the upper right-hand corner (see § 1310.9(g) (rule 9)—blanket supplements). All other pages (original and revised) of a loose-leaf tariff shall show the number in the upper corner forming part of the binding edge. When the tariff is one published on both sides of the sheet, this would be the upper left-hand corner on one page and the upper right-hand corner for the next higher numbered page published on the reverse side.

(3) An original tariff, and its supplements or loose-leaf page amendments, if any, bearing a MF-ICC designation on the effective date of this part shall continue to use the designation "MF-ICC" on subsequent supplements or loose-leaf pages until the tariff is reissued. Reissues shall use the designation "ICC" only, without periods and without the use of "No." in connection therewith, and without letter prefixes or suffixes attached to the number.

(4) Any tariff referring to another tariff must identify it by ICC (or MF-ICC) number.

(5) The number assigned to a tariff which has been rejected may not again be used. The rejected tariff may not be referred to in any subsequent tariff as having been canceled, amended, or withdrawn, but the tariff which is published in its stead must bear the following notation:

Issued in lieu of (here identify the rejected tariff), rejected by the Commission.

§ 1310.4 Form, size, and printing (rule 4).

(a) *Form, size, durability, and method of printing.* Except as otherwise provided in this part as to certain kinds of tariffs, all original tariffs filed on and after the effective date of this part, and amendments to such tariffs, shall be of size 8½ by 11 inches. If, prior to such date, a tariff on file is of a different size, amendments thereto must either be of the same dimensions as the original tariff or be of size 8½ by 11 inches, except that once an amendment of size 8½ by 11 inches is filed, all subsequent amendments thereto must also be of size 8½ by 11 inches. Reissues of the tariff shall be of the prescribed size, 8½ by 11 inches. All original tariffs and amendments thereto shall be in book, pamphlet, single-sheet, or loose-leaf form, be in the English language, and printed or prepared by other process on paper of good quality providing durable copies. Copies filed with the Commission and posted shall be clearly and permanently legible in every respect, free from blurring or distortion of content, and free from smudged or darkened background. Typewritten sheets, handwritten material, carbon copies, or proof sheets shall not be used for filing or posting. All copies filed and posted must be identical. (See § 1310.9(g) (rule 9) blanket supplements.)

(b) *Size of type.* Except as otherwise provided in § 1310.16 (rule 16), the type used shall be of size not less than 8-point or its equivalent (if systems not employing the printers' point standards are used), but in no case may there be more than 9 lines of printed matter to the vertical inch and 16 printed characters to the horizontal inch, with fractional

inches of material to be in proportion. Characters, words, and lines shall be spaced in an uncrowded manner to assure easy readability of the material. See § 1310.0(a).

(c) *Alterations.* Alteration before reproduction by such as crossing out or blotting out material is not permitted. No alteration, insertion, or erasure of material in copies after reproduction is permissible. (See § 1310.9(g) (rule 9) blanket supplements.)

(d) *Margin.* A margin of not less than five-eighths of an inch with no printing thereon shall be allowed at the binding edge of each tariff publication. (The "binding edge" of a loose-leaf tariff or amendment is its left long edge if printed on one side of the sheet only. If printed on both sides, it is the right long side for the higher numbered page printed on the reverse side.)

(e) *Bound tariffs: pages and binding.* (1) Pages of an original bound tariff filed on or after the effective date of this part shall be consecutively numbered employing Arabic numerals. The title page shall not be numbered. The next page shall be numbered 1, the next 2, and so on. Pages of supplements shall be similarly numbered, starting with 1 again. Any numbered page intentionally left blank should so state thereon. Original tariffs and amendments thereto (if any) on file prior to the effective date of this part shall not be amended to revise the page numbering system of such publications, but all subsequent supplements shall comply.

(2) Any original bound tariff of two or more sheets and any supplement of two or more sheets shall be permanently bound. Stapling is acceptable, but use of plastic rings, fasteners which can be opened and closed, wirefasteners other than staples, brads, and other similar fasteners are not acceptable forms of binding and shall not be used.

(f) *Loose-leaf tariffs.* (1) The requirements of this paragraph shall not apply to title pages. See also § 1310.21 (rule 21) as to joint agents.

(2) Pages of a loose-leaf tariff may be printed on one side of the sheet or on both sides. Whichever general plan is used in the original tariff must be followed in all its amendments for the life of the tariff. Any numbered page intentionally left blank shall contain a statement to that effect.

(3) Pages of an original loose-leaf tariff filed on or after the effective date of this part shall be consecutively numbered employing Arabic numerals only. Fractional or decimal numbers, or letter prefixes or suffixes, may not be used. The first page following the title page shall be designated as "Original Page 1", the next page designated as "Original Page 2", and so on. Omit the words "No." and "Number". Tariffs filed prior to the effective date of this part which do not show page 1 (original or revised) on the first page following the title page need not be reissued provided the tariffs otherwise comply with the requirements of this part. See § 1310.10(d) (7) and (8) (rule 10) for number designations to be employed on original pages added subsequent to the filing of an original tariff.

(4) Each page shall show the page designation in the upper corner opposite the binding edge corner. When the tariff is one published on both sides of the sheet, this would be the upper right-hand corner on one page and the upper left-hand corner for the next higher numbered page published on the reverse side. See § 1310.10(d) (rule 10) as to cancellation of prior issues of the same page, and § 1310.3(b)(2) (rule 3) for placement of the ICC number.

(5) Each page shall show at the top, in the center, the complete name of the issuing carrier or agent, as officially recorded with the Commission. Ocean carriers and air carriers filing tariffs jointly with this Commission and the Federal Maritime Commission or the Civil Aeronautics Board shall show the name officially recognized by that other agency. At the bottom, it shall show the issue date on the left side and the effective date on the right side. The date in each case shall show the name of the month spelled out, followed by the day and year by number. If the page contains matter effective upon a date other than the general effective date of the page, the notation "(Except as otherwise provided)" shall be shown in direct connection with the general effective date. Included in this category is matter reissued without change effective later than the general effective date of the new page, and therefore constituting an exception thereto. Except as to tariffs of joint agents (see § 1310.21 (rule 21)), each page shall show at the bottom, in the center, the name and title of the issuing party, and the complete street and mailing address of the carrier or agent, including the postal service ZIP Code number.

(g) *Ruling of tables.* When tables of rates, rate base numbers, or charges, or numerals or letters for other purposes are used, the pages shall be vertically ruled in columns of sufficient width to accommodate the matter to be shown thereon (including reference marks) without crowding or shall show equivalent blank spaces. At least one blank space or a ruled line shall appear after every sixth horizontal line, or less, of printed matter.

(h) *Items and numbering systems.* (1) The Commission believes that simplicity would be better served by a reduction in the number of different categories of provisions, each with its own numbering system. Items, with items numbers, should be employed to the greatest extent possible. Rule numbers and index numbers may not be used for tariff provisions, except that tariffs filed prior to the effective date of this part which contain such numbers shall continue the same system in subsequent amendments for the life of such tariffs. (Section numbers, class-rate table numbers, and note numbers, and numbers or letters within an item, may be used.) When arranging the contents, items should be relatively limited in size for convenience in handling amendments, but each essentially complete in itself. An original tariff should allow sufficient unused numbers within each numerical sequence used therein so that the use of other than whole numbers will be unnecessary when assigning numbers to future provisions. All numbering systems shall employ Arabic numerals.

(2) The numbers assigned to items shall be in numerical sequence in the original tariff, but need not be consecutive. For example, items may be numbered 5, 10, 15, etc. Only one series of item numbers may be used in a tariff. Except as authorized for suspension-notice items (see § 1310.14(c) (rule 14)), alphabetical letters may not be used either alone or as part of an item number except as a suffix to designate amendments as provided in § 1310.10(c) (rule 10) and except as to classification tariffs. If two or more items relate one to the other in subject matter, or are considered subordinate in some way to a master item, it is permissible to use compound numbers. This is an initial number followed by a hyphen, then one of a new series of numbers—for example, item 400 and item 400–1, item 400–2, and so on. No decimal or fractional item numbers are permitted. If the whole initial numbers are used up, and new but unrelated matter must be inserted, a compound number may be introduced provided the initial number (for example, item 400 in the illustration) has not already been used in a compound number series. This, however, should be used sparingly, and the tariff considered for early reissue.

(3) Sections of a sectional traiff must be numbered (see § 1310.13 (rule 13)). Class-rate tables may or may not be numbered, but if they are, the numbers must be in numerical sequence. Notes outside of items must be numbered in numerical sequence.

§ 1310.5 Title page of original tariffs (rule 5).

(a) *Title page required.* Each original tariff shall have a title page, which shall contain the information required by paragraphs (b) through (l) of this section and in that sequence. It is the purpose of the title page to inform the tariff user. Hence it should identify the nature, purpose, and scope of the publication, but do so in a brief yet complete fashion. When any of these change, the title page must be amended at the same time. The essential elements follow, but others should be shown if they further the purpose. (See also § 1310.21 (rule 21) as to joint agents.)

(b) *ICC number and cancellation notice.* In the upper right-hand corner shall be shown the tariff's ICC number. Immediately thereunder shall be shown the ICC (MF–ICC) number of each tariff, if any, canceled thereby, except that if the cancellations are numerous, the ICC (MF–ICC) numbers of the tariffs canceled may be shown near the top of page 1, and a reference to that cancellation notice shown under the ICC number on the title page.

(c) *Loose-leaf tariffs.* The title page of an original loose-leaf tariff shall be printed on one side of the leaf only. The term "Original Title Page" must be shown in the upper left-hand corner.

(d) *Name and certificate number.* At the top, in the center, the complete name of the issuing carrier or agent, as officially recorded with the Commission, shall be shown. Ocean carriers and air carriers filing tariffs jointly with this Commission and the Federal Maritime Commission or the Civil Aeronautics Board shall show the name officially recognized by that other agency. If a motor or water carrier, its name must be followed by the number of the certificate issued to it by this Commission. Sub numbers of certificates need not be shown. On agency tariffs, when the agent is a corporation the name of the corporation shall be shown. When the agent is an individual, the name of the association (if any) for whom the agent acts may also be shown, in which case the name of the agent shall be preceded by the name of the association.

(e) *Type of rate, modes of transportation, and territorial application—rate tariffs.* (1) A tariff naming rates shall show statements indicating the type of rates therein, the modes of transportation for which the rates are published to apply, and the territorial application of the rates.

(2) The following terms must be used where and to the extent they properly identify such rates: local, joint, proportional, export, import, coastwise, intercoastal, distance, assembling, distribution, class, commodity, commodity-column (column-commodity), truckload, less-than-truckload, and any-quantity. If the tariff does not name any rates specifically restricted to apply on export, import, coastwise, or intercoastal traffic, these terms should not be used.

(3) Each mode of transportation must be specifically identified, such as all-motor routes, motor-water routes, motor-rail routes, etc. It is not necessary to repeat the name of the same mode appearing twice in a combination. Motor-rail-motor need simply be motor-rail.

(4) The statement as to the territorial application shall provide a brief but reasonably complete description of the territory covered by the tariff, or it shall list the states from and to, or between, which the rates therein are published to apply.

(f) *Governing tariffs.* A classification or other type of governing tariff shall show under the carrier's or agent's name a brief description of the tariff and its contents.

(g) *Nomenclature for tariff.* If desired, a brief reference name (e.g. "Iron and Steel Tariff") by which the tariff can be readily identified may be shown next.

(h) *Reference to item containing list of governing tariffs.* A tariff governed by one or more other tariffs shall next refer to the item containing a list of the publications governing the tariff in the following manner:

For governing publications, see item _____.

(i) *Tariffs issued under order or other authority.* If the entire tariff

(1) Is issued to comply with a mandatory order requiring the specific action;

(2) Is issued under authority of a permissive order allowing notice of less than thirty days or departure from tariff-publishing regulations; or

(3) Is published under a regulation of this part permitting less than thirty days' notice and/or departure from an outstanding order;

a reference to such order or rule by number, and the number of days' notice (where less than thirty is authorized) shall be shown.

(j) *Issue and effective date.* (1) The issue date shall be shown in the left side and the effective date opposite thereto on the right side. The date in each case shall show the name of the month spelled out, followed by the day and year by number.

(2) A tariff containing matter effective upon a date other than the general effective date of the tariff must show a notation in direct connection with the general effective date. Included in this category is matter reissued without change from a prior tariff effective later than the general effective date of the tariff, and therefore constituting an exception thereto.

(3) The added notation for a bound tariff is:

(Except as otherwise provided herein. See _____.)

The exceptions, whether referred to on the title page or on page 1, shall identify by number the provisions containing the exceptions. If the excepted provisions are not numbered, the page numbers on which they appear must be shown.

(4) The added notation for a loose-leaf tariff is:

(Except as otherwise provided).

(k) *Expiration dates.* An entire tariff that is to expire with a given date must show the following notation:

This tariff, as amended, expires with (here show date of expiration), unless sooner canceled, changed, or extended.

(l) *Name and title of issuing party and address.* (1) Except as otherwise provided in § 1310.21 (rule 21), at the bottom, in the center, shall be shown the name and title of the issuing party, and the complete street and mailing address of the carrier or agent, including the postal service ZIP Code number.

(2) A tariff published in the name of a carrier must show the owner, a partner, or an otherwise authorized official or duly appointed traffic manager as the issuing party. Where the owner or a partner is the issuing party, no title is necessary.

(3) A tariff published in the name of an individual as agent or alternate agent must show that individual as the issuing party.

(4) A tariff published in the name of a corporation as agent must show its duly authorized tariff publishing officer as the one issuing it. See § 1310.27 (rule 27).

§ 1310.6 Contents of tariff (rule 6).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

(a) *General requirements.* Tariffs must contain only rates, charges, and related provisions that cover services in strict conformity with each carrier's operating authority. No provision may be published in tariff publications which results in restricting service to less than the carrier's full operating authority or which results in exceeding such authority. Tariff publications containing such provisions are subject to rejection or suspension for investigation. Original tariffs shall contain the provisions required by paragraphs (b) through (n) of this section in the order named.

(b) *Check sheets—loose-leaf tariffs only.* The first page(s) shall be used to list in numerical order the numbers of the original looseleaf pages comprising the tariff. (This page(s) must always show an updated listing of each page and supplement.) If the tariff is to also employ the "correction number, check off" type of "check sheet" as loose-leaf page amendments are filed, the first page on the next sheet shall show in a numerical order a list of correction numbers beginning with No. 1 (see § 1310.10 (d) (13) (rule 10)). No other kind of matter may be printed on either side of these sheets.

(c) *Table of contents.* Except where a tariff contains less than 15 numbered pages, and its title page or interior arrangement plainly discloses its contents, each tariff must provide a table of contents, arranged alphabetically by general headings, fully descriptive and indicative of the matter being identified. Each such heading shall show the item or page number where information on that subject is located.

(d) *Reference to tariffs naming rates on other commodities.* A user of a tariff naming general commodity rates should be aided in locating other possible sources of rates on a considered shipment. Therefore, a general commodity tariff or a combined class and commodity tariff shall contain reference to any other tariffs published in the name of the same carrier or agent in which rates on other commodities are published from any origin to any destination within the same territorial coverage over the same carriers. Each reference must briefly describe the tariff, the commodities therein, and the territorial application.

(e) *List of participating carriers.* (1) A list of participating carriers (complete names must be shown) arranged alphabetically shall be provided, with the city and state of the principal office, the lead docket number of its certificate series, and the form and number of the power of attorney or concurrence issued. This does not apply to tariffs of a carrier having application only for that carrier. The carrier in whose name the tariff is filed is not to be named a participating carrier in any case. The commonly accepted rules for alphabetizing shall be used, with the key part of the name shown first. In the case of trade names and partnerships, the names of the individual or partners are to follow, but away from the left margin. Where one

carrier leases and operates another (section 210a(b) of the Act), the name of the lessor (which is to be followed by the lessee name) controls its position in the list. The name or part of the name controlling its alphabetical position should be in upper case characters if the tariff employs both upper and lower case.

(2) When reference to a concurrence is shown in an agent's tariff, the carrier to whom it has been given shall be indicated.

(f) *Indexes of commodities, origins, and destinations.* (1) *Intent of Commission.* The tariff user must be provided with a quick, direct, and ready means to determine whether or not the tariff names a rate, rating or charge governing line-haul transportation as to any given traffic, and if so, where it may be found in the tariff. The Commission reserves the right to require reissue of any tariff which it believes does not afford the user adequate means for this purpose.

(2) *Indexes of Commodities.* (i) Each tariff naming commodity rates and each rate tariff naming ratings or classes constituting exceptions to the classification shall contain an alphabetically arranged index of articles together with a reference to the number of each item (or page) where such article is shown. The index shall list each article on which the tariff shows a commodity rate or shows an exception rating or class. The index may be omitted as to any tariff in which the commodity terms are arranged in the same order as shown in the classification governing the rate tariffs, either in the same order from beginning to end of the tariff or as to each section therein.

(ii) When nouns are not sufficiently explicit, articles shall be indexed also under the names of descriptive adjectives. All of the entries relating to different kinds or species of the same commodity shall be grouped together. For example, "Paper, building; paper, printing; paper, wrapping."

(iii) When articles are grouped together in one list under a generic heading as authorized in § 1310.7(g)(3) (rule 7), such generic name shall be shown in the index and opposite thereto shall be shown reference to each item (or page) where the generic term is used. Each article in the generic list must be shown separately in its proper alphabetical order in the index together with reference to each item (or page) where such article is shown by name. When such article appears only in a generic list, reference to the items (or pages) containing rates or ratings (classes) applying on such list may be omitted provided that in the index reference is given to the generic name as it appears in the index (e.g. Nitric Acid—*See* "Acids").

(iv) Tariffs naming rates on "freight, all kinds" shall list the term in the index but need not list each article embraced in the term.

(v) The index may be omitted if:

(A) All of the commodity rates to each destination in a general commodity tariff or a combined class and commodity tariff are arranged in alphabetical order by commodities; or

(B) The tariff names rates or exceptions on only "freight, all kinds."

(3) *Indexes of origins and destinations.* (i) Tariffs which name specific point to point rates shall provide an index of all points from which rates apply and a separate index of all points to which rates apply showing the states in which points are located. The indexes shall list as a minimum all points located within the territorial coverage of the tariff that are shown on the official state highway maps, if any, issued by the particular state authorities or, if none, on commercial highway maps equivalent thereto. The application of an intermediate point rule or a nearest point rule will not in itself, for purposes of this rule, require listing of a point or reference to the location of the rate made applicable from or to that point. The points shall be arranged alphabetically within each state and the states arranged alphabetically, or the points shall be arranged alphabetically throughout the index. If the point bears the same name as another point within the same state, the county in which the point is located shall be shown directly with the point. When all or substantially all the rates named in the tariff apply in both directions between the points shown therein, the points of origin and destination may be shown in one index. If there be not more than 12 points of origin or 12 points of destination, the names of such points may, if practicable, be shown in alphabetical order on the title page. In this event, the index of such points of origin or destination, or both, as the case may be, may be omitted.

(ii) When the tariff names rates for the account of more than one carrier, the index shall provide directly with such point the complete names of all carriers serving the point pursuant to the regular-route portion of their operating authorities from this Commission. The complete names of all carriers serving the point pursuant to the irregular-route portion of their operating authorities from this Commission shall also be shown to the greatest extent practicable. The name of a carrier serving the point pursuant to both types of authorities shall be shown only once. Omission of the showing of a carrier as serving a point does not in itself render inapplicable a rate named from or to such point. Carrier name abbreviations or code designations may be used provided they are explained in the tariff in which used. Where desirable the rate tariff may refer to a separate publication (not a rate tariff) for the name or names of carriers serving the points appearing in such rate tariff.

(iii) If a tariff names a rate from or to a state or county without specifying the points in such state or county, at the beginning of the appropriate index shall be shown a reference to the number of the item (or page) containing such rate.

(iv) If rates are shown in a tariff by rate bases or by named, numbered, or lettered territorial groups, the indexes shall show the basis or group to which each point is assigned. When reference is made to a separate publication as provided in § 1310.18 (rule 18) for lists of points in such groups, such points may be omitted from the indexes. In this event there shall be shown in the table of contents the number of the item (or page) giving reference to the separate publication and there shall be shown at the beginning of the index of points (if the tariff contains any such index) reference to the separate publication.

(v) If rates are published in items, the indexes of points shall show the numbers of items in which rates from or to such points appear. When rates are not published in items, the indexes shall show the numbers of the pages on which rates from or to such points will be found.

(vi) The index of origins or destinations may be omitted if:

(A) Points of origin or of destination are shown in the rate or rate basis tables in groups arranged by states, the points being in alphabetical order in the groups and such groups also being in alphabetical order of states; or

(B) Points of origin or destination are shown in rate tables in continuous alphabetical order throughout the tariff; provided that, when the tariff names rates for more than one carrier, information will be included showing the carrier or carriers serving the various points.

(vii) If points are arranged in commodity items in alphabetical order or in numerical sequence by index numbers and such commodity items are referred to in the index of commodities required by paragraph (f)(2) of this section, such item numbers may be omitted from the indexes of points.

(viii) When points are arranged in rate tables in alphabetical order and indexes of points of origin and destination are not included in the tariff (under authority of a regulation in this section), the table of contents shall refer to the pages on which the rate tables showing an alphabetical list of points are to be found. Also, when points are grouped in rate tables by states, the table of contents shall give reference to the pages on which rates from or to points in each state will be found.

(g) *Statement of operating authority in rate tariffs.* (1) Tariffs naming rates (for account of regular or irregular route motor carriers) must either define clearly the carriers' authorized operations, both as to commodities and territories, insofar as they are pertinent to the application of the rates and routes, or must contain reference to a separate governing publication (not a rate tariff) containing such provisions and on file with this Commission. Such governing publication must be one authorized by § 1310.19 (rule 19). Unless a separate tariff is referred to which has provisions restricting the application of rates and provisions to the extent of carriers' operating authorities, the application of the rate tariff shall be restricted by a provision published therein as follows:

Rates and provisions named in this tariff, or as amended, are limited in their application on interstate or foreign commerce to the extent of the operating rights set forth ("below" or "in items ----"). Unless otherwise specifically provided, the provisions are to be interpreted in the same manner as the Commission interprets the certificate from which they are quoted, with respect to such as implied authority, commercial zones, tacking (of separate authorities), and diversion routes.

If the tariff names joint intermodal rates, the wording may be modified so as to confine the restriction to apply only to the extent the rates apply over the motor carriers.

(2) The limitation statements, reproducing a carrier's operating authority, should not be used as a substitute for the required description of commodities or territories in connection with the application of rates.

(h) *List of governing tariffs.* (1) Except where the regulations in this part permit omission of reference to certain kinds of governing tariffs, each tariff governed in any way by others must provide a list of such tariffs, arranged in columnar form, the columns headed as follows:

Tariff No.
ICC (MF-ICC) No.
Title or Kind of Tariff
Issuing Agent or Carrier
Governs to the Extent Provided in Items

Each such governing tariff shall be separately listed, the information called for by the headings fully explained, and the table headed by a provision reading:

This tariff is governed, except as otherwise provided herein, by the following described tariffs, and by supplements or loose-leaf page amendments thereto or successive issues thereof:

If there are no separate items explaining or further qualifying the application of any such particular tariff, the last column should be omitted.

(2) Except as otherwise specifically authorized by the regulations in this part, a rate tariff may not refer to another rate tariff for governing provisions and may not contain provisions purporting to govern another rate tariff; nor may a governing tariff contain any rule which in effect would permit a rate tariff to be governed by another rate tariff. A tariff issued by an agent may not refer to a tariff issued by another agent as a governing tariff except as to

(i) A tariff (not a tariff naming line-haul rates) covering services, charges, practices, privileges, allowances, or absorptions local to a member carrier's own line (§ 1310.15(b)(4) (rule 15));

(ii) A distance guide (§ 1310.16(e) (rule 16));

(iii) A classification (§ 1310.17(a) (rule 17));

(iv) A dangerous articles tariff (§ 1310.17(e) (rule 17)); and

(v) A scope tariff (carriers' operating authorities (§ 1310.19) (rule 19))

See the separate sections for details and conditions. Where the referred to tariff is a combination tariff containing tariff material in other than these categories the reference thereto must be appropriately restricted to exclude it. A tariff issued by an agent may not refer to a tariff issued by a carrier as a governing tariff except as to a tariff (not a tariff naming line-haul rates) covering services, charges, practices, privileges, allowances, or absorptions local to the carrier's own line—see § 1310.15(b)(4) for details and conditions. Where the referred to tariff contains other matter, the reference shall be appropriately restricted to exclude it. A tariff issued by a carrier may not refer to a tariff issued by another carrier as a governing tariff. A carrier may not publish and file local rates to apply for another carrier, nor any joint rates in which it is not a party.

(i) *Rules and other provisions which govern the tariff.* (1) Unless a separate tariff is published for this purpose (see § 1310.17(d) (rule 17)) and except as to those explanatory statements treated in paragraph (k) of this section, all of the rules or provisions stating conditions which in any way affect the rates named in the tariff shall be entered in the rate tariff under the heading "Rules and Other Provisions Which Govern the Tariff." A rule affecting a particular item or rate must be specifically referred to in such item or in connection with such rate, except that provisions affecting more than one but not all of the rates in the tariff or applying to only a portion of the carriers for which the rates are published may be included in the explanatory statements authorized in paragraph (k) of this section.

(2) Each rule or similar provision must be given a brief, but descriptive, title.

(3) Except as otherwise specifically authorized in the regulations in this section, no tariff may include any rule or other provision which in any way or in any terms authorizes substituting a rate for any other rate or substituting a rate made up by means of a combination of rates, nor any rule to the effect that traffic of any nature will be "taken by special agreement," "taken at carrier's convenience," or other provisions of like import.

(4) Tariffs which contain rates for the transportation of dangerous articles (hazardous materials) shall also reproduce the regulations promulgated by the Department of Transportation governing the acceptance and transportation thereof, or must bear specific reference to a separate tariff which contains such regulations (see § 1310.17 (d) and (e) (rule 17)). The reference shall specify the applicable section numbers in the separate tariffs.

(j) *Exceptions to classification classes, ratings, and rules.* (1) Exceptions made to classification classes (or ratings) and rules, which apply only for the rates published in one tariff must be published in that tariff, and shall:

(i) Be published in a separate tariff section headed "Exceptions to the Governing Classification" or "Exceptions to the Governing Classification and Tariff of Exceptions Thereto" (see subparagraph (4) of this paragraph for alternative plan).

(ii) Be arranged in the same order as they appear in the classification.

(iii) Be complete in itself (if a rule) by republication of the complete rule, section, or other identifiable unit affected, as amended by the exception, and identification of the rule in the classification (and in the tariff of exceptions, if any) and the part being changed. Every effort should be made to republish entire rules that are relatively small. If the exception is to make the rule, section, or unit not applicable, it need not be republished in full.

(iv) Describe the commodity (if a commodity exception) either in the same words, or as close thereto as possible, used in the classification, and use the generic heading (if any) appearing in the governing classification under which the article would otherwise fall (see paragraph (j)(5) of this section).

(v) Indicate if classes or ratings have any-quantity, less - than - truckload, truckload, volume, or other clearly defined quantity application.

(vi) Provide in the rate tariff for the nonapplication of any exception in a separate tariff, if any, to the same class, rating, or rule, or to the same part of the same rule.

(2) Different classes or ratings on the same article, articles, commodity, or commodities based on different minimum quantities may be published provided the lowest charge resulting from any such class or rating applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such classes or ratings in the same item and by providing in connection with such item a rule to the effect that the lowest charge obtainable under the different classes or ratings and minimums applicable thereto (or actual quantities, if greater) will be applied.

(3) Exceptions may not be alternated with exceptions in another tariff or with classes, ratings, or rules in the classification. A statement providing that the class, rating, or rate on any article will be that applying to another article is not permissible.

(4) Exceptions to classification rules (not classes or ratings) may be included in the same section containing the rules authorized by paragraph (i) of this section, in which event the heading for the combined section must contain reference to the inclusion of both kinds of provisions, and the heading for the exceptions section must refer to classes or ratings only.

(5) An exception class or rating may be published to apply on the movement of a plant to a new location without naming each article to be transported thereunder. The tariff must specifically state that the class or rating applies only on the movement of a plant to a new location, name the categories of articles to be transported under the class or rating, and provide either that the class or rating does or does not include transportation of raw materials or finished or semi-

finished products, in substantially the following form:

Class (or rating) covers the movement of a plant to a new location only and applies only on the articles that are actually a part of the equipment, furnishings, materials, and supplies of such plant. [Here state whether or not the class or rating includes raw materials or finished or semifinished articles of manufacture or stock.]

to which should be added for inclusion or exclusion, for clarification purposes, categories of articles in connection with which there may be doubt as to whether or not the broad description covers or excludes. For example: tools; machine parts, used; office furniture, equipment, machines, and supplies.

(k) *Explanatory statements.* Tariffs shall contain such explanatory statements as may be necessary to remove all doubt as to the proper application of the rates and rules contained therein. When rates are published for account of any carrier under authority of a concurrence or of a limited power of attorney, and the rate application should accordingly be restricted, there shall be included in this section of the tariff an explicit statement clearly indicating to what extent the published rates apply for account of such carrier. Only such specific statements as are required to indicate the application with respect to particular carriers should be included in this section. The name of the carrier must be shown in the caption or heading of the item. General rules relating to the application of the rates should be published under paragraph (i) of this section.

(l) *Statement of rates.* Rate tariffs shall show a statement of rates applicable for the transportation of the articles or class of articles on which rates are named therein, arranged as set forth in § 1310.7 (rule 7).

(m) *Statement of routes.* A clear and explicit statement of routes over which the published rates apply prepared in accordance with the provisions of § 1310.8 (rule 8) shall be shown.

(n) *Explanation of reference marks, notes, and abbreviations.* (1) The use of reference marks and note references should be held to a minimum for the convenience of the tariff user. Abbreviations should be confined to those commonly used in business and commerce, and to carrier-name abbreviations and/or code designations (but only if the carrier is repetitively referred to).

(2) A reference mark intended for the same general and continued use in a tariff shall be explained at the end of the tariff under a heading "Explanation of Reference Marks for Standard Use Throughout the Tariff, as Amended." This explanation shall be published in a numbered item. Any reference mark explained thereunder may not be used for any other purpose, although its meaning or explanation may be specifically amended in an appropriate fashion. If a note reference is also adopted for general use, it must be treated in the same manner, in which case the prescribed heading shall add "and Notes" after "Reference Marks." Where other reference marks and notes are used in items or units or on pages and are not explained in the item or unit or on the page where used, they must be explained at the end of the tariff, but in a separate unit other than the one confined to general reference marks and notes. This unit need not be an item. If the explanation of any reference mark or note reference does not appear in the item or unit or on the page where used, the item, unit, or page must refer to where (page number of tariff) the explanation is given. If an abbreviation is not explained in the item or unit itself, or on the page on which it appears, the explanation must be provided in a location assigned for that purpose at the end of the tariff.

(3) Carrier name abbreviations or code designations may be included as part of the List of Participating Carriers if one is published within the tariff, provided a statement to that effect is included under the Explanation of Abbreviations.

(4) State name abbreviations shall be explained unless they are abbreviations adopted by the U.S. Postal Service for official use. The following commonly used abbreviations are acceptable without explanation and will have the meaning shown in connection therewith. The abbreviation "cwt" may not be used for any other purpose.

Abbreviation	*Explanation*
&	And.
Ave	Avenue.
Blvd	Boulevard.
Bldg	Building.
Bros	Brothers.
¢	Cents.
Co	Company.
Corp	Corporation.
cu	Cubic.
cwt	100 pounds.
$	Dollars.
E	East.
etc	And so forth.
e.g	For example.
Ft	Fort.
ft	Foot, feet.
gal	Gallon.
i.e	That is.
in	Inch.
Inc	Incorporated.
lb	Pound.
Ltd	Limited.
Mfg	Manufacturing.
Mt	Mount, Mountain.
N	North.
PO	Post Office.
Rd	Road.
S	South.
St	Street.
US	United States.
wt	Weight.
W	West.

(5) Carriers and agents should, to the greatest extent possible, avoid using the same reference mark or note reference for different purposes in a tariff. If used for different purposes on the same page, the explanation must appear in each item or unit where used. A reference mark or note reference may not be used for different purposes within the same item or unit.

(6) The following reference marks (symbols) shall be used in the exact form shown for the purpose indicated and shall not be used for any other purpose.

↓ or (R) to denote reductions
♦ or (A) to denote increases
▲ or (C) to denote changes which result in neither increases nor reductions in charges
□ to denote no change in rate (see § 1310.10(f) (rule 10))
● to denote intrastate application only
+ to denote reissued matter (see § 1310.10(g) (rule 10))

When alternative reference marks (symbols) are provided in this subparagraph, one should be used exclusively throughout the tariff, as amended. New or added matter (matter that does not actually change the application of published rates, charges, etc.) on which the prescribed reference marks (symbols) in this subparagraph would not be appropriate shall be indicated as "New," "Addition," or "Add" or bear a reference mark of the carrier's or agent's choice properly explained.

(7) The mark /□/ or (□) is an acceptable substitute for the □ if compilation is by typewriter. Whichever is chosen must be used consistently throughout the tariff, as amended.

§ 1310.7 Statement of rates (rule 7).

(a) *Rates must be clear and explicit.* (1) The Act intends tariffs to be for the information and use by any and all members of the public, and to be published in a manner that will permit anyone with reasonable technical transportation knowledge and experience to understand the application. The regulations in this section are intended to insure, to the greatest extent practicable, that tariffs are so constructed that not only are they readable from a physical standpoint, but that their terms and conditions are susceptible to ready understanding and application. To protect the interest of the general public in this respect the Commission, through its Bureau of Traffic, may reject or require correction of any tariff provision which in its judgment is not sufficiently clear, explicit, and self-explanatory.

(2) All rates and governing provisions or restrictions shall be clearly and explicitly stated, together with the names or other proper designations of the places from, to, or between which they apply. Rates may only be stated in cents, in dollars, or in dollars and cents in lawful money of the United States. They shall be stated to apply per 100 pounds, per ton, or other standard United States unit (including metric) or defined (in the tariff) unit, but, except as otherwise specifically provided in this paragraph, not unit of time nor per cubic foot or other space-occupied basis. Per trailer, per truck, per truck-mile, per container, per package, or other variable unit is permissible provided the measure of the service is fixed by defining the unit specifically, or in "maximum" terms, such as a stated maximum weight of contents permitted per truck or container of a certain maximum cubic capacity or measurement, or stated maximum dimensions or weight per individual package. Per-hour and other time-based units are permissible for terminal and other services under § 1310.15 (rule 15). Rates otherwise complying with this section may be subject to a minimum charge which employs a time factor, which, however, may

not be less than a defined weekly period—such as a stated amount per defined vehicle per calendar week. Rates must be stated as having any-quantity, less-than-truckload, truckload, volume, or other clearly defined quantity application.

(3) If the rates on a page, or in a table or column, are generally to apply per 100 pounds or other one unit, that fact may be stated in the caption or heading thereof, with the addition of "except as noted" or other words of like import if exceptions are to be made. If for an entire tariff, this fact may be stated on the title page of the tariff. If done, the statement of unit of application need not be repeated each time in connection with each rate.

(4) The names or other proper designations of the places from, to, between, or within which the rates are published to apply must be shown. The rates may be stated as applying from, to, or between named states, counties, cities, towns, townships, or other named state locations that have a precise meaning territorially; or from, to, or between described areas provided the limits of such described areas are in geographical terms, such as named rivers or numbered highways, or be established political boundaries, such as state or county lines. Point which bear the same name within the same state must be properly identified by showing directly therewith the counties in which they are located. Code letters and/or numbers may be used for grouping but otherwise they may not be substituted for names of origins or destinations in items unnecessarily. Subject to the provisions of subparagraph (5) of this paragraph, rates may be published to apply from or to a plant site, construction site, etc. Rates may not be stated as applying to the commercial zone of a point, as defined by the Commission, unless the appropriate description referred to is published in the tariff or in a governing tariff.

(5) When rates are published to apply from or to a named plant site, construction site, or other site, the location of the site must be identified as specifically as possible. For example, the "plant site of John Doe Manufacturing Company, on U.S. Highway 10 approximately 23 miles east of a Town, Z State." The terms "near" or "near or at" should be avoided, unless they contribute still more specificity. Rates may not be published to apply as above from or to a named shipper or receiver (except for the purpose of identifying the site), or from or to a named site located within a city, town, or township unless the carrier's operating authority is so restricted in the same words.

(6) Where it is necessary to carry over part of a rate item or table to a succeeding column or page, the general captions to which the continued material is subordinate and any explanation of column headings necessary for an understanding of such material must be repeated.

(7) All rates and provisions must be arranged in a simple and systematic manner. Complicated plans, including those requiring multiple-step computing not authorized by the regulations in this part, may not be used. Ambiguous, conflicting, or indefinite terms, rules, or other provisions affecting or governing the application of rates are prohibited.

(8) Except as specifically authorized, a rate item or other rate unit may not refer to another rate item or other rate unit for commodity descriptions or other application, and a rate may not be stated as applying only in the absence of another rate, or as applying regardless of another rate named to apply.

(9) Joint rates having intermodal application only over motor and off shore water carriers, and rates restricted to apply only on shipments having a prior or subsequent movement by off shore water carriers may be stated in cents, in dollars, or in dollars and cents per cubic foot, provided it is clearly and explicity stated how the determination is made.

(10) Tariffs shall contain a rule governing what shall apply on returned undelivered shipments. In the absence of such a rule, the following shall govern. Any class or commodity rate published to apply over a named route or routes in one direction effective on the date of return is applicable on the undelivered shipment returned over the same route but in the reverse direction. However, if there is another rate specifically published to apply on the considered shipment being returned, over the same route, which results in a lower total charge, that rate shall apply in the absence of provisions to the contrary.

(b) *Arbitraries.* A tariff may provide rates from or to designated points by the addition of arbitraries to rates shown therein from or to named base points. Provision for this shall be shown either in a separate item in the same tariff, which must specifically name the base point and clearly and definitely state the manner in which such arbitraries shall be applied, or in a separate rate basis tariff as provided for in § 1310.18 (rule 18). Arbitraries, or any provision for addition (or subtraction) of any amounts, may not be published to construct rates to apply from or to the base point itself, or to differentiate between commodities, nor may any tariff provision be made, whether in the same tariff or in a governing tariff, for accrual of the charges to a certain carrier or carriers, or for division of the revenue between carriers.

(c) *Percentage, fraction or multiple of class rates.* Except as otherwise provided in this paragraph, for each classification or exception class rating governing class rates, the tariff naming the class rates must name a rate for that class rating. A statement that a class rate for a class rating shall be a percentage, fraction, or multiple of another rate is prohibited. However, the same rate tariff may provide a table which shows in one column the class rate and in succeeding columns the actual rates representing the various percentages, fractions, or multiples of such class rate. Class rates for certain class ratings may be omitted, provided there is a statement that in such cases the next higher class rating shall be used.

(d) *Minimum quantities.* When a rate per 100 pounds, per ton, or other weight or quantity unit stated as being a truckload (not "per truck", etc.—see paragraph (a)(2) of this section) rate or volume rate is published, a minimum quantity on which the rate is published to apply must be provided in that tariff, except as otherwise provided in paragraph (g) of this section authorizing separate lists tariffs or combined exceptions and lists tariffs. Where a rate or rating refers to a separate list elsewhere in the same tariff or in a different tariff, the minimum quantity or quantities (if any) applicable shall be stated in direct connection with the rate or rating, unless different minimum quantities apply to different commodities. In the latter case, the minimum quantities may be shown in the list.

(e) *Rates based on varying quantities.* Different rates based on different minimum quantities may be published, provided the lowest charge resulting from any such rate applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such rates in the same item or in different columns on the same page and by providing in connection with such items or rate columns a rule to the effect that the lowest charge obtainable under the different rates and minimums applicable thereto (or actual quantities, if greater) will be applied.

(f) *Mixed shipments.* If two or more commodities are listed in connection with a rate or rating application, there must be a clear statement as to whether the rate or rating applies on straight shipments only, on a specific mixture of such articles only, or on straight or mixed shipments. If one or more of such commodities are to be subject to a rate or a minimum quantity or both, different from the others, how the minimum charge per mixed shipment is to be determined must be made clear. This is also required if two or more rates or ratings, based on different minimum quantities, are provided for the same commodity. Where different rates or ratings, or different minimum quantities are so provided, there must be a statement published to the effect that the deficit, if any, in the applicable minimum weight shall be rated at the lowest rate or rating used for any commodity in the shipment.

(g) *Generic terms.* (1) A tariff may provide for the transportation of a plant to a new location by publication of a point-to-point commodity rate published to apply on commodity descriptions employing generic terms. The rate may not be published to apply in both directions. The rate and related provisions must be indicated to expire with a specific date not later than six months from their effective date, which may be extended for an additional period totaling not more than 12 months (only) from the original date by republication. All provisions must terminate at that time. The tariff must specifically state that the rate covers a

movement of a plant, name the categories of articles to be transported under the rate, and provide either that the rate does or does not include transportation of raw materials or finished or semifinished products, in substantially the following form:

Rate covers the movement of a plant to a new location only and applies only on the articles that are actually a part of the equipment, furnishings, materials, and supplies of such plant. [Here state whether or not the rate includes raw materials or finished or semifinished articles of manufacture or stock.]

to which should be added for inclusion or exclusion, for clarification purposes, categories of articles in connection with which there may be doubt as to whether or not the broad description covers or excludes. For example: tools; machine parts, used; office furniture, equipment, machines, and supplies.

(2) Commodity rates may be published to apply on straight (a single commodity) or mixed (two or more commodities) shipments of "freight, all kinds" without naming the individual commodities embraced in such term. Only the term "freight, all kinds" is authorized. The rates may be restricted to not apply on one or more commodities provided such commodities are specifically described. To avoid conflicting or duplicating rates (which are prohibited by paragraph (j) of this section), a notation reading substantially as follows may be shown:

Rate does not apply on a straight shipment of a single commodity where there is published to apply on such shipment a specific commodity rate.

(3) Except as otherwise authorized in subparagraph (1) and (2) of this paragraph, a commodity rate item may, by use of a generic term, provide rates on a number of articles without naming such articles, provided such commodity item contains reference to an item (not a rate item) in the tariff which contains a complete list of such articles, or contains reference to a separate tariff (not a rate tariff) containing such a list, or both. Example: "Packing house products, as described in item ____, or successive issues thereof," or "Packing house products, as described under heading 'Packing house products' in ICC (or MF-ICC) ____, supplements (or loose-leaf page amendments) thereto or successive issues thereof." The separate list must bear a commodity caption (for example "Chemicals, namely:") and the caption must be worded identically with the reference thereto. Reference may not be made to a separate list for only a portion of the commodities included in the list nor restricted to those which are subject to certain ratings. The commodities in each list must be alphabetically arranged.

(4) A separate tariff, not containing rates and not a classification (see paragraph (g)(5) of this section), may be filed by a carrier or an agent, showing lists of the commodities and minimum quantities, on which rates published by reference to generic terms will apply, and rate tariffs may be made subject thereto as provided above. The title page of such separate publication shall contain the following notations:

List of commodities upon which rates are provided in tariffs making reference hereto," and "This tariff may be used only in connection with tariffs making specific reference hereto by ICC (or MF-ICC) number.

Except as provided in § 1310.17(c)(4) (rule 17), pertaining to combined exceptions and lists tariffs, a separate publication issued for the purpose of publishing generic lists shall contain no information other than that authorized in this subparagraph. Except as to reference to a classification for commodity descriptions (see subparagraph (5) of this paragraph), only one such publication may be in effect at any time in a carrier's or agent's file and it may list only generic terms which refer to 10 or more commodities. Otherwise the tariff of rates shall specify each commodity upon which the rates therein apply. A tariff of rates may not refer to another tariff of rates for lists of commodities.

(5) A rate tariff (only) may refer to a classification (see § 1310.17 (rule 17)) instead of, or in addition to, a separate list tariff for description of articles on which rates published by reference to generic terms will apply. The reference may be restricted to the descriptions in certain identified items under the generic heading referred to. A rate item may also refer to certain items in the classification for a more complete description of the commodity named instead of for purposes of a list of commodities. In this event, the commodity term used in the rate item must embrace the commodities in such classification items, and the use of the classification items must be necessary only for the descriptive details, governing conditions and requirements, or other material. The rate tariff must clearly indicate whether or not the reference to the classification items is intended to embrace any reference therein in turn to notes, qualifying conditions, and other matter published in conjunction with the classification items.

(h) *Commodity rates.* (1) Except as otherwise provided in paragraph (g) of this section, when commodity rates (including column commodity rates—see § 1310.29 (rule 29)) are established, the description must be specific and the rates thereon may not be applied to analogous articles. As far as possible uniform commodity descriptions should be used in all tariffs. If the carrier or agent anywhere maintains class rates governed by a classification, the article on which the commodity rate is published to apply shall be described either in the same words used in the classification or as close thereto as possible. If the article appears under a generic heading in the classification, the rate tariff must also show that exact heading and the commodity as subordinate to it.

(2) If a commodity rate (distance or otherwise) is published, such commodity rate, except as otherwise provided in these rules, is the applicable rate and the only rate that may be applied from and to the same points over the route or routes over which the commodity rate applies, even though a class rate (except as provided in this paragraph, paragraph (n) of this section, and § 1310.13 (rule 13)) may make a lower charge.

(3) When, because of differences in minimum weights, package requirements, mixed quantity provisions, or other conditions, the charges accruing under commodity rates result in higher charges than those accruing under the class rates published in other tariffs, provision may be made in a tariff containing commodity rates only, for the alternation of such rates with class rates published in not more than three other tariffs, provided that the commodity tariff contains specific reference to the class tariffs and shows in connection with each reference a complete description of the origin and destination territory shown in that tariff. The following notation must be shown in the commodity tariff under the application of rates:

If the charges accruing under the class rates published in the following tariffs, including supplements or loose-leaf page amendments thereto or successive issues thereof, from and to the same points via the same routes are lower than the charges accruing under the commodity rates published in this tariff, the lower charges resulting from such class rates will apply. [Here show ICC (or MF-ICC) numbers of the class tariffs and the required description of each.]

(4) If a commodity tariff contains only a few rates which result in higher charges than would accrue under the class rates, the reference to the class tariffs prescribed herein should be shown immediately in connection with such commodity rates or may be shown in a separate item shown under an appropriate heading and reference to such item shown immediately in connection with the commodity rates.

(5) Great care should be exercised in describing the territorial application of the class tariffs in order that users of the commodity tariff may determine without examining the class tariffs, which of such class tariffs is to be used in connection with any commodity rate. The alternative application of commodity rates in one tariff with class rates in another tariff may be resorted to only where there is real necessity therefor, and that wherever possible, the commodity rates should be revised so that they will not exceed the class rates between the same points.

(i) *Rates of a carrier must be in limited number of tariffs.* (1) It is the sense of the regulations in this paragraph that rates be so published that the user of a particular tariff may expect that as to the issuing carrier or as to a carrier named as a participant in an agent's tariff that: where local rates, the tariff will contain all the issuing or participating

carrier's local rates of a particular kind (class or commodity), on a considered commodity and shipment if within the scope of the tariff application and unless specifically restricted otherwise; and where joint rates the tariff will contain all the joint rates over the same joining carriers in the joint route of a particular kind (class or commodity) of rate, on a considered commodity and shipment if within the scope of the tariff application and unless specifically restricted otherwise.

(2) Except as otherwise provided in this paragraph, a tariff naming any local class rate for a carrier must name all that carrier's local class rates published to apply within the scope of that tariff, and a tariff naming any local commodity rate for a carrier must name all that carrier's local commodity rates published to apply within the scope of that tariff.

(3) Except as otherwise provided in this paragraph, a tariff published in the name of a carrier containing any joint class rate or containing any joint commodity rate, or a tariff published in the name of an agent containing any joint class rate or containing any joint commodity rate for a carrier who participates therein under a power of attorney, must contain all of that carrier's joint class rates or must contain all of that carrier's joint commodity rates, as the case may be, published to apply within the scope of that tariff in connection with the carriers parties thereto, irrespective of differences, if any, as to the point of interchange between such carriers.

(4) When carriers participating under powers of attorney in joint-rate application with other carriers, but not with each other, in tariffs having the same scope, but published by different agents, wish to establish a joint rate with each other, such rate may be published in either agent's tariff.

(5) Distance or mileage rates, or commodity column rates (column commodity rates) may be published each in a separate tariff for that particular kind of rates only. Each of such tariffs must, in all other respects, comply with the requirements of this paragraph.

(6) Rates for a special type of service, such as for pool-truck distribution, or assembling or distribution rates under Section 408 of the Act, need not be included in the same tariff with rates for regular service or for other special type of service, but if not, the requirements of this paragraph must, in all other respects, be complied with as to each such tariff as to that particular service. Rates providing merely a lesser or greater degree of service on what essentially is the same traffic (for example, rates which do not include pickup or delivery service, or rates which apply only when transit service, included in the rate, is performed on the shipment) are not rates for a special type of service within the meaning of this subparagraph.

(7) If a carrier wishes as to a certain commodity or commodities to publish in a tariff some local commodity rates, or some joint commodity rates in connection with a certain carrier or carriers, which are encompassed within the scope of another tariff, the latter tariff must provide that it names no local rates for account of that carrier, or no joint rates for the account of that carrier in connection with the other carrier or carriers, as the case may be, as to that commoity or commodities, identifying clearly the commodity or commodities without use of undefined generic terms. The restriction published for this purpose in the tariff must be a general one, and may not be provided for by individual restrictions in rate items or in connection with specific rates.

(8) For the purpose of this paragraph, the "scope" of a tariff means the commodity and territorial coverage of a tariff. The publication of rates on a commodity or commodities, whether in straight or in specific mixture shipments (including rates on "freight, all kinds" and like terms), establishes the commodity coverage as being that commodity, commodities, or specific mixture of commodities, as the case may be. The publication of rates from an origin area or to a destination area establishes the origin territorial coverage or destination territorial coverage as one blanketing the area bounded by a line drawn through the outermost of such origins or such destinations and this includes all points within such boundaries whether or not a rate is published from or to such points.

(j) *Conflicting or duplicating rates prohibited.* The publication of class or commodity rates which duplicate or conflict with the rates published in the same or any other tariff over the same route is not permissible. Except as otherwise authorized in the regulations in this part, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over or alternate with the rates published therein, is prohibited. (See also paragraph (a)(8) of this section.)

(k) *Through rate applies.* When a carrier or carriers establish a local or joint rate for application over any route from origin to destination, such rate is the one that must be applied by such carrier or carriers over the authorized route, notwithstanding that it may be higher than the aggregate of intermediate rates over such route. No rule may be published which provides for the use of any such aggregate, if lower.

(l) *Proportional rates.* Tariffs containing proportional rates must clearly and definitely show the application thereof. If a proportional rate is intended for use on traffic destined to a restricted territory, such territory should be clearly defined. For example, a tariff naming a proportional rate to St. Louis, Missouri, intended for use on traffic destined to points in Kansas, shall state that the proportional rate applies only for the purpose of constructing rates on traffic destined to points in Kansas. If the application of a proportional rate is not restricted, such proportional rate will be usable in connection with any other applicable rates from or to the proportional rate point. A statement that proportional rates apply from (or to) points from (or to) which no through rates are published must not be used, as such a statement is not sufficiently definite to restrict the application of the rates and such proportional rates could not in any event be applied on traffic on which applicable through one factor rates are published. However, proportional rates may be published to apply only on traffic from or to (or from and to) points on the line or lines of a particular carrier or carriers. It is not permissible to include a provision in a tariff to the effect that proportional rates will be stated percentages of other rates.

(m) *Export, import, coastwise, and intercoastal area.* (1) Export, import, coastwise, and intercoastal rates, when so designated, whether class or commodity, take precedence over rates (either class or commodity), not so designated, published to apply between the same points, over the same route, on export, import, coastwise, or intercoastal traffic, as the case may be, and tariffs containing such rates or governing tariffs must so provide, and must define such terms. (See § 1310.33 Export and Import Traffic—Ocean Carriers.)

COMMODITY RATES APPLICABLE FROM INTERMEDIATE POINTS

When any point of origin is not provided in this tariff with a commodity rate on a given article to a particular destination over a particular route, and such origin is between the considered destination and a point from which a commodity rate on the article is published herein over the same route to such destination, apply on such article the commodity rate from the next more-distant point from which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in notes 1, 2, 3, and 4.

NOTE 1.—When, by reason of branch or diverging routes, there is more than one more-distant point from which commodity rates on the article to the considered destination are named herein, apply the rate from the more-distant point which, on that article to the same destination over the same route, results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points from which commodity rates on the same article are published in this tariff to the same destination over the same route, apply that one of such rates which results in the higher charge. If, due to branch or diverging routes, there are two or more next more-distant points in the same direction, only that one of such points from which the lowest charge results will be considered in applying the provisions of this note.

NOTE 3.—If the class rate on the same article to the same destination over the same route from the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4.—If there is in any other tariff a commodity rate (not made by use of an intermediate-point rule) published for account of the same carrier or carriers on the same article from the considered intermediate point, applicable to the same destination over the same route, the provisions of this rule

will not be applied from such intermediate point.

COMMODITY RATES APPLICABLE TO INTERMEDIATE POINTS

When any point of destination is not provided in this tariff with a commodity rate on a given article from a particular origin over a particular route, and such destination is between the considered origin and a point to which a commodity rate on the article is published herein over the same route from such origin, apply on such article the commodity rate to the next more-distant point to which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in notes 1, 2, 3, and 4.

NOTE 1.—When, by reason of branch or diverging routes, there is more than one more-distant point to which commodity rates on the article from the considered origin are named herein, apply the rate to the more-distant point which, on that article from the same origin over the same route, results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points to which commodity rates on the same article are published in this tariff from the same origin over the same route, apply that one of such rates which results in the higher charge. If, due to branch or diverging routes, there are two or more next more-distant points in the same direction, only that one of such points to which the lowest charge results will be considered in applying the provisions of this note.

NOTE 3.—If the class rate on the same article from the same origin over the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4.—If there is in any other tariff a commodity rate (not made by use of an intermediate-point rule) published for account of the same carrier or carriers on the same article to the considered intermediate point, applicable from the same origin over the same route, the provisions of this rule will not be applied to such intermediate point.

(5) The rule applicable in connection with class rates shall read as follows:

CLASS RATES FROM AND TO INTERMEDIATE POINTS

From or to any point not named or referred to in this tariff which is intermediate to a point from or to which class rates are published herein through such unnamed point, the class rate published herein over the same route from or to the next more-distant point will be applied, except as provided in notes 1 and 2.

NOTE 1.—When, by reason of branch or diverging routes, there is more than one more-distant point from or to which class rates are named herein, apply the rate published to apply over the same route from or to the more-distant point which results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points from or to which class rates are published to apply over the same route, apply the rate which results in the highest charge. When, by reason of branch or diverging routes, there are two or more next more-distant points in the same direction, only that one of such points from or to which the lowest charge results will be considered in applying the provisions of this note.

(6) Intermediate rules may not be published to apply on the same traffic on which unnamed points rules as set forth in paragraph (p) of this section have been published.

(o) *"From" and "to" intermediate rules may apply in connection with same rate.* When the rules providing application "from" and "to" intermediate points are both shown in connection with any class or commodity rate, they establish class or commodity rates from intermediate points of origin to intermediate points of destination on such classes or commodities. Unless otherwise provided in the tariff, intermediate application rules establish rates from or to intermediate points on the regular routes of carriers parties to the tariff without regard to the concurrence forms and numbers under authority of which carriers are shown as participating carriers.

(p) *Class rate from or to unnamed points.* (1) Where use of the class-rate intermediate rule is not permitted or will not suffice to cover all unnamed traffic generating or receiving points a carrier may serve, the rule authorized by this paragraph may be published as an alternative. However, if an intermediate rule is published this unnamed-points rule must give it precedence in application and must be restricted to not apply where the intermediate rule provides a rate.

(2) Any tariff naming class rates may provide for the application of such rates from or to unnamed points by including the rule set forth in paragraph (p)(4) of this section. Before a tariff may include the rule, the tariff must provide, as a minimum, class rates for all points within the territorial coverage thereof which the carrier or carriers participating in the rule have authority to serve which are shown as points on the official state maps issued by the particular state authorities or on commercial maps equivalent thereto. The maps must either be attached to the tariff and referred to for application, or be part of a governing tariff. The initial filing must be of current maps in use, and they should be replaced from time to time to maintain a reasonable currency.

(3) The rule may not be published to apply on class rates having a limited application, such as assembling and distribution rates.

(4) The rule shall read as follows:

CLASS RATES FROM OR TO UNNAMED POINTS

From any unnamed origin point located on a highway between two named points, apply the higher of the class rates provided from such named points.

To any unnamed destination point located on a highway between two named points, apply the higher of the class rates provided to such named points.

In each case, the named point must be the nearest named point on a highway (or highways) leading thereto from the unnamed point.

When, by reason of branch or diverging highways, there are two or more nearest named points equidistant from the unnamed point, the highest rated of the nearest named points will be used.

From or to unnamed points located on highways, but not located between named points, or from or to unnamed points not located on highways, apply the following:

When the distance between the unnamed point and the nearest named point is:	The rate from or to the unnamed point will be determined by adding the following arbitrary to the rate from or to the nearest named point.
Distance in miles (See Note)	Arbitration in cents per 100 pounds (or other unit on which the base rate is published)
---or less	
---and over	

NOTE.—In determining the distance, the actual distance over the shortest route over which a truck can operate shall be used. Distances shall be computed from or to the Post Office having the same name as the named point from or to which a rate is published (Use the main Post Office if it has more than one) from or to the actual place of loading or unloading. If the point named herein from or to which a rate is published has no Post Office by the same name, the distance shall be computed from or to the generally recognized business center of the community.

(i) This rule does not authorize a carrier to handle shipments from or to points or via routes not within the scope of its operating authority.

(ii) If there is in any other tariff, a class rate published specifically to or from the unnamed point, for account of the same carrier or carriers, over the same route, this rule does not apply.

(iii) The definitions of term as used in this rule are as follows:

"Highway" means the roads, highways, streets, and ways in any state.

"Point" means a particular city, town, village, community, or other area which is treated as a unit for the application of rates.

"Unnamed" point is one from or to which class rates are not provided, other than by use of this rule.

"Named" point is one from or to which class rates are provided in this tariff, other than by use of this rule.

(q) *Released rates.* Unless otherwise specifically authorized, the provisions prescribed by a released rates order of the Commission must be published in the same tariff (not in a governing tariff) as the commodity rate, the rating (class), or the charge which is directly subject to the released-value provisions. If the released-value provisions are not published in the same location in the tariff as such rate, rating, or charge therein subject thereto, a statement positively identifying the rate, rating, or charge as a released-value rate, rating, or charge (in addition to reference to the location of the provisions prescribed by the order) shall be published directly with the rate, rating, or charge (not through a reference mark and explanation elsewhere). This statement must be positioned in such a manner that the character of the rate, rating, or charge will be clearly apparent to the tariff user reviewing the rate, rating, or charge.

§ 1310.8 Routing (rule 3).

(See § 1310.22 and 1310.28 (rules 22 and 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Routing to be specified.* (1) Tariffs naming joint rates shall specify routes over which such rates apply or refer to a separate tariff or tariffs (see paragraph (b) of this section) for such provisions, or both. The routes must be stated in such a manner that they may be definitely ascertained. The names or other identifying designations (designations other than the full name must be explained in the tariff in which used) of the carriers and the name of every point of interchange between such carriers must be shown. To the greatest extent practicable, the statement of the route should be complete, identifying each carrier and the point of interchange in proper order from origin to destination of the rate. Highway numbers need not be listed. Identification of the interchange point only as being any common point served by the carriers, or use of other indefinite provisions, is not permitted.

(2) Tariffs must provide that the joint rates therein apply only over the routes specifically shown.

(b) *Routing guide.* (1) A tariff (not a rate tariff) containing routes may be designated as a routing guide. When a tariff refers to a routing guide or guides for all of the routes over which the rates therein are published to apply, it must show the following notation:

The rates herein apply over the routes of the carriers parties to this tariff specified in ICC (or MF–ICC) ____, supplements (or loose-leaf page amendments) thereto or successive issues thereof.

(2) When a tariff refers to a routing guide or guides for routes in connection with some but not all of the rates in a tariff, or for routes for account of some but not all of the carriers parties to the tariff, an appropriate notation must be shown therein. When a rate tariff provides that certain rates published therein will not apply over all the routes shown in a routing guide to which the tariff is subject, the rate tariff shall show clearly what routes in the routing guide are not applicable, or are the only routes applicable, as the case may be, in connection with such rates. Such exceptions may not be published in the routing guide. Routing guides may not contain exceptions having a narrow application, such as by providing nonapplication or application in connection with certain identified commodity rates or rate items of certain tariffs.

(3) When a tariff which refers to a routing guide also shows routes, it shall show clearly whether the routes named therein are in addition to the routes shown in the routing guide or are the only routes over which the rates making reference to such routes will apply. No one rate may be made subject to more than one routing guide for account of any initial carrier except that interterritorial rates may be subject to one guide for each of such territories in which such a guide is published for that territory alone.

(4) A routing guide must be concurred in by all carriers over whose lines routes are provided therein.

(5) Routing guides shall show on their title pages the following notation:

The routes provided herein may be used only in connection with rates made subject thereto by specific ICC (or MF–ICC) reference to this guide in the tariff containing such rates. Its use in connection with any tariff is restricted to the carriers and to the application provided in such tariff.

(6) A routing guide may be combined with a participating carrier tariff authorized by § 1310.20 and prepared in conformity with the regulations in this part, provided the routing provisions are shown in a separate section and the requirements of this section are otherwise complied with.

(c) *Emergency routing clause.* The following provision may be incorporated into routing guides or under "Routing Instructions" in rate tariffs:

The rates named in [here rate tariffs shall show "this tariff" and routing guides shall show "tariffs made subject to this tariff"] will apply over the routes and through transfer points authorized herein except that when in the case of pronounced traffic congestion (not an embargo), detours or other similar emergency, or through carriers' error, carriers forward shipments by other transfer points of the same carriers or over the lines of other carriers parties to the tariff, the rate specified in [here rate tariffs shall show "this tariff" and routing guides shall show "tariffs making reference to this tariff"] (but not higher than the rate applicable over the actual route of movement) will be applied.

The words "or over the lines of other carriers parties to the tariff" may be omitted.

§ 1310.9 Supplements (rule 9).

See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Amendment by supplement.* (See paragraph (g) of this section—blanket supplements.)

(1) Apart from reissuing the tariff itself, the supplement is the vehicle for adding to, deleting, or changing provisions of a bound tariff. Paragraph (d) of this section provides the restrictions on the use of this means. (See § 1310.10 (rule 10) as to loose-leaf tariffs and § 1310.11 (rule 11) as to complete and partial cancellation of a tariff.)

(2) The first supplement to a tariff shall be designated as Supplement 1 either in the upper right-hand corner of the title page thus:

Supplement 1
to
ICC____

or in the center of the uppermost portion in connection with the carrier's or agent's own tariff number (not ICC number). In the latter case, the ICC number must nevertheless be shown in the upper right-hand corner. Subsequent supplements shall be numbered consecutively in like manner. Whatever location is used for the first supplement must be also used for all subsequent supplements to the same tariff. The supplement number assigned to a supplement which has been rejected may not again be used. The rejected supplement may not be referred to in any subsequent supplement as having been canceled, amended, or withdrawn, but the supplement which is published in its stead must bear the following notation:

Issued in lieu of [here identify the rejected supplement], rejected by the Commission.

(3) Each supplement shall specify on its title page, immediately under the supplement and ICC (or MF—ICC) number (if the supplement designation is to appear in the upper right-hand corner) or immediately under the supplement and carrier's or agent's tariff number (if the supplement designation is to appear in the upper center portion) the publications which the supplement cancels. Cancellations must be specific. A statement that the supplement cancels conflicting portions of the tariff or prior supplements, or all provisions of a certain kind or application, may not be used.

(4) The numbers of the supplements in effect on the effective date of the supplement must be shown in the upper portion of the title page. Effective supplements of a special nature (suspension, postponement, adoption, general increases, etc.) should be indicated in the list as to their special nature and may be grouped separately.

(5) A supplement containing matter effective upon a date other than the general effective date of the supplement must show one of the following notations in direct connection with the general effective date. Included in this category is matter reissued without change from a prior tariff publication effective later than the general effective date of the supplement, and therefore constituting an exception thereto. The notations are:

(except as other provided herein. See ...)

If the latter notation is shown, the number of the item (if the excepted provisions are in a numbered item) or page (if the excepted provisions are not in a numbered item) containing the excepted provisions shall be shown either on the title page or shown on page 1 and reference to page 1 shown on the title page.

(6) The matter contained in each supplement shall be arranged in the same general manner and order as the tariff which it amends. (See § 1310.25 (rule 25) for additional regulations governing adoption supplements.) When points in a tariff are given index numbers, the same index number must be assigned to the same point in all supplements to the tariff.

(7) Where a reference mark or note intended for the same general and continued use in the tariff is used in a supplement, the page on which it is used shall refer to the number of the item providing the explanation. Where other than

a general reference mark or note is used in a supplement and is not explained in the item or unit or on the page where used, it must be explained at the end of that supplement, but not as part of the item confined to general reference marks and notes, in which case the item, unit or page must refer to that location for explanation.

(8) The title page shall be counted for purposes of determining the total number of pages in a supplement.

(b) *Updated lists of items and units in effective supplements.* (1) Every supplement of eight or more pages issued to a bound tariff, except blanket supplements and general increase or reduction conversion table supplements, shall provide near the front of the supplement a cumulative list of all items and numbered units that have been added, canceled, or changed by supplement together with reference to the number of the supplement where each is last shown.

(2) A regular supplement need not include the list if it would be the only regular supplement in effect. For purposes of this subparagraph, "regular supplement" does not mean any supplement issued for a specific single purpose for which the regulations in this part authorize issuance of such a special supplement: such as suspension, postponement, vacating, adoption, and conversion-table supplements. Also, supplements containing only suspended matter and/or matter under postponement following suspension shall not be considered as effective supplements.

(c) *Index and table of contents.* A supplement of 5 or more pages must be properly indexed, and a supplement of 15 or more pages must also contain a table of contents. If the table of contents is published in a numbered item, see § 1310.10 (rule 10)—Amendments. The table of contents or any index may be omitted if § 1310.6(c) or § 1310.6(f) (rule 6) does not require the tariff to contain a table of contents or such an index. Blanket supplements need not contain an index or a table of contents.

(d) *Number of supplements and pages permitted.* (1) A tariff is published to be used, and no tariff should be permitted to reach the maximum supplemental limits prescribed without a reissue already prepared to file with the Commission and distribute to users. Nor should a tariff be permitted to become so old or so much supplemented that little of the matter in the original tariff has application any longer, and copies are no longer obtainable. Except as otherwise authorized in the next following sentence, no tariff may be further supplemented that has been in effect for ten years. A supplement (other than a conversion or regular supplement issued to provide a general rate adjustment or a supplement issued only to change or cancel an expiration date in connection with a temporary authority) may be filed to such a tariff if, under the regulations in this part, the supplement is exempt as to the number of supplements or volume of supplemental matter from the provisions of paragraph (d) (2) of this section limiting the number and volume of supplements, or if the supplement cancels the tariff.

(2) Except as otherwise authorized, the following is the maximum number of supplements to a tariff that may be in effect at any time and the maximum number of pages they may contain.

Number of pages in original tariff (inclusive)	Number of effective supplements permitted	Maximum number of pages effective supplements may contain
1 to 2	None	None.
3 to 4	1 [1]	2.
5 to 8	1	4.
9 to 16	2	8.
17 to 80	2, plus 2 additional supplements of not to exceed 4 pages each.	Not to exceed 50 percent of the number of pages in the original tariff.
81 to 200	3, plus 2 additional supplements of not to exceed 4 pages each.	
201 to 500	4, plus 2 additional supplements of not to exceed 4 pages each.	
501 to 800	5, plus 1 additional supplement of not to exceed 4 pages.	
801 or more	6, plus 1 additional supplement of not to exceed 4 pages.	

[1] The tariff of 3 or 4 pages, if supplemented hereunder, must be canceled within 180 d of the effective date of such supplement.

(3) A tariff may provide that it will be reissued periodically, but not less frequently than once a year. Such tariff must carry on its title page the notation:

A reissue of this tariff will become effective not later than [here name date].

This notation may not be changed or eliminated by amendment. Supplements may be issued to such a tariff without limit as to the number of pages in effective supplements, but the regulations pertaining to the number of supplements in effect at any time must be complied with.

(e) *Additional supplement to comply with order of Commission.* When the Commission, in a formal case, orders the cancellation of tariff matter or the establishment of tariff matter, the supplemental limits may be exceeded to the extent necessary to initially comply therewith (but not continuing compliance as to a continuing order), but if exceeded the next regular supplement issued to the tariff must republish or otherwise dispose of the initial publication, observing the prescribed supplemental limits. If the initial publication would result in exceeding the supplemental limits, the supplement may not contain any other matter and the title page must refer to this section for authority to exceed such limits.

(f) *Bridge supplements.* When a bound tariff is issued and filed canceling a prior issue, it is sometimes found necessary to establish, cancel, or change matter in the prior issue effective before the new issue becomes effective replacing it. If the action is intended to affect only the matter in the prior issue, the supplement, which must be on a lawful notice, is to be issued only to the prior issue. If it is to affect matter in both tariffs, a separate supplement may be issued to each, or a bridge supplement may be issued which is a supplement to both. To do so by one publication requires a clear separation to be made therein as to the separate actions. A separate and appropriate supplement number must be shown as to each ICC (or MF-ICC) number. A separate effective date must be established as to each, which in the case of the new issue must be the same as the general effective date of the tariff. The contents must be separated as to each tariff and clearly identified as to the tariff it amends, and the item or other unit as to each tariff that is being added, canceled, or changed. If a bridge supplement is issued, the supplement to the old tariff need not be within the requirements of paragraph (d) of this section. Only one bridge supplement may be in effect at any time.

(g) *Blanket supplements.* (1) Ordinarily, amendment of a tariff should be effected by issuance of a supplement to that tariff alone. However, it sometimes happens that the same or similar addition, deletion, or change of provision is to be made simultaneously in a substantial number of different tariffs. If the matter is susceptible to handling in this fashion, a blanket supplement (a common supplement issued jointly to several tariffs of the same agent or carrier) may be issued and filed, subject to the provisions and regulations of this paragraph.

(2) A blanket supplement may not be issued to less than five tariffs.

(3) Such supplements shall show on their title page, in lieu of printed supplement and tariff number designations, in the upper righthand corner the following wording and spaces for later insertion of numbers:

Supplement ____ to ICC (or MF-ICC) ____

Before filing with this Commission, each copy shall have inserted in ink or by other permanent means the appropriate supplement number and the ICC (or MF-ICC) number of the tariff it supplements. The number of copies ordinarily required for each tariff supplemented shall be filed.

(4) The listing of the effective supplements as to each tariff may be omitted.

(5) On page 1 or a subsequent page, the number of each supplement and the ICC designation of each tariff supplemented, as a minimum, shall be shown in columnar form, under a caption reading "List of Tariffs Supplemented Hereby." Any additional provisions (such as cancellation notices, items containing matter held in effect, etc.) must be similarly shown.

(6) Supplements may not be filed in blanket form to loose-leaf tariffs except for the same purposes for which the filing of individual supplements to such tariffs are authorized. (See § 1310.10(d) (rule 10)—amendments to loose-leaf tariffs.)

(7) Supplements published in blanket form need not comply with the indexing requirements of paragraphs (b) and (c) of this section.

§ 1310.10 Amendments (rule 10).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

(a) *How made.* Any change in, addition to, or cancellation from a tariff shall be known as an amendment. Amendment of a bound tariff shall be made by reissue of the tariff or by issue of a supplement as provided in § 1310.9 (rule 9). Amendment of a loose-leaf tariff shall be made by reissue of the tariff or by issue or reissue of a page or pages as provided in paragraph (d) of this section. A loose-leaf tariff may also be amended by issue of a supplement (prepared as specified in § 1310.9 (rule 9)), but only for the purposes referred to in paragraph (d)(18) of this section.

(b) *Participating carriers—how shown.* (1) Paragraphs (b)(2), (b)(3), and (b)(4) of this section will not apply to participating-carrier tariffs. For regulations governing participating carrier tariffs, see § 1310.20 (rule 20).

(2) If an original bound tariff specifically names participating carriers, each supplement thereto must contain either a complete list of the carriers participating in the tariff, as amended, and show that it cancels the prior list, or shall state that the list of participating carriers is "as shown in the tariff" to which may be added "except [here show cumulative list of corrections in, additions to, or cancellations from the list in the original tariff]." Only one such cumulative list may be in effect at any one time. The participating carrier list may be published in numbered item form, in which case paragraph (c) of this section governs. The names of the carriers shall be listed alphabetically as provided in § 1310.6(e) (rule 6). When the participation of a carrier is canceled, the carrier's complete name shall be shown, together with the word "Cancel" or other suitable provision, but without reference to the power of attorney or concurrence. Each addition and cancellation of a carrier must be carried forward as reissued matter and not dropped even if the item form is used.

(3) The list of participating carriers published in a loose-leaf tariff may be amended only by republication of the page upon which it appears. Additions, cancellations, and changes shall be indicated as such. Cancellations shall be republished on successive reissues of the list and the page, indicating when cancellation was first made effective, until all provisions in the tariff referring specifically to said carrier have been removed from the effective pages, after which the cancellation listing may be omitted.

(4) When the participation of a carrier is canceled, the supplement (when a bound tariff) or the page or pages (when a loose-leaf tariff) must also provide for the cancellation of rates and other provisions for the account of such carrier unless the cancellation of the carrier is in connection with the publication of a complete adoption of the rates of such carrier by another. (See § 1310.25 (rule 25)—Transfer of Operations; Change in Name and Control.) The cancellation of rates and other provisions must be accomplished by either amending the individual pages (when a loose-leaf tariff) or items or other provisions affected or by the publication of a blanket cancellation notice specifically indicating that all rates and other provisions in the tariff applying for the account of the carrier are canceled. Such blanket cancellation must be shown in direct connection with the list of participating carriers and be referred to in the cancellation of the carrier's name from the list. As to a bound tariff, the blanket cancellation must be carried forward as reissued matter in the usual manner when the supplement is reissued. As to a loose-leaf tariff, it must be carried forward on successive reissues of the page (with a statement as to when the cancellation first became effective) until all provisions referring to the carrier have been eliminated by reissue. If the blanket cancellation notice alternative is used, the items and other provisions affected must be promptly amended to remove the canceled application. If the cancellation of provisions (whether specifically canceled or canceled by notice) becomes effective, any subsequent restoration of the canceled provisions, for any reason, must be by republication of such provisions.

(c) *Amendments to bound tariffs.* (1) Except as otherwise specifically authorized, an item or any other unit, numbered or unnumbered, amended by a supplement must be published in that supplement in its entirety as amended.

(2) When any part of an item (see definition of "item" in § 1310.0(f)) is amended, except as otherwise specifically authorized the new item shall be given the same number with a letter suffix and shall specifically cancel all uncanceled correspondingly numbered items in the same numbered series. The first revision shall use suffix A, the next B, and so on through Z, then starting over with AA, BB, and so on. For example: item 40–A cancels item 40; item 40–B cancels item 40–A and item 40 (if item 40 has not been previously canceled); and so on.

(3) Specific cancellation of items may be omitted if the original tariff contains the following rule:

> As this tariff is supplemented, numbered items with letter suffixes cancel, except as otherwise specifically indicated, correspondingly numbered items in the original tariff or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A. Example:
>
> Item 445–A cancels item 445, and item 365–B cancels item 365–A in a prior supplement, which in turn canceled item 365 (if item 365 had not been canceled for some reason, item 365–B would cancel it as well). If the new item provides a specific cancellation of a prior issue or issues, this rule is not applicable.

If this method of cancellation is used, it may not be discontinued during the life of the tariff. The item which, in whole or in part, was the subject of an order of suspension, and also the prior issue of that item containing matter held in force by reason of that suspension, are required to be canceled specifically if it is intended to cancel them (this requirement does not apply to subsequent issues of such items in which suspended matter and matter held in force have been brought forward in an authorized manner—see § 1310.14 (rule 14)).

(4) When any part of a numbered unit (not an item—see definition of "unit" in § 1310.0(f)) is amended, except as otherwise specifically authorized the new unit shall be given the same number and shall specifically cancel all prior uncanceled units bearing that number. Cancellation shall be made by referring to the number of the unit and to the number of the page in the original tariff or in the supplement on which the unit to be canceled is shown. If in a supplement, the number of the supplement must also be referred to. When it is necessary to effect cancellation in more than one supplement, or in the original tariff and one or more supplements, appropriate references must be made to all. Numbered units may not be given suffix letters when amended.

(5) Tariffs should not publish unnumbered units unless necessary or desirable because of the character of the particular matter. Use of a number clearly indicates to the tariff user what matter in the original tariff or an uncanceled prior supplement has been superseded, no matter how the character and content may have been changed. Therefore, an unnumbered amended provision must, in addition to directing the cancellation of the prior issue of the provision (clearly indicating the matter to be canceled), also make specific reference to the page or pages of the original tariff or the prior uncanceled supplement on which the provision first appeared in the tariff. The complete cancellation from the tariff of an unnumbered provision (no part of it, whether or not amended, being retained) shall be shown in the same manner. Except where partial amendments of units are authorized, an unnumbered unit, when amended, shall be republished in its entirety as amended.

(6) Indexes of commodities, origins, and destinations; and items containing only:

> Lists of participating carriers, table of contents, lists of commodities, lists of points, statements of carriers' operating authorities, explanation of abbreviations, explanation of reference marks, package descriptions, explanations of notes.

May, subject to the following conditions, be amended in part without bringing forward the index, item, or other unit in its entirety as amended. Only one partial

amendment may be in effect at one time as to any index, item, or other unit. Unless otherwise specifically authorized, each successive partial amendment must accumulate all changes as to a particular index, item, or other unit and must cancel any prior partial amendment thereto. The purpose of a table of contents in a supplement is to list the contents of the same supplement, and location. Therefore, if the table of contents is published in item form, the number of partial amendments permitted is not limited. A unit may not be amended in part if it contains provisions required by a released-rate order. If an index of origins or destinations is amended in part and if index numbers are assigned to origins or destinations in the tariff, the following notation must be shown at the beginning of such indexes:

The index numbers of points in this supplement correspond with the index numbers of the same points shown on pages ____ to ____, inclusive, of the tariff, with the following additions and exceptions.

Partial amendments shall be published in such a manner that it is clear what matter is being changed or canceled. For canceling or amending expiration dates in connection with publications covering temporary authorities, see § 1310.28(g) (rule 28).

(7) A table of rates, rate base numbers, or other figures comprising not more than two pages must be republished in its entirety if amended. Otherwise, the table may be amended in part, subject to the following. When amending a figure at the intersection of a headline point or other caption and a sideline point or other designation, either the entire vertical column of figures in which the change appears shall be reproduced, or the entire horizontal line of figures in which the change appears. Only one partial amendment of any table may be in effect at any time, and each amendment shall republish the prior changes, directing the cancellation of the prior showing.

(8) When any rate or other provision expires or is canceled, in part or in its entirety, the expired or canceled matter should not be reproduced in the new item or unit effecting the cancellation except to the extent necessary to identify the subject matter. No rate or other figure that is no longer effective shall be reproduced. (See paragraph (b)(2) of this section for participating carrier list items.)

(9) If an item or unit expires or is canceled, leaving no rates or provisions in effect in that item or unit, the statement of the expiration or cancellation shall be treated as any other reissued matter is subsequent supplements.

(10) If all or any part of the matter in an item or unit is transferred to another tariff or to a different location in the same tariff, whether in the same or in a modified form, that item or unit shall be revised in the regular manner authorized in this paragraph to show the revised provision, or when no effective matter is continued therein, to indicate cancellation of such item or unit. In all cases, the item or unit must show where of the tariff. The page which, in whole the transferred rates or provisions will thereafter be found. For example: "item 10–A cancels item 10; rates formerly appearing in item 10, but not shown herein will be found in item ____ (or in tariff ICC ____)."

(d) *Amendments to loose-leaf tariffs.* (1) When any part of a page is amended, except as otherwise specifically authorized, that page shall be reprinted, given the same number, designated as a revised page, and given a revision number. Revised page designations shall be shown in the same corner in which original page designations are required to be shown (see § 1310.4(f)(4) (rule 4)). Except as otherwise specifically authorized, the new page shall specifically cancel all uncanceled pages bearing that number. The first revision shall be numbered 1, the next 2, and so on in consecutive numerical sequence. For example: "1st Revised Title Page cancels Original Title Page"; "3rd Revised Page 4 cancels 2nd Revised Page 4 and 1st Revised Page 4" (if 1st Revised Page 4 has not been previously canceled); and so on. (See paragraph (d)(6) of this section when both sides of a sheet are used.) Items and numbered units must not be given suffix numbers. When a loose-leaf page is rejected, the designation used for the particular page series (i.e. "original", "1st revised", etc.) may not be used on the next issue of that page series. Instead the next revision number shall be used. The rejected page may not be referred to on any subsequent page as having been canceled, amended, or withdrawn, but the page which is published in its stead must bear the following notation:

Issued in lieu of [here identify the rejected page], rejected by the Commission.

(2) Specific cancellations of pages, except the title page, may be omitted if the original tariff contains the following rule:

METHOD OF CANCELING ORIGINAL AND REVISED PAGES, EXCEPT THE TITLE PAGE

When this tariff is amended by revised pages, the cancellation of prior pages, except the title page, will be effected by means of this rule. A revised page will not show a cancellation notice except when a cancellation notice is necessary because of suspension, rejection, or other reason. Revisions of each page will be published and filed in numerical sequence.

Except where a specific cancellation is shown on a new revised page, a revised page cancels any and all uncanceled revised or original pages, or uncanceled portions thereof, which bear the same page number. See exception. For example: 1st Revised Page 10 will have the effect of canceling Original Page 10; 45th Revised Page 12 will have the effect of canceling 44th Revised Page 12; 13th Revised Page 4–A will have the effect of canceling 12th Revised Page 4–A and also 11th Revised Page 4–A if the cancellation of 12th takes place on or before its effective date.

EXCEPTION: When a specific cancellation on a prior revised page excepts a previously filed page wholly or in part, this rule does not have the effect of cancelling such excepted previously filed page or portion thereof.

If this method of cancellation is used, it may not be discontinued during the life or in part, was the original subject of an order of suspension, and also the prior issue of that page containing matter held in force by reason of that suspension, are required to be canceled specifically if it is intended to cancel them (this requirement does not apply to subsequent issues of such pages on which suspended matter and matter held in force have been brought forward in an authorized manner—see § 1310.14 (rule 14)).

(3) Revised title pages shall be printed on one side of the sheet only, show the number of the revision in the upper left-hand corner, and show immediately under the effective date the following notation:

Original tariff effective [here show effective date of original tariff]

(4) When the tariff is one of the pages of which are printed on both sides of the sheets and it is desired to amend only one page, the page published on the reverse side must also be reprinted, assigned the next consecutive revision number, and filed on lawful notice. (See paragraph (d)(6) of this section.) In direct connection with the revision number on the unchanged page shall appear the following statement, or a reference mark explained as follows:

Change in revision number only, without change in matter on body of the page.

This reference mark must be used for this purpose, and no other, for the life of the tariff.

(5) When a sheet containing an original page printed on one side with no tariff provisions printed on the reverse side is added to a tariff containing sheets printed on both sides, the blank page must show the notation "Intentionally left blank" or a notation reading as follows shown at the bottom of the printed page:

The reverse side of this sheet is intentionally left blank.

One or the other notations must be carried forward on future reissues of the sheet.

(6)(i) If tariff material is printed on both sides of a sheet and it is desired to withdraw all material from only one side and leave that side blank without being required to reprint that side each time the reverse side is amended, publication may be made as set forth in subdivisions (ii) through (iv) of this subparagraph, provided a rule is published in the tariff clearly setting forth the method to be used, with an example.

(ii) At the time the matter on the page is withdrawn, both sides of the sheet shall be reissued in the normal manner and assigned the next consecutive revised-page numbers. Prior revisions of those pages shall be properly canceled. In the center portion of the page from which the matter is being withdrawn shall be shown the following notation:

Tariff provisions canceled. This page series discontinued.

(iii) The next reissue of the page containing effective tariff provisions shall then dispose of the revised-page desig-

nation by including a statement at the bottom reading:

The reverse side of this sheet is intentionally left blank. The [here show revised page number of the page from which the material was withdrawn as it was last designated] is hereby canceled and page series discontinued until further notice.

Each subsequent reissue shall include a statement reading 352 I.C.C.

The reverse side of this sheet is intentionally left blank.

If, in accordance with this procedure, the contents of a page have been canceled and the page series discontinued, and the subsequent reissue of the page on the reverse side has effectively canceled the page designation, and it is desired to reactivate the page series the following shall govern: The revision number shown in connection with the page number shall be the same as the revision number of the page on the reverse side. It shall not cancel any previous page, but shall publish a notation specifying that the unused intervening revision numbers of the page have not been used and will not be used, identifying what revision numbers these are.

(iv) If it is desired to use the page after the tariff provisions have been withdrawn as set forth in paragraph (d)(6)(ii) of this section, but before the page series has been specifically canceled as set forth in paragraph (d)(6)(iii) of this section, and that side of the sheet left blank, amendment shall be accomplished in the normal manner (designating the page with the next consecutive revision number of that page series and making the proper cancellation).

(7) If it becomes necessary to add an additional page, such page (except when it follows the final page) shall be designated with the same number as an existing page together with a single letter suffix—for example, Original Page 4–A, Original Page 4–B, etc. If it is necessary, for example, to change matter on Original Page 4–A, the page shall be reprinted and such changed page shall be designated as 1st Revised Page 4–A, and unless the tariff contains the automatic cancellation rule provided in paragraph (d)(2) of this section, shall show that it cancels Original Page 4–A. Only single letter suffixes are permitted for this purpose, and no other system or variation, such as use of multiple letter suffixes, decimal or fractional numbers, etc., is permitted. As to any page number designation, suffix letters (if used) shall start with A and proceed alphabetically as needed through Z. When a sheet is printed on both sides, only the number of the higher numbered of the pages printed thereon may be used for expansion by adding a letter suffix. For example, if the page on one side of the sheet is numbered 5 (regardless of whether an original or revised page) and the page on the reverse side is numbered 6, an added page may be designated as "Original Page 6–A," but may not be designated as "Original Page 5–A."

(8) If, after a loose-leaf tariff has been filed with the Commission, it is desired to file additional pages at the end of the tariff, the pages shall be numbered consecutively with the last page of the tariff, and shall be designated as original pages, without letter suffixes.

(9) The number of sheets containing thereon pages canceled from the tariff may not exceed six times the number of sheets containing effective tariff matter. Sheets containing only pages on which no tariff matter is printed except for notations such as "Intentionally left blank", or page numbers and other provisions necessary only to accommodate the format of the tariff, are not included in the count of sheets containing effective matter within the meaning of this rule. The tariff must be canceled by the time this maximum ratio is reached.

(10) When the Commission, in a formal case, orders the cancellation of or the establishment of tariff matter, the page limit provided in subparagraph (9) of this paragraph may be exceeded to the extent necessary to initially comply therewith (but not continuing compliance as to a continuing order).

(11) When a revised page is issued which omits rates, rules or other provisions previously published on the page which it cancels, the disposition of the omitted provisions must be indicated clearly. If the omitted provisions are published on a different page, the revised page shall make specific reference to the page on which they will be found. The page to which reference is so made shall contain the following notation in connection with such rates, rules, or other provisions:

For [here insert rates, rules, provisions, etc. as appropriate] in effect prior to the effective date hereof, see page (or pages) [here identify page or pages from which transferred, whether changed or unchanged].

If canceled or expired and not transferred to another page unchanged or in changed form, the page shall so indicate that fact, identifying the provision canceled or expired only to the extent necessary to show what is affected. No rate or other figure that is no longer effective shall be reproduced.

(12) If five or more pages of a tariff, the pages of which are printed on one side of the sheet only, are reissued at one time with the same effective date to cancel all provisions thereon or to transfer all provisions to other pages, the reissue and cancellation may be accomplished by means of a single printing, but showing the individual cancellations. In one column shall be listed the designation of each page (for example, "2nd Revised Page 16") under a column headed "Page." In a second column, headed "Cancels," and opposite each listing in turn shall be shown the designation of the page the new page cancels—for example, "1st Revised Page 16." In the upper left-hand or upper right-hand corner, where the page designation for that tariff would otherwise appear, the following wording and spaces for later insertion of words and numbers shall be shown:

---- Revised Page ----
cancels
---- Page ----

Before filing with this Commission, each copy (two copies for each different page) shall have inserted in ink or other permanent means the designation of the new page and the designation of the page which the new page cancels. The automatic cancellation provisions of subparagraph (2) of this paragraph may not be used with this procedure. Each cancellation must be specific. Such pages may be filed only when all provisions on each page are canceled or transferred, and no other or new provisions are substituted thereon. Any such page, however, may be subsequently reissued individually in the regular manner to establish provisions thereon. The same method is permissible as to tariffs which have pages printed on both sides of the individual sheets provided that both pages on any particular sheet are being canceled or transferred.

(13) Each time a page is revised or a new page or supplement is added, the page (check sheet) showing the updated listing of pages and supplements comprising the tariff shall be correspondingly revised by reissuance to show in numerical sequence by page numbers (including whether an original page or a revised page, and if revised what number of revision). The basis for listing may be either the issued date or the effective date, but in any event the check sheet must be in such form and content as to enable the tariff user to determine if all pages filed with the Commission are on hand. The check sheet shall indicate by reference mark or other means which original or revised pages shown thereon are different or are in addition to those shown on the check sheet it cancels. Effective and to be effective supplements shall also be listed thereon. Pages or supplements which contain only matter under suspension or subsequent postponement and pages or supplements which contain matter held in effect by reason by suspension or subsequent postponement shall be included and an appropriate explanation made in each case. Cancellation of supplements when they have served their purpose (except supplements announcing an adoption of the tariff, which should not be canceled, and except supplements canceled by other supplements of like or similar character or content) shall be effected by reissuance of the check sheet and a notation to that effect made thereon. No other matter may be shown on either side of the sheet containing this updated list. In addition to the reissuance of the check sheet each time a loose-leaf page amendment is filed, the tariff may also employ the "correction number, check off" type of check sheet. If such a sheet is employed, all loose-leaf page amendments issued and filed at the same time shall show in the lower left-hand corner the same correction number. The pages comprising the first amendment to the tariff

shall bear correction No. 1, the pages comprising the second amendment shall bear correction No. 2, etc., in consecutive order. This will permit the checking off as the pages are filed of correction numbers on the check sheet listing such numbers so that a permanent record may be maintained by number of all corrections received.

(14) The indexes of the tariff must be amended concurrently with changes in the contents of the tariff to show additions, cancellations, and changes as to points and commodities.

(15) Changes (increases, reductions, etc.) shall be indicated as required by paragraph (f) of this section. See § 1310.10(b)(3) for requirement that cancellation of a participating carrier shall be carried forward as reissued matter until certain conditions are met. In § 1310.10 (g) provision is made for bringing forward matter in bound tariffs as reissued, allowing use of the reference mark consisting of a square and the supplement number within the square. The same system may be used for reissuing the cancellation of a participating carrier, adapting the explanation of the reference mark in an appropriate fashion to cover the reissue number of a given page instead of the number of a supplement. Other than participating carrier provisions, the reference mark and explanation need not be employed against a reissued provision, but if used it may be used only once, then dropped from subsequent reissues.

(16) If an item or unit expires or is withdrawn in its entirety and canceled, the statement of the expiration or cancellation shall be shown one time and then omitted from subsequent reissues of the page. The same item or unit may be used again for other provisions or for reinstatement of the same provisions.

(17) When a protective cover not a part of the official filing of the tariff is used, only such information should appear thereon as will remain constant and in use during the life of the tariff.

(18) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by the following:

(i) Section 1310.10(j). Conversion supplements to provide general rate changes (rule 10).

(ii) Section 1310.11. Transfer or cancellation of provisions (rule 11).

(iii) Section 1310.14. Suspended matter (rule 14).

(iv) Section 1310.22. Seasonal motor-water rates (rule 22).

(v) Section 1310.25. Transfer of operations—change in name and control (rule 25).

(vi) Section 1310.27(l). Take-over publications (transfer of agent) (rule 27).

(vii) Section 1310.28(g). Change or cancel expiration dates in connection with temporary authorities (rule 28).

(viii) Section 1310.28(h). Postponement of tariffs or tariff matter (rule 28).

(e) *Reinstatement of canceled or expired provisions must be by republication.* If provisions have been eliminated by cancellation or expiration, they may not be reinstated except by republication with a new effective date providing lawful notice. If in a supplement and if republication is made in an item bearing the same number as the old item, the next unused letter suffix in that numbered series must be assigned thereto.

(f) *Changes indicated.* (1) Tariff publications shall indicate changes made in existing rates, charges, classifications, rules, or other provisions by use of the following uniform reference marks in connection with each such change:

↓ or (R) to denote reductions
♦ or (A) to denote increases
▲ or (C) to denote changes which result in neither increases nor reductions in charges

(2) Explanations of such reference marks shall be provided in the item "Explanation of Reference Marks for Standard Use Throughout the Tariff, as Amended" (see § 1310.6(n) (rule 6)), and these marks shall not be used for any other purpose. The form of the reference marks and their explanations must be shown exactly as prescribed in this paragraph. The reference mark must be positioned in direct connection with the changed rate or other provision. The use of more than one reference mark in connection with the same provision to indicate more than one type of change is not permitted unless the character of the amendment is such that the provision cannot be treated to show the appropriate single reference mark in connection with each part proposing a certain kind of change.

(3) When a change of the same character is made in all or in substantially all rates in a tariff or supplement, or on a page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page, as the case may be, in the following manner: "All rates in this issue are increases"; or "All rates on this page are reductions"; or there may be added, when appropriate, "except as otherwise provided in connection with particular rates." When a tariff publication indicates a change, with exceptions, in the manner provided in this subparagraph, a bold-faced dot "•" shall be used to indicate a rate or other provision in which no change has been made, and the appropriate reference mark shall be used to indicate any other change not indicated by the general statement on the publication. A bold-faced dot may not be used to indicate "no change" under any other circumstances.

(4) When tariff matter, in connection with which a reference mark or wording required by this paragraph has been used, is reissued without change, the mark or wording shall be omitted.

(g) *Reissued matter.* (1) Matter brought forward without change from one supplement into another within the same tariff must be designated as "Reissued" and must show the original effective date and the number of the original supplement from which it is reissued; or it must conform to the requirements provided in paragraph (g)(2) of this section.

(2) The reissued matter shall be uniformly designated by a number within a square (or an authorized substitute—see § 1310.6(n)(7) (rule 6)), the number corresponding to the number of the supplement from which the matter is reissued, and the explanation thereof must appear in the supplement in which the reference mark is used. The explanation must identify the matter as reissued in substantially the following manner:

□ (with number enclosed) Reissued from supplement bearing the number enclosed within the square. See item [here insert number of item referred to, explaining the methods of denoting reissued matter in supplements].

The rules section of the tariff shall contain an item (the number of which will be inserted in the explanation of the reference mark denoting matter reissued from a prior supplement) reading substantially as follows:

METHOD OF DENOTING REISSUED MATTER IN SUPPLEMENTS

Matter brought forward without change from a supplement being canceled into another supplement will either be designated as reissued (i) by a complete statement to that effect in direct connection with the reissued matter, indicating the number of the supplement in which the reissued matter first appeared in its currently effective form, or (ii) by a reference mark [here show □, [ ] or ( ), whichever single type is adopted in the tariff] enclosing a number, the number being that of the supplement in which the reissued matter first appeared in its currently effective form. To determine its original effective date, consult the supplement in which the reissued matter first became effective.

(3) When the matter brought forward was first published in its currently effective form in one supplement and its effective date was modified by another supplement, the matter shall be indicated as "Reissued" together with a notation that refers to the number of the supplement in which the matter was first published, the final effective date of the matter, and the number of the supplement which established such final effective date—for example, "Reissued from Supplement 4, effective January 1, 19--, per Supplement 5." When such a notation is referred to by use of a reference mark, the reference mark must be one other than that prescribed in this paragraph for ordinary reissuances, and shall be explained on the same page as that on which the reissued matter appears.

(4) Republication of matter as "reissued" matter serves to establish a new effective date for the provisions, which shall be the general effective date of the supplement into which it is brought forward. The reference to a prior supplement serves to direct the tariff user to where the provision first appeared in its present form. Therefore, if the effective date shown for a provision in the prior supplement being canceled is a date later than the general effective date of the new supplement into which the provision is being reissued, the number-in-a-square reference mark may not be used, but instead the reference to the prior supplement and the later effective date shall be

stated in full in direct connection with the reissued provision.

(h) *Change in the explanation of reference marks and notes.* A change in the explanation of a general reference mark or general note (a reference mark or note adopted for general and continued use in the tariff—see § 1310.6(n)(2) (rule 6)) governing tariff provisions published elsewhere in the tariff or prior supplement should not require the tariff user to conduct a search for its use in order to determine the effect. Therefore, any change in or cancellation of an explanation of such a reference mark or such a note, or change in or cancellation of an item or other provisions such explanation refers to in turn, shall be accompanied by a republication at the same time of all tariff provisions in the tariff as amended which employ the use of the reference mark or note, or, in the alternative, the changed explanation (or tariff provision referred to in turn by such explanation) shall identify by item number or page (identifying the supplement if in a supplement) the effective tariff provisions which refer to the reference mark or note. This paragraph shall not apply to the explanation of the reference mark Ⓔ or (E) used in referring to an item showing expiration dates.

(i) *Matter issued under order or other authority.* If an entire supplement or a loose-leaf page or a provision:

(1) Is issued to comply with a mandatory order requiring the specific action;

(2) Is issued under authority of a permissive order allowing notice of less than thirty days and/or departure from tariff-publishing regulations; or

(3) Is published under a regulation of this part permitting less than thirty days' notice and/or departure from an outstanding order;

a reference to such order or rule and the number of days' notice (where less than thirty is authorized) shall be shown on the title page if covering an entire supplement and in direct connection with the tariff provisions (together with the specific effective date) if not comprising an entire supplement. Outstanding orders departed from must be identified.

(j) *Conversion supplements to provide general rate changes.* (1) A conversion table type supplement may be filed to any bound or loose-leaf tariff having not less than 20 pages (excluding supplements) to provide a general change in the level of all or substantially all the rates or charges, or all or substantially all the rates or charges in a described category (less-than-truckload, truckload, etc.) named in the tariff. (However, part of the general adjustment may be effected by specific publication of rates and charges in a companion supplement issued under authority of paragraph (j)(6) of this section, or, in the case of loose-leaf tariffs, by loose-leaf page amendments.) The supplement shall employ the columnar form of publication, naming each base rate or charge to be increased or reduced and in direct connection therewith the resulting applicable rate or charge. The supplement shall be in clear, explicit, and simple terms, and be free of conflict and ambiguity. A conversion type supplement may be filed by a carrier or agent to a tariff of less than 20 pages (excluding supplements) provided it is filed at the same time as such supplements are filed by it to other of its tariffs which have 20 or more pages and provided the change is part of the same general rate adjustment.

(2) The conversion supplements shall contain an application provision reading substantially as follows:

> Except as provided in [here identify location of listing of items, notes, or provisions not subject to rate change in whole or in part, specifying what part] and in [specify whether supplements or loose-leaf pages] issued subsequent to this supplement, all rates and charges published in this tariff, as amended, or as may be amended in [specify whether supplements or loose-leaf pages] issued subsequent to this supplement, are hereby or will on their effective dates be [specify whether increased or reduced] as follows for the period this supplement is in effect:

Immediately following this statement, a clear and explicit application of each column of changes must be published. If the supplement does not contain exceptions to or any non-application of the rate changes, the reference in the statement to a listing of exceptions must be omitted. However, under no circumstances may the exception therein with respect to subsequent supplements or loose-leaf pages be omitted. If not all of the rates or charges in a tariff are being changed by the supplement, the statement must clearly and definitely state the exact category of rates or charges (any - quantity, less - than - truckload, truckload, volume, or less-volume rates, minimum charges, etc.) being changed and/or the exact items, sections, etc. of the tariff in which they are contained. Reference to categories of rates may employ only terms used in the tariff or determinable through its published definitions.

(3) If the supplement does not include all the tariff rates and charges to be changed, it must provide a percentage formula or other basis for converting rates and charges which are higher than those shown or otherwise not shown in the conversion table. If this is necessary, the supplement must provide a method of disposing of resulting fractions. When multiple-factor rates or charges made by use of arbitraries or other means are being changed, the method of computing such changes shall be provided. The tariff shall contain a provision captioned "For information purposes only—not to be used for determining applicable rates" or words of like import, which shall set forth the exact mathematical procedure or formula employed to effect the final increased or reduced rates or charges shown working from the base rate or charge named therein, unless in the judgment of the publishers there was no such procedure or formula, the procedure was too complex for practical exposition, or the rates or charges were not treated uniformly. In such latter instances, the tariff should state briefly why the information is not given.

(4) The published and the converted rates or charges must be in the same monetary unit (in cents, in dollars and cents, etc.) used in the tariff. If the tariff names rates or charge in more than one monetary unit (for example, some in cents, others in dollars and cents), the unit used must be the one employed in the greatest percentage of rates and charges to be changed, and a provision must be published stating how the change is to be applied in connection with the remainder—for example, if the conversion supplement is based on a monetary unit of "in cents," the application provision shall include the following rule:

> Where the rate or charge is stated in dollars or dollars and cents per 100 pounds, per ton, per article, per piece, per package, per shipment, or per any other unit, first find the rate or charge which is equivalent in cents under column [here show column containing base rates] of the conversion table herein and then apply the changed rate or charge shown opposite thereto in columns [here show numbers of columns containing change rates or charges] in item [here show number of item containing application of columns] herein.

(5) Each supplement may contain not more than 10 columns of rates or charges including the published rate or charge column. As to any published rate or charge in the tariff, as amended, application of only one column of changed rate or charge is permitted. For example, the supplement may not provide for application of one increase therein and then subject the resultant rate to a second increase therein.

(6) Each conversion type supplement shall contain no other matter, be indicated to expire with a specific date not beyond one year from its effective date, and, as to a bound tariff, be exempt from the terms of § 1310.9(d)(2) (rule 9). Each regular (not conversion type) supplement containing only republished class-rate tables and necessary related provisions forming a part of the same general rate adjustment, naming the same issued and effective dates as the conversion type supplement and not made subject to a conversion table shall also be exempt from the terms of § 1310.9(d)(2) (rule 9). Such a regular supplement need not show an expiration date.

(7) As to a bound tariff, an exception item or note may be republished from the conversion supplement into a regular supplement in order to add, eliminate, or change provisions. As to a loose-leaf tariff, exceptions may be published in an item in the tariff proper to which the conversion supplement may refer, in which case the item may be republished in the regular manner in subsequent republications of the particular page. If the exceptions are published in the conversion supplement issued to a loose-leaf tariff, they may not be amended.

(8) The title page of the conversion supplement shall indicate, in the top margin, whether the changes are increases or are reductions. If the changes consist of some of both kinds, the nota-

tion must add "as indicated herein" and the different categories of changes must be indicated by use of the appropriate symbols for increase and reduction.

(9) All subsequent amendments (supplements or loose-leaf pages) to the tariff becoming effective during the effectiveness of the conversion supplement and naming rates or charges shall contain a notation indicating whether such amendments are or are not subject, as the case may be, to the provisions of the conversion supplement (identifying the supplement) or to the application item (identifying the item).

(10) As to a tariff, only one conversion supplement may be in effect at any time. The duration of the application of published changes in a conversion supplement may not be extended by a like supplement providing essentially the same increases or reductions. A conversion supplement may not be reissued with the same or earlier expiration date unless requested by the Commission.

(11) The provisions of this paragraph do not authorize the publication and filing of so-called master tariffs or connecting link supplements.

(12) The supplement shall not require more than a one-step increase operation in order to determine the applicable rate or charge.

§ 1310.11 Transfer or cancellation of provisions (rule 11).

(a) *Different situations.* Cancellation of a tariff, in whole or in part, involves one or more different situations each of which requires a different procedure to be followed in publishing. Below is summarized each of the several different kinds of situations.

(1) Cancellation of an entire tariff, as amended, with discontinuance of all provisions therein, no transfer of provisions to another tariff or tariffs—see paragraph (b)(1) of this section.

(2) Cancellation of an entire tariff, as amended, with transfer of all provisions not being discontinued to a new tariff (issued by the same carrier or agent) being issued concurrently—see paragraph (b)(2) of this section (see paragraph (a)(8) of this section for exception).

(3) Cancellation of an entire tariff, as amended, with transfer of all provisions not being discontinued to two or more tariffs (which may be new concurrent issues or already effective issues, or both) issued by the same carrier or agent—see paragraph (b)(3) of this section.

(4) Cancellation of an entire tariff, as amended, issued by a carrier with transfer of all provisions not being discontinued to one or more tariffs (which may be new concurrent issues or already effective issues, or both) issued by an agent—see paragraph (b)(4) of this section.

(5) Cancellation of a tariff, as amended, in part only, with discontinuance of the provisions canceled, no transfer of provisions to another tariff—see paragraph (b)(5) of this section.

(6) Cancellation of a tariff, as amended, in part only, transferring such of the provisions of that part which are not being discontinued to one or more other tariffs—see paragraph (b)(6) of this section.

(7) Cancellation of a tariff, as amended, to correct error of omission in failing to direct its cancellation in the new issue thereof—see paragraph (b)(7) of this section.

(8) Cancellation of an entire tariff, as amended, issued by an agent or jointly by two agents, with transfer of all provisions not being discontinued to a new tariff being issued concurrently by the same agent or agents jointly with an additional agent; or cancellation of an entire tariff, as amended, issued by joint agents, with transfer of all provisions not being discontinued to a new tariff being issued concurrently by a lesser number of the same agents—see paragraph (b)(8) of this section (also see § 1310.21 (rule 21)—Tariffs of Joint Agents).

(9) Transfer or provisions from an agent's tariff to the tariff of a carrier. A carrier's tariff may not direct the cancellation of a tariff, either in whole or in part, of an agent. Transfer may only be effected by cancellation by the agent and publication by the carrier, each as to its own issue. A common effective date for both actions should be arranged to prevent conflict in rates or absence of any effective rates. The tariffs shall refer to each other in the manner and to the extent provided in § 1310.11(b)(6) of this part.

(b) *Applicable only as directed in paragraph (a) of this section.* (1) Issue a supplement to the tariff (bound or loose-leaf) to be canceled showing that it "cancels" the tariff. State what provisions, of what tariff, will thereafter apply.

(2) Show on title page of new tariff, or within, as provided in § 1310.5(b) (rule 5), that it "cancels" the prior issue. If the new issue does not contain all of the provisions superseding those formerly in the canceled tariff, the canceling tariff shall show where provisions not appearing therein will thereafter be found, or what rates thereafter will apply.

(3) Issue a supplement to the tariff (bound or loose-leaf) to be canceled, showing that it "cancels" the tariff. Refer to each other tariff in which the provisions thereafter will be found and identify in some manner what portion is being transferred to what tariff. If some portion is being discontinued, without transfer, state this fact, identifying the provisions to the greatest extent possible, and state what tariff will thereafter apply on the traffic or on the service. In each tariff to which a transfer is made (by reissue, issue of a new tariff, or amendment to an existing tariff), indicate in connection with the superseding provisions in each case, if newly published and not already effective, the tariff which contained the provisions superseded, whether changed or not. The effective date of all actions must be the same.

(4) Follow same procedure set forth in paragraph (b)(3) of this section except do not indicate in connection with the superseding provisions the tariff containing the provisions superseded. Instead, if the carrier will be a new participant in the agent's tariffs, a notation reading as follows shall be shown in connection with the carrier's name in the list of participating carriers:

Rates formerly applicable were published in [here identify tariff].

(5) Amend the tariff to be canceled in part in the regular manner (by supplement if a bound tariff, by revised pages, or by reissue, as appropriate for the type of tariff under this part), making specific cancellations of provisions (except where tariff reissued). If a bound tariff, and the amount of tariff matter it would be necessary to publish to comply would require more than four complete pages (including the title page), or if a loose-leaf tariff, and the reissuance of more than one-fourth the effective pages would be required to comply, the cancellation may be effected by a statement for the purpose published in a special supplement issued to the tariff. The statement shall specifically identify the material canceled (numbers of the items, units, tables, sections, pages, etc.) and state what provisions in what tariffs will thereafter apply in the absence thereof. The supplement must be permitted to remain in effect for the life of the tariff, or in the case of loose-leaf tariffs until all the affected pages have been reissued (such reissued pages must refer to the supplement action). A supplement to a bound tariff may contain both cancellation in the regular manner and cancellation by statement. A supplement containing only matter necessary for the partial cancellation is exempt from supplemental limit provisions of this part. In bound tariffs, any reissue in a subsequent supplement of an item or unit affected by the statement form of cancellation shall specifically cancel the prior item or unit "as amended by" the canceling supplement.

(6) Amend the tariff to be canceled in part in the regular manner (by supplement if a bound tariff, by revised pages, or by reissue, as appropriate for the type of tariff under this part), making specific cancellations of provisions (except where tariff reissued). If a bound tariff, and the amount of tariff matter it would be necessary to publish to comply would require more than four complete pages (including the title page), or if a loose-leaf tariff, and the reissuance of more than one-fourth the effective pages would be required to comply, the cancellation may be effected by a statement for the purpose published in a special supplement issued to the tariff. The statement shall specifically identify the material canceled (numbers of the items, units, tables, sections, pages, etc.), refer to each other tariff in which the provisions thereafter will be found, and identify in some manner what portion is being transferred to what tariff. If some portion is being discontinued, without transfer, state this fact, identifying the provisions to the greatest extent possible, and state what tariff will thereafter apply on the traffic or on the service. The supplement must be permitted to remain in effect for the life of the tariff, or in the case of loose-leaf tariffs until all affected pages have been reissued (such reissued

pages must refer to the supplement action). A supplement containing only matter necessary for the partial cancellation is exempt from the supplemental limit provisions of this part. In bound tariffs, any reissue in a subsequent supplement of an item or unit affected by the statemnt form of cancellation shall specifically cancel the prior item or unit "as amended by" the canceling supplement. In each tariff to which a transfer is made (by reissue, issue of a new tariff, or amendment to an existing tariff), indicate in connection with the superseding provisions in each case, if newly published and not already effective, the tariff which contained the provisions superseded, whether changed or not. The effective date of all actions must be the same.

(7) Issue a cancellation supplement to the tariff (bound or loose-leaf) which in error was not canceled by its reissue. Do not attempt to add the cancellation notice to the new issue.

(8) Issue a supplement to the tariff (bound or loose-leaf) showing that it "cancels" the tariff. Identify on the title page of the canceling supplement, or within, the new issue by ICC (or MF-ICC) number. If the new issue does not contain all of the provisions superseding those formerly in the tariff being canceled, the canceling supplement shall show where provisions not appearing in the new issue will thereafter be found, or what rates thereafter will apply. The old issue shall be referred to in the new issue. (See § 1310.21 (rule 21)—Tariffs of Joint Agents.)

§ 1310.12 Expiration dates (rule 12).

(See § 1310.28 (rule 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Expiration dates may be shown.* Any tariff as amended, any supplement to a tariff, or any certain provisions thereof, may be indicated to expire "with" a given date. If to govern an entire tariff as amended, the provision must be on the title page and start with "This tariff, as amended * * *." The statement should not be repeated on the title pages of subsequent supplements. If an expiration date is to be added or one changed by supplement, the amending provision must be specific, for example: "Refer to the title page of tariff and ["add," "change," etc.]." Such amendments should be treated the same as other matter being reissued, if the supplement is reissued. If to govern an entire supplement, the expiration statement must be shown on the title page of the supplement, starting with "This supplement * * *." If to govern an item, the statement may be published within the item simply as "Expires with * * *." If a unit other than an item or if only a portion of an item, the statement must be clear as to what is subject to the expiration.

(b) *Expiration dates may be shown in separate item.* The reference mark Ⓔ or (E) may be attached to a provision (the reference mark may be used only against items or parts of items, and may not be used for any other purpose) and explained "Subject to expiration date shown in item * * *," in which case the referred to item, reserved for this purpose only, shall identify the item affected, whether all or what provisions therein are subject thereto, and the "with" expiration date, so worded as to leave no doubt as to the proper application. After expiration, the reference therein (to an item or parts of an item) should be amended promptly to indicate "expired" and so maintained until the provisions affected have been amended to indicate the expiration.

(c) *Expired provisions.* Expired provisions part of a tariff should be reissued in accordance with § 1310.10(c)(9) (rule 10) to indicate the fact. No attempt shall be made to reinstate matter already expired by publishing a new expiration date in the item listing expiration dates without republication of such matter.

§ 1310.13 Sectional tariffs (rule 13).

(a) *May be filed—sections must be numbered.* A tariff arranged in "sections" may be filed. Each section must be consecutively numbered, commencing with section No. 1, and each page (including the title page, if any) of the section shall show the section number in the upper center portion thereof, in a prominent manner.

(b) *Alternative use of rates may be provided.* (1) Rates may be alternated by publishing them in different sections of the same tariff. A section containing rates which alternate with rates in any other section of the same tariff shall be known as an alternating section. The first page of each section in a tariff containing alternating sections shall be the title page of that section, be reserved for provisions pertaining to application, and show, in addition to the section number, the application of rates published in the section. The title page of each alternating section must contain the following statement:

> If the charge accruing under section ____, ____, or ____ of this tariff is lower than the charge accruing under this section on the same shipment over the same route, the charge accruing under section ____, ____, or ____, whichever is lower, will apply.

If the rates in the section alternate with rates in less than three other sections, the statement shall be modified to be compatible therewith.

(2) Unnecessary alternation of rates must be avoided by checking the rates in one section against those in other sections and omitting rates which clearly result in higher charges than those which result from the rates in the other sections. Alternating reference must not be given to another section unless that section actually contains rates which alternate.

(c) *Nonalternating section—position of sections—statements.* Each commodity tariff and each combined class and commodity tariff arranged in sections for alternative use shall contain a section naming specific commodity rates which do not alternate with rates in any other section. This section shall be known as the nonalternating section. When a tariff names commodity rates only, the nonalternating section shall be the first one naming rates. When a combined class and commodity tariff, only class rates shall be shown in the first section or sections naming rates, and the nonalternating section shall be the first one naming commodity rates. Such tariffs shall show, in the places indicated, the following statements: Under "Application of Rates" in the rules section of the tariff, show:

> The rates in section [here show number of nonalternating section] are specific commodity rates and do not alternate with rates in other sections of the tariff. See application of that section.

On the title page of the nonalternating section, show:

> When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points, over the same routes, published in other sections.

On the title page of each other section containing commodity rates, preceding the statement prescribed in paragraph (b), show:

> When rates are published in section [here show number of nonalternating section], the rates named in this section on the same commodity from and to the same points, over the same route, will not apply.

Specific section numbers may be shown instead of "other sections" in the statements.

(d) *Restrictions.* A tariff arranged in sections for alternative use is subject to the following restrictions on alternations between sectioins in the same tariff:

(1) A class rate section may alternate with not more than one other class rate section.

(2) A tariff may contain not more than two alternating commodity rate sections, which may alternate with one another and may alternate with not more than two class rate sections.

(3) One section may not alternate with more than three other sections.

(4) Rates published in another tariff may not be reproduced for alternative purposes.

(5) Except as otherwise authorized in § 1310.7(e) (rule 7) (Rates based on varying quantities), a rate in one section may not alternate with a rate in the same section.

(6) Alternating sections may not be subdivided.

(e) *Arrangement may not be changed.* A bound tariff which, as originally filed, does not contain alternating sections may not be changed into one with alternating sections except by reissue, nor may a supplement issued thereto add an additional section to a tariff containing alternating sections. A loose-leaf tariff may be changed in the regular manner, by issuance of new and revised pages.

§ 1310.14 Suspended matter (rule 14).

(a) *Suspension orders and vacating orders.* An order of suspension suspends

the operation of the tariff provisions described therein and prohibits any change during the period of suspension in such provisions or in the matter held in effect by reason of the suspension. Regardless of whether or not a notice of suspension is filed and amendments made to published cancellations (if any) to carry out the purpose of the order, neither the matter described nor cancellations (published and on file at time of issuance of such order) prohibited by the order shall become effective. The use is permissive of any authority arising from a vacating order (unless otherwise provided in the order), but if used the tariff must be specifically amended to remove the published notice of suspension and other impediments in the tariff to the application of the provisions originally suspended.

(b) *Supplement to loose-leaf tariff.* A supplement may (or must, as the case may be as to each affected paragraph) be filed to a loose-leaf tariff to comply with the provisions of the following paragraphs of this section:

(c) Supplement announcing suspension—consolidated supplement.
(g) Postponement or further postponement of matter suspended.
(i) Suspended matter may be canceled.
(j) Vacation of order—suspended matter under postponement found justified.
(k) Suspended or postponed matter ordered canceled.
(l) Postponement of tariff matter published under an order which is stayed.

Such a supplement may contain no other matter. As to paragraphs (i) and (k), the supplement may be filed only for the purposes specifically indicated therein.

(c) *Supplement announcing suspension—consolidated supplement.* (1) Upon receipt of an order suspending any tariff publication in part or in its entirety, the carrier or agent in whose name the publication was filed shall immediately file a supplement containing a "Notice of Suspension." The title page of the supplement shall identify the investigation and suspension docket number, and shall bear an issue date, but not an effective date. The notice of suspension shall specifically indicate the publication or portion thereof that is suspended, the date with which the suspension ends, state that the matter under suspension may not be used during the period of suspension (and subsequent postponement, if any), and identify the provisions that will apply. If class rates in a tariff published in the name of the same carrier or agent will apply, the reference need only be to "class rates." If the class rates are published elsewhere, the tariff must be identified. If commodity rates will apply, the reference must be specific. Indefinite terms such as "presently applicable provisions" or "rates and charges in effect prior to suspension" may not be used. The notice shall also correct, where necessary, by statement (i) cancellation notices which direct the cancellation of the suspended matter or matter held in force by reason of the suspension and (ii) statements on title pages of supplements listing the numbers of the effective supplements to the tariff. The notice may include a provision postponing the effective date of the suspended matter beyond the suspension period until the date on which the suspension notice is canceled. A notice of suspension may not include any provision not relating to the suspension.

(2) As to bound tariffs (only) two or more notices of suspension may be published in a supplement confined to such a purpose, which shall be known as a consolidated suspension supplement. The title page shall bear an issue date, but not an effective date. Each notice must be designated as an item, which shall include all provisions required by paragraph (c)(1) of this section and may include any provision permitted thereby. The item numbers shall be in a separate series, differentiated from the regular tariff series by use of the prefix "S", starting with S–1, then S–2, S–3 and so on in consecutive numerical sequence. Not more than two such supplements may be in effect at one time in any tariff. Once such a supplement is filed to a tariff, this supplement and item form of publication must continue for the life of the tariff.

(3) When it is necessary to adjust an item in the consolidated supplement to conform with a corrected order of the Commission, the supplement shall be reissued and the item republished showing "(Corrected)" after the item number instead of showing a letter suffix. If matter in an item in a consolidated suspension supplement is changed and republished in another such supplement for any other reason (for example, to add a postponement notice), cancellation shall be by letter suffix as provided in § 1310.10(c) (rule 10). The cancellation shall provide an effective date and be filed on lawful notice.

(4) Otherwise, as long as the status of the tariff matter suspended does not change, or unless and until the manner of showing the fact of suspension and postponement is changed to that authorized in paragraph (f) of this section, the item must be maintained in a consolidated suspension supplement. If the matter is placed into effect by tariff publication or is canceled, then the item must be brought forward into the supplement effecting that change in the matter and the item canceled in the regular manner. If the period of suspension or the period of postponement expires, causing the matter to become effective the item should be canceled in the regular manner in the next regular supplement issued to the tariff. If, using the method authorized in paragraph (f) of this section, the suspended or postponed matter is brought forward in a regular supplement with appropriate notations as to suspension or postponement, then the item, no longer serving any purpose, must be concurrently canceled in the regular manner in the same supplement taking such action. If the announcement of suspension (with or without postponement) is in a single supplement (not in an item) authorized in paragraph (c)(1) of this section, such supplement must be canceled when it has served its purpose, and effective concurrently with the tariff matter (if any) which remove the need for it, by supplement if a bound tariff or by the reissued check sheet if a loose-leaf tariff. Cancellation of such a supplement or item should include a brief reference to the circumstance or reason causing its issuance. A single supplement containing a notice of suspension, or a suspension item, must not be canceled unless all the matter referred to therein is canceled, becomes effective, or is properly brought forward as explained in the regulations in this section.

(5) In the case of a resuspension of tariff matter, the notice of suspension or the item announcing suspension, as the case may be, shall be reissued, canceling the first, and the statements therein adapted to the new action taken by the Commission, including a reference to the facts of the first suspension. Subsequent handling of the matter shall proceed substantially as prescribed for suspension matters in this section.

(d) *Suspended matter reissued before supplement announcing suspension is issued.* If a bound tariff and if, prior to the filing of the supplement announcing suspension, a carrier or agent files a later supplement which contains as reissues the matter suspended in the previous supplement, the supplement announcing the suspension shall specifically by statement (not reissue) cancel from the later supplement such reissued matter. Such statement of cancellation must itself have an effective date, and such date must be the same as the date upon which the reissued matter is indicated to become effective, giving not less than 10 days' notice. As used in this paragraph, "reissued matter" means matter republished without change and designated or referenced as reissued matter in the manner required by § 1310.10(g) (rule 10). Items or other tariff provisions which direct the cancellation of a previous showing of such matter do not constitute reissued matter which the suspension supplement may cancel, even though no actual change in the provision is made. Tardiness in filing any supplement announcing a suspension may result in the rejection of the later supplement which cancels the suspended matter.

(e) *Suspended matter republished before supplement announcing suspension is issued.* (1) If, prior to the filing of the supplement announcing suspension, a carrier or agent files a publication which is not included in the suspension order and which contains a republication (not a reissue as defined in paragraph (d) of this section), in the same or in changed form, of matter in the previous publication, which matter, however, is under suspension, the matter must again be republished to remove the violation of the investigation and suspension order. When a bound tariff, the republication shall be accomplished by supplement (it may not be included in the supplement announcing the suspension), and when a loose-leaf tariff, by loose-leaf page amendment. See paragraphs (f) and (g) of this section for procedure.

(2) Such publication may be filed on not less than 10 days' notice, but all the correcting provisions must become effec-

tive on or before the date the erroneously republished matter was originally indicated to become effective. In no case may the effective date of matter not affected by the suspension be advanced to an earlier date.

(f) *Reissue of suspended matter.* (1) When a tariff, supplement, loose-leaf page, item, or unit, part of which is under suspension is reissued and the suspended matter therein is to remain under suspension, the publication, item, or unit shall be cancelled in its entirety and the suspended matter brought forward without change into the new publication, item, or unit.

(2) The suspended matter which is brought forward shall clearly show that it is under suspension by publication of a notice in direct connection with such matter and in substantially the following form:

NOTICE OF SUSPENSION

This [here indicate whether item, rate, rule, etc.] is reissued from [here state whether tariff, supplement, or page and the number thereof] and is under suspension to and including [here show date appearing in suspension order] by order of the Interstate Commerce Commission dated [here show date of order] in I. & S. Docket No. [here show docket number]. It may not be applied on any shipment during the period of suspension [here add "and postponement" when the postponement notice is used].

Apply [here identify in the same manner as in the suspension notice the provisions that will apply].

(See paragraph (g) of this section for provisions pertaining to the postponement of suspended matter.)

(3) If matter held in force by the suspension is in the same tariff as the suspended matter, the matter held in force may be brought forward without change into the new publication. If such matter is normally shown in the same location where the suspended matter is shown, it must, when being brought forward, be shown with the suspended matter in the new publication. If a publication, item, or unit containing matter held in force by reason of suspension is canceled, and the matter therein is to be continued in force, such matter must be reissued without change. When such matter held in force is brought forward, it must be properly identified in every case.

(4) Matter originally suspended and later postponed may be carried forward in the same manner as suspended matter.

(5) If the matter held in force is brought forward into the new publication and is to be canceled or is to expire with the effectiveness of the suspended matter, publication in every case must be made in such a manner that in the event the suspended matter becomes effective at the end of the period of suspension or postponement without additional publication, the matter held in force will be canceled or will expire by its own terms effective concurrently.

(6) Before the suspended matter may be brought forward for the first time under the provisions of this paragraph, a supplement announcing the suspension must be on file.

(7) Every tariff or supplement which contains suspended matter brought forward under the provisions of this paragraph must contain in the table of contents and opposite the words "Suspended Matter Herein" reference to such matter by number of the item, unit, page, or other designation where it appears. If the tariff or supplement does not contain a table of contents, the same information shall appear under the same subject near the front.

(g) *Postponement or further postponement of matter suspended.* (1) If it is desired that suspended matter not become effective at the end of the suspension period, and if the supplement announcing the suspension does not provide for postponement thereof, a postponement notice may be published and filed at any time during the suspension period. The postponement notice must be indicated to become effective not later than the date to which the matter is suspended. (See subparagraph (3) of this paragraph.) It must provide that the postponed matter may not be applied on any shipment during the period of postponement. If the postponement notice is to appear in connection with the reissue of suspended matter authorized by paragraph (f) of this section, it must follow the first sentence in the "Notice of Suspension" required by paragraph (f)(2) of this section. The postponement notice may postpone the effectiveness of the matter to a date upon which such notice is canceled, or to a specific date.

(2) When it is postponed to a specific date and it is desired that the matter be further postponed, the postponement notice may be changed at any time during the period of suspension or postponement. The changed postponement notice must be indicated to become effective not later than the date to which the matter was previously postponed. The previous notice must be canceled.

(3) When a postponement or further postponement provision authorized by this paragraph (g) is filed, as much notice as reasonably possible must be given, but in no case less than one day. When the matter held in force by the suspension is indicated to be canceled on or to expire with a date prior to the date to which the suspended matter is postponed, such cancellation or expiration must be concurrently postponed on the same notice. A postponement notice may be canceled at any time upon 30 days' notice.

(h) *No change permitted—suspended matter and matter held in force.* A suspended rate, charge, classification, rule, or provision respecting practices may not be changed or withdrawn, except as otherwise specifically authorized; nor may any change be made in a rate, charge, classification, rule, or provision respecting practices which is continued in effect as a result of such suspension, except as otherwise specifically authorized.

(i) *Suspended matter may be canceled.* (1) After the notice of suspension required by paragraph (c) of this section has been filed, matter under suspension or suspended matter under postponement may be canceled upon not less than 10 days' notice. The cancellation shall be made effective on or prior to the date to which the matter has been suspended or postponed, or on or before the date a final decision in the proceeding is reached by the Commission, whichever is earlier.

(2) The carrier or agent shall concurrently with the filing of such cancellation notify all parties of record in the proceeding and the Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423, by first class mail or telegram of such cancellation. The notification shall refer to the docket number of the investigation and suspension proceeding, to the ICC (or MF-ICC) number of each tariff included in the suspension, and to the number of each supplement or loose-leaf page effecting the cancellation, and shall indicate the effective date thereof. The carrier or agent shall concurrently certify by first class mail to the Office of Proceedings that the notifications have been made. A signed copy of the certifying letter shall be attached to the letter of transmittal accompanying the copies of the tariff publication sent to the Bureau of Traffic for official filing.

(3) If the matter held in force is contained in the same tariff as the suspended or postponed matter and if it was specifically indicated to be canceled by the suspended or postponed matter, it must be brought forward without change concurrently and on the same notice into the supplement or onto the page canceling the suspended or postponed matter (see paragraph (i)(5) for exception). If the matter held in force is still contained in a prior issue of the tariff containing the suspended matter, it may be brought forward without change concurrently and on the same notice into the canceling publication or into a new tariff.

(4) Suspended or postponed matter may not be canceled under the provisions of this paragraph.

(i) When a particular carrier or agent cancels only a portion of the matter in tariffs issued in its name which is under suspension in a particular I. & S. docket;

(ii) Where cancellation of suspended matter by one carrier or agent would result in duplicating or conflicting provisions for account of any carrier if and when other suspended matter (which is also included in the same I. & S. docket) will become effective in tariffs of other agents or carriers; and

(iii) Where there is no matter (other than class rates) held in force to bring forward and the item, unit, or other provision providing for such cancellation contains the same provision (as that suspended) or a new or changed substitute provision. ("Docket" includes orders bearing sub numbers as well as the lead-number order.)

(5) The cancellation shall be accomplished by supplement (if a bound tariff) or by loose-leaf page amendment (if a loose-leaf tariff), except that if a loose-leaf tariff containing only the suspended matter is to be canceled, that cancellation shall be accomplished by supplement. Supplements and loose-leaf pages

shall comply fully with the requirements of § 1310.10(c) or § 1310.10(d) (rule 10), respectively, and cancellation by notice, contrary to the provisions of such paragraphs, is not permitted except in a supplement canceling a tariff containing only the suspended matter and except in those instances where the cancellation of matter under suspension is a conversion type supplement providing a general increase (or reduction). In this case, it will not be necessary to bring forward the matter held in force by reason of the suspension provided reference is made to where the applicable tariff matter appears. If a provision postponing the suspended matter is in effect, such provision shall be canceled concurrently and on the same notice by the supplement or, when the matter is canceled by a loose-leaf page amendment to a loose-leaf tariff, by the check sheet.

(6) No new matter may be published, nor the effective date of any matter advanced under the provisions of this paragraph.

(j) *Vacation of order—suspended matter under postponement found justified.* (1) When the Commission vacates an order of suspension, or when the effective date of suspended matter has been postponed beyond the term of the suspension order and the Commission finds the matter lawful or otherwise justified, unless otherwise directed the suspended or postponed matter may be made effective on not less than one day's notice. If this is done, the effectiveness shall be accomplished by supplement, if a bound tariff. As to loose-leaf tariffs, if the matter suspended or under postponement has not been brought forward on a new page with appropriate notations as permitted under paragraph (f) of this section, effectiveness shall be accomplished by supplement. If it has been brought forward to a new looseleaf page (in the same tariff or in a reissue of the tariff) the effectiveness shall be accomplished by reissuance of the particular page or pages. If the order contains an effective date, the tariff action may not be indicated to become effective prior thereto.

(2) The supplement or the loose-leaf page shall identify the suspended or postponed matter and give effect thereto by statement, indicate the date upon which the matter will become effective, and cancel the postponement notice, if any.

(3) When a supplement containing a vacating notice is canceled, if a bound tariff the notice shall be brought forward as reissued matter, the same as any other tariff provision.

(4) Concurrently with the effectiveness of the suspended or postponed matter and on the same notice, the matter held in force shall be canceled (the cancellation must be specific) provided it was originally indicated to be canceled or to expire simultaneously with the effectiveness of the suspended or postponed matter.

(5) When the cancellation of a tariff is to be completed under the provisions of this paragraph, this must be accomplished by statement in a supplement to the new tariff if the new tariff had originally provided for the cancellation of the old tariff in its entirety. Otherwise, the cancellation of the old tariff shall be completed by statement in a supplement to that tariff.

(6) When an entire tariff which is under suspension (or subsequent postponement) is found lawful or otherwise justified, any changes or additions which in the interim have been lawfully made in the tariff held in force may be brought forward without change into the tariff found lawful or otherwise justified. If a new tariff superseding the tariff held in force has been filed during the period of suspension (or subsequent postponement) and the tariff originally held in force has been canceled, any changes or additions lawfully made in the new tariff which are not included in the tariff found lawful or otherwise justified may be brought forward without change into the latter tariff. In this event, concurrently and on the same notice, the new tariff shall be canceled by a supplement thereto. If the tariff found lawful or otherwise justified is a bound tariff, the reissued matter must be shown in the supplement which gives effect thereto. If a loose-leaf tariff, concurrently and on the same notice the reissued matter must be shown on one or more loose-leaf page amendments thereto. Supplements filed under the provisions of this paragraph (j) may not contain any other matter.

(k) *Suspended or postponed matter ordered canceled.* (1) When the Commission orders suspended (or subsequently postponed) matter canceled, unless otherwise directed by the order the cancellation may be accomplished on not less than one day's notice, by tariff amendment or reissue, effective not later than the final date of compliance stated in the order. The amendment shall be in full accord with § 1310.10(c), § 1310.10(d) (rule 10), or § 1310.11 (rule 11).

(2) If, after the matter (that had been suspended) has become effective at the termination of the suspension period, or subsequent period of postponement (if any), the respondent carrier or agent is required by an order to cancel, and the matter that was held in force by reason of the suspension has been specifically canceled by the now effective formerly suspended provisions, or it had expired by its own terms in accordance with the manner of publication authorized in paragraph (f) of this section, such matter must be restored (subject to whatever changes, if any, lawfully made in the interim, except for the cancellation) effective concurrently with the effectiveness of the cancellation of the matter ordered canceled, and upon the same notice. Reinstatement may be accomplished only by republication of the canceled matter, unless otherwise authorized by this Commission.

(l) *Postponement of tariff matter published under an order which is stayed.* If a Commission order directs or authorizes, as the case may be, certain tariff action, and the effectiveness of the order or the compliance date therein specified is deferred or postponed specifically by order of the Commission, by operation of its regulations, or by a court of competent jurisdiction, the authority therein to require or permit certain action is also deferred or stayed. Therefore, if not already effective, the provisions published therein, if not otherwise authorized, must be postponed by the publishing carrier or agent. For this purpose, postponement may be published effective upon not less than one day's notice, referring to this rule for the authority therefor. The authority for the postponement (postponed by order of the Interstate Commerce Commission, by court order, etc., identifying the order by date, docket, etc.) shall be shown directly in connection with the postponing provisions. The postponement must be to a date not earlier than that upon which it may otherwise lawfully be made effective or postponed indefinitely to such time as the postponement is specifically canceled. Postponement may be in the form of a statement, provided the application is clearly stated.

(m) *Compliance with § 1310.9(d) (rule 9) not required.* (1) When the Commission suspends an entire tariff, any tariffs which would have been canceled by the suspended tariff are continued in effect and will remain in force during the period of suspension or until lawfully canceled or reissued. Supplements to bound tariffs thus continued in effect containing additions to and changes in matter not sought to be changed by the suspended tariff may be filed without regard to the volume of supplemental matter which the effective supplements in the aggregate contain. If the volume permitted by § 1310.9(d) (rule 9) is exceeded and the Commission orders the cancellation of the suspended tariff, either the volume shall be brought within the requirements of § 1310.9(d) (rule 9) or the tariff reissued within 120 days.

(2) Supplements containing only the following kinds of provisions shall be considered exempt for the life of the tariff from the limitations of this part pertaining to the number of effective supplements and the volume of supplemental matter permitted to a tariff:

(i) Suspension notice, as provided by paragraph (c) of this section;

(ii) Provisions which have been republished to remove the violation of the suspension order caused by the republishing of matter under suspension, as provided by paragraph (e) of this section;

(iii) Notice of postponement of matter suspended, as provided by paragraphs (g) and (l) of this section;

(iv) Provisions for the cancellation of suspended matter, as provided by paragraphs (i) and (k) of this section; or

(v) Notice of vacation of suspension or postponement, as provided by paragraph (j) of this section.

(n) *Reference to authority and to investigation and suspension docket number required.* Reference to the investigation and suspension docket number and to this section or rule by number is required for any publication made hereunder. (See § 1310.5(i) (rule 5) as to

tariffs, and § 1310.10(i) (rule 10) as to amendments.)

(o) *Court orders.* Restraining orders, injunctions, enjoinders, or other court orders having the effect of suspending the operation of tariff provisions must, to the greatest extent possible, be reflected in tariffs in the same manner as suspensions.

§ 1310.15 Terminal and other services—charges and allowances (rule 15).

(a) *Provisions must be filed.* (1) Each carrier or its agent shall identify and publish in clear and explicit terms and file with the Commission all rules governing and, where charged, all rates and charges for (i) protective service (icing, refrigeration, heat), detention of vehicles, helper or extra labor furnished, storage, weighing, diversion, reconsignment, C.O.D. collection, transit, loading, unloading, and all other terminal or extra services in addition to the line haul transportation; (ii) allowances or absorptions; (iii) and all other practices, privileges, or other considerations which in any way increase or decrease the amount to be paid on any shipment, or which increase or decrease the value of the service to the shipper. Tariffs authorizing such services, privileges, or practices, or providing rates or charges therefor, or authorizing allowances or absorptions must clearly show their application.

(2) Tariffs may not provide for the addition of any unspecified bridge tolls or ferry charges. They may provide for the addition of named bridge tolls or ferry charges on truckload or volume shipments only if the facilities are identified and the tariff shows clearly and explicitly when and under what circumstances the tolls or charges accrue on any given shipment. Tariffs may not provide for the addition of highway tolls or taxes assessed against the vehicle or the carrier. They may provide for the addition of the unspecified costs of federal, state, or local permits and fees only if the size or weight of the shipment, or the inherent nature of the commodity shipped, is such that the costs must necessarily be incurred, and if the tariff clearly indicates under what circumstances they will be incurred and that the separate amounts will be identified in any billing.

(b) *Method of publication.* (1) All such services, practices, charges, privileges, allowances, and absorptions shall be provided for in one of the following three ways:

(i) By including in the line-haul rate tariff the rules governing the service, practice, charge, privilege, allowance, or absorption, and the charge, if any, for any such service, practice, or privilege;

(ii) By including in the line-haul rate tariff a specific reference by ICC (or MF-ICC) number to a separate tariff for the rules governing the service, practice, charge, privilege, allowance, or absorption, and the charge, if any, for any such service, practice, or privilege; or

(iii) By including in the line-haul rate tariff the rule set forth below:

Shipments made under the rates contained in this tariff are entitled also to terminal and transit services and privileges, and are subject to the charges, allowances, rules, and regulations legally applicable thereto, as provided in separately published, lawfully filed tariffs.

No toll or ferry charge, nor charges or fees for permits, or other charges not for a service performed by the carrier or for a privilege may be provided for in this manner.

(2) The use of "free," "without charge," and similar terms must be avoided unless the term is published to apply on transportation which is authorized to be performed free by the Interstate Commerce Act. Except where otherwise provided by orders of the Commission, the tariff may provide that the line-haul rate "includes" the performance of the particular service.

(3) A tariff may not provide for performance of a service at "actual cost" (or words of like import). The charge must be specific and readily obtainable from the tariff. However, a carrier may exclude a service (not line-haul service) from its transportation performance provisions and provide that it will, upon request, act as the shipper's or consignee's agent and undertake to procure for and on behalf of the shipper or consignee such service from other parties, advance the actual charges to the other parties, and collect such charges from the shipper or consignee. However, if the carrier, under the same or another name, is otherwise in the business of performing such service, practice, or privilege, it may not procure its own service at actual cost.

(4) Agents may refer specifically to a tariff (not a tariff naming line-haul rates) published in the name of a member carrier or another agent covering services, charges, practices, privileges, allowances, or absorptions local to the carrier's own line.

(c) *Joint rates include intermediate drayage or transfer.* Joint through rates from points on the line of one carrier to points on the line of another carrier include drayage or other transfer services at intermediate transfer points, and no part of such charges may be added to the joint rates on shipments handled through and not stopped for special services at such intermediate transfer points. All tariffs containing joint rates shall contain the following provision:

The joint rates published herein include all charges for drayage or other transfer services at intermediate transfer points on shipments handled through and not stopped for special services at such intermediate transfer points.

(d) *Pickup and delivery service.* (1) All tariffs containing rates for the transportation of property shall specify whether such rates do or do not include pickup and delivery service within the limits of the points from, to, or between which the rates are named. If the rates therein do include such service, the following rule must be published in the rate tariff (not a governing tariff):

The rates named herein include pickup and delivery service at all places within the limits of the cities, towns, villages, or other points from, to, or between which the rates apply. To this rule may be appended exceptions or reference to exceptions or qualifying provisions elsewhere in the tariff or in a governing tariff (not another rate tariff).

(2) If pickup and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, villages, or other points, from, to, or between which the rates apply, such area shall be described in the tariffs.

(3) If there are to be limitations to, or exclusions from, the service of pickup or delivery, they must be specifically and clearly stated. Unless the tariff specifically provides otherwise, pickup service includes loading by the carrier onto the vehicle and delivery service includes unloading by the carrier from the vehicle. Conflicts must be avoided when establishing rates specifically excluding loading and unloading by the carrier where there are other rates which, being silent on the matter, apply regardless of who loads and unloads.

§ 1310.16 Distance rates (rule 16).

(a) *Distance rates may be filed—when they may be used.* A carrier or agent may file tariffs containing distance or mileage (hereinafter referred to only as distance) class or commodity rates, or both. Except as otherwise provided in § 1310.13 (rule 13) pertaining to alternating sections in tariffs, (1) distance class rates may be used only when no through class rates (other than distance class rates) are published to apply from and to the same points over the same route and (2) distance commodity rates may be used only when no through commodity rates (other than distance commodity rates) are published to apply from and to the same points over the same route.

(b) *Statements on publications required.* (1) Each tariff that contains only distance class rates or only distance commodity rates which do not alternate with the rates in any other tariff shall show on the title page the appropriate following statement:

Distance class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) are published to apply from and to the same points over the same route; or

Distance commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) are published to apply from and to the same points over the same route.

(2) Each tariff that contains only distance class and commodity rates which do not alternate with the rates in any other tariff and which do not alternate with each other shall show on the title page the following statement:

Distance class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) are published to apply from and to the same points over the same route, and distance commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) are published to apply from and to the same points over the same route.

If the rates alternate with each other, the statement may be used if appropriately modified.

(3) If distance rates without alternative application are published in a tariff which also contains rates other than distance rates, the appropriate statement prescribed by paragraphs (b)(1) or (2) of this section shall be shown directly with such distance rates.

(c) *Application of rates must be clear.* The application of distance rates must be clearly and definitely shown. The rate table or unit shall provide a scale of distances ranging from the minimum distance to the maximum distance for which charges will be applied. A rate shall be provided for each such distance. Each state or area embraced by the application of the rate table or unit shall be listed. Such listing must be brief, but must be completely informative as to the territorial coverage. The distances to use for application of the rates shall be determined by providing in the rate tariff the distances between all locations from and to which the rates are published to apply, or by referring in the rate tariff to one or more maps attached thereto or to one or more distance guides. Provisions for the use of "actual" mileage may not be published.

(d) *When a map is referred to.* (1) Not more than three maps may be referred to, and each shall be attached to the publication in a manner that will enable a user to open each map without tearing it or undoing the fastening. Each map should be firmly attached to an individual sheet. The map or maps must provide distances between locations in every state embraced in whole or in part by the rates. (If not more than three maps cannot completely cover the territorial application of the rates, maps may not be used to provide the distances.) Only maps each of which covers a single state are acceptable, except where not more than three states are commonly grouped and no adequate single-state maps are available from ordinary commercial or government sources. (State governments generally have available highway maps of their respective jurisdictions.)

(2) When maps are referred to, the rate tariff must include a rule specifying the manner in which the distances will be obtained from the maps. The rule must include a definite means for determining distances (not "actual" mileage) for ratemaking purposes between all locations within the territorial coverage of the rates, regardless of whether all such locations are or are not shown on the maps and regardless of whether actual distances are or are not shown between all locations shown thereon.

(3) When a map to a tariff supersedes another map to the same tariff (loose-leaf or bound), the new map shall be attached to and made a part of a supplement to a bound tariff or a loose-leaf page to a loose-leaf tariff which shall specifically cancel the old map and give effect to the new.

(e) *When a distance guide is referred to.* (1) Only distance guides officially on file with the Commission may be referred to. More than one may be referred to provided the rate tariff clearly specifies the circumstances under which each guide will apply. All carriers parties to distance rates referring to one or more distance guides must also be parties to each guide referred to. An agent may refer to a distance guide published in the name of another agent for the account of participating carriers also parties to the guide.

(2) Distance guides shall be constructed on the principle of distance tables or combinations of tables and maps, definitely and clearly indicating distances between the locations covered by the rates referring thereto. Tables must provide specific distances between a substantial number of the points and be shown as having precedence. Each guide must provide rules setting forth the application of the guide. The rules must include a definite means for determining distances (not "actual" mileage) for ratemaking purposes between all locations within the territorial coverage of the guide, regardless of whether all such locations are or are not shown in the guide and regardless of whether distances are or are not shown between all locations therein. If distances between certain points or areas are to be determined through a certain gateway or interchange point only, and not by use of the short-line distance as determined from the maps or by use of the tables, the affected origin and destination areas and the gateway or interchange point (limited to one only) in connection therewith must be identified. Distance guides may exceed the maximum size limitation imposed by § 1310.4(a) (rule 4) but may not exceed 14½ by 17½ inches in size.

(f) *Size of characters on maps.* All characters shown on maps (including maps forming part of a distance guide) need not be of the minimum size ordinarily required by § 1310.4(b) (rule 4) but must be of sufficient size and clarity that they can be read without use of magnification. The Commission may refuse or require correction of maps which in its judgment require improvement to be acceptable.

§ 1310.17 Classification, exceptions, rules, and dangerous articles tariffs; precedence of class rates (rule 17).

(See § 1310.28 (rule 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Classification.* (1) A tariff (not a rate tariff) may be filed containing a classification of the articles or commodities upon which the rates named in tariffs making reference thereto will apply. The various articles or commodities shall be listed in the classification in an orderly manner, and the class or rating to which an article or a commodity is assigned shall be shown directly therewith. Such a tariff shall contain an alphabetically arranged index of all of the articles or commodities listed. Item numbers shown in connection with commodity descriptions shall be assigned, and the items treated, in the manner prescribed in § 1310.4(h) (rule 4), except that they may have portions subordinate thereto indicated as "sub" or "S" following by a number which shall start with the number one and progress in numerical sequence if two or more such parts. Any amendment must be by complete reissue of the item including all its parts. A statement providing that the class, rating, or rate on any article or commodity will be that applying on another article or commodity is not permissible.

(2) Different classes or ratings on the same article, articles, commodity, or commodities based on different minimum quantities may be published provided the alternation provisions of § 1310.6(j)(2) (rule 6) are complied with.

(3) Rules which have general application may be published in a classification tariff. All rules in a classification must precede the list of articles and must be separately indexed.

(4) A tariff (not a classification) published in the name of an agent may refer to a classification tariff published in the name of another agent.

(b) *Precedence of rates.* (1) Each classification shall provide that the establishment of a commodity rate removes the application of the class rate on the same article between the same points over the same route, except when and insofar as alternative use of class and commodity rates is specifically provided in the tariff containing such commodity rates, and except that import, export, coastwise, and intercoastal class rates will take precedence over commodity rates which are not published to apply specifically on import, export, coastwise, or intercoastal traffic. In connection with the application of such a rule, there shall be provided a clear statement showing as to volume, truckload, less-than-truckload, and any-quantity commodity rates what category of class rates the application of which is removed by each such category of commodity rates.

(2) In applying the rule required by paragraph (b)(1) of this section, a local commodity rate will take precedence, on traffic originating or destined beyond, over a proportional class rate between the same points over the same route whether higher or lower, but an import, export, coastwise, or intercoastal class rate will take precedence on import, export, coastwise, or intercoastal traffic, respectively, over a domestic commodity rate.

(c) *Exceptions tariffs.* (1) A separate tariff may be filed containing exceptions to classification classes, ratings, rules or conditions for application in connection with tariffs or rates referring thereto. Exceptions published therein shall not be restricted to a small number of points. One rate tariff may be governed for account of any one carrier by not more than one tariff of exceptions published either by a carrier or by an agent. An exceptions tariff of a carrier's own issue may not be referred to as governing other than the carrier's own rate tariffs. Except as otherwise provided in paragraph (c)(4) of this section, a tariff of exceptions may not contain any matter which is not in fact an exception to a rule, class, rating, or other condition pub-

lished in the classification. Exceptions tariffs may contain classes or ratings published to apply on the movement of an entire plant, in which case the requirements of § 1310.6(j)(5) must be complied with. Exceptions may not be alternated with classes, ratings, rules, or conditions in the classification. Any statement providing that the class, rating, or rate on any article will be that applying to another article is not permissible.

(2) Different classes or ratings on the same article, articles, commodity, or commodities based on different minimum quantities may be published provided the alternation provisions of § 1310.6(j)(2) (rule 6) are complied with.

(3) An exceptions tariff shall contain separate and complete alphabetical indexes of the rules and of the articles listed therein. The exceptions shall be arranged and constructed in the manner set forth for exceptions in rate tariffs in subdivisions (ii), (iii), (iv), and (v) of § 1310.6(j)(1) (rule 6). The title page shall provide a statement reading substantially as follows:

This tariff applies only in connection with tariffs referring hereto by ICC number.

(4) Rules and provisions covered by § 1310.6(i) (rule 6) may be included in the same tariff with classification exceptions. Lists of commodities authorized in § 1310(g)(4) (rule 7) may also be included in an exceptions tariff, in which case the carrier or agent may not have any tariff containing commodity lists exclusively. Where classification exceptions are published in the same tariff with rules or commodity lists, the tariff shall be divided into sections. Each category of provisions shall have its own section, separated from the others by a section title page appropriately identifying the contents. Such a publication must contain a complete index.

(d) *Rules tariffs.* Governing rules and similar provisions may be published in a separate tariff filed in the name of an agent or a carrier. As to any one rate tariff published by a carrier as its own issue there may not be more than one governing rules tariff of its own issue and not more than one governing rules tariff of its agent's issue. As to any one rate tariff published by an agent there may not be more than one governing rules tariff, which must be the issue of that agent. A carrier may not publish in its own issue rules which cover the same service, practice, or privilege provided for its account in the tariff of its agent. Either the agent's tariff rule must indicate nonapplication for its account, or the carrier's tariff rule must be indicated as an exception to the rule of its agent and clearly identify what rule. An exception, when taken, must indicate it is to the complete rule, section, or other identifiable unit affected, and an exception must be a complete rule, section, or other identifiable unit in itself. Every effort should be made to republish entire rules that are relatively small or that name relatively few exceptions. For the purposes of this paragraph, the following tariffs shall not be considered rules tariffs:

(1) Tariffs containing exclusively rules and charges applying to terminal and other services and other matters covered by § 1310.15 (rule 15).

(2) Classification tariffs authorized by paragraph (a) of this section.

(3) Classification exceptions tariffs authorized by paragraph (c) of this section, provided they do not contain rules or other provisions authorized to be included by § 1310.17(c)(4) (rule 17).

(4) Rate basis books authorized by § 1310.18 (rule 18).

(5) Tariffs containing rules and regulations governing the acceptance and transportation of dangerous articles (hazardous materials).

(6) Substituted freight service directories authorized by § 1310.30 (rule 30).

(7) Tariffs confined to providing basis numbers (by intersection of headline and sideline points) for determination of class rates or column commodity rates in other tariffs.

(8) Tariffs authorized by § 1310.19 (rule 19) of this part listing carriers' operating authorities.

(9) Tariffs containing exclusively rules and practices governing the investigation and disposition of loss and damage claims.

(e) *Dangerous articles tariffs.* A separate tariff may be filed reproducing the regulations promulgated by the Department of Transportation governing the acceptance and transportation of dangerous articles (hazardous materials). The tariff shall be properly indexed and include necessary provisions for the application of the regulations. It may contain no other matter. An agent may refer to such a tariff published in the name of another agent.

(f) *Participation in governing publications.* All carriers parties to tariffs making reference to separate tariffs for classification classes or ratings, classification exceptions, rules, or other provisions affecting the rates or the services rendered, except such carriers as do indicate by restrictions in the referring tariffs that they will not apply the provisions of such referred to tariffs, shall also be participating carriers in such separate tariffs. The regulations in this paragraph do not require participation in local drayage tariffs or in tariffs containing provisions for terminal or special services local to the carrier in whose name the tariff is published. Rail and water carriers whose participation in the rate tariff is solely to provide substituted service at the motor carrier's option need not be parties to the tariffs governing the rate tariff except the governing tariff, if any, containing the provisions for such substitution. See § 1310.30 (rule 30).

§ 1310.18 Rate basis tariffs (rule 18).

(a) *Separate tariffs may be filed.* Instead of showing in the rate tariff the rate groups or bases to be used in determining rates between points named therein and the carriers serving such points, a separate rate basis tariff may be filed to serve this purpose. If it is not desired to include both grouping and carrier service in the same tariff, one for each purpose may be filed. No tariff may be governed by more than two rate basis tariffs (not including points of service tariffs), one for points of origin and one for points of destination. A rate tariff may not refer to another rate tariff for a list of points assigned rate groups or rate bases or for a list of carriers serving points.

(b) *Points and carriers to be listed.* All generally recognized points (cities, towns, townships, and other named state locations that have a precise meaning territorially) of sufficient size located within the territorial coverage of the tariff shall be listed. The points shall be arranged alphabetically within each state and the states arranged alphabetically, or the points shall be arranged alphabetically throughout the tariff. There shall be shown in direct connection with each point the complete names of all carriers serving the point pursuant to the regular-route portion of their operating authorities from this Commission. The complete names of all carriers serving the point pursuant to the irregular-route portion of their operating authorities from this Commission shall also be shown to the greatest extent practicable. The name of a carrier serving the point pursuant to both types of authorities shall be shown only once. Omission of the showing of a carrier as serving a point does not in itself render inapplicable a rate named from or to such point. Carrier name abbrevations or code designations may be used provided they are explained in the tariff in which used.

(c) *Rate groups or rate bases—arbitraries or differentials.* The applicable rate group or rate basis, or arbitraries or differentials to be added to or deducted from the group or base rates, shall be shown directly with each point, except that reference may there be made to an item or unit showing such information. Exceptions to the rate group or rate basis shall not be made in rate basis tariffs unless such exceptions apply to or from a considerable number of points or on a considerable number of commodities. When the arbitraries or differentials are governed by classification or other provisions other than those governing the base or group rate, reference to such classification provisions or other provisions shall be made directly in connection with the arbitraries or differentials.

(d) *General rules may not be included.* Rules or other provisions governing the application of rates determined by the use of a rate tariff and a rate basis tariff or providing application of groups, bases, or rates at intermediate points may not be published in a rate basis tariff.

(e) *May be combined with other tariffs.* A rate basis tariff may be combined with a "scope" tariff authorized by § 1310.19 and a points of service tariff may be combined with a participating carrier tariff authorized by § 1310.20 provided they are prepared in conformity with the regulations in this part, each category is

shown in a separate section, and the requirements of this section are otherwise complied with.

§ 1310.19 Tariffs listing carriers' operating authority (rule 19).

(See § 1310.28 (rule 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Separate tariffs may be filed.* (1) Separate tariffs (not rate tariffs) may be filed by carriers or agents defining clearly the carriers' authorized operations, both as to commodities and territories, insofar as they are pertinent to the application of the rates in the tariffs referring thereto and of the routes over which such rates apply. For purposes of this section, such a separate tariff shall be known as a "scope" tariff. The application of the rate tariffs referring to the scope tariff shall be restricted by a provision published in the scope tariff as follows:

Rates and provisions for the account of carriers participating in tariffs governed by this tariff are limited in their application on interstate or foreign commerce to the extent of the carriers' operating rights set forth herein [if any tariff governed by the scope tariff refers to any other scope tariff, here show "and in" and identify the other scope tariff or tariffs by issuing carrier's or agent's name and ICC (or MF-ICC) number or refer to where such information is listed]. [If the scope tariff is issued in the name of a carrier, and all rates in tariffs referring thereto have local application only, the phrase "for the account of carriers participating" and the word "carriers'" shall not appear.] Unless otherwise specifically provided, the provisions are to be interpreted in the same manner as the Commission interprets the certificate from which the following is quoted, with respect to such as implied authority, commercial zones, tacking (of separate authorities), and diversion routes.

If the tariffs referring thereto name joint intermodal rates, the wording may be modified so as to confine the restriction to apply only to the extent the rates apply over the motor carriers.

(2) The limitation statements, reproducing a carrier's operating authority, should not be used as a substitute for the required description of commodities or territories in connection with the application of rates.

(b) *Reference to scope tariffs for one carrier.* A carrier publishing rates in a tariff of its own issue may refer to limiting scope of operating authority provisions in one other tariff only, which must be a scope tariff either of its own issue or an issue of its agent. A carrier publishing rates in a tariff of its agent's issue may refer therein to a separate scope tariff of that agent's issue, or refer therein to a scope tariff of another agent's issue in which the carrier is also a party, but not more than one separate issue may be referred to in any case. A carrier may not refer in its agent's issue to a tariff of its own issue or to one of another carrier. A carrier may not refer in its own issue to the issue of another carrier.

(c) *Agents' tariffs governed by more than one scope tariff.* A rate tariff filed in the name of an agent may refer to more than one scope tariff. When this is done, the list of participating carriers in the rate tariff or in the participating carrier tariff governing the rate tariff shall identify the tariff in which each carrier's operating authority is published. Such identification or reference to such identification shall be shown directly with the carrier's name. Each scope tariff which governs a rate tariff must be specifically referred to by that rate tariff.

(d) *Scope tariffs may be combined with participating carrier or rate basis tariffs.* A scope tariff may be combined with a participating carrier tariff or a rate basis tariff authorized by §§ 1310.20 and 1310.18, respectively, and prepared in conformity with the regulations in this part, provided the operating authorities are shown in a separate section and the requirements of this section are otherwise complied with.

§ 1310.20 Participating carrier tariffs (rule 20).

(See § 1310.28 (rule 28) for provisions which may be filed on less than 30 days' notice.)

(a) *Separate tariffs may be filed by agents.* (1) An agent (not a carrier) or an agent jointly with not more than two other agents may file a tariff (not a rate tariff) listing the carriers participating in tariffs referring thereto provided there are at least ten participants and five governed tariffs. The title page must state it is applicable only as to tariffs which specifically refer to it.

(2) The tariff shall include rules and other provisions necessary to provide application thereof, but not rate restrictions, application of rates, or similar provisions which properly belong in rate tariffs or other tariffs. Exception: It may provide that the carriers participate in the governed tariffs only for local hauls or for joint hauls.

(b) *List of carriers.* (1) The list of participating carriers shall be constructed in the manner required of other tariffs—See § 1310.6(e) (Rule 6). Carrier numbers, abbreviations and/or code designations may be shown in connection with the names of the carriers. (See § 1310.21 (d) (Rule 21) as to tariffs of joint agents.)

(2) In connection with each participating carrier, the participating carrier tariff itself and the governed tariffs in which it participates (by agent's tariff number) shall be shown. Exception: the participation of all carriers in the participating carrier tariff itself may be established by a statement, instead of listing the tariff number each time.

(3) In all cases reference shall be made to an item, unit, section, or page containing an explanation of such tariff numbers (see paragraph (c) of this section).

(c) *List of tariffs.* (1) A participating carrier tariff issued by one agent only shall separately list all the tariffs, including those which contain their own list of participating carriers, published and filed in the name of that agent. If there are tariffs issued by the agent jointly with another agent the tariff must list all of such tariffs. If such joint agents' tariffs are to be governed by the participating carrier tariff of the agent, the participating carrier tariff must be a joint issue with that other agent, showing itself as the principal agent (see § 1310.21 (rule 21)—Tariffs of Joint Agents), but need not enumerate therein tariffs issued solely by that other agent. The tariffs shall be arranged in numerical sequence and show the ICC or MF-ICC number of each. The list must be correct and current at all times. The tariffs which contain their own list of participating carriers must be identified and described.

(2) Each tariff listed or referred to in the participating carrier tariff shall be described in a manner sufficient and indicative enough to enable the determination of the general application of the tariff without specifically reviewing such tariff.

(d) *Cancellation of participating carrier.* When a carrier is canceled from the list of participating carriers in a participating carrier tariff or is shown in such tariff as eliminated from a tariff governed thereby, unless the cancellation is in connection with the publication of a complete adoption of the rates of such carrier by another (see paragraph (f) of this section and § 1310.25 (rule 25)—Transfer of Operations; Changes in Name and Control) reference must be made in connection with such cancellation to an item reading substantially as follows:

(Applies only when reference is made hereto) When this tariff provides that a carrier's participation in this tariff or in one or more of the tariffs governed hereby is canceled, the provisions of the tariff or tariffs from which the carrier's participation is shown as canceled do not apply for the account of such canceled carrier after such cancellation becomes effective (unless and until specifically reinstated), notwithstanding some of the provisions of such tariffs may still be shown as applying for such canceled carrier, not having been specifically canceled by publication therein.

If the tariff is in bound form, the canceled carrier's name together with the reference must be carried forward as reissued matter in the alphabetical list of participating carriers and not dropped. If the tariff is in loose-leaf form, the carrier's name and the reference shall be republished on successive issues of the list and the page, indicating when cancellation was first made effective, until all provisions referring to such carrier have been amended to omit the carrier, after which the cancellation listing may be omitted (see § 1310.10(d) (15) for requirements for the use of reference marks in connection with reissued matter). Some type of cancellation provision in the participating carrier tariff must, however, be carried forward into the reissue if the canceled carrier's name still appears in any effective provisions in any tariffs governed by the participating carrier tariff at time of reissue to make clear that such provisions have no application.

(e) *Reinstatement of participating carrier.* When a carrier, which was canceled from the list of participating carriers in a participating carrier tariff or was shown in such tariff as eliminated

from a tariff governed thereby, is reinstated, reference must be made in connection with such reinstatement to an item reading substantially as follows:

REINSTATEMENT OF PARTICIPATION

(Applies only when reference is made hereto)

The participation of the carrier whose listing refers hereto was canceled and was or will be subsequently reinstated on the dates as indicated in the tariff. In the interim period the tariffs do not apply, but upon reinstatement all provisions not specifically eliminated by publication or republication again applied or will apply upon the effective date of the reinstatement.

The reference must continue to be shown with the reinstated carrier's name in the alphabetical list of participating carriers until the participating carrier tariff is reissued.

(f) *Adoptions.* (1) When one carrier adopts the rates, tariffs, etc., of another carrier in full or in part (see § 1310.25 (rule 25)), such adoption must be announced in the participating carrier tariff substantially as follows:

The carrier shown in Column 2 below, by its adoption notice referred to in Column 3 below, having taken over tariffs, powers of attorney, and other instruments and filings of the carrier shown in Column 1 below, the carrier shown in Column 2 below is hereby substituted for the carrier shown in Column 1 below wherever it appears in this tariff and in tariffs governed hereby, except that where adoption is in part the substitution is only to the extent indicated:

Col. 1—old carrier	Col. 2—new carrier	Col. 3—adoption notice	
		ICC or MF-ICC No.	Effective date

(Here list the adoption notices, and when adopted in part, the part adopted must be shown.)

(2) If the adoption is in full, the former (old) carrier must be canceled from the list of participating carriers. If the old carrier is adopted in part only and the agent continues to publish all or some of its remaining rates, it must not be canceled from the tariff. In either event the listing of the old carrier whether continued or canceled should bear reference to the announcement of the adoption. Such cancellation and reference to the adoption must be continued in the participating carrier tariff until such tariff is reissued, but the announcement of the adoption must be carried forward from one participating carrier tariff into the reissues thereof until the adopted carrier's name no longer appears in any item, rule, or other provision in any of the tariffs governed by the participating carrier tariff. No other information (except where the adoption is partial) may be shown in connection with the adopted carrier.

(g) *Participating carrier tariff may include other provisions.* A participating carrier tariff may be combined with a routing guide, points of service tariff, and/or a "scope" (statements of carriers' operating authorities) tariff authorized by §§ 1310.8(b), 1310.18(a), and 1310.19, respectively, and prepared in conformity with the regulations in this part provided each category is shown in a separate section and the requirements of this paragraph are otherwise complied with.

§ 1310.21 Tariffs of joint agents (rule 21).

(a) *May be filed.* An agent for certain carriers may join with not more than two other agents for other carriers in the issuance of tariffs. This may be done without each of such agents having powers of attorney from all of the carriers parties to the tariff as required by § 1310.6 (e) (rule 6), provided each carrier is shown as participating under authority issued to one of such agents. In such cases, each agent acts for the carriers that have given it powers of attorney or have given concurrences to the carriers issuing powers of attorney and for such lines only.

(b) *Title pages and loose-leaf pages.* The title page of each tariff and supplement, and each loose-leaf page shall bear the name of each agent joining therein, bear a separate ICC (or MF-ICC) number in the series of each agent, and show at the bottom the name and title of each issuing party and the complete street and mailing address of each agent, including the postal service ZIP Code number. The words "Issued by" shall be shown first followed by the name of the principal agent primarily responsible for issuing the publication. The words "jointly with" shall be shown next followed by the names of the other agents joining therein. The pages (title or loose-leaf) shall be prepared in such a manner that it will be clear as to the agent for which each ICC (or MF-ICC) number and each address applies and for which agent each issuing officer (if different from the name of the agent) is acting. In all other respects, such pages (title or loose-leaf) shall be constructed in accordance with the regulations in this part.

(c) *Publications must be identical and filed under one cover.* Each of the agents shall file each and every tariff publication for and on behalf of the carriers for which it is agent, as if the publication were its individual publication on behalf of those carriers alone. The tariff filed by one agent is not a complete publication properly authorized by all carriers named therein. It is a complement of the tariff filed by each agent. Therefore, identical copies of each tariff and of each supplement or loose-leaf page amendment thereto must be filed by each agent. As each agent will file the tariff for the carriers which it lawfully represents, the cross exchange of concurrences between all of the different carriers represented by each agent will not be necessary as to that tariff. In order to avoid complications, all copies of each publication shall be transmitted under one cover (see § 1310.1(c) (rule 1) as to letters of transmittals). A tariff issued by an agent or jointly by two agents shall not be amended to show an additional agent as participating in the issuance thereof except upon reissue of the tariff; nor shall a tariff issued by joint agents be converted into one issued by a lesser number of agents except by reissue (see § 1310.27 (1)(6) for exception). In either event, the old tariff shall be canceled only by a supplement issued thereto (see § 1310.11 (a)(8) (rule 11)).

(d) *List of participating carriers.* Each tariff issued by two or three agents jointly shall show one complete alphabetical list of participating carriers constructed in the manner required in § 1310.6(e) (rule 6) indicating as to each agent the power of attorney (or concurrence) conferring authority to such agent. The list shall indicate the carriers that participate under concurrences to any of the carriers for which one of the agents acts, by showing the form and number of such concurrences together with reference to the carriers to whom the concurrences were given. If the same agents have jointly issued a participating carrier tariff, this information shall be shown therein (see § 1310.20 (rule 20)).

§ 1310.22 Seasonal motor-water rates (rule 22).

(a) *Tariffs may provide for restoration or discontinuance of service.* Tariffs containing joint motor-water rates applicable over routes upon which it is necessary to close navigation during a portion of each year shall provide for the restoration and discontinuance of service over such routes in the manner prescribed in paragraphs (b) through (f) of this section.

(b) *Notation required on title page.* The following notation shall appear on the title page of the tariff:

"Transportation service in connection with [here insert name of water carrier or carriers named in the tariff] is subject to restoration and discontinuance as indicated on page —.

(c) *When definite dates of service cannot be determined.* When definite dates for restoration and discontinuance of transportation service for each season of navigation cannot be determined, the following rule shall be published in the tariff under the heading of "Application of Rates":

Shipments will be accepted by carriers parties to this tariff during the period from [here show date approximately thirty days prior to the first sailing from port of transshipment] to [here insert date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing] of each year, for transportation on the vessels of the [here insert name of water carrier or carriers named in the tariff]. Shipments will also be accepted from the latter date until the date announced by supplements to this tariff subject to the conditions that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded over all-motor routes and be subject to the tariff rates applicable over such all-motor routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts and bills of lading shall bear notation to that effect. Supplements announcing the final date upon which shipments will be accepted for transportation under this tariff and effec-

tive supplements thereto will be filed with the Interstate Commerce Commission and posted at points where required not less than one day in advance of such date.

(d) *When definite dates of service can be determined.* When definite dates for restoration and discontinuance of transportation service for each season of navigation can be determined, the following rule shall be published in the tariff under the heading of "Application of Rates":

Shipments will be accepted by carriers parties to this tariff during the period from [here show date approximately thirty days prior to the first sailing from port of transshipment] to [here show date which will allow sufficient time for shipment to reach the port of transshipment prior to the last sailing] of each year, for transportation on the vessels of the [here insert name of water carrier or carriers named in the tariff]. Shipments will also be accepted from the latter date until [here insert final date upon which shipments will be accepted for transportation under the tariff the effective supplements thereto], subject to the condition that all freight left on hand at the port of transshipment after the closing of navigation for lack of space on vessels sailing after the arrival of such freight, and all freight reaching the port of transshipment after the last sailing of each season of navigation, will be forwarded over all-motor routes and be subject to the tariff rates applicable over such all-motor routes in effect on date of shipment from the point of origin of the shipment. In such cases shipping receipts and bills of lading shall bear notation to that effect. No supplement will be issued to this tariff announcing the date of discontinuance of transportation service.

(e) *Supplements announcing discontinuance of service.* Supplements announcing discontinuance of transportation service under paragraph (c) of this section may be filed to a bound or loose-leaf tariff on not less than one day's notice. Only one such supplement may be in effect at any time. Such supplement may not contain any other matter and may be issued without regard to the supplemental limits of this part.

(f) *Tariffs may be reissued.* Tariffs containing joint motor-water rates may be reissued or amended at any time in the regular manner, but tariffs containing the rule prescribed by paragraph (c) of this section which are made effective subsequent to the date of actual discontinuance of service shall contain a statement that service was discontinued on ---------- as per supplement No. ---- to ICC (or MF-ICC No.) ------ (former tariff) and that a further supplement announcing discontinuance of service for that season will not be filed.

§ 1310.23 Rates prescribed by commission (rule 23).

Rates and other tariff provisions prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers or agents to which such orders are issued in duly published, filed, and posted tariffs, loose-leaf pages, or supplements, and notice shall be furnished the Commission that its decision or order has been complied with. The notice shall refer to the docket number (when possible, the volume and page number of the report of the Interstate Commerce Commission, if printed, should also be shown) and shall identify the number of the item, page, supplement, and/or tariff where the complying rates are published. Unless otherwise specified in the decision or order in the case, the prescribed rates or other provisions shall be made effective upon not less than 30 days' notice. The tariff publication shall refer to the order or decision in the manner required by the regulations in this part.

§ 1310.24 Tariff indexes (rule 24).

(a) *Must be filed by most carriers—information required.* (1) Each motor carrier (see exception in the last sentence of this paragraph) shall publish, file, and post as a tariff, under an ICC number and in its own name, a complete index of all effective and all published but not yet effective tariffs to which it is a party (including those published in its own name). If a carrier participates in a rate tariff published in the name of an agent who publishes a participating carrier tariff, the carrier need not list in the index any tariff covered by the participating carrier tariff. In this event, the index shall state that the carrier participates in tariffs published in the name of the agent (identifying the agent) and shall refer to the agent's participating carrier tariff. Any general restriction (for example "Joint Rates only") affecting the carrier in connection with the agent's tariffs shall also be shown. If a carrier participates in any tariff of an agent not governed by a participating carrier tariff the index must list that tariff. A class III carrier need not comply with this subparagraph if it does not participate in any rate tariff of an agent.

(2) The index shall show as to each tariff listed therein (i) the ICC (or MF-ICC) number; (ii) the carrier's or agent's tariff number, if any; (iii) the name of the carrier or agent in whose name the tariff is published; (iv) the type of tariff (such as classification, class rate, specific commodity rate, rules, etc.); (v) a description of the articles, if any, on which the tariff applies (such as general commodities, all-freight, iron or steel articles, etc.); and (vi) the actual or general territorial application, if any, of the provisions in the tariff applying for the account of the carrier in brief but reasonably complete form. Any general restriction in a tariff pertaining to the carrier (such as "joint rates only") shall be shown. In no case may the description of the application of referred to tariffs represent less than the actual application.

(b) *Arrangement.* The tariffs shall be listed under appropriate headings in the following order: specific commodity tariffs, general commodity tariffs, combined class and commodity tariffs, class tariffs, and governing tariffs. Specific commodity tariffs shall be entered alphabetically under the names of commodities or principal commodities. Tariffs applying to different kinds of the same commodity shall be grouped together—for example, "Lumber, hardwood," "lumber, yellow pine," etc. Governing tariffs shall be entered alphabetically by the type of governing tariff. In addition, all tariffs appearing within a group or grouped together under a specific heading shall be listed in an orderly manner.

(c) *Supplements or loose-leaf page amendments to tariffs listed in the index.* Supplements or loose-leaf page amendments to tariffs should not be referred to in indexes. Where supplements or loose-leaf pages have the effect of changing the application of the original tariff, the description of such tariff in the index shall be revised accordingly.

(d) *Revisions, supplements, and loose-leaf pages.* The information in the index must be maintained in a current condition, and amended concurrently with changes in tariffs. Each supplement shall bear on the title page the following notation:

Supplement (or supplements) [here show the number or the numbers of the supplements containing changes from the original index] contains (contain) all changes from original index which are in effect on the issue date hereof;

to which may be added

or which have been filed to become effective at a later date as shown herein.

Supplements (not loose-leaf page amendments) may be issued without regard to the volume limitations imposed on supplements by this part, but not more than three supplements may be in effect at any time.

(e) *Notation on title page.* Each index must bear on its title page the following notation:

This index contains a list of tariffs in effect on [here show date of issue of index];

to which may be added

or which have been filed to become effective at a later date as shown herein.

(f) *Issued date but no effective date.* The title page of each index and of each supplement or loose-leaf page amendment thereto shall bear an issue date but not an effective date. The date of issue shall not be one prior to the date filed with the Commission.

§ 1310.25 Transfer of operations—change in name and control (rule 25).

(a) *Different situations.* The construction and filing of tariff publications, powers of attorney, and concurrences when the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred to another party involve many different kinds of situations each of which requires different procedures to be followed. Below are listed for convenience different situations and references to appropriate paragraphs in this section containing regulations.

(1) For publications required to record new ownership of effective tariffs, etc.—see paragraph (b).

(2) When old carrier has no tariff provisions or other instruments or filings—see paragraph (c).

(3) When old carrier has no tariffs of its own (or predecessor's) issue to be

adopted, but has rates elsewhere and/or has instruments to be adopted—see paragraphs (d) and (e).

(4) For single form of adoption notice—see paragraphs (e) and (d).

(5) When old carrier has one or more tariffs of its own (or predecessor's) issue to be adopted—see paragraphs (f) and (g).

(6) For form of combined adoption notice and adoption supplement—see paragraphs (g) and (f).

(7) For series of ICC numbers to use on adoption notices and new tariffs—see paragraph (h).

(8) For effective date to show on adoption publication—see paragraph (i).

(9) For period after which adopted tariff may not be further amended—see paragraph (j).

(10) When carrier adopts back tariffs it had itself originally issued—see paragraph (k).

(11) When a carrier assumes only temporary operating control of another carrier's properties—see paragraph (l).

(12) When fiduciaries (receiver, trustee, etc.) are involved—see paragraph (n).

(13) When concurrences or powers of attorney have been adopted—see paragraph (o).

(14) When provisions published in tariffs issued by other carriers or by agents have been adopted—see paragraph (p).

(15) When later amending or canceling the adopted (in whole or part) tariffs—see paragraphs (q), (r), (s), (t), and (u).

(16) Tariffs (not agency) adopted in part must be subsequently adjusted by the new carrier—the reservation of supplement numbers therefor—see paragraph (s).

(b) *Requirement for recording new ownership of effective tariffs, etc.* When, under authority of an order of the Commission, the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party or, under authority of an order of a court of law, a fiduciary (see paragraph (n) of this section) assumes possession and operating control of a carrier's properties (all hereinafter referred to as an adoption), an adoption notice is the vehicle required by this Commission for recording the new ownership of effective tariffs, tariff provisions, concurrences, powers of attorney, and other instruments and filings. An adoption supplement to a tariff is the vehicle required by this Commission to reflect the adoption notice insofar as it pertains to that tariff. The supplemnet also acts as a notification to the user that the ownership of the tariff has or tariff provisions therein have been transferred, or will be, and when and to what party. When a tariff of the old carrier's own issue or provisions published for its account in other tariffs are adopted in part, the tariff provisions continue to be applicable on shipments, without further tariff action being necessary, over joint routes over the carriers via points common to both carriers, if necessary to such application, until the tariff provisions are specifically canceled or they expire by their own terms. For purpose of this section, "old carrier" refers to the carrier (including any fiduciary) whose operating authority is being transferred to a new name or another party in whole or in part, and "new carrier" refers to the new name or party (including any fiduciary) to which the operating authority is being transferred in whole or in part.

(c) *If old carrier has no tariff provisions or other instruments.* If the old carrier has no effective tariffs, tariff provisions, concurrences, or powers of attorney to be adopted, no adoption notice shall be filed. In this event, the new carrier shall immediately, but on lawful notice, provide for publication of rates and provisions to cover the operating authorities involved in the transfer.

(d) *When only adoption notice is required.* When the old carrier has no effective tariffs of its own (or predecessor's) issue that are to be adopted but has one or more of the following categories of filings that are involved in the adoption, the new carrier shall file and post in its own name an individual adoption notice in the form of a tariff as set forth in paragraph (e) of this section.

(1) Tariffs of an agent in which old carrier participates.

(2) Tariffs of another carrier in which old carrier participates.

(3) Powers of attorney.

(4) Concurrences.

(5) Any other instruments or filings filed with the Commission.

(e) *Form for adoption notice.* If the circumstances are as recited in paragraph (d) of this section, and the adoption is in whole, the adoption notice shall be prepared in substantially the following form (numbers and names used only for illustration purposes):

[ICC 45]

JOHN DOE TRANSPORT, INC.

ADOPTION NOTICE

The above-named carrier hereby adopts, ratifies, and makes its own, in every respect, as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments or filings whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by, or heretofore adopted by Richard Roe, doing business as Roe's Trucking prior to the effective date shown below. Issued: [show date prepared.] Effective: [show date.] (Issued under authority of Rule 25 of Tariff Circular No. MF 5 and order in ICC Docket No. MC–FC–00000– Transfer)

Issued by
William P. Doe, Traffic Manager,
1111 A Street,
Any town, Your state 00000.

When, in the same circumstances, the adoption is in part, the notice shall read the same except the statement "insofar as said instruments and filings apply to or in connection with" shall be added at the end of the notice followed by a statement of the operating authority transferred or a reference to the number or numbers of the page or pages of the adoption notice where this information is shown.

(f) *When combined adoption notice and adoption supplement is required.* Where the old carrier has even one effective tariff (not an adoption notice) of its own (or predecessor's) issue that is involved in the adoption, regardless of whether the adoption is in whole or in part the new carrier must file and post in its own name a combination publication which shall serve as both the adoption notice and the adoption supplement or supplements (see paragraph (s) of this section as to the new carrier amending the old carrier's tariffs when the adoption is in part). The publication shall be prepared as set forth in paragraph (g) of this section. Two copies plus two additional copies for each tariff supplemented shall be filed.

(g) *Form for combined adoption notice and adoption supplement.* (1) If the circumstances are as recited in paragraph (f) of this section, and the adoption is in whole, the combined publication shall be prepared in substantially the following form (numbers and names for illustration only):

JOHN DOE TRANSPORT, INC.

Adoption Notice Tariff—ICC 45
Adoption Supplement 8 to—MF–ICC 11*
Adoption Supplement 7 to—MF–ICC 27*
Adoption Supplement 3 to—ICC 4*

The above-named carrier hereby adopts, ratifies, and makes its own, in every respect, as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments or filings whatsoever, including supplements or amendments thereto, filed with the Interstate Commerce Commission by, or heretofore adopted by Richard Roe, doing business as Roe's Trucking prior to the effective date shown below.

Effective with the effective date shown below, each tariff, or as amended, to which this is a supplement became the tariff of John Doe Transport, Inc. as stated in its adoption notice shown next above.

Issued: [show date prepared.] Effective: [show date.] (Issued under authority of Rule 25 of Tariff Circular No. MF 5 and order in ICC Docket No. MC–FC–00000—Transfer)

Issued by
William P. Doe, Traffic Manager, 1111 A Street,
Any town, Your state 00000.

When, in the same circumstances, the adoption is in part, the adoption notice shall read the same except (i) the statement "insofar as said instruments and filings apply to or in connection with" shall be added at the end of the first paragraph of the combined notice followed by a statement of the operating authority transferred or a reference to the number or numbers of the page or pages of the adoption publication where this information is shown and (ii) added at the end of the second paragraph of the combined notice shall be the statement "but only to the extent indicated" and the statements "This does not have any effect of canceling rates, charges and other provisions. All published rates, charges and other provisions shall con-

*(Richard Roe, doing business as Roe's Trucking, series)

tinue to apply until specifically canceled or they expire by their own terms."

(2) Each adoption supplement shall be assigned the next unused supplement number to the particular tariff supplemented. If the tariff involved in an adoption is one that is adopted in part only, the old carrier shall reserve (and not use) two unused supplement numbers for the sole use of each new carrier for adoption and cancellation purposes. The adoption supplement issued by the new carrier shall use one of these numbers for the issuance of it of the partial adoption supplement (and later the other for cancellation and transfer of the adopted provisions to other tariffs). See paragraph (s) of this section.

(h) *Series of ICC numbers to use on adoption notices and new tariffs.* Except as otherwise provided in this paragraph as to temporary operating control situations and appointments of fiduciaries (see pearagraph (n) of this section), the ICC number assigned to an adoption notice shall be the next consecutive unused one in the ICC number series of the new carrier. If no previous tariffs have been filed, the adoption notice shall be numbered ICC 1. An adoption notice shall be assigned the next consecutive unused number in the ICC number series of the old carrier when the adoption is one where a party assumes temporary operating control of all the properties of a carrier pursuant to section 210(a)(b) of the Act or when the adoption is one where possession and operating control of a carrier is assumed by a court appointed fiduciary (see paragraph (n) of this section). In this event and if the old carrier has not previously filed a tariff, the adoption notice shall be numbered ICC 1 in the old carrier's series. All subsequently filed tariffs shall continue to be published in the same series. In the event it is in the old carrier's series, the ICC designation shall be identified by naming the carrier followed by "Series."

(i) *Effective date on adoption publication.* An adoption notice or combined adoption notice and adoption supplement shall be published, filed, and posted promptly and if possible on or before the effective date shown thereon. Copies shall be sent to each agent and carrier to which power of attorney or concurrence being adopted has been given by the old carrier. The effective date shall be the date (as shown in the body of the notice) on which the adoption occurs. If prior approval by this Commission is required for the transfer of operating authority to the new name the effective date shown shall not antedate the effective date of that approval.

(j) *Adopted tariff may not be amended after one or two years.* The transfer of the old carrier's tariffs and tariff provisions is intended to be only a temporary expedient so that operations may be continued without interruption or commenced without delay. It is not intended to be a permanent solution or even one of other than short duration. The new carrier, after adopting a tariff in its entirety, has a duty to promptly establish rates and related provisions to cover in tariffs of its own issue or in tariffs published for its account, and to cancel the adopted tariff. A tariff of the old carrier's (or predecessor's) issue which has been adopted, whether in whole or in part, may not be amended by any publication filed after one year's time from the effective date of the adoption if the tariff contains less than 100 pages and after two years' time if it contains 100 pages or more except

(1) To cancel in whole or in part;

(2) To announce a suspension;

(3) To postpone or further postpone suspended matter;

(4) To announce another adoption;

(5) To initially comply with an order of the Commission (but not continuing compliance as to a continuing order); or

(6) To cancel rates or other provisions adopted by the new carrier.

This paragraph does not apply where the adoption (i) was one to effect temporary operating control pursuant to section 210a(b) of the Act, (ii) was to cover appointment of a fiduciary (see paragraph (n) of this section), or (iii) was one where the old carrier reassumed control of the operation.

(k) *When name of old carrier need not be shown.* When a carrier adopts back tariffs which it had issued (and which had been adopted) there is no need, when adopting, amending, or reissuing them, to identify those tariffs as being in its own series.

(l) *Temporary control.* (1) When the adoption is one where a party assumes temporary operating control of all or part of a carrier's properties pursuant to section 210a(b) of the Act, a new separate and distinct carrier is established. For example, if John Doe Transport, Inc., assumes temporary control of the properties of Richard Roe, doing business as Roe's Trucking, the name of the new carrier is as follows:

John Doe Transport, Inc., Operator of Richard Roe, doing business as Roe's Trucking.

The exact name of the new carrier must be shown on or in all tariff publications, concurrences, powers of attorney, and other instruments filed by it or for its account.

(2) When permanent authority to take over the temporarily controlled operations is granted by the Commission, the new carrier shall file new adoption publications in the name specified in the permanent authority and otherwise comply with the provisions of this section. The name of the old carrier in the adoption publications must be that of the immediate predecessor ("operator of") carrier.

(3) If the temporary authority to assume operating control of the old carrier is not made permanent, the original carrier (whose operations had been temporarily controlled) must file adoption publications announcing its ownership of the rates, tariffs, etc. and otherwise comply with the provisions of this section. The effective date to be shown is the date on which the temporary authority expires or is vacated.

(m) *Adoption publications to contain no other matter.* No adoption notice or combined adoption notice and adoption supplement may contain any matter other than that authorized by the provisions of this section.

(n) *Fiduciaries.* When the appointment of a fiduciary (receiver, trustee, executor, administrator, assignee, etc.) is approved or directed by a court of law and such person assumes possession and operating control of a carrier's properties, the name of the new carrier to be shown on all tariff publications and all instruments shall consist of the name of the old carrier, followed by the name of the fiduciary and his capacity (see the requirements of § 1132.6 of this title—Operations by Fiduciaries). When such possession and operating control are terminated, the party taking over the properties shall in turn comply with the regulations in this section.

(o) *Concurrences and powers of attorney.* (1) When the adoption is in whole, the new carrier takes over the effective concurrences and powers of attorney the given therein by the old carrier continues as authority given by the new carrier until replaced by new instruments or revoked or canceled. However, the new carrier has a positive duty to dispose of them promptly, and in any case must replace and cancel (or revoke) them within 120 days of the effective date of the adoption publications (see next following for exceptions). The instruments need not be replaced and canceled, or revoked, if they are taken over.

(i) By a court appointed fiduciary;

(ii) In the case case of temporary operating control of all of a carrier's properties (under authority of section 210a (b) of the Act) being exercised; or

(iii) By the carrier that originally issued them following termination of temporary operating control by another.

When an instrument is canceled, the cancellation notice shall identify the name of the carrier having originally issued the instrument.

(2) When the adoption is in part, the authority given in an involved concurrence or power of attorney by the old carrier also serves to establish, for a maximum period of 60 days from date of filing of the adoption notice with the Commission (following which the authority is inoperative), authority from the new carrier until the new carrier issues a new instrument (unless in the meantime the old carrier has canceled or revoked it). This is intended to continue the authority for only the shortest period of time necessary for the new carrier to execute and file a new instrument. Therefore, the new carrier must file the new instrument at the same time it files the adoption publications (see next following sentence for exception) if it wishes to continue to give in part or in whole the authority established by the old instrument. The new carrier shall not issue any instrument granting authority which will duplicate or conflict with the au-

thority granted by any instrument previously issued by it.

(3) The number series of any new instrument shall be that of the new carrier, except that it shall be that of the old carrier where temporary operating control of all the properties of the old carrier (under authority of section 210a (b) of the Act) is being exercised or where control is exercised by a fiduciary.

(p) *Tariffs issued by other carriers or by agents.* (1) Where a tariff (not a participating carrier tariff) is an issue of another carrier or of an agent, has its own participating carrier list, and lists the old carrier being adopted in whole as a participant, such tariff must be amended on lawful notice to reflect the change. The old carrier's name shall be brought forward and shown as canceled. In direct connection with the cancellation shall be shown a reference to a statement in the tariff providing for the substitution of the new for the old. The latter statement referred to shall read substantially as follows:

[Here show new carrier's name] by its adoption notice, ICC ____, which became effective on ----------, having taken over the tariffs, etc., of [here show old carrier's name], [here show new carrier's name] is hereby substituted for [here show old carrier's name] wherever it appears in this tariff.

(2) In the same circumstances set forth in paragraph (p) (1) of this section but where the adoption is in part only, each tariff involved in the adoption shall be amended to add to the list of participating carriers the name of the new carrier and to incorporate necessary changes. The old carrier's name may not be canceled from the list until such time that the tariff no longer contains provisions applicable for the account of that carrier. In direct connection with the name of the old carrier shall be shown a reference to a statement in the tariff providing for the substitution of the new for the old. The latter statement referred to shall read substantially as follows:

[Here show new carrier's name] by its adoption notice ICC ____, having taken over tariffs, etc., of [here show old carrier's name] insofar as they contain rates, charges, rules, or other provisions applying [here describe the operations transferred], [here show new carrier's name] is hereby substituted for [here show old carrier's name] wherever the latter appears in this tariff in connection with said points, routes, or territories.

(3) Where a participating carrier tariff lists the old carrier being adopted in whole or in part as a participant in a tariff involved in the adoption, the participating carrier tariff shall be amended to reflect the change in the manner set forth in § 1310.20 (rule 20).

(q) *Tariffs involved in part shall be amended.* Rates, rules, and other provisions (in adopted-in-part tariffs of old carrier) applying locally between points on the transferred portion shall be transferred as quickly as possible to tariffs of or published for account of the new carrier. Such rates, rules, and other provisions shall be canceled from the old carrier's tariffs on lawful notice and reference made to the new carrier's tariffs or other locations for provisions to apply thereafter. To effect the cancellation, the items, units, or loose-leaf pages containing the provisions shall not be reissued. Instead, the cancellation must be by statement to the effect that all provisions adopted by the new carrier (show name of new carrier) are canceled. The statement shall specifically identify the material canceled (numbers of the items, units, tables, sections, pages, etc., or portions thereof). The statement shall be published in a special supplement (regardless of whether the tariff is in bound or loose-leaf form), which must be permitted to remain in effect for the life of the tariff. The supplement shall be exempt from the supplemental limit provisions of this part. The new carrier shall file, or have filed for its account, corresponding or different rates, rules, or other provisions on lawful notice to become effective upon the same date as the cancellation from the old carrier's tariff.

(r) *Junction point.* If, after the partial adoption of a tariff or tariff provisions, any point named therein will be served both by the old carrier and by the new carrier, a statement shall be shown in connection with the name of that point reading substantially as follows:

This adoption notice does not have the effect of eliminating [here show name of point] as a point served by [here show old carrier's name], but has the effect of establishing service at said point by [here show new carrier's name].

(s) *New carrier may amend tariff adopted in part—reserved supplement numbers for new carrier's use.* If a tariff issued by the old carrier or its predecessor is adopted in part, in addition to filing the combined adoption notice and adoption supplement the new carrier may file another supplement to that tariff (bound or loose-leaf) for the purpose of canceling therefrom all rates, routes, rules, or other provisions that belong to it by virtue of the adoption. Two unused supplement numbers to such a tariff shall be reserved for each new carrier's use. One of the numbers shall be used as the "adoption supplement number" in connection with the listing of the tariff on the combined adoption notice and adoption supplement. The other shall be used on the cancellation supplement. The Commission shall inform the parties as to the supplement numbers that shall be reserved and used. The old carrier may not use the reserved numbers under any circumstances nor may it cancel the tariff provisions adopted by the new carrier. If the new carrier fails to cancel its adopted provisions within 120 days from the adoption effective date, the old carrier (or successor, if the remaining part had in turn been adopted) may apply for special tariff authority to cancel. The old carrier may, however, cancel the entire tariff at any time. Both carriers should inform one another fully of their respective actions.

(t) *Subsequent supplements or loose-leaf pages.* A subsequent supplement or loose-leaf page amendment to an adopted tariff issued by the old carrier or its predecessor shall show in connection with the ICC (or MF–ICC) number the name of the carrier in whose ICC (or MF–ICC) number series the tariff was issued (see paragraph (k) of this section for exception). Each supplement or page shall be filed by the new carrier if the tariff was adopted in whole. If the tariff was adopted in part, except as otherwise provided in paragraph (s) of this section supplements or loose-leaf pages shall be filed by the old carrier. Subsequent supplements shall be numbered consecutively beginning with the number following that of the adoption supplement.

(u) *Former tariff must be described when canceled.* The new carrier, when canceling any tariff issued or adopted by the old carrier, shall identify such tariff in the cancellation notice by reference to its ICC (or MF–ICC) number and to the name of the carrier that issued it, and, when tariffs have been published by the old carrier in more than one series, by reference to the particular series in which the tariff was published.

(v) *Adoption notice not to be canceled.* Unless requested by this Commission, an adoption notice may not be canceled.

(w) *Adoption supplements to be non-counting.* Adoption supplements may be filed without regard to and shall be considered exempt from the limitations imposed by the regulations in this part pertaining to the volume of supplemental matter and the number of supplements permitted to a tariff.

(x) *Carriers to which this section applies.* The regulations in this section shall apply only to carriers filing tariffs under the regulations in this part and only when the adoption is one authorized by the Interstate Commerce Commission.

§ 1310.26 Applications for special tariff authority (rule 26).

(a) *Commission has authority to grant special tariff authority.* The Commission has the authority to permit, in its discretion and for good cause shown, the filing of tariff provisions on less than 30 days' notice, and also to permit other departures from the regulations in this part. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the tariff provisions of a competing carrier that has given 30 days' notice will not of itself be regarded as good cause for permitting notice of less than 30 days. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement, or loose-leaf page.

(b) *Special tariff authority will not be issued to modify formal orders.* When a formal order of the Commission requires publication on a stated number of days' notice, a request for special tariff authority to file on less notice is in effect a modification of the formal order. Any

such request should be filed as a petition on the formal docket for modification of the order and not as an application for special tariff authority.

(c) *Filing of application by carrier—also joint agents' tariff.* A carrier may apply for authority to file tariff provisions on less than 30 days' notice or for waiver of the regulations in this part as to tariffs of its own issue, but not those of its tariff publishing agent. If an application requests authority to file provisions in a joint agents' tariff, it must state that it is filed for and on behalf of all carriers parties to the proposed change or the tariff.

(d) *Where to send applications and number of copies required.* Two copies of each application tendered (including amendments thereto and exhibits made a part thereof) should be addressed

Interstate Commerce Commission, Bureau of Traffic, Washington, DC 20423.

and every envelope marked prominently with the words "Special Tariff Authority Application." A check drawn to the order of the Interstate Commerce Commission in the amount of the required fee shall accompany each application for new special tariff authority, or amendment of an existing authority, if required by current regulations.

(e) *Numbering and signing of applications.* Applications should be numbered by the applicant. The application must be signed by a person authorized to sign a letter of transmittal of tariff publications for the carrier or agent (see §§ 1310.1(c) and (d)), except that a carrier may authorize a different individual to sign applications for special tariff authority. Such an authorization must be in the form of a letter of authorization signed by the owner, partner or official, as the case may be, naming the person so appointed, and filed with the Commission's Bureau of Traffic. Applications needed not be notarized.

(f) *Form of application.* Applications shall be prepared on paper not less than 8 by 10½ nor more than 8½ by 11 inches in size, and be in substantially the following form. Each application shall give all information required by this rule together with any other pertinent facts.

(Street address, or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

INTERSTATE COMMERCE COMMISSION,
Bureau of Traffic,
Washington, D.C. 20423.

Application No. ------

---, by
(Name of carrier or agent)

---, for
(Name and title of person signing application)

and on behalf of all carriers parties to its tariff ICC (or MF–ICC) ----------,[1] does
(ICC or MF–ICC No.)

hereby petition the Interstate Commerce Commission that it be permitted, under section 217 of the Interstate Commerce Act, and as amended, to put in force the following tariff provisions to become effective ---- days after the filing thereof with the Interstate Commerce Commission:

(Here show matter as directed by paragraph (g)(1) of this section.) Your petitioner further represents that the said [here state whether rates, charges, classification ratings, or other provisions] above mentioned will be published in [here shown matter as directed by paragraph (g)(2) of this section].

1. [Here state matter as directed by paragraph (g)(3) of this section].

2. [Here state matter as directed by paragraph (g)(4) of this section.]

3. [Here state fully matter as directed by paragraph (g)(5) of this section.]

4. [Here show justification as directed by paragraph (g)(6) of this section.]

(Name of carrier or agent)

By ---
(Signature of authorized person)

(Title)

I hereby certify that the information contained herein is to the best of my knowledge true.

By ---
(Signature of authorized person)

(Date)

When the tariff involved is a local one or relief from any regulation in this part is requested, appropriate changes shall be made in the introductory paragraph of this form.

(g) *Information application shall show.* (1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if identified by letter, such as "Exhibit A," and so referred to in the application. If the proposed provisions consist of rates, all points from, to, or between which such rates apply must be shown or definitely indicated. If the proposed provision is a rule, the exact wording must be given.

(2) The application shall show the ICC (or MF–ICC) numbers of the tariffs in which the proposed provisions will be published. If publication is to be made in supplements to tariffs already referred to, this fact shall be shown. It shall be clearly stated whether publication will be by republication of the affected matter or by statement. If waiver of any regulation in this part is required, the number of the affected section or part thereof must be identified and the reason for the waiver explained.

(3) When a request to file a new rate on less than 30 days' notice is involved, the method or formula that was used to construct the proposed rate shall be provided. When the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made to the tariff and to the number of the supplement in which provisions to be superseded are published. If such provisions are published in items or numbered units, reference shall be made thereto by number. If they are not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which and the manner in which cancellations will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive provisions between the same points or points related thereto, together with the ICC (or MF–ICC) numbers of the tariffs and the numbers of the supplements thereto containing such provisions.

(5) The application shall state whether or not such carriers have been advised of the proposed provisions and whether or not they have been advised that it is proposed to file such provisions on less (or on not less) than 30 days' notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested authority together with any related facts or circumstances which may aid the Commission in determining whether or not the requested authority is justified. If special tariff authority to give notice of less than 30 days is sought, the petitioner shall state why notice of not less than 30 days cannot be given.

(h) *The authority must be used in its entirety.* If the special tariff authority is used, it must be used in its entirety and in the manner set forth in the order of special tariff authority. If it is not desired to use all of the authority granted, and less or more extensive authority is desired, a new application complying with the provisions of this section in all respects and referring to the previous authority must be filed.

(i) *Confirmatory application.* When special tariff authority is requested by telegram because of an emergency which does not permit timely filing, the telegram must state all pertinent facts required in this section and include a statement that a written application and filing fee is being sent. An application (with the required fee) confirming the request must be transmitted on the same day. (The application and fee must be transmitted regardless of whether the request is granted or denied.)

(j) *Authority to reject publication.* The issuance and use of a special tariff

[1] If reference to tariff or tariffs does not exactly designate carriers involved, other methods of designating carriers should be employed.

authority does not restrict or remove the Commission's authority to reject a publication for reasons it deems sufficient in the circumstances.

§ 1310.27 Concurrences or powers of attorney—transfer of agent (rule 27).

(a) *Different situations.* The construction, filing, cancellation or revocation of powers of attorney or concurrences, and the construction and filing of publications when one agent takes over another involve many different kinds of situations each of which requires different procedures to be followed. Below are summarized many kinds of situations together with a reference in each instance to the paragraph in this section that contains the regulations governing that situation.

(1) To authorize an individual to act as agent—see paragraphs (b)(1) and (b)(2).

(2) To authorize a corporation to act as agent—see paragraphs (b)(1) and (b)(3).

(3) To limit the authority of a power of attorney—see paragraphs (b)(4) and (b)(5).

(4) To give concurrence in a particular tariff of a carrier—see paragraphs (c)(1) and (c)(2).

(5) To give general concurrence to a carrier—see paragraphs (c)(1) and (c)(3).

(6) When the principal agent dies or is disabled—see paragraphs (j), (k)(2), (k)(3), and (l).

(7) When the alternate agent dies or is disabled—see paragraphs (k)(2), (k)(3), and (l).

(8) When an agent takes over another agent or a corporation as agent changes its name—see paragraphs (k)(1), (k)(3), and (l).

(9) To cancel a power of attorney or concurrence—see paragraph (o).

(10) To revoke a power of attorney or concurrence—see paragraph (p). Instruments already on file April 15, 1977, prepared on the previously prescribed MFXA and MFXC forms are not required to be reissued effective before April 15, 1982, solely to convert to the new forms. Nevertheless, carriers should act to replace them as soon as possible, but in any event before such date.

(b) *Forms of powers of attorney.* (1) The following forms shall be used by a carrier to give authority to an agent to publish and file tariffs, including supplements or loose-leaf pages thereto, in which such carrier participates. If common carriers by water governed by the regulations in this part desire to give powers of attorney to agents authorizing the publication of joint rates with motor carriers, the forms set forth in this paragraph may be altered by substituting for the words "common carrier of property by motor vehicle," the words, "common carrier of property by water," or appropriate words of similar import.

(2) The form to authorize an individual to act as agent shall read as follows:

POWER OF ATTORNEY

FA1 No. ------
Cancels ------ No. ------

(Name of carrier)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

----------, 19--
(Date)

This is to certify that, on the -- day of ----------, 19--, ----------
(Name of carrier)
a common carrier of property by motor vehicle does (do) hereby make and appoint ----------
(Name of principal agent)
attorney and agent to publish and file for such carrier freight tariffs, and supplements or loose-leaf page amendments thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Interstate Commerce Act, and the regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that ----------
(Name of carrier)
does (do) hereby make and appoint ------ ----------
(Name of alternate agent) alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to

---
(Name of principal agent)
in the event and only in the event of the death or disability of

---
(Name of principal agent)

(Name of carrier)
By ---
(Signature of authorized person)

(Title)

Attest (if a corporation):
----------, Secretary.
[Corporate Seal]
Duplicate mailed to ----------
(Name of Agent)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

(3) The form to authorize a corporation to act as agent shall read as follows:

POWER OF ATTORNEY

FA2 No. --
Cancels -- No. --

(Name of carrier)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

----------, 19--
(Date)

This is to certify that, on the -- day of --------, 19--, ----------
(Name of carrier)
a common carrier of property by motor vehicle does (do) hereby make and appoint ----------
(Name of corporation)
attorney and agent to publish and file for such carrier freight tariffs, and supplements or loose-leaf page amendments thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Interstate Commerce Act, and the regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

(Name of carrier)
By ---
(Signature of authorized person)

(Title)

Attest (if a corporation):
----------, Secretary.
[Corporate Seal]
Duplicate mailed to ----------
(Name of Agent)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

(4) Powers of attorney, if executed without modification, confer unlimited authority to publish local rates for the carrier issuing the power of attorney and to publish joint rates for such carrier and such other carriers as shall have issued the necessary authority. If it is desired to limit the authority granted to the agent, the form may be modified by adding at the end of the first paragraph the statement:

This authority is restricted to the filing of the publications or types of publications set forth below and to the extent shown.

and by clearly and explicitly stating immediately thereafter the extent of the authority granted. Any limitation must be a general one and be specifically expressed in the instrument and must not depend on actions, circumstances, or managerial decisions not embodied therein or determinable therefrom and must not depend on future instructions or approvals. Limitations, if any, must be expressed in the instrument in such a manner that not only is it clear the authority the agent will have but also the authority it will not have if certain authority is withheld. For example, the instrument may limit the authority of an agent to publication of particular tariffs, to publication of rates from points on the carrier's lines only, to publication of rates to points on the carrier's lines only, to publication of either local or joint rates, or to publication of either class or commodity rates. The instrument may not contain limitations that are not general ones—for example, publication of specifically named rates, origins, destinations, rules, etc.

(5) If it is desired to give to an agent authority only for the publication of a classification, a classification exceptions tariff, a rules tariff, or any other special kind of tariff, the form may be modified in either of two ways. Omit the words "freight tariffs" and substitute therefor the word or words, "classification," "classification exceptions tariffs," "rules tariffs," etc., or modify so as to authorize the publication of any or all of such tariffs, including rate tariffs. If it is desired to limit the authority granted to publication of a particular tariff or tariffs, this may be done by giving a sufficiently accurate description of the title page of each tariff to identify it and by showing the ICC (or MF-ICC) number, if known. If it is intended that the authority granted shall include reissues of specifically named tariffs, that fact should be made clear by adding in the appropriate location "and successive issues thereof."

(c) *Forms of concurrences.* (1) The following forms shall be used in giving to carriers subject to these regulations concurrences in tariffs (including supplements or loose-leaf page amendments thereto) which are issued and filed by such carriers or their agents and in which the carriers giving concurrences are participants. The carrier to whom concurrence is given may act as origin, intermediate, or destination carrier in joint rates and routes. A concurrence does not confer upon a carrier authority to publish local rates for another carrier. If two or more carriers execute powers of attorney authorizing an agent to publish joint rates for them, it will not be necessary for those carriers to exchange concurrences with each other as to the joint tariffs issued by that agent under that authority.

(2) Form FC1 shall be used in giving concurrence in a particular tariff that is issued and filed by another carrier. The original of form FC1 shall be forwarded to the carrier issuing the tariff and shall be transmitted by such carrier to the Commission with the tariff or the amendment adding the carrier. This form when not restricted will serve as continuing evidence of participation in the tariff described in the concurrence and in all supplements (or loose-leaf pages) thereto and successive issues thereof. If reference to successive issues be stricken or omitted, a new concurrence will be required for each successive issue of the tariff in which the concurring carrier desires to participate. Except as provided in this subparagraph, this form shall not be qualified in any way but must evidence concurrence in all rates, rules, or other provisions contained in the tariff publication named therein. The form shall read as follows:

CONCURRENCE

FC1 No. ____
Cancels __ No. ____

_____
(Name of carrier)

_____
(Street address or R.F.D. number)

_____
(City, state, etc. and ZIP Code)

_____, 19___.
(Date)

TO THE INTERSTATE COMMERCE COMMISSION
Bureau of Traffic
Washington, DC 20423

This is to certify that _____
(Name of carrier giving concurrence)
assents to and concurs in the publication and filing of the freight tariff described below, filed by_____;
(Name of carrier to which concurrence is given)
together with supplements or loose-leaf page amendments thereto, successive issues thereof, and supplements or loose-leaf page amendments to the reissues, and that such concurring carrier hereby makes itself a party thereto and bound thereby, insofar as such tariff applies from, to, via, or at points on its lines, until this authority either is revoked by formal and official notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given or is canceled.

(Here give an exact description of the title page of tariff, including the name of the issuing carrier, the ICC (or MF-ICC) number, dates on which issued and effective, and the name and title of officer shown as issuing the tariff.)

_____
(Name of carrier)

By _____
(Signature of authorized person)

_____
(Title)

Attest (if a corporation):
_____, Secretary.

[Corporate Seal]

(3) If general concurrence is given by a carrier in tariffs (including supplements or loose-leaf page amendment thereto) issued by another carrier or its agent, naming rates or other provisions from, to, via, or at points on its lines, form FC2 shall be used. Form FC2 may be executed as shown, when it will authorize publication of rates or other provisions for the concurring carrier from, to, via, or at points served by such carrier. If it is desired to limit the authority granted to exclude publication of rates in connection with which the concurring carrier would act as either origin, intermediate, or destination line, the form may be modified to that extent by use of appropriate language to effect the modification authorized. When authority is given an agent to publish rates for a carrier participating under authority of a concurrence to another carrier for which such agent acts, care must be exercised that the rates published for the concurring carrier do not exceed the scope of the authority given. The form shall read as follows:

CONCURRENCE

FC2 No. ____
Cancels __ No. ____

_____
(Name of carrier)

_____
(Street address or R.F.D. number)

_____
(City, state, etc. and ZIP Code)

_____, 19 ___.
(Date)

TO THE INTERSTATE COMMERCE COMMISSION
BUREAU OF TRAFFIC
Washington, DC 20423

This is to certify that _____
(Name of carrier giving concurrence)
assents to and concurs in the publication and filing of any freight tariff or supplement or loose-leaf page amendment thereto, which

_____
(Name of carrier to which concurrence is given)
or such carrier's agent may publish and file,

and in which the said _____
(Name of concurring carrier)
is shown as a participating carrier, and that such concurring carrier hereby makes itself a party thereto and bound thereby insofar as such tariff applies from, to, via, or at points on its lines, until this authority either is revoked by formal and official notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given or is canceled.

_____
(Name of carrier)

By_____
(Signature of authorized person)

_____
(Title)

Attest (if a corporation):
_____, Secretary.

[Corporate Seal]

Duplicate mailed to _____
(Carrier to which concurrence is given)

_____
(Street address or R.F.D. number)

_____
(City, state, etc. and ZIP Code)

_____
(Date)

(d) ***Exact name of carrier must be shown—what individual may sign instrument.*** (1) In the blank spaces on

each form for the name of the carrier, there shall be shown, if the carrier be an individual, the individual name followed by the trade name, if any. If the carrier be a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier be a corporation, the correct corporate name must be used. In all cases, the name of the carrier shall be identical with the name as it appears in its operating certificate isued by the Commission, or, in the event that such certificate has not yet been issued, the name of the carrier shown must be identical with the name as it appears in the records of the Commission.

(2) The power of attorney or concurrence shall be signed by the owner, if the carrier is an individual, and shall be signed by all of the partners individually, if a partnership. If the carrier is a corporation, the power of attorney shall be signed by the president or vice-president, attested by the secretary of the corporation, and the corporate seal shall be affixed. If the state in which incorporated does not require the corporation to have a seal and it does not have one, the affixing of a seal may be omitted.

(3) See § 1132.6 of this chapter as to fiduciaries.

(e) *Official or employee may not act as agent.* Unless specifically authorized by the Commission, an official or an employee of a corporation may not act as agent when such corporation acts as agent.

(f) *Corporation as agent.* A corporation, duly authorized and acting as an attorney and agent, shall issue tariffs in the name of the corporation as agent. At the bottom of the title page of each publication, and at the bottom of each loose-leaf page, filed by the corporation as agent shall be shown the name and title of the official of the corporation who has been appointed by such corporation to issue tariffs and file them with the Commission. Before the first tariff publication may be filed showing such person as the issuing officer, such corporation shall forward to the Commission a certified minute of the meeting of the board of directors thereof showing the name and title of the official who has been appointed to handle all tariff matters with the Commission.

(g) *Specifications for forms.* Powers of attorney and concurrences shall be printed on paper of durable quality not less than 8 by 10½ nor more than 8½ by 11 inches in size. Each shall be given a form and serial number which shall run consecutively for each form of instrument. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the instrument, if any, which is canceled thereby. The term "freight tariff" as used in this section means not only rate tariffs but all other freight publications which in any way affect the value of the service or the measure of the charge. Each instrument shall show under the serial number the date of issue. All instruments, except form FC1, shall show in the lower left-hand corner the name and address of the agent or carrier to which the duplicate is sent.

(h) *Number of copies.* All instruments must be prepared in triplicate. Except when there is specific instruction in individual paragraphs to send originals to an agent or carrier, the original of the instrument shall be filed with the Commission, the duplicate sent to the agent or carrier to which such authorization is directed, and the third copy retained by the issuing carrier.

(i) *Conflicting authority must be avoided.* Powers of attorney or concurrences may not contain authority to delegate to another the authority thereby conferred. Duplicating authority to two or more agents or carriers must be avoided if the use thereof would result in conflicting rates or other provisions.

(j) *Alternate agent.* When a power of attorney is issued to an individual to act as agent, such instrument shall name an alternate agent to act in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff, supplement, or loose-leaf page by the alternate agent under the authority granted in the instrument, such alternate agent shall submit to the Commission a sworn statement setting forth the facts which justify such exercise of authority. (See paragraph (1) of this section for regulations governing take-over publications.) The term "disability" as used in the instrument refers to resignation, transferring to other duties or another post, or absence other than temporary, and does not mean temporary absence of the principal caused by vacation, illness, or other similar causes. If a carrier revokes its powers of attorney to an agent or cancels an existing one replacing it with a new more limited one, providing the required 60 days' notice from date of filing with the Commission, the agent has a duty to adjust its tariffs accordingly, effective on or before the effective date of the instruments. If it does not and the carrier directs this fact to the attention of the Commission, the Commission may, if it sees fit, direct the alternate agent to take over in the agent's place to protect the rights of the carrier. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

(k) *Transfer of authority from one agent to another agent—death or disability of agent.* (1) When an agent takes over another agent (including a change of name of a corporation acting as an agent), superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by each carrier executing a new power of attorney naming the new agent (and alternate when the new agent is an individual) thereafter to serve, and specifically canceling the previous power of attorney. (See paragraph (1) of this section for regulations governing take-over publications.)

(2) When a power of attorney has been issued to an individual and an alternate, and the death or disability of either the principal or alternate agent occurs, new powers of attorney canceling the previously effective powers of attorney and naming the agent (and alternate when the new agent is an individual) thereafter to serve shall be filed within 180 days from the date of death or disability. (See paragraph (1) of this section for regulations governing take-over publications.)

(3) The new powers of attorney filed pursuant to this paragraph shall bear no effective date. The originals thereof shall not be sent direct to the Commission, but shall be forwarded to the principal agent named therein. After all the necessary instruments shall have been secured, the principal agent shall file the originals with the Commission all at one time. Such powers of attorney will become effective upon the date they are received by the Commission, regardless of any other date which may have inadvertently been shown thereon.

(4) If, during the period the alternate agent is functioning in place of the former principal agent, new participating carriers are to be added to the tariffs the powers of attorney from such carriers must name the present alternate agent as principal agent together with a new alternate agent. When the permanent take over is made by a new agent (which may be the former alternate agent), such powers of attorney must be replaced by new ones meeting the requirements of this paragraph.

(5) If upon the death or disability of the principal agent it is found that the alternate agent named in the powers of attorney cannot or will not (by refusal or neglect) take over the tariffs, the carriers have a positive duty to seek a solution. If no take over by a new agent acting for the participants is arranged for within 90 days of the Commission being advised of the situation existing, the Commission will consider striking the tariffs from the files of the Commission. If the tariffs are stricken, the carriers will be free to publish their rates elsewhere.

(l) *Take-over publications.* (1) When a new agent is appointed for a reason set forth in paragraph (k) of this section, or when an alternate agent assumes the duties of the principal agent, the new agent, immediately upon receipt of necessary authority, or the alternate agent, upon death or disability of the principal, shall issue a supplement to each of the effective tariffs (bound or loose-leaf) issued by or which had been taken over by the agent superseded. The supplement shall bear on its title page no effective date, but shall contain a statement reading substantially as follows:

> On and after [show here, in the case of a new agent, the date on which authorities are filed with this Commission; or in the case of an alternate agent, the date on which the principal ceased to act] this publication shall be considered as the issue of [show here name of new agent or the alternate acting as such].

In the case of a new agent and a bound tariff, such supplement shall also contain a list of participating carriers, giving

reference to the new authorities. In the case of a new agent and a loose-leaf tariff, the supplement shall not name the participating carriers, but instead one or more loose-leaf pages, canceling the previous page or pages, shall be issued containing the new list of participating carriers. Such a page shall identify the new authorities and refer to the take-over supplement, shall show the date of the take-over as the effective date, and may be filed without notice.

(2) However, if the agent whose tariffs are being taken over maintains a participating carrier tariff, the take-over publications to the agent's other tariffs shall not list participants if the tariff that is being amended does not specifically list them. The take-over publication to the participating carrier tariff shall, however, provide a complete list of all participants therein and in tariffs governed thereby on the date of take-over.

(3) An agent only has authority to act for a carrier that has issued a power of attorney in its favor or issued an appropriate concurrence to such a carrier. Therefore, only the names of participating carriers that have issued such instruments may be shown in the take-over publication. Any updating, corrections, or deletions of the names of participating carriers must be made by the former agent (or alternate agent if authorized to act) and must become effective on lawful notice before the date of take-over.

(4) The take-over supplement must remain in effect for the life of the tariff and shall be considered exempt from the provisions of this part limiting the number and the volume of supplements, but the participating carrier list therein, if any, may be amended.

(5) An agent may not take over less than all of another agent's tariffs.

(6) Where joint-agent publications are involved in a take-over there are four major situations:

(i) The principal agent is taken over by other than one of the joint agents.

(ii) A joint agent is taken over by other than the principal agent.

(iii) A joint agent is taken over by the principal agent shown on the publication.

(iv) The principal agent is taken over by a joint agent shown on the publication.

In situations not identified in this subparagraph, the parties should consult with this Commission's Bureau of Traffic to arrive at an acceptable form for the publications effecting the take-over action. In the case of (A) the new agent issues the take-over supplement. In the case of (B) the principal agent issues a supplement which indicates that the take-over took place and substitutes the name of the new agent for the one taken over. In the case of (C) the principal agent issues the take-over supplement and drops the name of the former agent and its ICC number. In the case of (D) the joint agent automatically becomes the principal or sole agent, as the case may be, and issues the take-over supplement and drops the name of the former agent and its ICC number. In each situation the supplement must be one containing no other matter than that necessary to effect and explain the action. In every case the agent who issues the take-over supplement shall also amend the list of participating carriers, wherever it is shown, in an appropriate fashion.

(m) *Supplement (or loose-leaf pages) to be shown in series of former agent.* Supplements or loose-leaf pages, including those publishing the take-over, filed by the new agent to tariffs issued by the former agent (or a predecessor thereof, if any) must show in connection with the ICC (or MF-ICC) numbers that they are in the series of the former agent (or predecessor).

(n) *New agent must start new series.* New tariffs issued by the new agent (not alternate agent) shall be in such agent's own ICC number series, and when canceling tariffs issued by the former agent shall indicate the series of the tariffs canceled. An alternate agent, after take over, shall continue to use the number series of the superseded agent and identify, in connection with the number, the series by name of such agent.

(o) *Cancellation of instruments.* A power of attorney may cancel another power of attorney if both the old and new are issued in favor of the same agent or if it is filed under circumstances set forth in paragraph (k) of this section. A concurrence may cancel another concurrence if both the old and new are issued in favor of the same carrier. In every case both the old and new instruments must be issued by the same carrier, except that the old may be one acquired from a bona fide predecessor carrier. A power of attorney may not cancel a concurrence, nor may a concurrence cancel a power of attorney, but one form of power of attorney may cancel a different form of power of attorney and one form of concurrence may cancel a different form of concurrence, but care must be taken in any case that the correct form number (FC1, FC2, etc.) is inserted in the cancellation notice space. Under all other circumstances, powers of attorney and concurrencies must be revoked as set forth in paragraph (p) of this section. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, the new instrument must bear an effective date of at least 60 days after the date on which it is received by the Commission. Otherwise, no notice is required.

(p) *Revocation of instruments.* (1) A power of attorney or concurrence may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent or carrier in whose favor such instrument was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the instrument to be revoked, name the agent (and alternate agent when form FA1 is being revoked) or carrier in whose favor the instrument was executed, and specify the date upon which revocation is to become effective. The effective date must not be less than 60 days subsequent to the date the notice is received by the Commission. The notice shall be executed on paper of good quality not less than 8 by 10½ nor more than 8½ by 11 inches in size.

(2) The revocation notice for a power of attorney shall read as follows:

REVOCATION NOTICE

(Name of carrier)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

----------, 19 --
(Date)

This is to certify that, effective ----------, 19--, power of attorney ----, No.----, issued by ---------- in favor of ----------
(Name of carrier)

(Name of agent and of alternate, if any) is hereby canceled and revoked.

(Name of carrier)

By ----------
(Signature of authorized person)

(Title)

Attest (if a corporation):

----------, Secretary.

[Corporate Seal]

Duplicate mailed to.----------
(Name of agent)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

(3) The revocation notice for a concurrence shall read as follows:

REVOCATION NOTICE

(Name of carrier)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

TO THE INTERSTATE COMMERCE COMMISSION
Bureau of Traffic
Washington, DC 20423

Effective ----------, 19--, concurrence No. ----, issued by ----------
(Name of carrier)

in favor of ----------
(Name of carrier to which issued)

is hereby canceled and revoked.

(Name of carrier)

By ----------
(Signature of authorized person)

(Title)

Attest (if a corporation):
----------, Secretary.
(Corporate Seal)
Duplicate mailed
to

(Name of carrier to which issued)

(Street address or R.F.D. number)

(City, state, etc. and ZIP Code)

(Date)

(4) When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs should be made effective upon statutory notice not later than the effective date stated in the notice of revocation. In the event of failure to so revise the applicable tariff or tariffs, the rates in such tariff or tariffs remain applicable until lawfully canceled.

(5) The provisions of paragraph (d) (correct name, who may sign, etc.) of this section will also apply to revocation notices.

(6) If the tariff or tariffs of a carrier are adopted in full, the new carrier has the duty to promptly either obtain new concurrences from the participants therein, if any, or to cancel the participation of such carriers before any changes are made effective in provisions affecting such carriers.

(7) A carrier holding a concurrence or an agent holding a power of attorney that no longer wishes to retain or exercise such authority should notify the Commission's Bureau of Traffic in writing of this and state that the authority shall have no further force and effect. The files of the Commission shall be marked accordingly and the instrument considered as no longer effective. The notification shall be over the signature of the person authorized to issue the tariffs.

(8) A power of attorney or concurrence may not be revoked in part, nor may it be amended except by reissue.

§ 1310.28 Provisions which may be filed on less than 30 days' notice (rule 28).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25 and 1310.27 (rules 14, 22, 24, 25, and 27) for other provisions which may be filed on less than 30 days' notice.)

(a) *Certain provisions in connection with new temporary or new permanent operating authority.* (1) When operating authority is to be issued, the tariffs of the carrier or its agent may be amended on not less than five days' notice to add the description of such operating authority (see §§ 1310.6(g) and 1310.19 (rules 6 and 19)), to add the name of the carrier to the list of participants, to provide routing provisions in connection with such authority, and to amend the list of points served. If the authority to be issued is temporary only pursuant to section 210a(a) of the Act, the tariff provisions must be made subject to an expiration date which is not later than the date such authority is indicated to expire. If the authority is to be permanent, the effective date of the tariff provisions may not be earlier than the earliest date the certificate would be issued (the Commission will supply this information if necessary upon request).

(2) A carrier may not in its own tariff provide rates and service for its own account beyond the authority it has been granted. Commodity rates and commodity rate tables in a tariff should properly be specific as to points, territory and commodities from, to and on which they apply. Hence, addition in a carrier's own issue of a description of new operating authority should not, in itself, without any other amendment, serve to automatically extend the application of existing commodity rates to new points or territory, and the less-than-statutory authority provided in subparagraph (a) (1) of this section is not usable to so extend. This does not apply to class rates in effect, or to tariffs of agents already providing effective rates and other provisions which would cover the points, territory and commodity.

(b) *New route for existing operating authority.* A new joint route may be added upon not less than five days' notice to a rate tariff, or to its governing routing guide, if the carriers parties to the new route are participants in the rate tariff and have for not less than 30 days prior to filing of the new route held out in tariffs to serve their respective segments of the new proposed joint route. This authority may not be used to cancel any existing route, nor add a carrier or route to a particular rate, rule, item, or other provision which is limited to apply for a specifically named carrier or carriers. Nor may it be used for the establishment of new routes to which are attached restrictions on their applicability having no foundation in the underlying certificates of, or grants of new operating authorities to, the involved carriers.

(c) *Restore carrier participation.* Carriers and agents may file supplements or loose-leaf pages to their tariffs on not less than five days' notice to restore the listing of carriers as participants following published cancellation, so as to continue participation without interruption. The relisting must be indicated to become effective not later than the date upon which the cancellation is indicated to become effective. This authority may be used only when the cancellation notice was filed on not less than 30 days' notice.

(d) *Amend participating carrier list in dangerous articles tariff.* The list of participating carriers may be amended on not less than one day's notice to provide additions thereto and corrections and other changes therein in a tariff containing only rules and regulations governing the acceptance and transportation of dangerous articles (hazardous materials).

(e) *Amend participating carrier list in classification.* The list of participating carriers in classifications may be amended on not less than one day's notice to provide additions thereto and corrections and other changes therein.

(f) *Extend expiration dates or postpone effective date of comeback provisions.* Publications may be filed on less than 30 days' notice to extend the expiration date of existing provisions, or to postpone the effective date of comeback provisions (provisions paired with and published to supersede those indicated to expire with the preceding day) when the expiration date of the existing provisions is extended. As much notice as possible must be given, but in no case less than five days. No change may be made in the extended or postponed provisions. An expiration date may not be extended when such date is required by the terms of an order of the Commission or when only a portion of the provisions subject thereto is to be continued.

(g) *Change or cancel expiration dates in connection with temporary authorities.* (1) When the expiration date of a temporary operating authority is extended for a definite or an indefinite period of time for all or a portion of the authority, the carrier or its agent may file on not less than one day's notice

(i) Supplements or loose-leaf pages canceling or changing the expiration date attached to the rates and other provisions covering the operating authority to correspond with the action taken on the operating authority, provided the publication hereunder is made effective prior to the expiration of such rates and provisions; or

(ii) Tariff publications to republish without change the rates and other provisions which have expired and which cover the operating authority being continued. This authority is limited to the republication of rates and other provisions within 30 days from the date that they expired.

(2) A supplement may be filed to a loose-leaf tariff to cancel or change the expiration date where because of the volume of publication necessary and insufficient time following notification publication cannot be made on loose-leaf pages in conformity with the regulations in this part. If insufficient time only, not volume of publication, was the reason, the issuance of a supplement under this paragraph should be followed by reissuance of the pages, referring to the action effected by the supplement, and the supplement canceled.

(3) A supplement issued to a bound tariff for this purpose and containing no other matter shall be considered exempt from the provisions of this part limiting the number and the volume of supplements. A loose-leaf tariff which if further amended would result in violation of § 1310.10(d)(9) (rule 10) as to permissible number of canceled pages may be nevertheless amended but only to the extent necessary to effect the publication otherwise authorized under this paragraph.

(4) A supplement to a tariff (bound or loose-leaf) may direct the cancellation or amendment of an expiration date without republication of the tariff provisions. In the case of a numbered provision, the amendment shall be shown in an "Amendment to" the item or other numbered provision. If it is an item containing expiration dates only, however, it must be republished.

(h) *Postponement of tariffs or tariff matter.* (1) A carrier or its agent may

postpone the effective date of a tariff, or matter in a tariff (other than "comeback provisions"—see paragraph (f) of this section), of its own issue, effective on not less than eight days' notice, subject to the provisions of paragraphs (h)(2) through (h)(14) of this section.

(2) The effective date of the postponing provision may not be later than that of the provisions the effectiveness of which is sought to be postponed.

(3) Postponement may be effected—

(i) By republication of the provisions,

(ii) By "amendment to" a numbered provision, or

(iii) By a "postponement notice" if an unnumbered provision, an entire tariff, a supplement, or two or more loose-leaf pages.

(4) When by amendment, the provision it amends shall be identified by number, including letter suffix, if any, together with its present location, and the effective dates specified; for example:

Amendment The effective date is hereby postponed from to ---------- to ----------.

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(5) When by postponement notice, and a rate or other provision only (not an entire tariff, supplement, or two or more loose-leaf pages) is affected, the notice shall identify the provision, its present location, and specify the effective dates; for example:

The effective date of ----------, on page -- of --, is hereby postponed from ---------- to ----------.

(6) When by postponement notice, and an entire tariff, supplement, or a group of two or more loose-leaf pages is affected, the notice shall be worded as follows:

Refer to the title page of (tariff) (supplement -- to tariff) and change the effective date, which now reads ---------- to read ----------.

or, in the case of loose-leaf pages (adapting to "original page" or more than two pages, as appropriate):

Refer to -- Revised Page -- and -- Revised Page -- and change the effective dates thereon which now read ---------- to read ----------.

If the publication shows an exception to the general effective date, the postponement notice must clearly indicate whether or not the excepted date is also postponed and to what date.

(7) When the postponement of the effective date hereunder does not suffice to automatically continue the presently effective provision for the interim period due to a published cancellation, care must be taken to also postpone the cancellation. The postponement authority in this paragraph may be used to effect this result.

(8) Where the matter to be postponed is published on a single page of a loose-leaf tariff, postponement may only be effected by republication of the page. Republication of the matter to be held in effect and of the matter being postponed may be published together, with appropriate effective and expiration dates to effect continuity.

(9) Each amendment to a numbered provision for purposes of postponing shall be published in its proper place by numerical sequence when published with other tariff provisions in the same supplement, and when the numbered provision is next republished the amendment shall be specifically canceled. In the interim, if and when the supplement (to a bound tariff) in which an amendment appears is canceled, such amendment must be carried forward as reissued matter in the regular manner.

(10) Each postponement-notice provision shall be published in the fore part of the publishing supplement and, unless specifically canceled in a later supplement in the case of a bound tariff, it must be carried forward as reissued matter in the regular manner. In bound tariffs, cancellation of the latest postponing notice provision affecting an unnumbered tariff provision may only be accomplished by the republication of the postponed provisions or as amended, and postponing provisions affecting an entire tariff or entire supplement must be carried forward as reissued provisions for the life of the tariff. In loose-leaf tariffs, the postponing supplement may be canceled by the check sheet or by a reissue of one of the affected pages if all affected provisions have been reissued.

(11) Only one postponement and one further postponement are authorized by this paragraph, and the total period of postponement may not extend beyond 90 days from the original effective date unless the proposed new or changed provision is to be canceled. In this event a further postponement for another 30 days may be published upon not less than eight days' notice provided such cancellation is published at the same time upon full statutory or other lawful notice. When effecting such cancellation in a bound tariff, the supplement which effects the postponement may also include the cancellation of the matter but in full accord with the regulations in this part. When loose-leaf pages, the postponing supplement may include the cancellation only if the circumstances are such that cancellation by supplement is authorized in the regulations in this part. Where an amendment or notice is used for further postponement, the wording of the amendment or notice must detail the fact of the prior postponement, including the original published effective date, and the last date to which it had been postponed. The new amendment or notice shall specifically cancel the prior amendment or notice, and where the prior amendment or notice is published in a special supplement containing no other matter the new supplement must cancel it.

(12) If any matter being postponed hereunder is the subject of a petition for suspension by another party, the publishing carrier or agent, as the case may be, must at once notify each petitioner by first class mail or by telegram of the fact of postponement and must by telegram advise this Commission's Suspension and Fourth Section Board of the postponement and therein confirm that the petitioner or petitioners have been so notified.

(13) Supplements issued to bound tariffs under the regulations in this paragraph and which contain no other matter shall be exempt from the limitations of this part pertaining to the number of effective supplements and the volume of supplemental matter permitted to a tariff.

(14) The authority of this paragraph may not be used to postpone the effective date of a general increase or reduction in rates or charges, either in whole or in part, whether or not the subject of a petition seeking suspension.

(i) *Tariffs covering emergency transportation operating authority.* (1) Subject to the provisions of this paragraph, a carrier (not an agent) may establish rates and other tariff provisions covering emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act, without further notice prior to acceptance of property for transportation other than (i) posting, where required, of an individual tariff (not a loose-leaf page) containing such rates and other provisions (such a tariff may refer to one or more agents' tariffs for governing provisions), or containing provisions other than rates and referring to one or more agents' tariffs for such rates and other provisions, and (ii) having three copies of the tariff with a letter of transmittal, filed with the Commission's Bureau of Operations' field office which has jurisdiction over the point at which the carrier is domiciled or such other field office as the Commission may designate in special circumstances.

(2) A supplement may be issued to a tariff filed under this paragraph only for the purpose of extending the expiration date of the tariff to the date with which the emergency temporary authority, or an extension thereof, expires. Such a supplement shall be subject to the posting and filing requirements provided for tariffs in subparagraph (1) of this paragraph.

(3) The publications must be issued in the name of the carrier and may contain only matter pertaining to the emergency temporary authority. The ICC number assigned to the publication shall show a "W" prefix in the following manner:

ICC W (here show number)

The first "W" series tariff issued shall be assigned the number one. Subsequent tariffs shall be numbered consecutively.

(4) Each tariff must show on the title page a specific expiration date which is not later than 45 days after the effective date of the tariff.

(5) Each tariff referred to by a "W" series tariff must be identified by its ICC (or MF-ICC) number. The carrier must certify in writing to the appropriate field office of this Commission that it is a participant in each such tariff.

(6) Should the provisions of a "W" series tariff not conform to the emergency temporary authority actually granted, another "W" series tariff may be filed hereunder to cancel the first "W"

series tariff and bring the provisions into conformity with the grant.

(7) Except as otherwise provided in paragraph (1) (6) of this section, the provisions of this paragraph do not authorize the cancellation of any rate or other provision, and do not authorize the establishment of any rate or other provision that will conflict with or duplicate any other rate or other provision for account of the carrier.

§ 1310.29 Commodity rates determined by the use of rate base numbers (rule 29).

(a) *May be filed.* Commodity rates may be published which depend for their application upon the use of rate base numbers published for determination of class rates in the same or other tariffs. Column Commodity Rates shall be the term used in captions for and references to such rates.

(b) *Reference to other tariffs for rate base numbers.* (1) A publication published in the name of a carrier and containing such rates (either local or joint) may only refer to rate base numbers in tariffs of that carrier's own issue or, in the alternative, may refer to tariffs of one or more agents. If any agent's tariff is referred to, all carriers parties to such rates must be parties to the tariff referred to and the issuing carrier must at least be a party thereto for local application of the class rates therein.

(2) A publication published in the name of an agent and containing such rates may only refer to one or more tariffs of that agent's own issue, and carriers parties to the column commodity rates must be parties as well to each other tariff referred to.

(3) Reference to a tariff for such purposes permits use of any and all rate base numbers published therein necessary for application of the column commodity rates referring thereto, regardless of effect, if any, of scope of operating authority provisions of the carriers which otherwise would limit the application of the referred to tariff for such carriers.

(c) *Other requirements.* (1) The commodity or commodities must be clearly identified, and unexplained generic terms may not be used. The application of the rates, including the territorial application thereof, must be clear and explicit.

(2) Column commodity rates, of whatever kind, may not alternate with, supersede, or be superseded by any other kind of column commodity rates.

(3) Column commodity rates shall not be published or maintained which conflict with or duplicate the application of other commodity rates. To avoid this, tariffs naming column commodity rates may publish on the title page (if all rates are of this category) or in direct connection with the rates the following notation:

Column commodity rates shown herein may be used only when no commodity rates (other than column commodity rates) have been established to apply from and to the same points over the same route, except that column commodity rates will supersede and take precedence over distance or mileage commodity rates.

§ 1310.30 Substituted service (rail for motor) (rule 30).

(a) *Tariffs may provide for substituted service.* Provisions for the substitution of rail carrier service for available motor carrier service may be published either in the tariffs naming line-haul rates on shipments upon which the substituted service will be performed or in a governing substituted freight service directory to which specific reference must be made by ICC (or MF-ICC) number.

(b) *Required provisions.* The provisions shall provide as a minimum the following:

(1) The points between which the substitution will be performed;

(2) The name of the rail carrier which will perform the substitution; and

(3) That the shipper will have the option of directing that substituted service shall not be provided on any shipment.

(c) *Participation of rail carrier.* The rail carrier must be a party to the rate tariff in all cases and to the substituted freight service directory when one is used. The rail carrier's name and the form and number of the concurrence must in all cases be listed in the appropriate place. The rail carrier need not be listed as a participant in other governing tariffs. This paragraph does not apply where the motor carrier employs a rail service covered by rail ramp-to-ramp trailer or container on flat car service tariffs open for use by motor carriers, but for which substitution the rail carrier has not issued a concurrence or power of attorney.

(d) *Substituted freight service directory.* Only provisions for substituted service (not rates or charges) may be published in a substituted freight service directory, which must be indicated as applicable only where reference is made thereto in rate tariffs.

(e) *Different rates prohibited.* In no case may a rate be published to apply where substitution is performed and a different rate published to apply on the same shipment where substitution is not performed.

(f) *Routing provisions not required.* Routing provisions may not be published to apply over the lines of the motor carrier and the rail carrier in connection with the performance of substituted service.

§ 1310.31 Transmission of publications to subscribers (rule 31).

(a) Except as otherwise authorized in paragraphs (b) and (d) of this section, one copy of each new tariff, supplement, and loose leaf page must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by subscriber) not later than the time the copies for official filing are transmitted to the Commission. The letter of transmittal accompanying the copies to the Commission must contain the following certification:

I hereby certify that I have on or before this day sent one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person transmitting publication(s)

Date

(b) If a new tariff or supplement is filed which in its entirety is published under an authority from this Commission to publish and file without notice or on notice of less than ten days, or, if a new loose-leaf page is filed which contains a provision published under an authority from this Commission to publish and file without notice or on notice of less than ten days, paragraph (a) of this section need not be complied with as to such publication if it cannot be, or compliance would cause excessive delay, but one copy of such publication must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by subscriber) within five calendar days, starting with the calendar day following that on which the copies for official filing are transmitted to the Commission, and the letter of transmittal to the Commission must contain the following certification:

I hereby certify that I will within five calendar days after today send one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person transmitting publication(s)

Date

Included in this exception are supplements issued for the purpose of announcing suspensions made by the Commission, publications (published in the name of a carrier only) announcing adoptions, and publications containing only rates or provisions covering emergency transportation authorized by this Commission under section 210a(a) of the Interstate Commerce Act.

(c) When copies of different publications are transmitted to the Commission at the same time, some copies of which have been transmitted to subscribers in compliance with paragraph (a) of this section and some copies of which will be transmitted to subscribers in compliance with paragraph (b) of this section, two letters of transmittal must accompany the copies to the Commission, one complying with paragraph (a) of this section and the other complying with paragraph (b) of this section.

(d) If there are no subscribers to any publication listed on a letter of transmittal accompanying the copies for official filing to the Commission, the letter of transmittal must contain the following certification:

I hereby certify that there are no subscribers to the publication(s) listed hereon.

Signature of person transmitting publication(s)

Date

If copies of different publications are transmitted to the Commission at the same time, some of which are subscribed to and some of which are not, only the provisions of paragraphs (a) or (b) of this section, or both, as the case may be, need be complied with.

(e) Expedited service (when transmitting one copy of each publication) must be provided to each subscriber requesting it. The cost of this service may be passed on to the subscriber.

(f) Carriers and agents shall furnish without delay one copy of any of their tariff publications, effective or published but not yet effective, to any person upon reasonable request therefor at a reasonable charge not to exceed that assessed a subscriber.

(g) As used herein, the term "subscriber" means a party who voluntarily or upon reasonable request is furnished at least one copy of a particular tariff and amendments thereto (including reissues thereof) by the publishing carrier or agent. The term does not, however, pertain to requests for a copy or copies of a tariff without a request for future amendments thereto.

§ 1310.32 Claims rules (rule 32).

Each carrier or its agent shall file with the Commission its rules and practices with respect to the loss of or damage to property, as set forth in Part 1005 (Principles and Practices For the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage) of Title 49 of the Code of Federal Regulations. The rules and practices may be published in a rate tariff, in a rules tariff, or in a separate tariff.

§ 1310.33 Export and import traffic—ocean carriers (rule 33).

(a) *Ocean carriers not subject to Act.* Common carriers by water, or conferences of such carriers, engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, that operate between ports of the United States and foreign countries are not subject to the terms of the Interstate Commerce Act or to the jurisdiction of the Interstate Commerce Commission.

(b) *Through routes and joint rates.* (1) A common carrier by motor vehicle or by motor vehicle jointly with a common carrier by water, subject to the Interstate Commerce Act (hereinafter referred to in this section as the domestic carrier), may establish a through route and joint rate with an ocean carrier (see § 1310.0(f)(21)) for the transportation of property between any place in the United States and any place in a foreign country. Every tariff naming such a through route and joint rate shall be filed with this Commission. The tariff may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or the duly appointed tariff publishing agent of such carriers.

(2) The tariff shall be constructed, filed, and posted in conformity with the Interstate Commerce Act, and, except as otherwise specifically authorized, with the regulations in Part 1310 (Tariff Circular No. MF 5) of this chapter. The tariff shall be printed in the English language, include the names of all participating carriers, a description of the services to be performed by each participating carrier, a statement of the joint rate, and a clear and definite statement of the division, rate, or charge to be received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff. The division, rate, or charge accruing to the domestic carrier must be shown in terms of lawful money of the United States. If shipments and/or loaded containers are to be permitted to be aggregated which are rated under more than one tariff published by the carrier or for its account, each tariff so affected must contain a specific rule, providing for the aggregation in connection with the statement of the domestic carrier's divisions and identifying by ICC designation each of the other tariffs. A tariff filed in the name of a conference need not show "Agent" after the name of the conference unless the conference publishes as an agent. If a tariff provides less-than-truckload, less-than-container-load, or less-than-trailerload service, such service must be defined. If the tariff provides containerload rates, such rates must be made subject to a specified minimum weight or minimum measure per container, or a specified minimum charge per shipment per container, and a maximum weight per container. Where the freight is to be packed (loaded) or unpacked (unloaded) into or from the containers by the domestic carrier, the tariff must clearly state that the joint rate includes this service or must provide a separate charge to apply when said service is provided.

(3) Rates or charges may be stated to apply in a unit other than a United States unit provided the unit is defined in the tariff where used. The International System of Units (SI) (the metric system) may be used and need not be defined. A rate or charge applying on a unit of measurement other than weight may be published, but if the tariff also includes a rate or charge applying on a unit of weight on the same traffic, the charges on the weight basis must alternate with the charges on the measurement basis other than weight. In every case the tariff shall provide a definite method for determining the measurement of the shipment and the applicable charges. "Cargo, N.O.S." may be provided as a commodity description provided the term is clearly defined in the tariff where used. Tariffs governing the application of the rate tariff need not show a carrier as a participant when none of the provisions therein apply for such carrier's account.

(4) Allowances, cargo administrative charges, or reductions shall not be provided for payment to shippers or other parties for services performed by or facilities furnished by other than the carriers parties to the through transportation unless (i) such carriers by tariff publication hold themselves out to perform such services and furnish such facilities, (ii) such carriers are able to perform such services and furnish such facilities upon reasonable demand, and (iii) the performance of such services and furnishing of such facilities are included in the through joint rate or charge. This subparagraph does not apply where such provisions do not affect the division, rate, or charge accruing to the domestic carrier or the services performed by such carrier.

(5) A domestic carrier desiring to become a participant in a tariff filed in the name of a conference of ocean carriers, which conference does not publish as an agent, must give to its connecting ocean carrier participating in such conference tariffs a concurrence in tariffs issued and filed by the ocean carrier or the conference, or both. A limited concurrence may provide for only those limitations authorized in § 1310.27(c)(3) of this chapter. The concurrence forms prescribed by § 1310.27(c)(3) shall be modified to show that the authority extends to amendments to the tariff(s) and extends to tariffs filed in the name of the conference, and to show the types of tariffs (such as tariffs containing joint motor-ocean rates, et cetera) in which the domestic carrier desires to participate. Powers of attorney must not be executed unless the conference publishes as an agent.

(6) The following changes may be published to become effective upon a specified date not prior to the date filed with the Commission in Washington, D.C., provided the division, rate, or charge accruing to the domestic carrier or a provisions governing or affecting such division, rate, or charge does not change.

(i) A change in a published rate, charge, rule, regulation, or other provision which results in reduction or in no change in charges. This includes a change in a rate or charge which results in lessening or canceling a proposed (published but not yet effective) increase.

(ii) The establishment of a rate on a specific commodity not previously named in a tariff which results in a reduction or in no change in charges. Tha tariff must contain a cargo, N.O.S. rate or similar general cargo rate, which rate would otherwise be applicable to the specific commodity. The specific commodity rate must be equal to or lower than the cargo, N.O.S. or general cargo rate.

Except as otherwise provided in this subparagraph, no new or initial rate, charge, rule, regulation, or other provision and no new point of origin or destination may be published upon less than 30 days' notice. In no case may the establishment of or a change in a division, rate, or

charge accruing to the domestic carrier or a provision governing or affecting such division, rate, or charge become effective upon less than 30 days' notice.

(7) If a tariff includes charges for terminal services, canal tolls, or additional charges not under the control of the carrier or conference, which carrier merely acts as a collection agent for the charges, and the agency making such charges to the carrier increases the charges without notice or without adequate notice to the carrier or conference, such charges may be increased in the tariff by specific publication effective upon a specified date not prior to the date filed with the Commission, in Washington, D.C., whether included in the joint rate or separately stated. If the change occurs in the division, rate, or charge accruing to the domestic carrier, the amendment must contain a statement explaining the charge.

(8) Every change made under authority of § 1310.33(b) (6) or (7) must be shown in an amendment (a supplement if the tariff is in bound form or a loose-leaf page if the tariff is in loose-leaf form) to the tariff. The rates, charges, rules, regulations, or other provisions authorized to be changed thereunder may be changed without their having been effective for 30 days prior to the effective date of the change.

(9) The regulations in § 1310.14 of this chapter—Suspension of Tariff Schedules—shall govern only when the operation of the division, rate, or charge accruing to the domestic carrier or any provision governing the division, rate, or charge or the service performed by such carrier is suspended by an order of this Commission.

(c) *Port combination basis.* Domestic and ocean carriers may enter into joint rate arrangements, as authorized by paragraph (b) of this section, and domestic carriers may at the same time maintain in effect rates applicable only from and to the ports, usable in combination with ocean carriers' independently established rates. Publication of such rates by the domestic carrier shall be subject to the following:

(1) The domestic carriers shall file their rates to the ports and from the ports, and such rates must be the same for all, regardless of which ocean carrier may be designated by the shipper except as otherwise provided by section 28 of the Merchant Marine Act (41 Stat. 988, 46 U.S.C. 884).

(2) When the domestic carriers publish rates which are indicated to apply only on export or import traffic, the tariffs containing such rates shall specify by inclusion or exclusion the countries to or from which traffic subject to such rates shall move, regardless of whether such countries are, or are not, adjacent to the United States. Tariffs shall also specify whether or not property destined to or coming from the Republic of Cuba, the Commonwealth of Puerto Rico, Guam, Hawaii, or the Canal Zone is subject to such rates. In the absence of a statement in tariffs limiting the application of export or import rates, such rates will apply on traffic destined to or coming from them.

(3) As a matter of convenience to the public, the domestic carriers may also publish as information in their tariffs the ocean carriers' rates or charges that will apply to or from a foreign country in connection with the domestic carriers' rates. When this is done, the ocean carriers' rates or charges are in no manner subject to the jurisdiction of this Commission, but the rates of the domestic carriers applying to or from the ports are subject to all provisions of the Interstate Commerce Act and to this Commission's regulations.

(d) *Through export and import billing.* Shipments exported and imported by ocean carriers may be forwarded under through billing, but through bills of lading must clearly separate the liability of the domestic carrier or carriers and of the ocean carrier. The name of the domestic carrier shall appear in a prominent place on the face of the bill of lading when that carrier originates the shipment. Tariffs which provide for the use of a specified kind of bill of lading shall reproduce all of the terms and conditions thereof.

[FR Doc.76-21147 Filed 7-23-76;8:45 am]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

Designated 706 Agencies

By virtue of the authority vested in it by section 713(a) of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-12(a)), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, § 1601.12(m) in accordance with the requirements of § 1601.12 (i)(1).

The amended § 1601.12(m) sets forth those state and local agencies which have been formally designated as 706 Agencies as defined in § 1601.12(c) for the purpose of receiving charges deferred by the Commission pursuant to section 706 (c) and (d) of Title VII and whose final findings and orders will be accorded substantial weight by the Commission as provided in § 1601.19b(e).

Publication of this amendment to § 1601.12(m) effectuates the designation of the following agencies as 706 Agencies:

Alexandria (*Virginia*) Human Rights Office
Vermont Attorney General's Office, Civil Rights Division

Notice of the proposed designation of the foregoing agencies as 706 Agencies was published in the June 29, 1976, issue of the FEDERAL REGISTER, 41 FR 26707, with notice that written comments must have been filed with the Commission on or before July 10, 1976.

With the addition of the foregoing agencies, § 1601.12(m) is amended to read as follows:

§ 1601.12 Deferrals to State and local authorities.

* * * * *

(m) The designated 706 Agencies are:
Alaska Commission for Human Rights
Allentown Human Relations Commission
Alexandria Human Rights Office
Arizona Civil Rights Division
Baltimore Community Relations Commission
Bloomington Human Rights Commission
California Fair Employment Practices Commission
Charleston Human Rights Commission
Colorado Civil Rights Commission
Connecticut Commission on Human Rights and Opportunities
Dade County Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago Human Relations Commission
Fairfax County Human Rights Commission
Gary Human Relations Commission
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Kansas Commission on Civil Rights
Kentucky Commission on Human Rights
Maine Human Relations Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis Department of Civil Rights
Minnesota Department on Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights, Department of Law and Public Safety
New York City Commission on Human Rights
New York State Division of Human Rights
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha Human Relations Department
Oregon Bureau of Labor
Pennsylvania Human Relations Commission
Philadelphia Commission on Human Relations
Pittsburgh Commission on Human Relations
Rhode Island Commission for Human Rights
Rockville (*Maryland*) Human Rights Commission
Seattle Human Rights Commission
Springfield (*Ohio*) Human Relations Department
South Dakota Human Relations Commission
Tacoma Human Rights Commission
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington State Human Rights Commission
West Virginia Human Rights Commission
Wheeling Human Rights Commission
Wichita Commission on Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wyoming Fair Employment Practices Commission

The designated Notice Agencies are:
Arkansas Governor's Committee on Human Resources
Florida Commission on Human Relations
Georgia Governor's Council on Human Relations

Montana Department of Labor and Industry
North Dakota Commission on Labor
Ohio Director of Industrial Relations
South Carolina Human Affairs Commission

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. Sec. 2000e–12(a)))

This amendment is effective on July 26, 1976.

Signed at Washington, D.C. this 16th day of July 1976.

ETHEL BENT WALSH,
Vice Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-21447 Filed 7-23-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 732—NONNAVAL MEDICAL AND DENTAL CARE

Revision

Pursuant to the authority conferred in 5 U.S.C. 301, 10 U.S.C. 1071–1085, 5031, and 6201–6203, and 32 CFR 700.1202, the Chief, Bureau of Medicine and Surgery, revises 32 CFR Part 732 which codifies U.S. Navy Bureau of Medicine and Surgery Instruction 6320.32 (BUMEDINST 6320.32). The revision relates to internal naval management and personnel practices and largely reflects nonsubstantive changes adopted in BUMEDINST 6320.-32B on January 4, 1974. It has been determined that invitation of public comment on these changes prior to adoption would be impracticable and is therefore not required under the public rulemaking provisions in Parts 296 and 701 of 32 CFR.

32 CFR Part 732 is therefore revised as follows:

Subpart A—General

Sec.

Subpart B—Medical and Dental Care From Civilian Sources

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 1071–1085, 5031, 6148, 6201–6203, 8140; and 32 CFR 700.1202.

Subpart A—General

§ 732.1 Purpose.

To delineate and promulgate the authority and policies concerning medical and dental care obtained from nonnaval sources by active duty members and the conditions under which the costs of such care may be borne by the Navy.

§ 732.2 Scope.

The provisions of this part are applicable to Navy and Marine Corps personnel who incur disease or injury while on active duty (including active duty for training and inactive duty for training); and, under the NATO Status of Forces Agreement (SOFA), naval members of NATO nations (Belgium, Canada, Denmark, France, Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, the United Kingdom, and the United States) stationed in, or passing through, the United States in connection with their official duties.

NOTE.—The provisions of this part do not apply to care procured from civilian sources for a patient receiving either inpatient or outpatient care at a naval medical facility. In such cases, the expenses incurred are payable from operation and maintenance funds available for the support of the naval facility.

§ 732.3 Discussion.

Subpart B of this part contains the guidelines and procedures whereby naval commands may arrange for appropriate care in other than naval medical facilities for authorized members under their jurisdiction. Guidance is also provided for those situations when authorized personnel obtain medical or dental care for themselves and seek reimbursement from the Navy. The special authority contained in the Manual of the Medical Department article 11–7(3)(b), applicable to commanding officers of naval hospitals, remain in effect and is to be used in lieu of this part. Guidelines concerning care for other eligible beneficiaries, not authorized by this part, such as inactive retired members and dependents, are contained in Part 728 of this chapter and SECNAVINST 6320.8D.

§ 732.4 Action.

All commands should insure that personnel under their cognizance are made aware of the contents of Subpart B of this part. Failure to comply with the prescribed requirements could result in the Navy's denial of responsibility for the expense of medical or dental care obtained.

§ 732.5 Forms and reports.

For the purpose of Subpart B of this part the following forms and reports apply:

(a) NAVMED 6320/10, Statement of Civilian Medical/Dental Care, stock number 0105–214–1610 is available in the Naval Supply System. A revision of NAVMED 6320/10 will be available under stock number 0105–214–1611 in May 1974. In the interest of conserving resources, the revised NAVMED 6320/10 will not be issued until existing stock of the form have been exhausted. This form is issued in pads of 100.

(b) MED–6320–2 is assigned to the reporting requirements in § 732.14. The report has been approved by the Chief of Naval Operations.

(c) DD139, Pay Adjustment Authorization, stock number 0102–001–1200; NAVCOMPT Form 2160, Public Voucher for Medical Services, stock number 0104–705–9800; and Standard Form 1164, Claim for Reimbursement for Expenditures on Official Business, stock number 0109–203–0111 are available in the Navy Supply System.

Subpart B—Medical and Dental Care From Civilian Sources

§ 732.11 Program management.

The commandants of the naval districts through the respective district medical officers and district dental officers, shall exercise coordination and technical control over this program including approving the procurement of care from civilian sources and adjudicating claims. In areas outside the naval districts, commanding officers are authorized to obtain civilian care for members under their commands, and to effect immediate payment therefor.

§ 732.12 General.

If medical/dental care is required and there are no naval facilities available, initial application shall always be made to another federal medical/dental facility if available. (Federal facilities are those of Navy, Army, Air Force, Public Health Service, and Veterans Administration.) If there are no federal medical/dental facilities available, required care may be obtained from civilian sources under the following conditions:

(a) *Emergency situations.*—In an emergency, non-federal medical/dental care may be obtained by or on behalf of eligible personnel without the prior authority covered below. An emergency is defined as a situation where the need or apparent need for medical or dental attention is such that time does not permit obtaining the required authority in advance. Emergency dental care is limited to measures appropriate to relieve pain or to abort infection. Emergency dental care shall not include the furnishing of prosthetic appliances, including crowns or inlays, or the use of gold or other precious metals for fillings. As soon as possible, the authorizing officer should be provided with complete information, i.e., name or non-federal medical/dental facility, date(s), nature and extent of treatment or care, etc., obtained in order that he may make arrangements for transfer of the member to a federal facility, or to take such other action as may be appropriate. Except as provided in this paragraph, care from non-federal sources may be provided at Navy expense only when authorized in advance as set forth below.

(b) *Non-emergency care.*—When the district medical officer or district dental officer of the naval district where the care is to be rendered believes that civilian medical/dental care is appropriate, he may authorize treatment from civilian sources. In overseas areas, commanding officers may authorize care from other than U.S. naval sources when no naval or other U.S. military medical/dental facilities are available. If at all practicable, when ships are in NATO SOFA ports, required care shall be obtained from military facilities of the host country when U.S. facilities are not available.

(c) *Care which may be authorized—*
(1) *Medical care.*—Includes consultations and treatment provided by physi-

cians or medical facilities as well as medical procedures not involving treatment when directed by the Bureau of Medicine and Surgery. Treatment includes hospital care, surgery, nursing, medicine, laboratory and X-ray services, physical therapy, eye examinations, etc.

(2) *Dental care.*—Includes: (i) All types of treatment rendered (including operative, restorative, and oral surgical) to relieve pain and abort infection. (ii) Prosthetic treatment rendered to restore extensive loss of masticatory function or the replacement of anterior teeth for esthetic reasons. (iii) Repair of existing dental prosthesis in instances where neglect of the repair would result in unserviceability of the prosthesis. (iv) Any type of treatment rendered as an adjunct to medical/surgical care. (v) All X-rays, drugs, etc., required to accomplish treatment in all the above categories.

(3) *Eye refractions and spectacles.*—Includes refractions of eyes by physicians and optometrists and the repair and furnishing of spectacles. A refraction may be obtained only when federal facilities are not available, and no suitable prescription is in the Health Record. The prescription from the refractionist with proper facial measurements must be sent to the appropriate dispensing activity set forth in BUMED Instruction 6810.4E. When a member has no suitable spectacles and the lack thereof, combined with the delay resulting from obtaining them from a military source, would prevent the performance of duty; the repair, replacement, or procurement of spectacles from civilian sources may be authorized. Procurement under these circumstances requires prior approval. Neither examination for nor procurement of contact lenses is authorized by this part.

§ 732.13 Requests for authorization.

Requests should normally be submitted by letter except in unusual circumstances when message or telephonic requests may be made. Requests should contain the following information concerning the individual:

(a) Name, grade/rate, social security number.

(b) Duty station, duties if pertinent, whether on leave or liberty, if not on duty, exact period of leave or liberty.

(c) Character and extent of condition requiring treatment including diagnosis.

(d) Whether chronic condition.

(e) Origin or cause of disease or injury.

(f) Professional care needed and probable time required.

(g) Estimated cost.

(h) Probable length of tour at present location.

(i) Professional medical or dental opinion whether transfer to federal facilities practicable.

(In requests for dental care, paragraphs (c) through (g) of this section should be detailed estimates provided by the dentist who will accomplish the work.

§ 732.14 NAVMED 6320/10, Statement of Civilian Medical/Dental Care. (Formerly Form NAVMED–U.)

Form NAVMED 6320/10 is required in each case of sickness or injury of any person covered by this part who receives care from any source other than a federal facility. The report (report symbol 6320–2), in triplicate, shall be prepared by a naval medical officer or dental officer when practicable, or by the senior officer present where a naval medical or dental officer is not on duty, or by the individual concerned when on detached duty where a senior officer is not present. Completed forms should be forwarded to the approving officer supplemented as appropriate by requirements of instructions issued by approving authorities. In all cases the diagnosis shall be included and if prior approval was not obtained for the use of non-federal facilities the circumstances which necessitated their use shall also be stated.

§ 732.15 Payment of claims.

(a) *General.*—Bills, claims, or other documentary evidence of care received from non-federal sources should be processed for payment by approving authorities within 30 days of receipt. Advice on unusual or questionable cases may be requested of the Bureau of Medicine and Surgery (Code 73). When approving officers already have information available from messages, speedletters, or other correspondence which would support payment of the claim, the requirement for a NAVMED 6320/10 shall be waived and the claim approved for payment. The claimant shall be advised by the approving authority of any delay experienced in processing claims. Any person whose eligibility depends upon his being in a duty status at the time the care is provided is considered to be in a duty status while on authorized leave or liberty. Persons are not eligible who are continuously absent without authority during a period of treatment. However, when the absence without authority is terminated by the member's actual or constructive return to military control prior to termination of the care, entitlement will be the same as though no unauthorized absence existed. "Constructive return" to military control for medical and dental care is effected when a naval activity informs a civilian source providing medical or dental care to a naval member that the Navy will accept responsibility for the patient's care. The acknowledgment may be oral or in writing. Return to military control may also be effected when a member has been arrested by civil authorities at the request of naval authorities, or when the arrest has been accomplished by civil authorities for a civil offense and such authorities have notified naval authorities that the member can be released to military custody.

(b) *Approval of claims by geographical area.*—Claims for care from civilian sources shall be approved for payment by:

(1) District medical/dental officers of the district in which treatment was rendered.

(2) Executive Director, OCHAMPUSEUR, U.S. Army Medical Command, APO, New York 09403, for care rendered within the U.S. European Command, Africa, the Middle East, and the Malagasy Republic.

(3) Commanding Officer, U.S. Naval Hospital, FPO, San Francisco 96651, for care rendered in Southeast Asia, the Philippines, Hong Kong, Taiwan, Pakistan, Bangladesh, India, Nepal, Afghanistan, and Sri Lanka.

(4) Commander, U.S. Naval Forces, Japan, FPO Seattle 98762, for care rendered in Japan and Okinawa.

(5) Commander, U.S. Naval Forces, Marianas, FPO San Francisco 96630, for care rendered in New Zealand and Guam.

(6) Commanding Officer, U.S. Naval Communications Station, FPO San Francisco 96680, for care rendered in Australia.

(7) Commanding Officer, U.S. Naval Air Station, FPO New York 09560, for care rendered in Bermuda.

(8) Commandant, Fifteenth Naval District, FPO New York 09530, for care rendered in Central and South America.

(9) Commandant, Eighth Naval District, New Orleans, LA 70146, or Commandant, Eleventh Naval District, San Diego, CA 93132, for care rendered in Mexico to members stationed within these districts. Claims for care rendered in Mexico to all other personnel, forward to Chief, Bureau of Medicine and Surgery (Code 73).

(10) Chief, Bureau of Medicine and Surgery (Code 73), for care rendered in Canada or to NATO personnel and in unusual circumstances which require Bureau level review prior to approval, adjudication, or payment.

(11) The commanding officer of operational units, outside the United States, instead of forwarding claims to the appropriate command contained in subparagraphs (1) through (9) of this paragraph, may approve and direct payment by the disbursing officer serving his command, when local policy and/or the maintenance of good public relations warrant the expeditious payment of medical bills.

(12) The commanding officer authorizing the care in other geographical areas not covered in subparagraphs (1) through (9) of this paragraph.

(13) The appropriate command contained in subparagraphs (1) through (9) of this paragraph for care rendered aboard commercial vessels enroute to a country located within any of the foregoing geographical areas.

(c) *Preparation of claims.*—Unpaid bills should be submitted in quadruplicate, itemized to show the dates on or between which the services were rendered or supplies furnished, and the nature of and the charges for each item. Receipt of the services or supplies should be acknowledged on the fact of the bill, or by separate certificate, by the person

receiving treatment, or by an officer having cognizance of the case. Separate bills should be submitted for services of special nurses, anesthetists, or other persons on a fee basis, unless the bill including such services is accompanied by receipts to show that the expenses have been defrayed by the physician, dentist or other source of care submitting the bill, or by a statement to the effect that the individual is a full-time employee of the payee. When the expenses have already been paid by an individual, including service member, NAVCOMPT Manual 046393–1 requires the signature of the individual on the face of the NAVCOMPT Form 2160 (Public Voucher for Medical Services), the claim for reimbursement as well as the payment voucher. In lieu of using the NAVCOMPT Form 2160 for this type of payment, the Standard Form 1164 (Claim for Reimbursement for Expenditures on Official Business), prepared in accordance with NAVCOMPT Manual 046377–2 a and b, may be utilized to fill the requirement for a signed claim. The paid invoices supporting a claim for reimbursement on a Standard Form 1164 will not require certification. The approving authority will certify the Standard Form 1164 and insert the appropriate accounting classification thereon. The bills and proof of payment should be forwarded to the appropriate approving officer, along with the Form NAVMED 6320/10, indicating in item 12 the complete address to which the check is to be mailed and the amount.

(d) *Approval/disapproval of claims.*—When the required documents have been received by the approving officer, he shall determine whether the bills are payable in whole or in part, or whether the claims should be disallowed. Where payment is to be disallowed, the claimant should receive a prompt and courteous letter stating the reason for the disallowance. If approvable, the approving officer will prepare a NAVCOMPT Form 2160 and forward the voucher, supported by itemized invoices, to the appropriate Naval Regional Finance Center (NRFC) or disbursing officer for payment in accordance with NAVCOMPT Manual 046393. In lieu of the NAVCOMPT 2160, the approving authority may stamp the physician, dentist, or hospital invoice with a certification stamp (a sample of which is contained in paragraph 5(d) of BUMEDINST 6320.32B) to certify that the services were received and the amount is proper for payment. (Approving officers shall requisition stamp through normal channels.) all copies of the invoice must be certified. Approved invoices will be forwarded to the approprate paying office. The paying office will forward a check to the appropriate payee and simultaneously furnish BUMED with copies of the invoice and the payment voucher. Approving authorities shall take precautions against duplicate payments in accordance with NAVCOMPT Manual 046073.

(e) *Amount payable.*—The amounts payable in any case shall be those considered reasonable by the approving officer after taking into consideration all of the facts in the case. Normally, payment should be approved at rates generally prevailing within the geographical area where the services or suppiles were furnished. Rates specially established by the Veterans Administration or those used in Medicare should not be considered controlling, though they may be considered along with other facts. If, after careful review, any charge is considered excessive, the claimant should be apprised of the conclusion reached and provided an opportunity to voluntarily reduce the amount of the claim. If this does not result in a proper reduction of the bill and the claim is that of a physician or dentist, the difference in opinion should be referred to the grievance committee of the Claimant's professional group for an opinion of the reasonableness of the charge. If satisfactory settlement of any claim cannot be made, it should be forwarded to BUMED (Code 73) for decision. Payment shall not be withheld to seek payment from health benefit plans or insurance policies for which premiums are paid privately.

(f) *Recovery of medical care payments.*—Evidence of payments shall be submitted to the action JAG designee in accordance with Part 757 of this chapter, in all cases of payment where a third party may be legally liable for causing the injury or disease treated, or when a Government claim is possible under workmen's compensation or under medical payments insurance (in all automobile accident cases).

§ 732.16 Collection for subsistence.

The accounts of officers (Navy and Marine Corps) receiving treatment in Veterans Administration hospitals, the Canal Zone Hospital, or in civilian hospitals at the Department of the Navy's expense will be checked by subsistence. This checkage shall be made by DD 139, Pay Adjustment Authorization, which shall be submitted by the officer's commanding officer having custody of the member's pay record. It is the responsibility of the originating activity to insure that checkage has been accomplished in accordance with MPPM 30137. When officers are hospitalized in an Army, Air Force, or U.S. Public Health Service medical facility, the charge for subsistence will be collected by the facility.

Dated: July 16, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-21545 Filed 7-23-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-118]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Chattahoochee River, Alabama

This amendment revokes the regulation for the US–84 swing bridge across the Chattahoochee River at mile 34.7 because this bridge has been replaced by a fixed bridge. The Atlantic Coast Line and Seaboard Air Line railroads have merged into the Seaboard Coast Line, and the regulation is corrected to reflect this change.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.245(i)(8) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(8) Chattahoochee River, Alabama and Georgia, Seaboard Coast Line bridge at Alaga, Alabama, Central of Georgia bridge at Columbia, Alabama, and Seaboard Coast Line bridge near Omaha, Georgia. The draws shall open on signal if at least 6 hours notice is give.

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(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Effective date. This revision shall become effective on July 26, 1976.

Dated: July 20, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-21556 Filed 7-23-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Administration of Educational Benefits; Suspension and Disapproval of Courses

On page 12040 of the FEDERAL REGISTER of March 23, 1976, there was published a notice of proposed regulatory development to amend Part 21 of the Code of Federal Regulations to amend Veterans Administration regulations regarding disapproval of courses to clarify the statutory authority to disapprove and suspend course approvals (38 U.S.C. 1779).

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. A total of fourteen comments were received and some of these comments raise more than one issue. This response of the Veterans Administration will be directed to the issues that are raised, with similar issues grouped rather than to the individual letters.

A governmental regulation may be required to provide detailed procedures to implement a generalized provision of

law. In other instances the function of the regulation is to inform interested persons that the basic law will be understood by the agency as having certain meaning, so that the interested persons may anticipate the consequences of their actions. These proposed changes to §§ 21.4250 and 21.4259 are intended to be an interpretation of the law and to inform the State approving agencies, educational institutions or other interested persons that the Veterans Administration considers the intent and meaning of section 1779, title 38, United States Code, to be that State approving agencies have the authority to withdraw an approval of a course and that the power to withdraw includes the inherent power to suspend such an approval. (Similar authority exists for the Veterans Administration in those exceptional cases wherein it acts as an approving authority.) The regulations, therefore, are not an attempt by the Veterans Administration to grant authority to the State approving agencies, for it already exists, nor are the proposed regulations an attempt to influence the actions of the State approving agencies. The changes proposed merely provide notice to the educational institutions that, if the State approving agencies do suspend the approval for a course, the Veterans Administration will recognize their exercise of authority granted by the law. The consequence of that recognition may be a determination by the Veterans Administration that educational assistance benefits will not be made to students newly enrolled in such courses.

Since the authority for course approval or disapproval is granted to the State approving agencies by the law and since the Veterans Administration is forbidden by section 1782, title 38, United States Code, from exercising any control or supervision over the State approving agencies, many of the objections presented by the comments to the proposed changes must be rejected. Four of the comments expressly state that the effect of the change will be to increase the authority of the Veterans Administration. This is not correct since the authority involved is that of the State approving agencies and the Veterans Administration is not increasing its authority by recognizing the power of another agency to act. Three of the comments object to the failure to provide procedures of due process, hearings and for the right of the school to contest the action of the agency before a suspension is ordered. However, these procedural safeguards are determined by the laws of the individual States. In some States withdrawals may be made without such procedures and in some they are required. Similarly five of the comments request that the regulations be amended to provide for investigations before the suspension of approval of the course is ordered, rather than after. The same considerations apply, in that the law, which grants to the State approving agencies the power to withdraw and suspend, leaves such procedures to the States. Abuse of the State approving agencies' authority, if it should occur, is the subject of local legal remedy.

One comment suggests that the regulations should deal with the approval or disapproval of all courses at an educational institution rather than individual courses. However, the law does not provide for that procedure and the suggestion is rejected.

Two of the comments propose specific criteria for the determination of the appropriateness of the suspensions. One would limit suspension to courses in which 20 percent of the students' cases fail to meet the requirements of law. The other would restrict its application to institutions which offer courses not leading to a standard college degree. Neither of these suggestions may be implemented by Veterans Administration regulations, since the provisions of law upon which the regulations are based do not require or permit such distinctions. The criteria for determining noncompliance by the institution with the provisions for course approval are for the State approving agencies, not the Veterans Administration, to ascertain and enforce.

However, the Veterans Administration does expect that the actions of the State approving agencies will be reasonable and fair to the parties involved. Hence the proposed regulations stated that the Veterans Administration will act upon the suspension of a course only if the State approving agency has specified a definite limit to the length of the suspension and this period is a reasonable one. Some of the comments object that the language is too indefinite in this regard. The Veterans Administration intended only to indicate that withdrawal is the action expected under the law when correction clearly cannot be completed in a reasonable time. The proposed § 21.4259(a) is, therefore, amended to specify that suspensions should not exceed 60 days in length. If evidence exists of deficiencies which cannot be corrected within 60 days, the course should be disapproved rather than suspended.

The fact that the Veterans Administration provides part of the funding for the activities of the State approving agencies does not mean, as one of the comments suggests, that the Veterans Administration controls or influences the results of the State approving agencies' determinations. Allocation of funds to the State approving agencies is by an objective formula based upon the relative workloads of the individual agencies and is in no way keyed to the actions of the agencies. The Veterans Administration will not order the suspension of a course approval nor will it threaten to withhold funding to obtain a suspension from the State approving agency.

Some of the comments stress the impact of suspension of approval of courses upon the ability of the school to maintain continuity of the student body and revenues as well as the ability of students to find available courses in the subject matters needed. These comments misapprehend the actual intent of the law. The purpose of the educational assistance programs offered through the Veterans Administration is to provide financial assistance to the student and not to fund educational institutions. Furthermore, the intent is not merely to grant money to the student, but to ensure that the student has the means of attaining a valid educational, professional or vocational objective in accordance with the provisions of the law.

Some of the comments indicate that the power to suspend approvals is more restrictive to the rights of the schools than the power to withdraw approvals and will be a greater burden upon the educational institutions. In fact, the opposite should be the result. Certainly the educational institutions are aware of the obligation to conform to the provisions of the law, but inevitably deficiencies do occur. The power of the State approving agency to suspend the course pending a determination, when facts warrant, is a more flexible procedure than complete withdrawal of the course approval. In most States the withdrawal procedure is difficult to reverse once the order is made. The entire concept of temporary suspension is to allow a simple determination of the school's deficiencies and to grant a reasonable period within which they may be corrected. Also, the suspension does not affect the students already enrolled, as does the withdrawal, which has the effect of terminating the benefits to all students. Some of the comments object to the statement that suspensions may arise from "any" deficiency. However, a deficiency is by definition noncompliance with the law and may be the basis for action, including a suspension, where facts warrant. The law assumes complete compliance with its terms and the willingness of the State approving agencies to consider suspension as an alternative to withdrawal is surely a liberal interpretation of that mandate.

Implicit in some of the comments is the assumption that the function of approval results in a vested property right on the part of the educational institution. The comments view the withdrawal procedures as a means of protecting that property right through normal delays in effectuating a withdrawal of approval. If serious deficiencies in the educational institutions' procedures exist, the student may not be receiving the type of educational opportunity that Congress sought to provide by the enactment of the program. A school should not be able to utilize delay in the approval-disapproval procedure to avoid a sanction where a sanction is proper. To do so harms the right of the veteran or other eligible person to which the law is directed. There is no intent to provide a property right to the educational institution and clearly not at the expense of the student. Schools unwilling to adhere to the law evidence an inherent disregard for the needs of the student. Prolonged delay in acting against the institution merely increases the likelihood that the student will be denied an educational opportunity. For example, if a school is known to have committed an act of bankruptcy and by that act is unable to meet the requirements of fiscal responsibility for course approvals, the State approving agency should be able to act at once and not have to wait for

a formal adjudication in bankruptcy to be ordered by the courts. Otherwise the students may be unaware of the situation and may invest their benefit money in training which the bankrupt school ultimately will be unable to provide. A suspension of approval prevents this from occurring.

In addition to a need to clarify the proposed regulation to set a time limit upon suspensions, the comments do raise two other significant issues as to specific choice of language proposed by the Veterans Administration. The Veterans Administration believes that the substantive portion of the proposed changes is correct, but believes that the specific language of the proposal can be restated to correct misimpressions evident in these comments. Therefore, the final § 21.4259, which is herewith issued, is amended to clarify the intent. One of the comments correctly observes that the choice of language in the original proposal could be interpreted as granting authority to the State approving agencies to approve enrollments as well as courses. That is not the intent of the changes, for eligibility for benefits is a matter to be determined by the Veterans Administration. The State approving agencies are only to approve courses. The second area of concern raised by the comments, and which demonstrates a need for further clarification, is the intent of the provision permitting suspensions of approval pending an investigation to determine the facts. Some of the comments express a fear that ill-advised suspensions based upon mere rumor will be ordered by the State approving agencies and that the Veterans Administration will act upon them accordingly to deny benefits to the students. The language of § 21.4259 is, therefore, revised to indicate that the expectation of the Veterans Administration is that the State approving agencies will only order suspensions where there is evidence of record which establishes that the course fails to meet the requirements for approval and time is needed to permit the State approving agency to bring the matter to the attention of the school and to permit the school to correct the deficiency. The purpose of suspension of a course approval is not intended to allow fishing expeditions to seek out deficiencies where none are known to exist. Suspension is intended to be a constructive tool. Upon the determination of the existence of a deficiency, the State approving agency should be able to allow a reasonable time for its correction, not to exceed 60 days, and to avoid disruption of the educational process through the permanent withdrawal of approval. The suspension and investigation should not be a form of harassment or a substitute for proper supervision by the State approving agencies.

Effective date: These VA Regulations are effective July 20, 1976.

Approved: July 20, 1976.

By direction of the Administrator.

ODELL W. VAUGHN,
Deputy Administrator.

1. In § 21.4250, paragraph (b)(2) is revised to read as follows:

§ 21.4250 Approval of courses.

* * * * *

(b) *State approving agencies.* * * *

(2) *Notice of suspension of approval or disapproval.* Each State approving agency will notify the Veterans Administration of the suspension of approval or disapproval of any course previously approved and will set forth the reasons for such suspension of approval or disapproval. See § 21.4259. (38 U.S.C. 1772(a))

* * * * *

2. Section 21.4259 is revised to read as follows:

§ 21.4259 Suspension or disapproval.

(a) The appropriate State approving agency, after approving any course:

(1) May suspend the approval of the course for new enrollments for a period not to exceed 60 days to allow the institution to correct any deficiencies, if the evidence of record establishes that the course fails to meet any of the requirements for approval.

(2) Will immediately disapprove the course, if any of the requirements for approval are not being met and the deficiency cannot be corrected within a period of 60 days.

(3) Upon suspension or disapproval, the State approving agency will notify the school by certified or registered letter with a return receipt secured (38 U.S.C. 1779). It is incumbent upon the State approving agency to determine the conduct of courses and to take immediate appropriate action in each case in which it is found that the conduct of a course in any manner fails to comply with the requirements for approval.

(b) Each State approving agency will immediately notify the Veterans Administration of each course which it has suspended or disapproved.

(c) The Veterans Administration will suspend approval for or disapprove courses under conditions specified in paragraph (a) of this section where it functions for the State approving agency. See § 21.4150(c).

(d) The Veterans Administration will immediately notify the State approving agency in each case of Veterans Administration suspension or disapproval of any school under chapter 31. (38 U.S.C. 1779.)

[FR Doc.76-21520 Filed 7-23-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

[FRL 589-1]

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Republication

Pursuant to 5 U.S.C. 552 40 CFR Chapter I, Subchapter A, Part 1 is hereby republished.

The purpose of the republication is to update the statement of organization and general information required because of recent reorganization within the U.S. Environmental Protection Agency.

RUSSELL E. TRAIN,
Administrator.

JULY 20, 1976.

Part 1 of Chapter I is revised to read as follows:

Subpart A—Introduction

Subpart B—EPA Headquarters

Subpart C—EPA Field Installations

AUTHORITY: 5 U.S.C. 552.

Subpart A—Introduction

§ 1.1 Creation and authority.

The U.S. Environmental Protection Agency (EPA) was established in the executive branch as an independent agency pursuant to Reorganization Plan 3 of 1970, effective December 2, 1970.

§ 1.3 Purpose and functions.

The U.S. Environmental Protection Agency was created to permit coordinated and effective governmental action to assure the protection of the environment by abating and controlling pollution on a systematic basis. Reorganization Plan 3 of 1970 transferred to EPA a variety of research, monitoring, standard setting, and enforcement activities related to pollution abatement and control to provide for the treatment of the environment as a single interrelated system. Complementary to these activities is the Agency's coordination and support of research and antipollution activities carried out by State and local

governments, private and public groups, individuals, and educational institutions. EPA reinforces efforts among other Federal agencies with respect to the impact of their operations on the environment.

§ 1.5 Organization and general information.

(a) The U.S. Environmental Protection Agency's basic organization consists of Headquarters and ten regional offices. Overall planning, coordination, and control of EPA programs is vested in EPA Headquarters located in Washington, D.C. The regional offices are headed by Regional Administrators who are responsible directly to the Administrator for the execution of the regional programs of the Agency within the boundaries of their regions.

(b) Definitive statements of EPA's organization, policies, procedures, assignments of responsibility, and delegations of authority are contained in the EPA Management Directives System. Copies are made available for public inspection and copying at the Management and Organization Division, 401 M Street, SW., Washington, D.C. 20460. Information may also be obtained from the Division of Public Affairs at a regional office.

(c) Procurement by EPA is conducted pursuant to the Federal Property and Administrative Services Act, the Federal Procurement Regulations, and implementing EPA regulations.

§ 1.7 Location of principal offices.

(a) The EPA Headquarters is located in Washington, D.C. The mailing address is 401 M Street, SW., Washington, D.C. 20460.

(b) The addresses of and the States served by the EPA regional offices (see § 1.41) are:

(1) Region I, Environmental Protection Agency, Room 2203, John F. Kennedy Federal Building, Boston, Mass. 02203. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.)

(2) Region II, Environmental Protection Agency, Room 1009, 26 Federal Plaza, New York, New York 10007. (New Jersey, New York, Puerto Rico, and the Virgin Islands.)

(3) Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.)

(4) Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street, NE., Atlanta, Ga. 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.)

(5) Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.)

(6) Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.)

(7) Region VII, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Mo. 64108. (Iowa, Kansas, Missouri, and Nebraska.)

(8) Region VIII, Environmental Protection Agency, Lincoln Tower, 1860 Lincoln Street, Denver, Co. 80203. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.)

(9) Region IX, Environmental Protection Agency, 100 California Street, San Francisco, Ca. 94111. (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, and Wake Island.)

(10) Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. (Alaska, Idaho, Oregon, and Washington.)

Subpart B—Headquarters

§ 1.21 General.

EPA Headquarters is comprised of (a) the Office of the Administrator; (b) eight staff offices which advise the Administrator on EPA activities and programs with respect to their assigned areas of responsibilities; and (c) five operational offices, each headed by an Assistant Administrator and responsible for a major EPA functional or program area.

§ 1.23 Office of the Administrator.

The Environmental Protection Agency is headed by an Administrator who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible to the President for providing overall supervision to the Agency. He is assisted by a Deputy Administrator who is appointed from civilian life by the President by and with the consent of the Senate. The Deputy Administrator shall assist the Administrator in the discharge of his duties and responsibilities and shall serve as Acting Administrator in the absence of the Administrator.

§ 1.25 Staff Offices.

(a) *Office of Administrative Law Judges.*—The Office of Administrative Law Judges, under the supervision of the Chief Administrative Law Judge is responsible for presiding over and conducting formal hearings in accordance with sections 556 and 557 of Title 5 of the United States Code (formerly the Administrative Procedure Act) and other hearings, and issuance of initial decisions, if appropriate, in such proceedings. The Office provides supervision of the Administrative Law Judges located in certain Agency regional offices who operate as a component of the Office of Administrative Law Judges. The Office provides the Agency Hearing Clerk.

(b) *Office of Civil Rights.*—The Office of Civil Rights, under the supervision of a Director, serves as the principal advisor to the Administrator with respect to EPA's equal opportunity and civil rights program. The Office provides the Administrator with an overview and independent appraisal capability for equal opportunity and civil rights activities carried out by operating components of the Agency, including activities related to implementing programs for the career advancement of minorities and women in the Agency; assuring equal opportunity of employment in EPA; prohibiting discrimination in employment on projects receiving EPA financial assistance; and prohibiting discrimination in employment by EPA contractors.

(c) *Office of Federal Activities.*—The Office of Federal Activities, under the supervision of a Director, develops and recommends policies and procedures for national programs dealing with environmental problems arising from Federal facilities and federally supported or authorized activities. The Office develops internal policies and strategies for carrying out EPA's responsibilities for controlling environmental pollution from Federal facilities and from federally authorized or supported activities. It develops policies and procedures for the processing of environmental impact statements submitted to EPA and coordinates the review of those impact statements on actions having a high degree of national controversy, visibility or significance. It develops policies and procedures for preparation of impact statements on EPA's own activities. It provides a clearinghouse mechanism for receiving inquiries or requests from Federal agencies for consultation and technical assistance. It reviews other Federal agencies' policies and procedures for correcting environmental problems at Federal facilities and recommends changes where appropriate. It develops policy guidance and provides oversight of the Agency's education and manpower development program. The office collaborates with the Office of the Assistant Administrator for Enforcement and the regional offices in assuring compliance by Federal activities with applicable environmental standards.

(d) *Office of International Activities.*—The Office of International Activities, under the supervision of an Associate Administrator, provides leadership to and collaborates with the Agency planning and resources management officials and with program managers in the development of international programs and activities designed to further the overall mission of the Environmental Protection Agency, subject to U.S. foreign policy objectives established by the President and the Secretary of State. The Office develops policies, procedures, and agreements for the conduct of international activities, and coordinates the conduct of all Agency international activities, assuring that adequate program, scientific, and technical inputs are provided.

(e) *Office of Legislation.*—The Office of Legislation, under the supervision of a Director, serves as the principal point of Congressional contact with the Agency. The Office reviews and advises the Administrator and other Agency officials on all legislative proposals originating within or affecting the Agency. It prepares, reviews, and obtains clearance of proposed legislation and reports on leg-

islation; performs legislative drafting services; coordinates preparation of testimony; and reviews transcripts of hearings. The Office maintains an effective liaison with the Congress on Agency actions of interest to the Congress, and, as necessary, maintains liaison with Agency regional and field officials, other Government agencies, and public and private groups having an interest in legislative matters affecting the Agency. It assures prompt response to the Congress on all inquiries relating to activities of the Agency.

(f) *Office of Public Affairs.*—The Office of Public Affairs, under the supervision of a Director, is responsible for providing newsworthy information to the various communications media regarding actions taken or planned by the Agency. It is responsible for providing direction to the Agency's community relations, public participation, and environmental education programs. The Office develops and produces publications and other materials necessary to inform the general public, State, and local governments, and concerned groups about the Agency's mission. It supports, encourages, and promotes public participation in the development, revision, and enforcement of environmental quality standards related to the Agency's program responsibilities.

(g) *Office of Regional and Intergovernmental Operations.*—The Office of Regional and Intergovernmental Operations facilities communications between the Administrator/Deputy Administrator and the Regional Administrators and provides a Headquarters secretariat for the Regional Administrators in dealing with intergovernmental organizations and State control agencies; and provides disaster coordination functions. The Office coordinates the efforts of principal Headquarters organizational components dealing with broad-gauged and issue-oriented intergovernmental and regional problems to assure a concerted effort by the Headquarters and regional offices in maximizing the value of intergovernmental activities for environmental programs. It works with the Regional Administrators on a continuing basis to develop and encourage the adoption of improved methods for dealing effectively with State and local governments and communities on specific EPA program initiatives.

(h) *Office of General Counsel.*—The Office of General Counsel, including Regional Counsels, is under the supervision of the General Counsel who reports directly to the Administrator. The General Counsel serves as the principal legal adviser to the Administrator, and as chief law officer of the Agency. The Office provides legal opinions, legal counsel, and litigation support; and assists and advises in the formulation and administration of the Agency's policies and programs.

§ 1.27 Office of the Assistant Administrator for Air and Waste Management.

The Assistant Administrator for Air and Waste Management serves as principal adviser to the Administrator in matters pertaining to air and waste management programs, and shall be responsible for the management of the air and waste management programs of the Agency, including: Program policy development and evaluation; environmental and pollution sources standards development; program policy guidance and overview, technical support and evaluation of regional air and waste management program activities; development of programs for technical assistance and technology transfer; and selected demonstration programs. The program activities of the Assistant Administrator's office are performed by Offices of Air Quality Planning and Standards; Solid Waste Management; Mobile Source Air Pollution Control; Radiation; and Noise Abatement and Control.

(a) *Office of Air Quality Planning and Standards.*—The Office of Air Quality Planning and Standards, under the supervision of the Deputy Assistant Administrator for Air Quality Planning and Standards, is responsible for developing national standards for air quality, emission standards for new stationary sources, and emission standards for hazardous pollutants; for developing national programs, technical policies, regulations, guidelines, and for assessing the national air pollution control program and the success in achieving air quality goals; for providing assistance to the States, industry and other organizations through manpower training activities and technical information; for providing technical direction and support to regional offices and other organizations; for evaluating regional programs with respect to State implementation plans and strategies, technical assistance, and resource requirements and allocations for air related programs; for developing and maintaining a national air programs data system, including air quality, emissions and other technical data; and for providing effective technology transfer through the translation of technological developments into improved control program procedures.

(b) *Office of Solid Waste Management.*—The Office of Solid Waste Management, under the supervision of the Deputy Assistant Administrator for Solid Waste Management, is responsible for providing program policy direction to and evaluation of solid waste management activities throughout the Agency; establishes, monitors, and evaluates solid waste research requirements for the Agency; and carries out resource recovery, hazardous waste, and waste systems management activities.

(c) *Office of Mobile Source Air Pollution Control.*—The Office of Mobile Source Air Pollution Control, under the supervision of the Deputy Assistant Administrator for Mobile Source Air Pollution Control, is responsible for characterizing emissions from mobile sources and developing programs for their control, including assessment of the status of control technology; for developing and recommending emission standards and related test procedures for mobile sources; for carrying out a regulatory compliance program to insure adherence of mobile sources to standards; and for carrying out surveillance activities with respect to mobile source emissions.

(d) *Office of Noise Abatement and Control.*—The Office of Noise Abatement and Control, under the supervision of the Deputy Assistant Administrator for Noise Abatement and Control, is responsible for developing noise protection criteria, standards, and policies; developing methodologies for measuring and controlling noise exposure; developing research requirements for the Agency's noise control and abatement programs; coordinates all Federal noise control programs, including evaluating all other Federal agency standards and regulations, existing and proposed, with respect to noise to determine if such standards protect the public health and welfare; provides technical assistance to States, through EPA's Regional offices, and to other agencies having noise control and abatement programs; establishes and directs, through the Regional offices and with appropriate Headquarters inputs, national surveillance and monitoring systems for measuring noise levels in the environment; evaluates and assesses the impact of new and developing noise control technology; assists in the training of personnel, such as for State noise control and abatement programs; and maintains liaison with other public and private organizations interested in environmental noise control.

(e) *Office of Radiation.*—The Office of Radiation, under the supervision of the Deputy Assistant Administrator for Radiation Programs, is responsible for the radiation activities of the Agency, including development of radiation protection criteria, standards, and policies; measurement and control of radiation exposure; and research requirements for radiation programs. It provides technical assistance to States through EPA Regional offices and other agencies having radiation protection programs, establishes and directs a national surveillance and investigation program for measuring radiation levels in the environment, evaluates and assesses the impact of new and developing radiation technology on man and the environment, assists in the training of personnel for radiation protection programs in the States and for other purposes, maintains liaison with other public and private organizations interested in environmental radiation.

§ 1.29 Office of the Assistant Administrator for Water and Hazardous Materials.

The Assistant Administrator serves as principal adviser to the Administrator in matters pertaining to water and hazardous materials programs, and is responsible for the management of the water, pesticides, and toxic substances programs of the Agency, including program policy development and evaluation, environmental and pollution sources standards development, program policy guidance and overview, technical support, and evaluation of regional water,

pesticides, and toxic substances programs activities, development of programs for technical assistance and manpower development, and selected demonstration programs. The program activities of the Assistant Administrator's office are performed by Offices of Water Planning and Standards, Water Program Operations, Pesticide Programs, Water Supply, and Toxic Substances.

(a) *Office of Water Planning and Standards.*—The Office of Water Planning and Standards, under the supervision of the Deputy Assistant Administrator for Water Planning and Standards, is responsible for developing an overall program strategy for the achievement of water pollution abatement. It assures the coordination of all national water-related activities within this water program strategy, and monitors national progress toward the achievement of water quality goals. The office is responsible for the development of effluent guidelines and water quality standards, and other pollutant standards, regulations, and guidelines. The office exercises overall responsibility for the development of effective State and regional water quality planning and control agencies. It is responsible for the development and maintenance of a centralized water programs data system including compatible water quality, discharger, and program data files.

(b) *Office of Water Program Operations.*—The Office of Water Program Operations, under the supervision of the Deputy Assistant Administrator for Water Program Operations, is responsible for developing national programs, technical policies, regulations, and guidelines for water pollution control in the areas of municipal wastewater treatment, construction grants for treatment plants, municipal point source abatement and control, oil and hazardous materials spills, and other water related activities. Specifically, the Office of Water Program Operations articulates EPA strategies for implementing legislative mandates in the municipal wastewater treatment field; provides national direction for interstate, State, and local authorities in the planning, design, and construction of municipal wastewater treatment systems; provides technical direction and support to regional offices and other organizational entities; and evaluates regional programs with respect to municipal point source abatement and control, oil and hazardous materials spills prevention and response, construction grants, and manpower development for water related activities.

(c) *Office of Water Supply.*—The Office of Water Supply, under the supervision of the Deputy Assistant Administrator for Water Supply, is responsible for the water supply activities of the Agency, including implementation strategy. This Office establishes policies and standards, and develops regulations and guidelines for drinking water quality and treatment requisite to protect the public health and welfare, and to protect existing and future underground sources of drinking water; provides guidance and technical information to State agencies, local utilities, and Federal facilities through the regional offices on program phasing and implementation; evaluates the national level of compliance with the regulations. The Office plans and develops policy guidance for response to national, regional, and local emergencies; reviews and evaluates, with regional offices, technical data for the designation of sole-source aquifers; designs a national program of public information; identifies research needs and develops monitoring requirements for the national water supply program; and develops national accomplishment plans.

(d) *Office of Pesticide Programs.*—The Office of Pesticide Programs, under the supervision of the Deputy Assistant Administrator for Pesticide Programs, is responsible for pesticide activities of the Agency, including development of strategic plans for the control of the national environmental pesticide situation for application by the Office of Pesticide Programs, other EPA components, other Federal agencies, or by State, local, and private sectors; establishment of tolerance levels for pesticide residues which occur in or on food and the registration of pesticides; monitoring of pesticide residue levels in food, humans, and nontarget fish and wildlife and their environments; review of pesticide formulations and relevant data for efficacy and hazard; establishment of sales or use restrictions; investigations of pesticide accidents and incidents; establishment of guidelines and standards for product examination; preparation of model legislation for use by States and others in the development of more effective pesticide control programs; provision of program policy direction to technical and manpower training activities in the pesticide area; development of research needs and monitoring requirements for the pesticide program and related areas; and review of impact statements dealing with pesticides.

(e) *Office of Toxic Substances.*—The Office of Toxic Substances, under the supervision of the Director of the Office, is responsible for coordinating selected multimedia toxic substances activities of the Agency; developing and implementing early warning programs for identifying and prioritizing previously unsuspected chemicals which are entering the environment and may pose a hazard in the near future; encouraging increased industrial concern and appropriate actions in testing both new and existing chemicals entering commerce; and analyzing classes of chemicals as the basis for determining the risks and benefits associated with new products in these classes which are likely to appear on the market in the near future.

§ 1.31 Office of the Assistant Administrator for Enforcement.

The Assistant Administrator for Enforcement serves as the principal adviser to the Administrator in matters pertaining to the enforcement of standards for environmental quality, and is responsible for the conduct of enforcement activities on an Agencywide basis. This Office is responsible for the conduct of Agency activities for enforcement of environmental quality standards, including the gathering and preparation of evidential data and conduct of enforcement proceedings. The functions and activities of the Assistant Administrator for Enforcement are performed by Deputy Assistant Administrators for Water Enforcement, General Enforcement, and Mobile Source and Noise Enforcement.

(a) *Office of Water Enforcement.*—The Office of Water Enforcement, under the supervision of the Deputy Assistant Administrator for Water Enforcement, provides program policy direction to the water quality enforcement, water supply enforcement and National Pollution Discharge Elimination System program activities of the Agency, including direct supervision of those enforcement activities reporting directly to the Office of Water Enforcement and technical program direction to the regional water enforcement activities. It develops Agencywide objectives and programs for water enforcement and permit activities, including the development of procedures, regulatory material, guidelines, criteria, and policy statements designed to bring about actions by individuals, private enterprise, and governmental bodies to improve the quality of the water.

(b) *Office of General Enforcement.*—The Office of General Enforcement, under the supervision of the Deputy Assistant Administrator for General Enforcement provides program policy direction to Agency enforcement activities in the stationary sources of air pollution, radiation, pesticides, solid waste and toxic substances program areas. The Office develops Agencywide objectives and programs for general enforcement activities, including the development of procedures, regulatory materials, guidelines, criteria, and policy statements designed to bring about actions by individuals, private enterprise, and governmental bodies in the areas of stationary sources of air pollution, radiation, pesticides, toxic substances, and solid waste.

(c) *Office of Mobile Source and Noise Enforcement.*—The Office of Mobile Source and Noise Enforcement, under the supervision of the Deputy Assistant Administrator for Mobile Source and Noise Enforcement, provides program policy direction to Agency enforcement activities in the mobile sources of air pollution and noise abatement program areas. The Office develops Agencywide objectives and programs for enforcement activities, including the development of procedures, regulatory materials, guidelines, criteria, and policy statements designed to bring about actions by individuals, private and governmental bodies in the areas of mobile sources of air pollution and noise abatement.

§ 1.33 Office of the Assistant Administrator for Planning and Management.

The Assistant Administrator for Planning and Management is responsible on

an Agencywide basis for planning overall program activities; managing the Agency's resources; developing and conducting a comprehensive audit program; developing and conducting administrative programs and systems; and representing the Administrator in dealings with other Federal agencies in areas of Government fiscal, management, and administrative activities. The functions and activities of the Office of the Assistant Administrator are performed by Deputy Assistant Administrators for Administration, Planning and Evaluation, Resources Management, and a Director, Office of Audit.

(a) *Office of Administration.*—The Office of Administration, under the supervision of the Deputy Assistant Administrator for Administration, is responsible for development and conduct of programs for organization and management systems, control, and services; personnel policies, procedures, and operations; personnel, physical, and document security and inspections; emergency preparedness; management information systems, automatic data processing management and operations; facilities and space management; occupational health and safety; contracting and procurement services; general administrative and support services; and other areas of administrative management, including records management, committee management, directives systems, and an Agency library system.

(b) *Office of Planning and Evaluation.*—The Office of Planning and Evaluation, under the supervision of the Deputy Assistant Administrator for Planning and Evaluation, is responsible for development and conduct of programs for long-range and strategic planning; compiling reports to the Congress and the President on Agency programs and activities; systems analysis of Agency programs activities, including the development, initiation, and monitoring of new and redirected Agency programs and goals; coordinating the Agency's environmental standards and regulations development process; economic and industrial analysis of the impact of abatement regulations and programs on firms, industries, and functional and geographic sectors; policy development processes; program progress measurement; and planning policy direction, needs assessment, and program review.

(c) *Office of Resources Management.*—The Office of Resources Management, under the supervision of the Deputy Assistant Administrator for Resources Management, is responsible for resources management, including developing and administering a program-planning-budgeting system in accordance with Office of Management and Budget directives; budget formulation, preparation, and execution, including funding allotments and allocations; and financial management and services; including developing and maintaining accounting systems, fiscal controls, and systems for payroll and disbursement, and grants policies and procedures.

(d) *Office of Audit.*—The Office of Audit, under the supervision of a Director, is responsible for development and conduct of a comprehensive audit program for the Agency, including the conduct of internal and external audits of Agency programs and the provision of an independent appraisal for the Administrator and other Agency officials of the program, financial, and administrative operations of the Agency.

§ 1.35 Office of the Assistant Administrator for Research and Development.

The Assistant Administrator for Research and Development serves as the principal science adviser to the Administrator, and is responsible for the development, direction, and conduct of a national research, development, and demonstration program in: Pollution sources, fate, and health and welfare effects; pollution prevention and control and waste management and utilization technology; environmental sciences; and monitoring systems. The Office participates in the development of Agency policy, standards, and regulations. The Office provides for dissemination of scientific and technical knowledge, including analytical methods, monitoring techniques, and modeling methodologies. It serves as coordinator for the Agency's policies and programs concerning carcinogenesis and related problems. The Office assures appropriate quality control and standardization of analytical measurement and monitoring techniques (for which he is assigned responsibility) utilized by the Agency; and exercises review and concurrence responsibilities on an Agencywide basis in all budgeting and planning actions involving monitoring which require Headquarters approval. The functions and activities of the Office of the Assistant Administrator for Research and Development are performed by Deputy Assistant Administrators for Monitoring and Technical Support; Energy, Minerals and Industry; Air, Land, and Water Use; and Health and Ecological Effects.

(a) *Office of Monitoring and Technical Support.*—The Office of Monitoring and Technical Support, under the supervision of the Deputy Assistant Administrator for Monitoring and Technical Support, is responsible for planning, managing, and evaluating a comprehensive program for: (1) The development of reference or standard environmental measurement and monitoring equipment, techniques and systems; (2) the development of Agencywide quality assurance programs, including standardization of analytical methods and sampling techniques, and quality control; (3) the dissemination of scientific and technical knowledge, including technology transfer; (4) technical support to the Agency including monitoring and analytical support, quality control, and laboratory and staff development; and (5) the enhancement of the capabilities of minority institutions to participate in environmental research and development activities.

(b) *Office of Energy, Minerals, and Industry.*—The Office of Energy, Minerals, and Industry, under the supervision of the Deputy Assistanct Administrator for Energy, Minerals, and Industry, is responsible for planning, managing, and evaluating a comprehensive program for the: (1) Assessment of the environmental and socio-economic impacts of energy and mineral resource extraction, processing, conversion, and utilization systems, and of other industrial operations; (2) development and demonstration of cost-effective methods for control and management of operations with environmental impacts associated with the extraction, processing, conversion, transmission and utilization of energy (except transportation utilization), and mineral resources, and with industrial processing and manufacturing facilities; (3) identification and evaluation of alternatives, including conservation measures, for these systems and operations; and (4) the coordination of intra- and interagency research activities associated with the environmental aspects of energy and utilization.

(c) *Office of Air, Land, and Water Use.*—The Office of Air, Land, and Water Use, under the supervision of the Deputy Assistant Administrator for Air, Land, and Water Use, is responsible for planning, managing, and evaluating a comprehensive program for the: (1) Development and demonstration of cost-effective methods for the prevention or management of pollutant discharge or waste disposal into the environment, except those related to energy, mineral, or industrial processes; (2) development and demonstration of methods for the management of the impact of land and water use activities on air and water quality; (3) development and demonstration of optimum methods for the total environmental management of pollutants which originate from multiple sources and are transported or exert their effects through one or more media; (4) development of models and other methods for linking source permission to exposure; (5) development of new methods, equipment, and procedures for detecting, identifying and measuring pollutants; (6) development of optimum mechanisms for implementing environmental control or management methods; (7) assessment of the environmental and socio-economic impacts of land, water, and air pollution control and management activities; and (8) the development and demonstration of such specific items as: Methods for noise abatement, treatment technology for public water supplies; methods for disposal of hazardous wastes, and alternatives methods of pest control.

(d) *Office of Health and Ecological Effects.*—The Office of Health and Ecological Effects, under the supervision of the Deputy Assistant Administrator for Health and Ecological Effects, is responsible for planning, managing, and evaluating a comprehensive research program for the: (1) Development of health and ecological data needed for the establishment of standards and criteria or

guidelines for these components of the environment in which specific pollutants or activities may require control; (2) determination of the fate, transport, and exposure effect, in relation to the ecosystem, of environmental pollutants, singly and in combination; (3) development and verification of methods and models for analyzing the socio-economic impact of overall environmental degradation and alternative control strategies; (4) comprehensive assessment of the environmental and socio-economic impacts of existing and proposed policies and standards; and (5) coordination of the Agency's policies and programs related to carcinogens and similar agents.

Subpart C—EPA Field Installations

§ 1.41 Regional offices.

Regional offices are headed by Regional Administrators who are responsible to the Administrator for the execution of the regional programs of the Agency within the boundaries of their regions. The Regional Administrators serve as the Administrator's principal representatives in the regions in contacts and relationships with Federal, State, interstate and local agencies, industry, academic institutions, and other public and private groups. They are responsible for accomplishing national program objectives within their regions as established by the Administrator, Deputy Administrator, Assistant Administrators, and Heads of Headquarters Staff Offices. They develop, propose, and implement an approved regional program for comprehensive and integrated environmental protection activities.

[FR Doc.76-21578 Filed 7-23-76;8:45 am]

SUBCHAPTER N—EFFULENT GUIDELINES AND STANDARDS

[FRL 588-5]

PART 458—CARBON BLACK MANUFACTURING POINT SOURCE CATEGORY

Extension of Comment Period and Availability

On May 18, 1976 the Agency published a notice of interim final rulemaking (41 FR 20496) establishing effluent limitations and guidelines for the carbon black manufacturing point source category, based upon use of best practicable control technology currently available. The due date for comments provided in the notice was June 17, 1976.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations, Guidelines and Proposed New Source Performance Standards for the Carbon Black Manufacturing Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to August 25, 1976.

Dated: July 16, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-21574 Filed 7-23-76;8:45 am]

[FRL 588-7]

PART 460—HOSPITAL POINT SOURCE CATEGORY

Extension of Comment Period and Availability

On May 6, 1976 the Agency published a notice of interim final rulemaking (41 FR 18774) establishing effluent limitations and guidelines for the hospital point source category, based upon use of best practicable control technology currently available. The due date for comments provided in the notice was June 7, 1976.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations, Guidelines and Proposed New Source Performance Standards for the Hospital Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to August 25, 1976.

Dated: July 16, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-21576 Filed 7-23-76;8:46 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temporary Reg. No. 20]

PART 9-16—PROCUREMENT FORMS

Procurement Request Form

JULY 15, 1976.

1. *Purpose.* This regulation implements a standard ERDA-wide procurement request form.

2. *Effective date.* This regulation is effective July 26, 1976.

3. *Expiration date.* This regulation will remain in effect until canceled and replaced by a permanent ERDA Procurement Regulation.

4. *Explanation of changes.*

a. A new § 9–16.807, *Procurement request form,* is added.

Subpart 9–16.8—Miscellaneous Forms

§ 9–16.807 Procurement request form.

Authorizations to enter into, extend, modify or terminate prime contracts, agreements (excluding interagency agreements), grants, loan guarantees or other forms of financial assistance shall be initiated on a Procurement Request, ERDA Form 799 (illustrated in § 9–16.951–3). Actions involving integrated contractors and energy research centers will not be initiated on a procurement request form.

b. A new § 9–16.951–3, *Procurement request,* is added.

Subpart 9–16.9—Illustration of Forms

§ 9–16.951 ERDA forms.

* * * * *

§ 9–16.951–3 Procurement request.

(a) *Example of procurement request:*

FORM ERDA 799
(3-76)
ERDA-PR 9-16

2

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
PROCUREMENT REQUEST
(See Instructions on Reverse of Last Sheet)

*Please Type

1. TO: Procurement Office	2. From Activity Title: Division: Project:	3. Procurement Request Number

4. ☐ Contract ☐ Grant ☐ Special Research Support Agreement (SRSA) ☐ Other ☐ Modification of _____ Contract Number _____ TO/PA ☐ Change Order ☐ Supplemental Agreement	5. Priority Rating (Ref. FPR 1-1.311)	6. Desired Award Date / /	7. Security Classification (ERDAM APP. 3401) ☐ Unclass. ☐ Secret ☐ Conf. ☐ Top Secret

8. SERVICES, ARTICLES, MODIFICATIONS OR OTHER ACTION REQUIRED

TITLE _____

a. Item No.	b. Brief Description (As required, attach detailed Statement of work, including place(s) and time(s) of delivery(ies) or Schedule of work. State basis for estimated cost or price. Include detailed cost estimate, if available.)	c. Quantity	d. Estimated Cost or Price

e. TOTAL ESTIMATED AMOUNT OF THIS ACTION $

9. Competitive Procurement ☐ Non-Competitive Procurement ☐ If competitive, attach technical evaluation plan. If non-competitive, attach justification. Ref.: FPR 1-3.101(d) & ERDA-PR 9-55.2	10. Is Source Evaluation Board Required? ☐ YES ☐ NO Ref.: ERDA Source Evaluation and Selection Handbook	11. Procurement Request Resulting From Unsolicited Proposal If yes, attach copy of proposal and determination. Ref.: ERDA-PR 9-4.52 and 9-4.51 ☐ YES ☐ NO _____ UNSOLICITED PROPOSAL NUMBER
12. Cost Sharing Contract ☐ YES ☐ NO If yes, attach details of cost sharing. Ref.: ERDA-PR 9-4.56	13. Government Furnished Equipment and Facilities Required? ☐ YES ☐ NO If yes, attach details of requirements.	14. Recommended Source(s) Attach name(s) and address(es) of source(s).
15. Report and Drawings Requirements ☐ YES ☐ NO If yes, attach details of requirements.	16. Budget Activity Program, Subprogram, and Activity (ERDAM Appendix 1101, Part II) _____ $ _____ Amount of Funds Authorized	

17. Requestor (Typed name, title, location, telephone number, date) _____ (Name) _____ (Signature)	18. Certifying Official (Typed name, title, location, telephone number, date) _____ (Date) *I hereby certify that funds in the amount here stated are available for such purposes under Allotment,* *No.* _____ _____ (Signature)
19. Authorizing Program Official (Typed name, title, location, telephone number, date) _____ (Signature)	

I. GENERAL INSTRUCTIONS

1. The initiator of the PR (Requestor) is responsible for translating requirements into a complete procurement package that is consistent with procurement policies and regulations governing ERDA procurement. The elements of the procurement package should be documented in sufficient detail to enable procurement office personnel to proceed with the procurement action.

2. Authorizations to enter into, extend, modify or terminate prime contracts, agreements (excluding interagency agreements), grants, loan guarantees or other forms of financial assistance shall be initiated on a procurement request form.

3. Procurement Requests to award or modify an ERDA integrated contract will be initiated by the cognizant field office.

4. Enter dates as six numeric digits; two for month, two for day, and two for year. EXAMPLE: January 2, 1976, would be entered as 010276.

II. INSTRUCTIONS FOR ITEM ENTRIES.

(Except self-explanatory items)

Item 1. Enter the name of the ERDA Procurement Office this request is being sent to.

Item 2. Enter the name of the Activity (e.g., Fossil Energy, Nuclear Energy, etc.), the Division (e.g., Fossil Demonstration Plants, Reactor Development and Demonstration, etc.), and the Program (official title of program).

Item 3. Enter the Procurement Request Number in the following manner.

a. Enter the appropriate code below as the first character.

PROCUREMENT REQUEST NUMBER
ACTIVITY TITLE

A	Assistant Administrator for Administration
F	Assistant Administrator for Fossil Energy
E	Assistant Administrator for Environment and Safety
G	Assistant Administrator for Solar, Geothermal and Advanced Energy Systems
S	Assistant Administrator for National Security
C	Assistant Administrator for Conservation
X	Other, Headquarters Offices
Y	Other, Field Offices
N	Assistant Administrator for Nuclear Energy

b. Enter the code for the Procurement Office to which the Request is sent as the second and third characters.

PROCUREMENT OFFICE

01	Procurement Operations
02	Chicago
03	San Francisco
04	Albuquerque
05	Oak Ridge
06	Richland
07	Idaho
08	Nevada
09	Savannah River
10	Administrative Services
11	Pittsburgh Naval Reactors
12	Schenectady Naval Reactor
13	Grand Junction
14	FFTF Project
15	CRBR Project
16	Space Nuclear Systems

17 New York Health Lab.
18 Grand Forks ERC
19 Bartlesville ERC
20 Laramie ERC
21 Morgantown ERC
22 Pittsburgh ERC
23 Public Affairs
24 International Affairs

c. Enter the last two digits of the fiscal year as the fourth and fifth characters.

d. Enter a unique serial number relative to the above codes as the sixth through ninth characters. Include leading zeroes.

e. If the Request is a modification to a previous request, enter a serial modification number as the tenth and eleventh characters. If this is an initial request, leave this field blank.

Item 4. If the Request is to modify an existing instrument, enter the number of the instrument (contract, grant, SRSA, etc.) being modified. Enter the Task Order/Purchase Agreement (TO/PA) number only if applicable.

Item 5. Enter applicable Defense Priority Rating. If not applicable, enter ROUTINE.

Item 8. Enter a title of the procurement action. Note that only 65 characters will be captured by the Procurements in Progress System (PIPS). If completing this part would result in the disclosure of classified information, enter the word, "Classified" in the general description area. Also fill in the information requested under headings "a" through "d". By memorandum and in accordance with established security procedures, forward the classified description to all addressees, making reference to the Procurement Request Number and action date.

Item 9. Check the appropriate box. If "Non-Competitive Procurement" is checked because the Request resulted from approval of an unsolicited proposal, include the ID number of the unsolicited proposal in Item 11.

Item 11. If this Procurement Request has resulted from an unsolicited proposal, enter the reference number of the proposal.

Item 17. The Requestor should be the responsible Program Technical Representative who will be the principal contact with the Procurement Office or, if there is a Precontract Review Panel, Panel Chairman's name, title, location and telephone number should be given.

Item 18. The Authorizing Program Official is the Assistant Administrator or his designee who is authorized by the Assistant Administrator to commit program funds.

Item 19. The certifying official is the allottee or his designee (ref. ERDAM Appendix 1301, Part III, Sec. A) who certifies that this obligation will not be in excess of the available amounts in accordance with the Anti-Deficiency Act.

(b) Supplemental instructions to the procurement request (to be incorporated into the next revision to the procurement request form):

(1) Distribution:

Part 1—Procurement office.
Part 2 & 3—HQ Procurement.
Attn: Leroy Valentine, C-167.
Part 4—HQ Procurement Operations Office actions—J. F. Wagner, OC, C-269. All other actions—appropriate field office finance division.
Part 5—File.

(2) Actions involving integrated contractors and energy research centers will not be included in the procurement in progress system (PIPS). Therefore, such actions will not be initiated on a PR form. Integrated contractors are listed in ERDA Manual Appendix 1101, Part III, Section A.

(3) Item 1—Additional information such as address or name or addressee may be entered in this field.

(4) Item 3b—Space Nuclear Systems (Code 16) should read Nuclear Research and Application.

(5) Item 3e—If positive action is desired to insure that a modification number is not mistakenly omitted, "00" can be entered in the modification field.

(6) Item 5—Priority Rating. If the procurement action is not in support of defense needs, enter "Not applicable" or "N/A" vice "Routine."

(7) Item 8—With the exception of the title section, that will be key punched, this field may be used to convey summary information or reference to supporting documents that may be of assistance to the procurement office. A continuation sheet may be used to provide additional data.

(8) Item 13—The correct term is Government-furnished property, that property in the possession of or acquired directly by the Government, and subsequently delivered or otherwise made available to the contractor (FPR 1-8.101(g). Government-furnished property includes Government-furnished facilities, equipment and data.

(9) Item 14—If the initiating office recommends no sources, NONE should be entered.

(10) Item 15—The correct term is data, that is, recorded information, regardless of form or characteristic. Data includes, among other things, reports and drawings.

(11) Item 16—If this action requires the use of more than one budget number, only the principal code should be used.

(12) Item 19—If the certifying official is in the operations office, the initiator (requestor) should leave the space blank. If the same person is both the authorizing program official (Item 18) and the certifying official, that person should sign in both places. If the PR is subject to the availability of funds, enter SUBJECT TO AVAILABILITY OF FUNDS in Item 19.

(Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93-438).)

M. J. TASHJIAN,
Director of Procurement.

[FR Doc.76-21071 Filed 7-23-76;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Resource Limitations

The Department published revisions to its regulations under the AFDC program which is established by title IV of the Social Security Act on March 19, 1975, at 40 FR 12507, and republished the revisions on July 24, 1975, at 40 FR 30963. These regulations are codified at 45 CFR 233.20(a)(3) and concern the determination of need and amount of assistance. On March 23, 1976, the United States District Court for the District of Columbia issued an Order on remand from the United States Court of Appeals for the District of Columbia in *National Welfare Rights Organization, et al.* v. *Mathews*, 533 F. 2d 637 (D.C. Cir. 1976). That action involved a challenge to a subsection (a)(3)(i) of these revisions. The Court's Order declared the revision to that subsection to be invalid and further declared the version of that subsection which preceded the revision (published at 34 FR 1394 (January 29, 1969)) to be in effect. This notice is published to eliminate any confusion which may have occurred as a result of this litigation. As a result of the Court's Order, the extant regulations read as follows:

§ 233.20 Need and amount of assistance.

(a) Requirements for State plans.

* * *

(3) *Income and resources: OAA, AFDC, AB, APTD, AABD.* (i) Specify the amount and types of real and personal property, including liquid assets, that may be reserved, i.e., retained to meet the current and future needs while assistance is received on a continuing basis. In addition to the home, personal effects, automobile and income producing property allowed by the agency, the amount of real and personal property, including liquid assets, that can be reserved for each individual recipient shall not be in excess of two thousand dollars. Policies may allow reasonable proportions of income from businesses or farms to be used to increase capital assets, so that income may be increased.

(ii) Provide that, in determining need and the amount of the assistance payment, after all policies governing the reserves and allowances and disregard or setting aside of income and resources referred to in this section have been uniformly applied:

(A) in determining need, all remaining income and resources shall be considered in relation to the State's need standard;

(B) in determining financial eligibility and the amount of the assistance payment, all remaining income and resources may, at the State's option, be considered in relation to the State's need standard, or the State's payment standard;

(C) if agency policies provide for allocation of the individual's income as necessary for the support of his dependents, such allocation shall not exceed the total amount of their need as determined by the State's need standard;

(D) net income available for current use and currently available resources shall be considered; income and resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal

ability to make such sum available for support and maintenance;

(E) income and resources will be reasonably evaluated.

For purposes of this paragraph (a)(3); Automobile means a passenger car or other motor vehicle used to provide transportation of persons or goods: Retail market value means the price an item of a particular make, model, size, material or condition will sell for on the open market in the geographic area involved; Liquid assets are those properties in the form of cash or other financial instruments which are convertible to cash and include savings accounts, checking accounts, stocks, bonds, mutual found shares, promissory notes, mortgages, loan value of insurance policies, and similar properties; Need standard means the money value assigned by the State to the basic needs it recognizes as essential for applicants and recipients; Payment standard means the amount from which non-exempt income is subtracted.

* * * * *

Dated: July 22, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

[FR Doc.76-21627 Filed 7-23-76;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

[CGD 76-091]

PART 6—WAIVER OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

PART 11—LICENSES IN TEMPORARY GRADES OR SPECIAL ENDORSEMENTS ON LICENSES TO PERMIT TEMPORARY SERVICE

Adequate Manning of Vessels; Revocation of Temporary Regulations

• The purpose of these amendments is to revoke temporary regulations which were enacted since 1966 to provide for adequate manning of vessels. The emergency problems concerning manning no longer exist and thus the temporary regulations can be removed from the Code of Federal Regulations. •

This amendment is issued without notice of proposed rulemaking. The regulations are being deleted because they no longer serve a useful purpose and thus notice and public procedure thereon are unnecessary.

Accordingly, Parts 6 and 11 of Title 46 of the Code of Federal Regulations are amended as follows:

1. By deleting § 6.20.

2. By deleting and reserving Part 11.

(R.S. 4405, as amended, 4462, as amended, sec. 6(b)(1), 80 Stat. 938, (46 U.S.C. 375, 416, 49 U.S.C. 1655(b)); 49 CFR 1.46(b))

Effective date. These amendments shall become effective on August 26, 1976.

Dated: July 20, 1976.

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

[FR Doc.76-21554 Filed 7-23-76;8:45 am]

[CGD 76-113]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Approval of Radar Observer Course

The Coast Guard has approved, under the provisions of 46 CFR 10.30, the radar observer training course administered by the Maritime Administration Radar Training School, Seattle, Washington.

This rule is issued without notice of proposed rulemaking. Since the Coast Guard has already approved the training course, under the provisions of existing regulations, and this action merely adds the course to the list of approved courses, notice and public procedure are unnecessary, and the rule may become effective in less than thirty days.

Accordingly, Part 10 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By revising § 10.30–5(f)(11) to read as follows:

§ 10.30–5 Radar observer qualifying courses.

* * * * *

(f) * * *

(11) Maritime Administration Radar Training School, 2228 Elliott Avenue, Seattle, Washington 98121.

(R.S. 4405, as amended (46 U.S.C. 375), R.S. 4462, as amended (46 U.S.C. 416), sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Effective date: This amendment shall be effective on July 26, 1976.

Dated: July 16, 1976.

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

[FR Doc.76-21555 Filed 7-23-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-683]

PART 0—COMMISSION ORGANIZATION

Delegations of Authority; Chief, Common Carrier Bureau

In the matter of amendment of Part 0 of the Commission's rules with respect to delegations of authority to the Chief, Common Carrier Bureau.

1. The Commission has under consideration a request for special relief from the American Telephone and Telegraph Company in which it is requested that permission be granted to charge revised depreciation charges to operating expense without Commission prescription in accordance with section 220(b) of the Communications Act of 1934, as amended, upon reaching agreement as to such revised charges at the staff level of the company, the interested state utility commission and the FCC. Such permission would be given only on an interim basis and would be revised if the Commission were to prescribe charges different from those proposed, or reversed if the Commission were not to make a prescription by the time that the company would normally be expected to "close its books" for the year.

2. Following a public notice requesting comments, replies favorable to the proposal were received from fourteen state utility commissions and from GTE Service Corporation, the latter requesting that the proposed procedure be extended to include all telephone companies. No objections were received.

3. Authority for the adoption of this order is contained in section 5(d) of the Communications Act of 1934, as amended. Since it relates to internal Commission management, practices, and procedure, and because the early implementation of these changes will expedite the transaction of public business, compliance with the notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, is not required.

4. Accordingly, *it is ordered*, That § 0.291 of the Commission's rules are amended in the manner set forth below, effective July 28, 1976.

(Secs. 4, 5, 303, 307, 48 Stat., as amended, 1066, 1068, 1082, 1083; 47 U.S.C. 154, 155, 303, 307)

Adopted: July 15, 1976.

Released: July 26, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 0.291, paragraph (b) is amended as follows:

§ 0.291 Authority delegated.

* * * * *

(b) *Authority concerning sections 219 and 220 of the Act.* Authority to promulgate regulations and orders pursuant to sections 219 and 220 of the Communications Act of 1934, as amended, except for the approval of depreciation charges to operating expenses on an interim basis subject to commission prescription prior to the end of January of the year following that in which interim approval is given.

* * * * *

[FR Doc.76-21562 Filed 7-23-76;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 225—RAILROAD ACCIDENTS/INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS

Civil Penalties

The Federal Railroad Administration (FRA) is adding a new Appendix B to Part 225 to reflect a policy determination made by FRA in carrying out the duties and responsibilities contained in section 209 of the Federal Railroad Safety Act (45 U.S.C. 438) and delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR 1.49(n)). Section 209 provides, in pertinent part, "(t)he Secretary (Administrator) shall * * * make applicable to any railroad safety rule, regulation, order or standard issued under this title a civil penalty for violation thereof or for violation of section 2 of the Act of May 6, 1910, (45 U.S.C. 39), in such amount, not less than $250 nor more than $2,500, as he deems reasonable."

Section 225.29 (49 CFR 225.29) provides that a violation of any requirement of Part 225 is subject to a civil penalty of at least $250 but not more than $2,500, with each day the violation continues being treated as a separate offense. The addition of Appendix B is based upon a consideration by FRA of the seriousness of noncompliance by a railroad with one or more of the requirements of the particular sections established by Part 225.

The basic penalty which will be assessed for failure to comply with the requirements of Part 225 ranges from $500 to $1,000 depending upon the section for which a violation is submitted. Additionally, each rule or part of a rule is subject to a penalty of between $750 and $2,000 for an intentional violation. For the purposes of this section, an intentional violation is defined as a violation caused by the knowing and willful failure of the carrier, its officers or agents to comply with the provisions of this Part. The Administrator also specifically reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection of Part 225.

As provided in section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438), the FRA will attempt to settle these claims administratively, using procedures similar to those established under the Federal Claims Collection Act (31 U.S.C. 951–953), before transmitting the case to the Attorney General. H.R. Rep. No. 1194, 91st Cong., 2d Sess. (1970). In no case, however, will a claim be compromised for less than $250, with again each day the violation continues constituting a separate offense, as provided in 49 CFR 225.29.

As provided above, the addition of Appendix B is a statement of policy by the FRA. Therefore, in accordance with the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553), notice and public procedures are not required and this amendment may be made effective in less than 30 days after publication.

In 49 CFR, Chapter II, Part 225 is amended by adding a new Appendix B to the Part as follows:

APPENDIX B.—*Schedule of civil penalties*

Section	Violation	Intentional violation [1]
225.9, Telegraphic reports of certain accidents/incidents	$1,000	$2,000
225.11, Reports of accidents/incidents	1,000	2,000
225.23, Joint operations:		
(a)	1,000	2,000
(b) and (c)	500	750
225.25, Recordkeeping	500	750
225.27, Retention of records	500	750

[1] For the purposes of this schedule, an intentional violation is the knowing and willful failure of a carrier, its officers or agents to comply with the provisions of this part. The Administrator reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection contained in pt. 225.

(Section 209, 84 Stat. 975, 88 Stat. 2165 (45 U.S.C. 438); § 1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).))

In consideration of the foregoing, effective immediately Part 225 of Title 49 of the Code of Federal Regulations is amended as set forth above.

Issued in Washington, D.C. on July 19, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-21517 Filed 7-23-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2236]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.)

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Virginia	Northampton	Unincorporated areas	Sept. 6, 1974, emergency; Sept. 8, 1976, suspended.	Sept. 6, 1974	510105

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974.)

Issued: July 15, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21409 Filed 7-23-76;8:45 am]

[Docket No. FI-930]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations; Anna Maria, Florida

On March 26, 1976, at 41 FR 12682, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the City of Anna Maria, Florida. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of February 20, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 125087C and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Anna Maria, Florida Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Anna Maria, Florida map.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21402 Filed 7-23-76;8:45 am]

[Docket No. FI-931]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Final Flood Elevation Determinations; Bradenton Beach, Florida

On March 11, 1976, at 41 FR 10431, the Federal Insurance Administrator published a notification of modification of the base (100-year) flood elevations in the Town of Bradenton Beach, Florida. Since that date, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of the community, has determined no changes are necessary. Therefore, the modified flood elevations are effective as of February 20, 1976 and amend the Flood Insurance Rate Map which was in effect prior to that date.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 125091A and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the final flood elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The numerous changes made in the base flood elevations on the Bradenton Beach Flood Insurance Rate Map make is administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Bradenton Beach map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21403 Filed 7-23-76;8:45 am]

[Docket No. FI-848]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Clute, Brazoria County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final deter-

minations of flood elevations for the City of Clute, Brazoria County, Texas under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 104 East Main Street, Clute.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Gulf of Mexico and Oyster Creek.	Missouri-Pacific RR	17	(1)	[2] 10,200
	Unnamed road	16	From Missouri-Pacific RR to corporate limits.	
	College Blvd	16	From Oyster Creek to Missouri-Pacific RR.	
	State Highway 288	16	(1)	3,390
	Riley Rd. (extended to levee)	16	(1)	2,100
Unnamed creek (flowing into Lake Bend).	Magnolia St	13	40	60
	Wayne Dr	13	70	60
	Brazoswood Dr	13	125	135

[1] Corporate limits.
[2] To State Highway 288.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended by 39 FR 2787, Jan. 24, 1974.)

Issued: June 14, 1976.

RICHARD W. KRIMM,
Acting Federal Insurance Administrator.

[FR Doc.76-21408 Filed 7-23-76;8:45 am]

[Docket No. FI-905]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Fernandina Beach, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Fernandina Beach, Florida, under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to Section 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevation (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Mr. Grady Courtney, City Manager, P.O. Box 668, Fernandina Beach, Florida 32034.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline or bank of stream (facing downstream) to 100-yr flood boundary	
			Right	Left
Atlantic Ocean via Amelia River.	Dade St	11	290	(1)
	Broome St	11	470	(1)
	Alalhua Ave	11	660	(1)
	Atlantic Ave	11	790	(1)
	Fir St	11	2,600	(1)
	Pennstock Rd	10	7,400	(1)
Atlantic Ocean via Egans Creek.	Atlantic Ave	9	1,250	170
	Indigo Ave	8	2,350	250
	Jasmine St	8	1,425	1,700
	Highway 108	6	450	100

[1] Flooding occurs outside corporate limits.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended by 39 FR 2787, Jan. 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21405 Filed 7–23–76;8:45 am]

[Docket No. FI–2237]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Jupiter Island, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Jupiter Island, Florida under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, Jupiter Island, Florida 33455.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width, approximate distance in feet from the western shore to boundary of 100-yr flood
Hobe Sound	Devonshire Lane	7	270
	Barrow St	7	110
	Estrada	7	120
	Bridge Rd	7	1,475
	Sea Crest	8	2,000

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended by 39 FR 2787, Jan. 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–21406 Filed 7–23–76;8:45 am]

[Docket No. FI-902]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Summit, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Summit, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Mayor Frank H. Lehr, City Hall, 512 Springfield Avenue, Summit, New Jersey 07901.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Passaic River	Mt. Vernon Ave	205.2	90	(1)
	Stanley Ave	203.8	110	(1)
	Erie Lackawanna RR	202.0	90	(1)
	River Rd	197.1	96	(1)
	Chatham Rd	188.4	78	(1)
	Dam	182.5	126	(1)
	Old highway 24	180.0	120	(1)

[1] Outside corporate limits.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended by 39 FR 2787, Jan. 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21407 Filed 7-23-76;8:45 am]

[Docket No. FI-2238]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevations

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10), hereby gives notice of his final determinations of flood hazards for the communities listed below, under § 1917.8 of Title 24 of the Code of Federal Regulations.

Accordingly, the Administrator has determined that no 100-year flood frequency elevation is known to exist in the following communities:

Community	County	State
Town of Baldwin	Duval	Florida.
City of Emmett	Gem	Idaho.
City of Grosse Pointe Woods.	Wayne	Michigan.
City of Batesville	Panola	Mississippi.
Village of Cooter	Pemiscot	Missouri.
Village of Lake Placid	Essex	New York.
Village of Northville	Fulton	Do.
Town of Harrisburg	Cabarrus	North Carolina
City of Aurora	Marion	Oregon.
Borough of Carrolltown	Cambria	Pennsylvania.
Borough of East Brady	Clarion	Do.
Borough of Mount Jewett	McKean	Do.
Borough of Schellsburg	Bedford	Do.
Borough of Sugar Notch	Luzerne	Do.
City of Quincy	Grant	Washington.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-21404 Filed 7-23-76;8:45 am]

proposed rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 147]

[CGD 75-225]

SHIPS STORES AND SUPPLIES

Semi-Portable Carbon Dioxide Systems

The Coast Guard is considering amending the regulations in Part 147 of Title 46 pertaining to semi-portable CO_2 systems. The amendment would add testing requirements for the discharge hose of a semi-portable CO_2 system.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify the notice (CGD 75-225), and give reasons in support of his comment. Comments received before September 10, 1976 will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. This proposal may be changed in light of comments received. No hearing is contemplated but one may be held at a time and place set in a later notice in the FEDERAL REGISTER if requested by an interested person desiring an opportunity to comment orally at a public hearing and raising a genuine issue.

This notice proposes a requirement to have the discharge hose of each semi-portable CO_2 system on a vessel tested at a pressure of 1,000 pounds per square inch whenever the cylinders of the system are tested. Cylinders must be tested every 12 years unless sooner used or removed from the vessel on which they are installed. The proposed testing requirement is the same requirement currently in effect for flexible connections of a semi-portable CO_2 system.

The Coast Guard has conducted fire tests using semi-portable CO_2 systems that have been exposed to a normal service life. During the tests, the discharge hoses of the systems ruptured. Inspection of the ruptured hoses showed that they had deteriorated in service use to the point that they were no longer serviceable. Periodic testing of the hoses as proposed in this notice can detect hoses that are no longer serviceable and, accordingly, can allow timely replacement of the defective hoses.

A recent marine casualty involving the SS *Transhuron* further demonstrates the need for periodic testing. In the SS *Transhuron* casualty a fire occurred in the compartment containing the main propulsion control desk. A semi-portable CO_2 system was activated during the process of fighting the fire; however, upon activation the discharge hose of the system burst as pressure was applied. Periodic testing of the discharge hose could have detected its defective condition before its attempted use in the fire.

In consideration of the foregoing, it is proposed to amend Part 147 of Title 46, Code of Federal Regulations, by adding a new § 147.04-1(a)(8) to read as follows:

§ 147.04-1 Cylinder requirements.

(a) • • •

(8) Each discharge hose of a semi-portable CO_2 system shall be tested at a pressure of 1000 pounds per square inch whenever the cylinders are retested under any of the conditions noted in this paragraph.

• • • • •

(46 U.S.C. 170, 375, 416; E.O. 11239 and 11382; 49 CFR 1.46.)

Dated: July 21, 1976.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.76-21557 Filed 7-23-76;8:45 am]

[46 CFR Part 182]

[CGD 75-184]

SMALL PASSENGER VESSELS

Diesel Fuel Tanks Built Integral to Fiberglass Reinforced Plastic Hull

The Coast Guard is considering amending the small passenger vessel regulations to prohibit building diesel fuel tanks integral with a fiberglass reinforced plastic hull made of sandwich construction.

Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (G-CMC/81), U.S. Coast Guard, 400 Seventh Street, SW., Washington, D.C. 20590. Each person submitting a comment should include his name and address, identify this notice (CGD 75-184), and give reasons for his comments. All comments received before October 26, 1976, 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 in Room 8117 Nassif Building, 400 Seventh Street, SW, Washington, D.C. This proposal may be changed in light of comments received.

Part 182 of the regulations for small passenger vessels presently allows construction of diesel fuel tanks integral with fiberglass reinforced plastic hulls. These regulations were adopted before the use of sandwich construction in fiberglass reinforced plastic hulls became generally accepted. Accordingly, the regulations do not specifically refer to sandwich construction.

Use of sandwich construction in a fiberglass reinforced plastic hull of a vessel that has a diesel fuel tank built integral to the hull poses a significant safety hazard to the vessel. Defects in the inner laminate of the portion of the hull forming one or more of the walls of the integral fuel tank may result from various reasons including the following:

a. Improper lay-up or poor workmanship during construction.

b. Severe stress to the hull during vessel operation.

c. A minor vessel collision such as a collision while docking.

d. Continual, careless, dropping of a fuel sounding rod into the tank.

A defect in the sandwich construction laminate arising from any of these causes will most likely remain undetected since fiberglass tends to spring back to its original shape after damage and because the laminate is not accessible for inspection. Eventual saturation of the core material in sandwich construction due to leakage of diesel fuel through the defective portion of the laminate induces deterioration of the core resulting in both a fire hazard and a reduction in longitudinal hull strength.

Accordingly, this notice proposes to prohibit building a diesel fuel tank integral with a fiberglass reinforced plastic hull made of sandwich construction. The proposal also clarifies the existing § 182.20-22(a) by specifically listing the hull materials that may be used if a diesel fuel tank is built integral with the hull.

Considering the severity of the safety hazard involved, this proposal applies to both new and existing small passenger vessels. However, a reasonable amount of time will be needed to allow any necessary retrofitting on existing vessels. Accordingly, proposed § 182.20-22(a-1) provides that vessels contracted for before the effective date of the regulations in this proposal may postpone compliance until their next inspection for certification or reinspection, whichever first occurs.

In order to comply with the regulations as proposed, existing vessels made of sandwich construction will most likely need to install independent tanks meet-

ing the requirements in 46 CFR 182.20–25. It is expected that few existing vessels will be affected by this regulation change. In any event, the retrofitting costs involved in order to comply with the regulations should be minimal.

The regulations in this proposal would be made effective 90 days after their issuance in the FEDERAL REGISTER as final rules.

These amendments are proposed under the authority of 46 U.S.C. 375 390(b), and 416; 49 U.S.C. 1655(b); 49 CFR 1.46.

In consideration of the foregoing, the Coast Guard proposes to amend Part 182 of Title 46, Code of Federal Regulations, by revising § 182.20–22(a) and by adding a new § 182.20–22(a–1) to read as follows:

§ 182.20–22 Integral diesel fuel tanks.

(a) A diesel fuel tank may not be built integral with the hull of a vessel unless the hull is—

(1) Steel;

(2) Aluminum; or

(3) Fiberglass reinforced plastic that is not sandwich construction.

(a–1) Each vessel contracted for before (the effective date of the regulations in this proposal) that has a fiberglass reinforced plastic hull made of sandwich construction may postpone compliance with paragraph (a) of this section until its next inspection for certification or reinspection, whichever first occurs.

* * * * *

Dated: July 19, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76–21558 Filed 7–23–76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15959]

AIRWORTHINESS DIRECTIVES; PROPOSED

British Aircraft Corporation BAC 1–11 200 and 400 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corporation BAC 1–11 200 and 400 series airplanes. There have been reports of failures of the flap secondary drive shafting on BAC 1–11 200 and 400 series airplanes that could result in the inability to operate the flaps in the event of a failure in the primary drive system. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspections and replacement, as necessary, of the flap secondary drive shafting and support bearings on BAC 1–11 200 and 400 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by sumitting such written data, views, or arguments as they may desire. Communication should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before September 13, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, 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)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1–11 200 and 400 series airplanes certificated in all categories.

Compliance is required as indicated.

To detect and prevent possible failure of the flap secondary drive shafting, accomplish the following:

(a) Inspect the spanwise secondary drive shafts between wing ribs (L.H. and R.H.) 6 and 15 for 200 series airplanes and between wing ribs (L.H. and R.H.) 1 and 15 for 400 series airplanes, for failure or damage in accordance with paragraph 2.4 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27–A–PM5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent, as follows:

(1) For flap secondary drive shafts with less than 24,000 hours total time in service on the effective date of this AD, within the next 1000 hours time in service or prior to exceeding 3000, hours total time in service, whichever occurs later, unless already accomplished within the proceeding 2000 hours time in service.

(2) For flap secondary drive shafts with 24,000 or more hours total time in service on the effective date of this AD, within the next 1000 hours time in service, unless already accomplished within the preceding 1000 hours time in service.

(b) Repeat the inspection required by paragraph (a) of this AD as follows:

(1) For flap secondary drive shafts with more than 3000 but less than 24,000 hours total time in service, at intervals not to exceed 3000 hours time in service from the last inspection.

(2) For flap secondary drive shafts with 24,000 or more hours total time in service, at intervals not to exceed 2000 hours time in service from the last inspection.

(c) The repetitive inspections required by paragraphs (b) and (f) of this AD may be discontinued when the flap secondary drive shaft is replaced or overhauled in accordance with paragraph (d) or (e), respectively, of this AD.

(d) If, during an insection required by this AD, a flap secondary drive shaft is found missing, failed, distorted, or chafed in excess of .005 inches in depth, or if any looseness or separation is found at the end riveted joint, before further flight, replace the shaft with a new shaft of the same part number and comply with paragraph (g) of this AD.

(e) Except as provided in paragraph (f) of this AD, prior to exceeding 30,000 hours total time in service on the flap secondary drive shafts listed in paragraph (a) of this AD, or within 50 hours time in service after the effective date of this AD, whichever occurs later, overhaul the flap secondary drive shafts listed in paragraph (a) of this AD in accordance with paragraph 2.3 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27–A–PM5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent, and comply with paragraph (g) of this AD. During overhaul the shaft tubing must be scrapped but serviceable end fittings may be re-used.

(f) The overhaul of the flap secondary drive shafts and inspection of the adjacent shaft support bearings, required by paragraph (e) of this AD, may be accomplished upon the accumulation of 35,000 hours total time in service if, upon the shafts reaching 30,000 hours total time in service, the inspection required by paragraph (a) of this AD is repeated at intervals not to exceed 1000 hours from the last inspection.

(g) When replacing a flap secondary drive shaft in accordance with paragraph (d) of this AD or overhauling a flap secondary drive shaft in accordance with paragraph (e) of this AD, inspect the adjacent shaft support bearings of shafts replaced or overhauled for excessive radial play in accordance with paragraph 2.5 of the accomplishment instructions of British Aircraft Corporation Alert Service Bulletin 27–A–PM 5341, issue 1, dated November 28, 1975, or an FAA-approved equivalent.

(h) If, during an inspection required by paragraph (g) of this AD, the support bearing is found to have radical play in excess of 0.020 inches Total Indicated Reading (T.I.R.), replace the bearing with a serviceable bearing of the same part number within the next 500 hours time in service.

(i) Operators who have not kept records of hours time in service on individual flap secondary drive shafts shall substitute airplane hours time in service in lieu thereof.

Issued in Washington, D.C. on July 19, 1976.

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

[FR Doc.76–21564 Filed 7–23–76;8:45 am]

[14 CFR Part 39]

[Docket No. 15958]

PILATUS AIRCRAFT LTD. AND FAIRCHILD HILLER MODEL PC–6 AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Pilatus and Fairchild Hiller Model PC–6 airplanes. There have been reports of fatigue cracks in the landing flap nose end ribs on Model PC–6 airplanes that could result in weakening and eventual failure of the landing flap. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require repetitive inspections, repair, as necessary, and reinforcement of landing flap nose end ribs on Pilatus Aircraft Ltd. and Fairchild Hiller Model PC–6 airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before September 9, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed under the authority of sections 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)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PILATUS AIRCRAFT LTD. AND FAIRCHILD HILLER. Applies to Pilatus Model PC-6 airplanes (all variants) with serial numbers up through 743 and Fairchild Hiller Model PC-6 airplanes, serial numbers 2001 through 2019, 2021 through 2038, and 2040 through 2049, certificated in all categories.

Compliance is required as indicated.

To prevent a possible landing flap nose rib fatigue failure, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 25 hours time in service, and, thereafter, at intervals not to exceed 100 hours time in service since the last inspection, visually inspect all the end ribs of the landing flaps for cracks in accordance with Pilatus Service Bulletin No. 124, paragraph 2.1, dated January 1976, or an FAA-approved equivalent.

(b) If a crack is found during any inspection required by paragraph (a) of this AD, before further flight, repair the crack in accordance with paragraphs 2.1 and 2.2 of Pilatus Service Bulletin No. 124, dated January 1976, or an FAA-approved equivalent.

(c) Within the next 1000 hours time in service after the effective date of this AD, unless already accomplished, reinforce the landing flap nose end ribs in accordance with paragraph 2.3 of Pilatus Service Bulletin No. 124, dated January 1976, or an FAA-approved equivalent.

(d) The repetitive inspections required by paragraph (a) of this AD may be discontinued after the reinforcement has been accomplished in accordance with paragraph (c) of this AD, and all cracks have been repaired in accordance with paragraph (b) of this AD.

(Fairchild Hiller Service Bulletin PC-6-51-3 pertains to this same subject.)

Issued in Washington, D.C., on July 15, 1976.

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

[FR Doc.76-21265 Filed 7-23-76;8:45 am]

[14 CFR Part 39]

[Docket No. 76-EA-54]

PIPER AIRCRAFT

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-24 and PA-30 type airplanes.

There have been reports of the collapse of landing gear on the subject aircraft after the gear has been extended manually. Research by the manufacturer has developed a kit which will assist towards eliminating the deficiency by incorporating the kit into operational airplanes. Therefore, it is proposed to issue this amendment to require such incorporation.

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, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before August 25, 1976, 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, Engineering and Manufacturing 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.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

PIPER AIRCRAFT CORPORATION. Applies to airplanes PA-24-180, PA-24-250, and PA-260, Serial Numbers 24-1 to 24-4782 and 24-4784 to 24-4803 inclusive; PA-24-400, Serial Numbers 26-2 to 26-148 inclusive; and PA-30, Serial Numbers 30-1 to 30-1744 inclusive, certificated in all categories.

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

To prevent possible collapse of the landing gear after manual extension, install Kit No. 760627 as described in Piper Aircraft Corporation Service Spares Letter No. SP-325, dated February 12, 1973, or an equivalent alteration approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is made under the authority of section 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, New York, on July 15, 1976.

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

[FR Doc.76-21267 Filed 7-23-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WE-5]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Fullerton, California control zone.

Alteration of the control zone is required to provide additional controlled airspace for executing the revised RNAV Runway 24 instrument approach procedure. The control zone extension would provide controlled airspace for this approach procedure while aircraft are operating below 1000 feet above the surface.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 25, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (41 FR 355) the description of the Fullerton, California control zone is amended as follows:

FULLERTON, CALIFORNIA

Within a 3-mile radius of Fullerton Municipal Airport (latitude 33°52'20" N, longitude 117°58'45" W) and within 2.5 miles each side of the Fullerton Municipal Airport Runway 24 centerline extended, extending from the 3-mile radius zone to 5.5 miles east of Runway 24 threshold, excluding the portion within the Long Beach, California control zone. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif:, on July 16, 1976.

LYNN L. HINK,
Acting Director, Western Region.

[FR Doc.76-21266 Filed 7-23-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 458]

[FRL 588-6]

CARBON BLACK MANUFACTURING POINT SOURCE CATEGORY

Extension of Comment Period and Availability

On May 18, 1976 the Agency published a notice of proposed rulemaking (41 FR 20502) establishing effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable for existing sources, standards of performance for new sources and pretreatment standards for new sources for the carbon black manufacturing point source category. The due date for comments provided in the notice was June 17, 1976.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations, Guidelines and Proposed New Source Performance Standards for the Carbon Black Manufacturing Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to August 25, 1976.

Dated: July 16, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-21575 Filed 7-23-76;8:45 am]

[40 CFR Part 460]

[FRL 588-8]

HOSPITAL POINT SOURCE CATEGORY

Extension of Comment Period and Availability

On May 6, 1976 the Agency published a notice of proposed rulemaking (41 FR 18779) establishing effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable for existing sources, standards of performance for new sources and pretreatment standards for new sources for the hospital point source category. The due date for comments provided in the notice was June 7, 1976.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations, Guidelines and Proposed New Source Performance Standards for the Hospital Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to August 25, 1976.

Dated: July 16, 1976.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.76-21577 Filed 7-23-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[FCC 76-641; Docket No. 20097; RM-1997, RM-2218]

RESALE AND SHARED USE OF COMMON CARRIER SERVICES AND FACILITIES

Regulatory Policies

In the matter of regulatory policies concerning resale and shared use of common carrier. Report and order, [40 FR 13341]; Adopted: July 1, 1976; Released: July 16, 1976.

By the Commission: Commissioner Lee issuing a separate statement; Commissioner Hooks concurring and issuing a statement; Commissioner Robinson concurring in part and dissenting in part and issuing a statement at a later date.

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INTRODUCTION

1. In the notice of inquiry and proposed rulemaking in this proceeding (hereafter referred to as the notice), 47 F.C.C. 2d 644 (1974), (39 FR 25351, July 10, 1974) we invited comments on a number of issues[1] which raised, in various forms, the basic question:

> • • • whether, and under what conditions, subscribers of the various service offerings of communications common carriers should be allowed to resell such services to others or to participate with others in the sharing or joint use of such services, and, if so, whether and to what extent the Commission should regulate any such resale or shared use.

In the Notice, we provided for three rounds of comments. Thirty-nine parties submitted initial comments, 36 parties submitted reply comments, and 23 parties submitted response comments. These parties are identified in Appendix C. Pursuant to our order in Resale and Shared Use of Common Services, 48 F.C.C. 2d 1077 (1974), comments and reply comments were served on all parties which expressed an intent to participate.

2. We stated in the Notice that the issues in this proceeding were complex and that they must be resolved with expedition in a broad rulemaking proceeding, even though they have been raised in the context of various discrete matters. Accordingly, we provided for the "notice and comment" procedure adopted herein, instead of oral evidentiary hearings, and took appropriate action to insure that prejudice to the parties would not result therefrom. Although we set forth in the Notice the legal basis supporting our procedure in this proceeding, we have again considered the legality of our decision not to hold oral evidentiary hearings. Because this matter warrants extensive comment on a discrete issue, we have set forth in Appendix D the applicable legal principles establishing the propriety of our decision to proceed with "notice and comment" procedures. We also stated in the Notice (paragraph 40) that we would issue a First Report and Order after receipt and consideration of the com-

[1] The issues in this proceeding are set forth in Appendices A and B. In Resale and Shared Use of Common Services, 48 F.C.C. 2d 1077 (1974), we denied MCI's petition to enlarge the issues in this proceeding to include consideration of the need for revisions in the Uniform System of Accounts.

ments, thereafter designating for oral hearings other issues as required. However, we have determined that the record before us is adequate for resolution of the issues in this proceeding and we therefore teminate this proceeding with this Report and Order. As is evident from the discussion below, the issues raise complex questions which are not easily considered independent of each other, and which warrant rather extensive comment. We therefore believe that it would be helpful at this point to summarize the decision before setting forth the detailed support for our conclusions.

SUMMARY OF DECISION

3. This proceeding was brought about by several discrete considerations which relate to the basic question set forth in paragraph 1, supra. Proceedings before the Commission in recent years have manifested a substantially untapped, growing public need for non-voice communications which might be satisfied in part by entities which do not own their own transmission facilities. Moreover, there are entities desiring to provide a communications service which "adds value" to or "augments" the communications service provided by existing carriers; this "augmented" service may include voice as well as non-voice communications. When we considered the applications of entities for certification as common carriers which did not own their transmission facilities, we recognized that certain issues were more appropriately considered in the context of a broad rulemaking proceeding such as this.[2] In addition, we had before us a complaint filed by a user group which was denied communications service because it was an intermediary for members of an industry group and as such did not meet certain tariff requirements. Finally, two carriers filed petitions for rulemaking which involved questions regarding the regulation of joint users of communications service, and the extent to which additional carriers should be certificated to provide a "value added" or "augmented" communications service.

4. The above matters all relate to the existence of provisions in the tariffs of carriers which restrict or prohibit (or provide exceptions to the prohibition of) resale and sharing of communications services and facilities. Resale is the subscription to communications services and facilities by one entity and the reoffering of communications services and facilities to the public (with or without "adding value") for profit. Sharing is a nonprofit arrangement in which several users collectively use communications services and facilities provided by a carrier, with each user paying the communications related costs associated therewith according to its pro rata usage of the communications services and facilities. The carriers have never been called upon to justify the prohibitions on resale and sharing as they exist now. It is clear, however, that the prohibitions restrict subscribers' use of their communications service, and the carriers must justify the restrictions as just and reasonable under section 201(b) of the Communications Act, and the case law based thereon. Also, the restrictions and exceptions thereto are discriminatory, and thereby unlawful if it is determined that the discrimination is unjust and unreasonable under section 202(a) of the Act. The burden of proof of establishing the justness and reasonableness of the restrictions and discrimination associated therewith is squarely on the carriers in whose tariffs the restrictions and exceptions are found.

5. Before determining the lawfulness of the tariffs, we find it helpful to look at the specific tariff provisions in issue. Although many carriers have restrictions on resale and sharing in their tariffs, we will refer to those of AT&T for our analysis. Except as noted, private line service (including DDS), MTS and WATS may not be resold by customers, due to the existence of provisions in various forms which state that the customer may not receive a payment for any use of the service, and may not transmit any communications for others. This prohibition does not apply to Other Common Carriers, who may obtain private line services from AT&T for resale to their customers. Although an MTS customer may permit a third party to use the service, it may not collect any charge from the third party in addition to the message charge set forth in the company's tariff. Moreover, AT&T generally requires that each private line customer must have a "communications requirement of his own" and a WATS customer must have a "direct interest" in the communications provided under that offering. There are exceptions to these restrictions, however. Private line service (except for Telpak) may be resold under certain circumstances by composite data service vendors (who are not considered to be "Other Common Carriers"); they may also resell WATS. Also, private line service is furnished to certain customers (identified in the tariff generally by their function, not by name) who may order the service for third party users having a specified relationship to the customer. Absent these provisions, referred to as the "single customer exceptions," the customers would not be able to order service for the third parties because of the general prohibitions on resale and sharing. With respect to Telpak, AT&T allows Western Union to participate with it in offering such service while utilizing each other's facilities. No other carrier is afforded such treatment. AT&T does allow sharing of certain private line services (voice grade and under), subject to certain restrictions. Moreover, AT&T permits the "authorized users" of a customer to communicate with the customer, but not with each other, so long as all authorized users are in the same line of business. Sharing of WATS is not permitted.

6. We have examined the foregoing tariff provisions in light of the standards set forth in sections 201(b) and 202(a) of the Act, and legal interpretations thereof, and find that existing restrictions on the sharing and resale of private line service are unjust and unreasonable and unlawfully discriminatory. Having made that determination, we view the impact on several service offerings. Telpak is a "bulk rate" tariff offering which provides a substantial economic incentive for sharing and resale, and it has characteristics distinct from other private line services. We therefore must separately consider the restrictions on sharing of Telpak and on resale of Telpak. Telpak was initially justified as a competitive response to private microwave systems, although we never held it to be the only proper response to such competition. Telpak has been made available, however, regardless of whether the customer would build its own microwave system if not allowed to take advantage of the Telpak rate discounts. Thus, Telpak has been offered on an indiscriminate basis to any customer (as AT&T defines that term) wishing to obtain the bulk discount, except customers which desire to resell or share the service. We find this discrimination to be unjust and unreasonable, and thus unlawful. Accordingly, the benefits available to Telpak customers now should be made available through resale to all customers, regardless of the size of their communications requirements. According to the policy we set forth herein, we also find no justification for limitations on Telpak sharing. We note in this regard that AT&T has from the beginning allowed certain smaller users to aggregate their needs to share the benefits of the lower Telpak rates, while denying others the same advantage for reasons not justified in this record. We have also given consideration to the economic impact and other aspects of unlimited resale and sharing of private line services to determine whether the broad restrictions which we find to be unlawful should be modified in a way which is appropriate to particular private line services. We find that there are no economic justifications for the partial retention of such restrictions, and we accordingly find unlimited resale and sharing of private line services (including those of the International Record Carriers) to be just and reasonable. However, the record does not support any change in the restrictions on MTS and WATS.

7. We find that elimination of the restrictions on unlimited resale and sharing of private line service will bring about public benefits which include:

(a) the provision of communications service at rates more closely related to costs;

(b) Better management of communications networks, and the provision of management expertise by users and intermediaries to the carriers;

(c) The avoidance of waste of communications capacity; and,

(d) The creation of additional incentives for research and development of

[2] In a similar situation, we provided for "notice and comment" procedures instead of a formal, oral hearing. See Specialized Common Carrier Inquiry, 29 F.C.C. 2d 870 (1971), aff'd sub nom. Washington Utilities and Transportation Comm. v. F.C.C., 513 F. 2d 1142 (9th Cir. 1975), cert. denied, 423 U.S. 836 (1975).

ancillary devices to be used with transmission lines.

8. We have also considered the extent to which we have jurisdiction over resale and sharing activities which exist and may reasonably be expected as a result of our decision. We find that an entity engaged in the resale of communications service is a common carrier, and is fully subject to the provisions of Title II of the Communications Act. We have considered and rejected arguments that (a) resellers are not engaged in common carriage under the Act and thus are not subject to our jurisdiction, and (b) we should exercise jurisdiction over resale entities only reasonably ancillary to our regulation of common carriers. Because sharing does not constitute the offering of a service by one entity to others for a profit, we find that entities engaged in sharing arrangements are not subject to regulation under Title II of the Act.

9. Finally, we have considered the manner in which resale carriers should be regulated under Title II of the Act, and what degree of supervision, if any, we should exercise over sharing arrangements. We find that with one exception, there is no reason to regulate a resale common carrier any differently than any other common carrier. The exception is that we find the public interest will be served by allowing open entry into the market for resale services, and thus we do not require a special showing of public need for the particular service being proposed as a condition of certification. Otherwise, we reject suggestions which would establish a "relaxed" regulation of the rates and practices of resale carriers, or which would provide for reporting requirements different from those now in our regulations. With respect to sharing, we will not at this time establish any regulations for sharing arrangements, be they through an intermediary or through joint use. Thus, we reject suggestions that sharing should be limited according to the number of sharers or the amount of costs allocated to sharers in addition to the transmission costs. However, we do find inconsistent with non-profit sharing the allocation of a management fee to the sharers, unless the management is accomplished on a non-profit basis. We recognize that we may be called upon to resolve, on a case-by-case basis, issues as to whether sharing arrangements are in fact characterized by common carrier resale. It is our view at this time, however, that an absence of regulations and reporting requirements is preferable to the imposition of strict regulations (which still would probably not eliminate the need for case-by-case resolution of complaints). Although we do not adopt any regulations of reporting requirements at this time, we believe that we have jurisdiction over sharing arrangements to take whatever action may appear to be reasonably ancillary to our regulation of communications common carriers.

9a. It is crucial at the outset to understand exactly what our decision today does and does not do. AT&T presently allows entities to resell and share its facilities and services. This has been done voluntarily by AT&T since at least the 1920's. Probably the largest reseller of AT&T's facilities is Western Union. Pursuant to voluntarily entered-into agreements, Western Union can lease supergroups, intercity facilities and intracity facilities from AT&T.[2a] Further, AT&T voluntarily allows certain groups to purchase communications services and share the services among their members. Thus, AT&T has itself decided who should receive such status and who should not. What our decision does is simply to require AT&T to treat all of its customers alike unless valid reasons exist to the contrary. Such a requirement is mandated by the Communications Act.

BACKGROUND

A. PURPOSE OF THIS PROCEEDING.

10. This proceeding developed as a result of several factors. First, a number of entities have expressed an interest in providing an "augmented" or "value-added" communications service. As we stated in the Notice (Paragraph 3):

> This interest has been spurred by the public's burgeoning demand for fast, efficient and low cost acess to information in convenient format and the concomitant development of innovative communications technology to meet that demand.

Both the Specialized Common Carrier Inquiry and the Computer Inquiry[3] manifested the existence of a substantially untapped, growing public need for non-voice communications. We stated in the Notice (paragraph 3) that the entities other than the established carriers which originate technological advancements may not be in a position to construct facilities, due to regulatory, procedural and economic limitations, and that:

> Public enjoyment of state-of-the-art communications technology and full utilization of existing capacity may thus require that independent enterprises devoted to marketing, retailing, brokerage and related functions be given a greater role in the communications industry.

We also observed that this would be a departure from the tradition in the communications industry where carriers owning and operating transmission facilities generally supply a complete communications service directly to the ultimate user.

11. The interest expressed by entities in providing an "augmented" or "value-added" communications service extended to voice as well as non-voice communications. This interest had been recognized by the Commission in Docket No. 17457, the Telpak Sharing Case.[4] After the close of the record in that proceeding, the American Telephone and Telegraph Company (AT&T) instituted "single customer" features in its private line tariff[5] for certain user groups having substantial need for a coordinated communications network connecting members of the group. In conferring single customer status upon a user group, AT&T allowed an intermediary entity to subscribe to sufficient private line service so as to enable the intermediary to provide the coordinated communications network desired by the user group. For example, the airlines were accorded single customer status by AT&T with Aeronautical Radio, Inc. (ARINC) as their intermediary.[6] We first recognized the airlines' need for a coordinated private line network and the appropriateness of ARINC's role as an intermediary between AT&T and the airlines in 1937.[7] Moreover, in the Telpak Sharing Case we noted that the communications services supplied by ARINC, as an intermediary, were superior to the communications services supplied directly to the airlines under the Telpak sharing provisions:

> Under the single customer concept in Telpak, ARINC as the customer, could order the appropriate Telpak configurations and circuitry and then assign circuits to the airlines as their needs required. This is the same role that ARINC could perform as the single licensee of a private microwave system. On the other hand the testimony was that shared Telpak is not comparable to either such single licensee private microwave or Telpak with a single customer feature, in *terms of efficiency* and *flexibility*. (Emphasis added.)[8]

In creating the single customer provisions, AT&T in effect recognized the importance of an intermediary's role in providing a user group with a coordinated communications network. Subsequent requests to AT&T by other user groups seeking single customer status have suggested to the Commission that there is an increasing demand for voice communications services provided by an intermediary between the user group and the carriers owning and operating transmission facilities.

12. This proceeding was further precipitated by three pending matters, all raising the same basic question (para. 1, supra) in one form or another. (a) a complaint filed by American Trucking Associations, Inc. (the Truckers) against AT&T for the latter's refusal to provide the Truckers with single customer status (Docket 19746)[9]; (b) a

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[2a] See Bell System Tariff Offerings 46 FCC 2d 413 (1974), aff'd sub nom. Bell Telephone Co. of Pa. v. F.C.C., 502 F. 2d 1250 (3d Cir. 1974), cert. denied, AT&T v. F.C.C., 422 U.S. 1026 (1975).

[3] Docket No. 16979, Tentative Decision, 28 F.C.C. 2d 291 (1970), aff'd, Final Decision and Order, 28 F.C.C. 2d 267 (1971), aff'd in part and revs'd in part sub nom. GTE Service Corporation v. F.C.C., 474 F. 2d 724 (2d Cir. 1973).

[4] 23 F.C.C. 2d 606 (1970), aff'd in part and reversed in part sub nom. *A.T.&T.* v. *F.C.C.*, 449 F. 2d 439 (2d Cir. 1971).

[5] AT&T Tariff F.C.C. No. 260, § 2.2.1.

[6] AT&T Tariff F.C.C. No. 260, § 2.2.1(G).

[7] *Aeronautical Radio, Inc.* v. *A.T.&T.*, 4 F.C.C. 155 (1937).

[8] 23 F.C.C. 2d at 610.

[9] *American Trucking Ass'n., Inc.* v. *A.T.&T.* 41 F.C.C. 2d 2 (1973).

petition for rulemaking (RM–1997) filed by Micowave Communications, Inc. (MCI) on June 13, 1972, which requested that we adopt procedures for monitoring private line-sharing arrangements to insure that line-sharing is on a cost-sharing, non-profit basis; and (c) a petition for rulemaking (RM–2218) filed by Western Union Telegraph Co. (Western Union) which requested a proceeding, analogous to the Specialized Common Carrier Inquiry, in which we would resolve certain public interest questions prior to granting Section 214 authorization to any further resale entities. In RM–2218, Western Union specifically urged the Commission to consider the public need for services provided in a resale manner and the competitive impact of resale on established carriers. These questions were presented by Western Union in the context of five issues (see Appendix A). Also leading to this proceeding was the fact that we had already certified three resale entities under Section 214 of the Act as common carriers. We stated in granting those applications that we would later resolve certain matters which we herein consider. See Packet Communications, Inc., 43 F.C.C. 2d 922 (1973); Graphnet Systems Inc., 44 F.C.C. 2d 800 (1974); Telenet Communications Corp., 46 F.C.C. 2d 680 (1974).

13. The basic question in this proceeding, set forth in paragraph 1, supra, can be divided into two separate and distinct questions. First, what constraints may carriers owning and operating transmission facilities lawfully impose upon the use which customers make of the service provided by these carriers? The answer to this question depends not only upon an analysis of legal precedents but also upon economic and policy considerations today in light of the growing demand for specialized, customized services and the technological developments in the communications field. Second, if particular service offerings should be made available for further resale and shared use, to what extent should the Commission regulate new resale operations and shared use arrangements? In the Notice (paragraph 26), we expressed the view that resale regulation issues were as significant as issues relating to the availability of facilites for resale or shared use purposes. We undertook to resolve both the question of the availability of services for resale or shared use and the question of the Commission's regulatory approach in one broad rulemaking proceeding. As we stated in the Notice (paragraph 4):

> The nature of the issues that must be considered, their complexity, their basic impact on the overall structure of the industry, the number and diversity of parties interested in the issues as well as the expedition with which they must be resolved compels the conclusion that the fulfillment of our regulatory mandate requires that the questions that have been raised in the context of various discrete matters before us be considered in a broad rulemaking proceeding.

B. THE ISSUES TO BE RESOLVED

14. Having as our purpose the resolution of broad policy issues relating to the availability of communications services and facilities from established carriers, and also the Commission's regulatory approach to resale operations and sharing arrangements, we set forth twelve Items of Inquiry in the Notice (paragraph 31) to be considered in Docket 20097 (see Appendix B). Items of Inquiry 1 through 10 focused on the availability of communications services and facilities from established carriers, while Items of Inquiry 11 and 12 addressed the Commission's appropriate regulatory approach to resale operations and sharing arrangements. More specifically, Items of Inquiry 1 through 3 focused on the availability of private line services offered by Western Union and AT&T for resale. Briefly, interested parties were requested to comment on the following issues:

(a) Justification for current tariff restrictions on resale of private line services offered by AT&T and Western Union;

(b) The effect upon (a) AT&T and Western Union (b) other segments of the communications industry and (c) communications users if all tariff provisions restricting private line resale of AT&T's and Western Union's offerings were to be eliminated; and

(c) Proposed alternatives to current tariff restrictions on private line resale of either carrier's offerings and the justifications for these proposed alternatives.

Item of Inquiry 4 presented the above issues with respect to resale of other services offered by AT&T and Western Union and services offered by other common carriers. Items of Inquiry 5 through 8 focused on issues concerning shared use of communications services and facilities. Briefly, these Items of Inquiry requested interested parties to consider two broad issues:

(a) The lawfulness under sections 201 and 202 of the Communications Act of present tariff provisions dealing with shared use of communications services and facilities; and

(b) A determination of the extent to which sharing arrangements would still be useful and desirable in the event that we allow more resale of communications services and facilities than is now permitted.

Items of Inquiry 9 and 10 invited interested parties to address the issues whether the single customer provisions contained in AT&T's and Western Union's private line tariffs were unlawfully discriminatory and, if so, what remedial measures should be taken to eliminate the discrimination. Finally, Items of Inquiry 11 and 12 solicited comments from interested parties on the second distinct question in Docket 20097, the Commission's proper regulatory approach to resale operations and sharing arrangements. Item of Inquiry 11 focused on the Commission's regulation of sharing arrangements, and Item of Inquiry 12 focused on the Commission's regulation of resale operations.

15. As we stated in paragraph 12, supra, Western Union urged that we consider five issues in RH–2218. Of these five issues, we stated in the Notice (paragraph 29) that three were implicitly within the scope of Docket 20097 and that their resolution was required prior to the establishment of general policies with regard to the resale of common carrier services and facilities. Briefly, Western Union requested that we consider whether the public interest would be served by allowing resellers to compete with specialized and general purpose carriers; whether resale-type services in competition with "essential primary services" offered by general purpose carriers would be in the public interest; and whether resale primarily of AT&T services will promote or restrict competition. With respect to the two remaining issues raised by Western Union, we stated that no resolution probably could be made in Docket 20097 in view of the diversity of existing and foreseeable resale services. Notice (paragraph 30). Nevertheless, we invited interested parties to comment on these issues.

16. Representative positions taken by the parties will be discussed in more detail as we consider the issues. At this point, we will briefly summarize the parties' principal positions. The telephone companies [10] are generally opposed to removal of any resale and shared use restrictions except at their own discretion on an ad hoc basis. Moreover, they take the position that any resale should be subject to the full panoply of regulation under Title II of the Communications Act. The International Record Carriers [11] also advocate continuance of present resale and shared use restrictions. Also, they advocate that resale and sharing both be regulated under Title II. Western Union and the specialized carriers are unopposed to "value-added" resale provided that such resale operations are subject to Title II. Western Union urges the Commission to apply the primary purpose test developed in the Computer Inquiry, supra, to non-computer processing operations such as businesses which arrange for the procurement and communication of permits, documents and money orders for the trucking industry. Under the primary purpose test, if we found these businesses to be primarily offering a communications service, Western Union would advocate Title II regulation. Western Union opposes any resale of "non-cost justified bulk discounts"; the specialized carriers merely oppose resale of Telpak by brokers, or "non-value-added" resellers. One certificated resale entity, Telenet Communications Corporation (Telenet), also advocates limiting resale to "value-added" services, but the other two certificated resale entities, Graphnet Systems, Inc. (Graphnet) and Packet Communications, Inc. (PCI), take no position on the Commission's entry control over resale. Telenet, Graphnet, and PCI all

[10] The telephone companies who submitted comments are AT&T, GTE Service Corporation (GTE), and United Systems Service, Inc. (USS).

[11] The International Record Carriers who submitted comments are RCA Global Communications, Inc. (RCA Globcom) and ITT World Communications, Inc. (ITT Worldcom).

advocate loose Title II regulation. Telenet urges close regulation of shared use arrangements in order to insure that no covert resale operations take place. Telenet also favors resale and shared use of international record carrier services. The Office of Telecommunications Policy (OTP) is the principal advocate of unlimited resale and shared use. More specifically, OTP advocates complete availability of communications services and facilities for resale and shared use and, in addition, complete regulatory forbearance by the Commission over resale operations and shared use arrangements. OTP's position is supported by the Department of Justice (DOJ), several user groups and Tymshare, Inc. User groups such as the press interests [12] generally advocate wider availability of communications services and facilities for resale and shared use. With respect to the single customer provisions in AT&T's and Western Union's private line tariffs, there are three basic positions taken by the parties. The telephone companies and the user groups which have been granted single customer status by AT&T argue that these provisions are not unlawfully discriminatory. Other user groups such as the Truckers argue that these provisions are unlawfully discriminatory and that the appropriate remedy is selective expansion of single customer status to certain other user groups. Finally, Datran and Telenet contend that the single customer provisions are unlawfully discriminatory, but that the remedy is elimination of these provisions rather than selective expansion.

C. DEFINITION AND DESCRIPTION OF RESALE AND SHARING

17. Before we proceed with consideration of the foregoing issues, it is helpful to define "resale" and "sharing" as they are used herein, and to briefly describe resale and sharing activities. We define resale to be an activity wherein one entity subscribes to the communications services and facilities of another entity and then reoffers communications service and facilities to the public (with or without "adding value") for profit. Carriers owning transmission facilities from whom resale entities obtain communications service shall be referred to as underlying carriers.[13] Foremost among the underlying carriers are the telephone companies, simply because of the size of their collective communications plant. Some underlying carriers, most notably Western Union, also make "resale" offerings of communications services consisting of facilities which they lease from underlying carriers.

18. Although some parties submitting comments in Docket No. 20097 recognize that some public benefits may result from a policy allowing the resale of communications services, they nevertheless oppose such a policy on the grounds that it will have a significant adverse economic impact on the communications industry and the public. If resale is to be permitted, these parties argue, the Commission should permit resale only when the reseller "adds value" to the existing service.[14] We do not believe that there is an objective, usable standard to distinguish "value-added" from "non-value-added" services. Clearly, there are some forms of resale which are "value added",[15] but we believe that the term "value-added" has limited descriptive utility and, for reasons stated subsequently in this Report and Order, we have attached no regulatory significance to the term. Nevertheless we will continue at times to use the term because, as we have noted, some forms of resale have traditionally been referred to as "value-added."

19. Rather than divide resale into "value-added" and "non-value-added," we believe that resale activity can be categorized into two reasonably distinct forms—brokerage and processing. Both broker and processor deal directly with the underlying carrier,[16] but then utilize the communications services to which they have subscribed in different manners. The broker never physically controls the utilization of a communications facility or service provided by the underlying carrier. The broker merely acts as an intermediary between the underlying carrier and an end user, who ultimately controls the utilization of the communications facility or service subscribed to by the broker. The broker thus functions exclusively as a middleman, uniting the underlying carrier and the end user through an intermediary under terms of price and delivery which presumably will be sufficiently favorable to the end user to warrant payment of a brokerage fee. Thus, the end user is the broker's customer, just as the broker is the customer of the underlying carrier. Clearly, an important environment in which brokerage activity would thrive is one where underlying carriers make available bulk discounted services such as AT&T's Telpak offering. The broker could aggregate the demands of end users with communication needs insufficient to justify subscription to Telpak, subscribe to Telpak, and resell to the end users at rates below private line rates but above the Telpak rates. Another environment in which brokerage might thrive is where the underlying carrier offers a private line service, but conditions that offering on subscription to that service for a minimum time period. In fact, most carriers place such a precondition on subscription to any private line service. Brokers might profitably resell such private line offerings to a group of end users, each with a communications requirement for the private line service but a requirement for less than the minimum time period at which the underlying carrier makes the offering.[17]

20. Unlike the broker, the resale processor retains continuous control over the utilization of services and facilities furnished by the underlying carriers. The fundamental offering of the communications carrier is supplemented by other facilities or services, and the resulting package, which includes a resold communications service, is offered to the public. One such supplemental facility is the computer. In the Computer Inquiry, supra note 3, we defined the various supplemental services that computers in combination with private lines could provide to the using public. We based our jurisdictional position on these supplemental services offered via computers on the type of supplemental service that was provided by the computer. If the computer merely controlled the transmission of messages between two or more points, leaving the message content "unaltered", we denoted this supplemental service as "message switching." [18] Moreover, we combination with private lines was a communications common carrier service subject to Title II of the Communications Act.[19] On the other hand, we re-

[12] The press interests include the American Newspaper Publishers Association (ANPA), The Associated Press (AP), Commodity News Services, Inc. (CNS), United Press International, Inc. (UPI), and Dow Jones.

[13] The underlying carrier may supply the basic communications service via facilities which it owns or a mixture of owned and leased facilities.

[14] The three certificated resale carriers all proposed service which "added value" to the basic communications service obtained from the underlying carriers. PCI, for example, proposed to lease wideband interexchange lines from the underlying carriers to be utilized in the offering of nationwide computer-switched communications networks for the transmission of non-voice information. Graphnet planned to obtain communications facilities from other common carriers, including message toll service (MTS), to establish a nationwide computerized packet switched store-and-forward facsimile communications system. Telenet planned to establish central office facilities containing Interface Message Processors (IMPs) or Terminal Interface Processors or Satellite IMPs to which customer computers and terminals could be connected by means of high speed transmission facilities which Telenet would lease from underlying carriers.

[15] But this status is not static. We consider Graphnet and Telenet to be presently offering "value-added" resale services, but if the underlying carrier decides to supplement its basic service with technologies similar to Graphnet and Telenet, the latter resale services would lose their "value-added" character. Thus, if we conditioned entry on a "value added" showing, the underlying carriers would be in a position to eliminate competition simply by their decision to offer a particular service.

[16] However, there may be instances where the processor deals only with the broker, or vice-versa.

[17] Brokerage activity exemplifies another problem which we have with the term "value-added." Clearly, within certain environments created by the underlying carriers, brokers will find markets for their services. Thus, one can argue that if any end user is willing to purchase service from the broker, the broker has "added-value" to the underlying carrier's communication services.

[18] 47 C.F.R. 64.702(2).

[19] Final Decision and Order, 28 F.C.C. 2d at 278.

concluded that message-switching in alized that computers can do more than control the transmission of messages between two or more points. Therefore, we defined a supplemental service, "data processing," and gave some illustrative examples of message content alteration which would constitute data processing. Specifically, we stated that data processing is the use of a computer for processing of information and processing involves use of the computer for operations which include "storing, retrieving, sorting, merging and calculating data, according to programmed instructions." [20] We then defined a supplemental service, "Remote Access Data Processing Service," as a data processing offering:

wherein communications facilities, linking a central computer to remote customer terminals, provide a vehicle for the transmission of data between such computer and customer terminals.[21]

We expressly declined to assert our jurisdiction over the offering of a data processing service.[22] We also recognized that a supplemental service could combine computers with private lines in order to provide both message-switching and data-processing. When such a supplemental service was offered, we decided to assert Title II jurisdiction if the data processing service was merely incidental to the message switching, and declined to assert any jurisdiction if the message switching service was merely incidental to the data processing service.[23] The former supplemental service was denoted as a hybrid communications service [24] while the latter was denoted as a hybrid data processing service.[25] In summary, we saw the computer resale operator as offering any of four supplemental services in conjunction with leased private lines:

a. Message switching (subject to Title II).

b. Hybrid communications (subject to Title II).

c. Hybrid data processing (not subject to Title II).

d. Remote access data processing (not subject to Title II).

21. Beyond the supplemental services which can be offered by the combination of computers with private lines is a family of applications based upon the resale of lower bandwidth (or lower data speed) circuits which the processor has derived, by the use of multiplexer equipment, from higher bandwidth (or higher data speed) circuits which have been leased from an underlying carrier.[26] This type of resale operation could only thrive in an environment where the underlying carrier's private line rate levels are internally inconsistent so that the cost to the reseller of providing the derived subchannels would be somewhat less than the tariffed rates of the underlying carrier for providing discrete channels of the same bandwidth. Other resale operations involving technological supplemental services include packet switching [27] and facsimile communications. Facsimile communications networks, utilizing telecopiers and MTS, involve network organizers who provide agents with directories containing the location and telephone number of all other outlets. The agent makes a public offering to send communications in facsimile form to any other network location and charges each customer a fee in addition to the MTS charge. The fee is split between agent and organizer. Finally, we made reference in the Notice (paragraph 11) to a number of services providing a mixture of communications and non-computer processing, such as services which arrange for the procurement and communication of permits, documents and money orders for the trucking industry.

22. The resale processor differs from the broker not only because it physically controls the underlying carrier's services and facilities, but also because it may incur substantial costs to engage in operation. To offer a multiplex type of resale operation, the processor would have to incur costs (in addition to those related to the leasing of the underlying carrier's lines) for multiplex equipment, office space, marketing, and maintenance. In addition to the costs resulting from the leasing of transmission plant, message and packet switching operators must also incur, inter alia, lease or purchase costs for computer hardware, start-up costs for software development and network engineering, and recurring costs and expenses due to maintenance, marketing, and general and administrative expenses. The operators of hybrid communications or processing services basically incur the same costs as do the message switching and packet switching operators. The remote access data processor also encounters similar costs.

23. As we define the term here, "sharing" is a non-profit arrangement in which several users, perhaps having no community of interest other than to communicate between the same two geographic points or to communicate with each other, collectively use communications services and facilities obtained from an underlying carrier or a resale carrier, with each user paying the communications-related costs associated with subscription to and collective use of the communications services and facilities according to its pro rata usage of such communications services and facilities. As we pointed out in the Notice (paragraph 9), sharing arrangements in respect to private line services can vary from the simple cooperative use of one channel between two points on an alternate time basis, to the provision of discrete sub-channels derived from a voice grade channel,[28] up to complex networks which the sharing participants may access at a number of points and which may be conditioned for the carriage of communications of a specialized nature. Generally, there are no technological barriers to sharing point-to-point private line channels (telegraph speed, voice grade, or wideband; analog or digital).

24. As we also stated in the Notice (paragraph 19), the principal advantage of non-profit sharing arrangements is economic—both the subscriber and its designated sharers enjoy communications capacity at a lower cost than if each were being supplied separately by the carrier. For example, AT&T's private line services are generally available in discrete quantities of bandwidth and on a full time basis. A subscriber may not have a communications need for the full amount of bandwidth supplied by the underlying carrier and may not have a need to utilize the private line service on a full-time basis. Therein lie two economic incentives for the subscriber to find other users who also require private line service between the same two points as does the subscriber. A private line sharing arrangement will allow each subscriber to reduce its cost of subscribing to private line service.

25. Realistically, the type of sharing arrangement denoted as "joint use" by AT&T's private line tariff [29] may prove to be impractical because of the administrative burdens thrust upon the subscriber. It must first find other users with similar communications needs, and then act as coordinator of the sharing arrangement. Finally, if its own communications needs change—that is, if it either needs the private line for longer periods or needs to utilize a greater portion of the channel bandwidth—its needs may come into conflict with the needs of the other sharing participants, thereby possibly ending the sharing arrangement. We reasonably expect that sharing through an intermediary entity may in some circumstances eliminate these problems. For example, a user group having a substantial need to communicate among members may form an intermediary entity which is collectively owned by some or all members of the user group. The intermediary would subscribe to carriers' services, and in turn furnish these services to the user group

[20] 47 CFR 64.702(a)(1).
[21] 47 CFR 64.702(a)(4).
[22] Tentative Decision, 28 F.C.C. 2d at 298, aff'd, Final Decision and Order, 28 F.C.C. 2d at 278.
[23] Tentative Decision, 28 F.C.C. 2d at 305, aff'd, Final Decision and Order, 28 F.C.C. 2d at 278.
[24] 47 CFR 702.5(i).
[25] 47 CFR 702.5(ii).

[26] Because in many instances the underlying carrier will offer channels of the same bandwidth as the derived channels, the multiplexing operation is clearly not value-added. But this does not invalidate our basic position that it would be exceedingly difficult, if not impossible, to draw a line between "value-added" and "non-value-added" resale.
[27] PCI and Graphnet are examples (see note 14, supra).

[28] Even wideband channels may be subdivided into channels of lesser bandwidth such as voice grade channels. Technically, an analog channel can be subdivided by a frequency division multiplexer and a digital channel can be subdivided by a time division multiplexer into a number of digital channels of lesser data rate.
[29] AT&T Tariff F.C.C. No. 260, Section 3.1.5.

so that they may satisfy their needs to communicate among members. As a result, the intermediary might have no communications requirement of its own for the services to which it subscribes. This form of sharing presently accommodates the needs of a select few user groups such as the airlines, the electric utilities and the stock exchanges.[30]

26. It is important to recognize here, as we discuss in paragraphs 120–129, infra, that there is a potential for profit in any sharing arrangement. Under Section 3.1.5 of AT&T Tariff F.C.C. No. 260, joint users are billed directly by AT&T for line costs based on their pro rata usage of the private line. The subscriber (denoted as a "customer" in AT&T's private line tariff) also is charged for a portion of the line costs corresponding to its pro rata usage of the line, presumably including an element for unused line capacity. AT&T permits the customer to determine the pro rata usage of the customer and joint users. As Telenet notes, this represents the first opportunity for a customer to derive a profit from a joint use arrangement. Also, in the typical joint use arrangement the subscriber may charge each joint user for any administrative expenses which the subscriber may incur in managing the joint use arrangement. While this so-called "management fee" purports to reimburse the subscriber for its administrative expenses, there is an inherent potential for some subscribers to include an element of profit in the management fee. And when the subscriber adds to the private line certain ancillary equipment, software, or other enhancing features, there are additional inherent potentials for profit by the subscriber. If the subscriber owns the ancillary equipment it can charge each joint user a monthly rental fee, which includes an element for monthly maintenance of the equipment and an element representing the monthly depreciation rates on the equipment. Both elements provide the subscriber with the potential for including an element of profit in its rental fee.

LAWFULNESS OF TARIFF PROVISIONS

A. TARIFF DESCRIPTIONS

27. Before we look to the legal principles applicable to restrictions on resale and sharing, it is appropriate to describe the specific tariff provisions in question. These tariff provisions restricting resale and sharing of common carrier services and facilities are found in virtually all tariffs filed by underlying carriers, although there is some variation in the degree to which individual carriers restrict resale and sharing of their communications services and facilities. The AT&T tariffs govern the offering of all Bell companies and are concurred in by GTE telephone companies. Although subsequent discussion will primarily focus on AT&T's tariff restrictions, we will reach conclusions of law applicable to tariff restrictions imposed by all underlying carriers. Because AT&T is the principal supplier of communications services and facilities, its tariff language is often adopted by other underlying carriers. For this reason, we believe that reference to AT&T's tariffs will prove adequate for an analysis of the lawfulness of all carrier tariffs restricting resale and sharing.

28. With certain exceptions, AT&T's interstate tariffs forbid its customers from reselling communications services and sending third party traffic. As stated in Section 2.2.3 of AT&T Tariff F.C.C. No. 260:

> Private line service shall not be used for any purpose for which a payment or other compensation shall be received by • • • the customer • • • or in the collection, transmission or delivery of any communications for others.

Similar language is found in Section 2.2.5 of AT&T Tariff F.C.C. No. 267, governing DDS offerings. General resale prohibitions are also found in the tariffs for MTS and WATS, which constitute the basic message switched services offered by AT&T over the national telephone network. At Section 2.2.1 of AT&T Tariff F.C.C. No. 259, governing the WATS offering, it is stated that:

> • • • service • • • shall not be used for any purpose for which a payment or other compensation shall be received • • • for such use, or in the collection, transmission or delivery of any communications for others.

Finally, while third party traffic on MTS is permitted, the customer may not derive a profit therefrom:

> The service is provided for use by the customer and may be used by others, when so authorized, by the customer, providing that such use shall not be made subject to any charge by the customer in addition to the message charges of the Telephone Company as set forth in this tariff.[31]

Because these tariff provisions are couched in terms such as "payment" and "compensation" rather than "profit," they may be viewed as general prohibitions on all intermediary activity involving AT&T communications services and facilities with the exception of MTS. This, in effect, is how AT&T construes the above tariff provisions. In the course of this proceeding, AT&T defined resale, by reference to paragraph 15 of the Notice, as the provision of communications services and facilities to an intermediary who then reoffers the services and facilities to the public, irrespective of whether the offering is made at cost or at cost plus profit. (See AT&T's Comments at 4–5.) Thus, AT&T's tariffs with certain exceptions prohibit all intermediary activity, whether it be resale or an intermediary sharing arrangement.

29. In addition to the specific prohibitions on intermediary activity, other tariff provisions effectively prevent resale and intermediary sharing arrangements. For instance, in order to obtain communication service from AT&T, a potential user must have "a communications requirement of his own for [the] use" of private line services.[32] WATS is provided only for communications in which the customer has a "direct interest".[33] The term "communications requirement" is nowhere defined in either AT&T's private line or DDS tariffs. But the general prohibition against intermediary activity allows one to conclude that, with few exceptions (contained in the so-called single customer provisions subsequently described), the term does not mean a requirement to transmit messages for others who have the only interest in the content of the message being transmitted. With respect to WATS, the Commission has interpreted the "direct interest" prerequisite to WATS customer status to mean that *"each WATS customer must have an interest in the content of each of the communications made over the WATS line and not merely in the amount of the charges therefor." Associated Students of the University of Arizona (ASUA) v. American Telephone & Telegraph Co.*, 43 F.C.C. 2d 197, 198 (1973) (emphasis in original). Thus, even without express prohibitions on intermediary activity within AT&T's private line and WATS tariffs, intermediaries would still be unable to subscribe to these services since they would lack the necessary "communications requirement" for private line service and the "direct interest" prerequisite to status as a WATS customer.

30. The existing restrictions on resale and sharing generally do not apply to Other Common Carriers (OCCs), which are defined in AT&T Tariff F.C.C. No. 266, Section 2.6 as "Specialized Common Carriers, Domestic and International Record Carriers and Domestic Satellite Carriers engaged in providing such private line voice, data or video service as such carrier may be authorized by the Federal Communications Commission to provide." As part of the settlement in Docket No. 20099, AT&T agreed to file tariffs offering OCCs (a) voice grade facilities, (b) voice grade data facilities, (c) audio facilities, (d) 50 kbps data facilities, (e) 50 kbps data alternate voice grade facilities, (f) wire pair facilities, (g) medium speed digital facilities, (h) voice grade connecting facilities, (i) voice grade data connecting facilities, (j) video facilities, (k) reserve complements, and (m) telegraph grade facilities within the international gateway cities. See A.T. & T., 52 F.C.C. 2d 727 (1975). Although the private line service is provided under a tariff other than Tariffs 260 and 267, the OCCs have the option of obtaining from AT&T various types of intercity facilities (including FX and CCSA) to remote areas, rather than constructing these facilities them-

[30] Sharing through an intermediary entity is presently allowed only if AT&T or Western Union accords the user group "single customer" status. See AT&T Tariff F.C.C. No. 260, Section 2.2.1; Western Union Tariff F.C.C. No. 254, Section 2.2.1. The single customer provisions will be more fully discussed in Appendix E.

[31] AT&T Tariff F.C.C. No. 263, section 2.2.1.

[32] AT&T Tariff F.C.C. No. 260, section 2.5; AT&T Tariff F.C.C. No. 267, section 2.2.5(a).

[33] AT&T Tariff F.C.C. No. 259, section 2.2.1.

selves. We stated in accepting the settlement agreement that before we granted an OCC a section 214 authorization to construct facilities, we will consider whether it is in the public interest for the OCC to acquire such facilities from AT&T instead. We do not expect that our action in this proceeding will abrogate the settlement reached in Docket No. 20099.

31. However, there are exceptions to the resale and sharing prohibitions contained in AT&T's tariffs. These include the so-called single customer provisions which are contained in AT&T Tariff F.C.C. No. 260,[34] and which will subsequently be discussed at greater length. For now, we merely observe that these provisions allow both resale and intermediary sharing arrangements. Some single customer provisions permit certain entities, which otherwise would not qualify as customers, to order private line service for third party users having a specified relationship to the single customer entities. For example, organized stock or commodity exchanges may order service:

> for the transmission of communications to or from an exchange member located on the floor of such exchange and relating directly to the business of the member.[35]

Other single customer provisions expressly permit resale of private line service by the so-called composite data service vendors (CDSV's) and the United States Postal Service.[36] The latter can only resell private line service in the provision of Facsimile Mail Service. CDSV's are defined as entities which have been certificated under Section 214 by the Commission to perform data switching for others.[37] Under AT&T Tariff F.C.C. No. 260, CDSVs can resell any private line service except Series 5000 (Telpak).[38] CDSVs are also allowed to resell all private line DDS offerings[39] and all WATS offerings.[40] However, CDSV resale under AT&T Tariff F.C.C. No. 260 is constrained by the requirement that communications be "to or from the customers" (i.e., the CDSV).[41] There are other limited exceptions to the prohibition on resale on WATS.[42]

32. Finally, AT&T allows limited sharing of its private line services. As we observed in the Notice (paragraph 8) AT&T generally permits joint use under AT&T Tariff F.C.C. No. 260 for Series 1000, 2000 3000 and 4000 services[43]. In order to establish a joint use arrangement, a customer designates persons, firms or corporations to be joint users of the customer's private line service [44] and requests that a carrier arrange its private line service for joint use.[45] The customer is also the only party from whom the carrier will accept orders involving rearrangement, release or discontinuance of service [46]. Intercity channel charges are allocated among the customer and joint users on the basis of percentage use of the private line service as determined by the customer, not the carrier [47]. Certain additional monthly charges are assessed for each private line service arranged for joint use [48]. Each joint user as well as the customer is billed directly by the carrier.[49] FX service and service furnished in connection with CCSA may not be jointly used.[50] Series 6000 through 8000 services may not be jointly used, and only one derived voice grade channel under Telpak may be jointly used.[51] Additionally, CDSVs may not simultaneously provide message-switching services and engage in joint use arrangements over the same private line service.[52] The DDS tariff permits line sharing of all DDS private line service.[53] Unlike joint use arrangements under Tariff F.C.C. No. 260, only the customer is directly billed by the carrier.[54] Again, CDSVs may not simultaneously provide message switching service and line sharing over the same DDS private line service.[55]

33. Another form of sharing permitted by AT&T is the authorized use arrangement. Whereas joint use generally benefits persons or entities having a need to communicate between the same two points, authorized use benefits persons or entities geographically separated and with a need to communicate with each other. For example, AP engages in this form of sharing because of its need to receive from and disseminate news to its regional members. As set forth in AT&T Tariff F.C.C. No. 260, private line service may be used:

> [for] the transmission, to all stations simultaneously, of communications which relate directly to matters of common interest to the customer and the authorized users when those connected to the service are all in the same general line of business.[56]

However, all communications must be "to or from the customer." [57] An "authorized user" is simply defined as a person, firm, or corporation "authorized by a customer or joint user to be connected to its service.[58] Thus, subscribers, each with an office in city A and each in need of communication with another person, firm or corporation in city B, can jointly use voice grade and under private line service to communicate with their respective authorized users.[59] To this extent, joint use and authorized use arrangements overlap.

B. APPLICABLE LEGAL STANDARDS

34. As we stated in the Notice (paragraph 16), one of the principal issues to be resolved in this proceeding is whether tariff provisions restricting resale and shared use of common carrier services and facilities are just and reasonable under section 201(b) and not unjustly or unreasonably discriminatory under section 202(a). Section 201(b) provides that:

> All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification or regulation that is unjust or unreasonable is hereby declared to be unlawful • • •

Section 202(a) makes it unlawful:

> for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service • • •

Section 202(a) focuses on the justness and reasonableness of relationships between different charges, practices, classifications and regulations for or in connection with like communication service, whereas the focus of section 201(b) is on the justness and reasonableness of specific charges, practices, classifications or regulations.

35. Because of tariff provisions restricting resale or sharing of communications services and facilities are specific restrictions imposed on the subscriber's use of these services and facilities, these tariff provisions are practices, classifications and regulations subject to section 201(b). As heretofore noted, section 201 (b) declares unjust or unreasonable practices, classifications and regulations to be unlawful. Thus, we must examine the carrier tariff restrictions or resale and sharing with the objective being to decide if these restrictions are unjust or unreasonable, and thus unlawful. In the past, questions have arisen as to the law-

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[34] AT&T Tariff F.C.C. No. 260, sections 2.2.1 (C)–(J).
[35] Id. at section 2.2.1(E).
[36] Id. at sections 2.2.1 (H) and (J).
[37] Id. at section 2.5.
[38] Id. at section 3.2.5(A).
[39] AT&T Tariff F.C.C. No. 267, section 2.2.5 (A).
[40] AT&T Tariff F.C.C. No. 259, section 2.2.1 (C).
[41] AT&T Tariff F.C.C. No. 260, sections 2.2.1 (A), (J). There appears to be no similar restrictions on CDSVs under the DDS tariff.
[42] AT&T Tariff F.C.C. No. 259, section 2.2.1 (A) and (B).
[43] AT&T Tariff F.C.C. No. 260, section 3.1.5 (A).
[44] *Id.* at section 2.5.
[45] *Id.* at section 3.1.5(A)(3).
[46] *Id.*
[47] *Id.* at section 3.1.5(A)(5).
[48] *Id.*
[49] *Id.* at section 3.1.5(A)(4).
[50] *Id.* at section 3.1.5(A)(1)(a), (b).
[51] *Id.* at section 3.1.5(A)(1).
[52] *Id.* at section 3.1.5(A)(1)(C).
[53] AT&T Tariff F.C.C. No. 267, section 2.2.5 (B).
[54] *Id.* at section 2.2.5(B)(4).
[55] *Id.* at section 2.2.5(B)(2).
[56] *Id.* at section 2.2.5(B)
[57] *Id.* at section 2.2.1(A). Although Section T.2.1(B) does not expressly reference section 2.2.1(A), AT&T acknowledges that the former section governing authorized use is subject to the "to and from the customer" requirement in section 2.2.1(A). See AT&T's Reply Comments at 9.
[58] *Id.* at section 2.5.
[59] The customer designates the joint users who need not be in the same general line of business as the customer. However, the joint users then may choose as authorized users only those entities in the same general line of business. Finally, the customer and joint users are directly billed by the carrier. See section 3.1.5(A)(5). But the carrier maintains no direct relationship with authorized users.

fulness of other types of tariff use restrictions under section 201(b), and a principle has developed governing the extent to which carriers can restrict a subscriber's ability to attach noncarrier owned (foreign) devices to the carriers' communications networks. Hush-A-Phone Corporation v. United States, 238 F. 2d 266 (D.C. Cir. 1956); Use of the Carterfone Device in Message Toll Telephone Service, 13 F.C.C. 2d 420 (1968) (hereinafter the Carterfone decision); Referral of Chastain v. American Telephone and Telegraph Co., 49 F.C.C. 2d 749 (1974). As the court held in Hush-A-Phone, supra, a carrier may not restrict a subscriber's right to use the carrier's services and facilities in ways which are privately beneficial without being publicly detrimental. 238 F. 2d at 269. Subsequent discussion will show that we expect a large segment of the using public to privately benefit from greater availability of common carrier services and facilities for resale and sharing (see paras. 75–88, *infra*). Under the principle set forth by the court in Hush-A-Phone, and subsequently followed by the Commission in Carterfone and Referral of Chastain, the lawfulness of tariff provisions restricting resale and sharing of a particular service turns on whether unlimited resale and sharing of that service will be publicly detrimental.

36. Tariff provisions restricting resale and sharing are also patently discriminatory, and therefore must be considered in light of the prohibitions contained in section 202(a) of the Act. For example, tariff prohibitions on intermediary activities effectively foreclose a certain class of potential subscribers from obtaining carrier services and facilities—specifically, those persons or entities acting as intermediaries between underlying carriers and the using public.[40] Hence, these prohibitions constitute discriminatory practices, classifications and regulations. However, section 202(a) does not prohibit all discrimination; it merely prohibits discrimination which is unjust and unreasonable. Because the Communications Act was modeled after the Interstate Commerce Act, 49 U.S.C. et seq. (1970), we think it appropriate to refer to precedents under the latter act in our assessment of the justness and reasonableness of carrier discrimination against intermediary entities.

37. We believe that judicial construction of the obligations owed by railroads to freight forwarders relates closely to questions now before this Commission. From almost the time of its inception, the I.C.C. authorized railroad shipping rates for carload lots which were below the rates for less-than-carload lots. As a natural outgrowth of this dual rate structure, freight forwarders appeared; the freight forwarder would collect less-than-carload lots, consolidate them into carload lots, and ship the consolidated carload lot by railroad. Serving as both consignor and consignee of the shipment, the freight forwarder paid the tariffed carload rates to the railroad and charged customers at rates between the tariffed carload and less-than-carload rates. Thus, the freight forwarder profited while the small-volume shippers realized savings in transportation costs. Because freight forwarding activities adversely affected railroad's revenues, railroads ultimately restricted their reduced carload rates to only those shippers actually owning carload quantities of merchandise which they shipped. The forwarders were relegated to shipping goods at less-than-carload rates. The I.C.C. found the new tariffs to be unjustly and unreasonably discriminatory under section 2 of the Interstate Commerce Act, 49 U.S.C. 2, the model, along with section 3(1), 49 U.S.C. 3(1), of section 202(a) of the Communications Act. In affirming the I.C.C.'s finding of unlawful discrimination, the Supreme Court rejected the contention that a railroad could engage in discriminatory treatment based upon the shipper's identity:

> The contention that a [railroad] when goods are tendered to [it] for transportation can make the mere ownership of the goods the test of the duty to carry, or, what is equivalent, may discriminate in fixing the charge for carriage, not upon any difference inherent in the goods or in the cost of the service rendered in transporting them, but upon the more circumstance that the shipper is or is not the real owner of the goods is so in conflict with the obvious and elementary duty resting upon a [railroad], and so destructive of the rights of shippers as to demonstrate the unsoundness of the proposition by its more statement.[41]

The Court also rejected the contention that competition between the freight forwarder and the railroad justified the latter's discrimination against the former. Subsequent decisions have reaffirmed the proposition that a railroad may not discriminate for or against a shipper merely because the shipper competes with the railroad. American Trucking Associations, Inc. v. Atchison, T.&S.F. Ry. Co., 387 U.S. 397 (1967); I.C.C. v. Baltimore & O.R. Co., 225 U.S. 326 (1912). In Atchison, T.&S.F. Ry. Co., the Court stated that the Interstate Commerce Act, its history, and the large body of decisions construing the Act gave rise to a presumption that the carrier must provide service to all shippers, including competitors, on equal terms. The Court further observed (387 U.S. at 407):

> It is, of course, of no consequence that the Act does not expressly command that the railroads furnish this service to motor carriers. Their obligation as common carriers is comprehensive and exceptions are not to be implied.

See also United States v. Pennsylvania R. Co., 323 U.S. 612 (1954).

APPLICATION OF LEGAL PRINCIPLES

38. We now evaluate the lawfulness of the tariff provisions in view of the legal standards of sections 201(b) and 202(a) of the Act, and the carriers' justifications for the restrictions on resale and sharing. As we stated in the Notice (paragraph 16), the communications common carriers have never been called upon, either formally or informally, to justify their tariff restrictions on resale and shared use of communications services and facilities. AT&T and GTE note in their comments that state regulatory commissions and state courts have previously upheld tariff restrictions on resale. Citing decisions involving resale of telephone service and submetering of electricity service, AT&T argues that resale restrictions are justified because resale would destroy the telephone company's rate structure, threaten the traditional concept of regulation and interject a middleman into the provision of telecommunications services in contravention of public policy (AT&T's Comments at 2–3). Citing similar decisions, GTE states that resale restrictions are justified because resale would constitute a diversion of utility revenues, create unjustifiable discrimination among service users, and permit an unregulated middleman to compete with regulated entities (GTE Comments at 14). Thus, AT&T and GTE seek Commission approval of the lawfulness of existing tariff restrictions because their removal could: (a) Adversely impact carrier revenues or rate structures; (b) in some manner have discriminatory results; (c) interpose a middleman between carriers owning and operating transmission facilities and the using public; and (d) lead to competition between regulated and unregulated entities in the provision of communications services.

39. We do not view the interposition of a middleman between an underlying carrier and the using public as contravening any express or implicit policy in the Communications Act. On three previous occasions, we have sanctioned a division of responsibility in the provision of communication services to the using public. Carterfone, supra; Bell System Tariff Offerings, 46 F.C.C. 2d 413 (1974), aff'd sub nom. Bell Telephone Co. of Pennsylvania v. F.C.C., 503 F. 2d 1250 (3d Cir. 1974); cert. denied, 422 U.S. 1026 (1975); Aeronautical Radio, Inc. v. AT&T, 4 F.C.C. 155 (1937). Additionally, AT&T's own single customer provisions (see Appendix E) can be viewed as implicit agreement with the proposition that a division of responsibility is appropriate in some circumstances. Thus, we reject the argument that the imposition of a middleman between the carrier and the ultimate user is justification for the restrictions on resale and sharing. Because we have decided that regulation of resale under Title II of the Act is required (see paragraphs 102–119), there should be no element of unfairness in the competition between resellers and underlying carriers, because both will be regulated en-

[40] Other tariff restrictions which merely limit the type of resale or sharing are also patently discriminatory in that these restrictions foreclose service to persons or entities seeking to engage in other types of resale and sharing.

[41] I.C.C. v. Delaware, L. & W.R.R. Co., 220 U.S. 235, 252 (1911).

tities. Contrary to GTE's assertion that widespread resale of underlying carrier's services and facilities will have discriminatory results, we are reasonably certain that widespread resale will have the opposite effect. The allegation that discrimination will result from elimination of the restrictions is not supported by this record.

40. Finally, we do not view tariff restrictions on resale as justified merely because they protect carrier revenues or rate structures. We note that in Carterfone, supra, a tariff prohibition against attachment of the Carterfone device was declared unlawful under section 201(b) even though AT&T marketed a similar device and therefore would suffer revenue losses should this tariff prohibition be eliminated. Therefore, we believe that the only revenue losses of consequence in assessing the lawfulness of tariff restrictions on resale and sharing are those which ultimately burden subscribers to the carrier's services and facilities. And because we expect many of these subscribers to benefit from liberalized resale and sharing, we must, in determining whether the restrictions are just and reasonable under section 201(b), weigh any adverse impact on the using public against countervailing benefits to those segments of the using public which engage in resale and sharing. Those benefits are fully discussed at paragraphs 75 to 88, infra. When these benefits are weighed against any possible adverse consequences of our decision herein, we conclude that the restrictions on the subscriber's resale and sharing of communications service are unjust and unreasonable under section 201(b) of the Act.[42] We find that unlimited resale and sharing are just and reasonable, and so prescribe.

41. We turn now to the lawfulness of the tariff restrictions and exceptions thereto under sections 202(a) of the Act. In this regard, precedent of the I.C.C. is helpful. We are not constrained to courses of action which have been dictated by the requirements of the transportation industry. General Telephone Co. of Southwest v. United States, 449 F. 2d 846 (5th Cir. 1971). However, we believe that decisions construing section 2 of the Interstate Commerce Act (see paragraph 37, supra) provide us with certain principles relevant to an assessment of the justness and reasonableness of communications common carrier discrimination against intermediaries. In particular, we do not believe that carriers can deny service to resale entities merely because the latter offer competition to the carriers. Thus, we do not view revenue losses or rate structure changes which may result from such competition as automatically justifying a denial of service to intermediary entities.[43] Nor do we believe that carriers may deny service to prospective resellers merely because they lack a "communications requirement of [their] own for *. * * use" of private line service. The tariff provisions which deny service to resellers and sharers are accordingly inconsistent with the principles set forth in I.C.C. v. Delaware, L. & W. RR. Co., 220 U.S. 235 (1911) (see paragraph 37, supra), and we find them to be unlawfully discriminatory under section 202(a) of the Act. The discrimination inherent in the "single customer exceptions" will be considered separately (see Appendix E).

42. AT&T and GTE take the position that Section 205(a) of the Act, which in part provides that the Commission may order a carrier to eliminate any tariff provision which it finds "is or will be in violation of any of the provisions of this Act", places the burden of proof on those who propose changes in the present tariff restrictions on resale and sharing. (See GTE's Comments at 9; AT&T's Response Comments at 31.) This position is unfounded. We have heretofore rejected the view that the burden of proof is on the carrier only when increased rates are sought under Section 204 of the Act. Tariffs—Evidence, 40 F.C.C. 2d 149, 152 (1973). Moreover, we note that the tariff restrictions on resale and sharing are patently discriminatory and therefore raise questions of lawfulness under Section 202(a). We have repeatedly held, with judicial approval, that carriers have the burden of justifying differential pricing of communication services. Telpak, 38 F.C.C. 370, 381–82 (1964), aff'd sub nom. American Trucking Associations, Inc. v. F.C.C., 377 F. 2d 2d 121 (1966), cert. denied, 386 U.S. 943 (1967); Telpak Sharing Case, 23 F.C.C. 2d 606, 625 (1970). Finally, we observe that the burden of proof properly rests with the carrier when it is the sole repository of information which could establish the lawfulness of its tariffs. Referral of Chastain v. A.T.&T. 49 F.C.C. 2d 749, 750, (1974); Atchison, T. &. S.F. Ry. Co. v. United States 218 F. Supp. 359, 374 (N.D. Ill. 1963); Chesapeake & O. Ry. v. United States, 11 F. Supp. 588, 593 (S.D. W. Va. 1935), aff'd 296 U.S. 187 (1935). See also Copley Press, Inc. v. F.C.C., 444 F. 2d 984, 989 (D.C. Cir. 1971); Office of Communications of the United Church of Christ v. F.C.C., 425 F. 2d 543, 547, n. 8 (D.C. Cir. 1964); Bunny Bear, Inc. v. Peterson, 473 F. 2d 1002, 1006 (1st Cir. 1972) The carriers were in a unique position to provide information regarding the economic impact of the removal of the restrictions, both with respect to themselves and to their ratepayers, and we specifically called for such information. They also were in a unique position to explain the criteria upon which they decide that certain users may resell or share communications service, while others are denied these opportunities. In summary, we find that the carriers had ample notice that the lawfulness of their tariff restrictions on resale and sharing were in issue, and that they were being called upon to justify the restrictions and exceptions thereto. The carriers are the ones which placed restrictions on the ability of subscribers to use their services and facilities in a way which is not publicly detrimental, and the carriers thus have the burden of proof of establishing the justness and reasonableness of the restrictions.

LAWFULNESS OF TELPAK RESTRICTIONS

43. We concluded above that the broad restrictions on resale and sharing of private line services are unjust and unreasonable, and unlawfully discriminatory. Parties have filed extensive comments on the restrictions as they apply to one particular offering, Telpak, and we believe that this offering warrants special comment. Telpak is a "bulk rate" offering whereby private line services may be obtained by larger users at a unit cost substantially lower than the rate for the same service in other tariff provisions. Telpak was initially justified as a response to the competition made available by the licensing of private microwave systems. Telpak, 37 F.C.C. 1111 (1964). It is important to note at this point that Telpak was never found to be the only appropriate response to private microwave. Telpak has been the subject of comment in this proceeding because there is in the area of bulk rates a major economic incentive to resell and share. Some of the specialized common carriers, for example, argue that if Telpak is made available for resale and sharing, there will be a shift of customers from their services to a resold or shared AT&T Telpak offering. They argue that AT&T will have an incentive to maintain the Telpak rate below its cost to encourage this shift of private line usage to AT&T, and

[42] There is no evidence in this record that allowing resale will lower carrier revenues to the point that it will impact on service to the public. In fact, we find that unlimited resale might stimulate the market for private line services as resellers obtain service from the underlying carriers to provide new offerings to the public.

[43] We recognize that transportation freight forwarding and resale of communications services and facilities may not be completely analogous activities. We also recognize that the I.C.C. upheld communications common carriers' tariffs prohibiting resale of their private line services and facilities when that agency had jurisdiction over telephone, telegraph, and cable companies. Private Wire Contracts, 50 I.C.C. 731 (1918). Despite the I.C.C.'s rejection of Delaware, L. & W. R.R. Co., supra, as it applied to private wire lessees, we do not view the I.C.C.'s decision as foreclosing our reliance on principles stated in Delaware, L. & W. R.R. Co. In rejecting these principles, the I.C.C. expressly noted that Section 2, under which the I.C.C. and the Supreme Court had found railroads' discrimination against freight forwarders to be unlawful, was inapplicable to telephone, telegraph and cable companies. Private Wire Contracts, 50 I.C.C. at 764. As already noted, section 202(a) of the Act was modeled in part on section 2 of the Interstate Commerce Act; thus principles formulated under the latter provision are relevant in assessing the lawfulness of carrier discrimination under section 202(a). Moreover, the complexity of and demand for communications services has increased substantially since the Private Wire Contracts decision. In enacting the Communications Act of 1934, Congress surely did not intend to limit the Commission to I.C.C. principles in effect prior to 1920. In the Matter of Tropical Radio Telegraph Co., 31 F.C.C. 2d 678, 683 (1971). See also Atchison, T. & S.F. Ry. Co., supra, 387 U.S. at 416.

that resale and sharing of Telpak will thus afford AT&T an opportunity to restrict competition for private line service. Although we recognize the possibility that customers may shift from the specialized common carriers to a resold or shared Telpak, we do not find this to be adequate justification for keeping the restrictions as they now exist. With respect to the argument that removal of the restrictions will provide AT&T with an opportunity to price Telpak in a way which will restrain competition, we point out that the appropriate pricing principles for Telpak will be decided in Docket No. 18128.[44]

44. AT&T's primary justification for retention of the restrictions on the resale and sharing of Telpak is its view that their removal would increase the Telpak fill factor, and as fill increased, AT&T's cost of providing the service would increase until the correspondingly higher rate no longer was attractive. It thus intimates that sharing and resale will lead to the demise of Telpak (AT&T's Comments at 27–8), and Telpak's utility as a competitive response to private microwave would "probably" be destroyed. AT&T does not support these generalizations with any evidence that substantially increased fill and costs would necessarily result from resale and sharing of Telpak; we are not willing to make such assumptions in the absence of a more reasoned analysis that AT&T has provided. Moreover, AT&T's argument that the eventual shift away from Telpak would "result in a diminished contribution to overall common costs of the company" (AT&T Comments at 28) is premised on the position that Telpak rates have made and will continue to make contributions "to overall common costs" —issues which are before us in Docket No. 18128 and which we decline to resolve in this proceeding in support of the restrictions on resale and sharing of Telpak. Even if AT&T's position had merit, and Telpak could not exist without the restrictions on resale and sharing, we find that its continued availability is not as important to the public as are the benefits which we see as resulting from resale and sharing (see paragraphs 75–88, infra). As we noted above, we have never found that Telpak is the only bulk offering available as a response to private microwave, and in this proceeding we do not hold that AT&T could not respond to our order herein by making available another bulk offering which is consistent with our policy.

45. At this point, we consider resale of Telpak as distinct from sharing of Telpak. Although the concepts are similar in many respects, separate justifications exist for removing the restrictions now found in the AT&T private line tariff. The general principles regarding Section 202(a) of the Act, set forth in paragraphs 34–37, supra, are especially relevant to the resale of Telpak. In I.C.C. v. Delaware, L & W. R.R. Co., supra, the Supreme Court held that a carrier could not deny service to a shipper simply because it was not the real owner of the goods. We find that discrimination against a communications customer—in this case, by the carrier's refusal to provide service to a reseller—is unlawful if it is based only upon the fact that the customer is not the ultimate user of the service.[45] Likewise, the carrier may not lawfully discriminate by refusing to provide Telpak service to a customer which is a potential competitor. The reseller has a bulk requirement for Telpak service just as does any other customer willing to pay for Telpak. Accordingly, there is no justification for AT&T's refusal to provide Telpak to a reseller, while making it available to a customer which purports to use all the service for its own needs. It is noteworthy in this regard to observe that Telpak was originally justified only because of the existence of private microwave systems as competition with the service provided by AT&T. There is no suggestion in this record that Telpak has ever been restricted to customers which had the capability and desire to switch to private microwave. Instead, the record indicates that Telpak has been offered to any customer—except a reseller—which ordered it.[46] Viewed in this light, the prohibition on resale does not in any rational sense advance the purpose upon which Telpak was initially founded; it is instead a discrimination against carriers having a need for the service.

46. Although the foregoing would appear to be applicable to prohibitions on the sharing of Telpak, we find separate justification for requiring the removal of restrictions on the unlimited sharing of Telpak. We begin with recognition of the fact that the lawfulness of Telpak sharing was before this Commission in Docket No. 17457, the Telpak Sharing case. In our decision, 23 F.C.C. 2d 606 (1970), we found that unlimited sharing of Telpak was the best of the alternatives in the record. The Court of Appeals reversed in American Telephone and Telegraph Co. v. F.C.C., 449 F.2d 439 (2d Cir. 1971), because we prescribed unlimited sharing without making the statutory finding. The Court commented:

> The impact of [the Commission's] order requiring unlimited sharing is to fix and prescribe rates for application to an enlarged group of customers; and since the lower Telpak rates are not now available to this enlarged group, the order in effect is equivalent to an order requiring a large scale rate reduction. Under § 205(a) the Commission cannot prescribe a rate without finding that the rate prescribed is just and reasonable.
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> • • • • •
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> If Telpak without sharing unlawfully discriminates between bulk users and small users, then the overall Telpak rate structure is unlawful, for the essence of Telpak is a reduced rate limited to large volume users. (449 F. 2d at 451, 452)

The Court went on to find that the Commission rested its requirement of unlimited sharing on the finding that the basic Telpak rate structure was unlawful. The Court found that such action was not permissible because the Commission made no specific finding as to the lawfulness of the Telpak rate structure or any subsidiary findings, such as that:

> • • • the Telpak rate structure was unlawful because the low rates were not justified by the competition of private microwave; that the rates to large customers were not compensatory; or that for some other reason the offering of low rates to only those customers was unlawfully discriminatory, 449 F. 2d at 452 (Emphasis added)

The Court also noted that in Docket No. 17457, the overall lawfulness of Telpak was not in issue, and that the assumption that Telpak itself, without sharing, is unlawfully discriminatory flies in the face of the prior decision upholding the competitive justification for Telpak C and D.

47. Several parties responded to the Notice with the argument that the Commission could not legally require unlimited sharing of Telpak. This position is clearly wrong; no court has so held. See 449 F.2d at 453; Nat'l Ass'n of Motor Bus Owners v. F.C.C., 460 F.2d 561, n. 3 (2d Cir. 1972). In considering the sharing of Telpak, we first point out that AT&T has extended the benefits of low Telpak rates to selected non-bulk users.

At first, limited sharing was permitted for certain entities which were eligible to share private microwave; more recently, sharing of Telpak has been permitted by extending service to selected intermediaries acting on behalf of third parties who thereby could aggregate their private line requirements. There is no evidence in this record which justifies the manner in which such intermediaries have been selected. The lawfulness of these "single customer exceptions" is discussed in Appendix E, and we find them to be unlawfully discriminatory.

48. We turn now to the argument raised by AT&T in its Comments (pp. 27–8) that unlimited sharing of Telpak would require its repricing in a way which would "probably destroy its utility as a competitive response to private microwave." (AT&T Comments at 2). ARINC also argued competitive necessity in support of its "single customer" status—a matter which we discuss in Appendix E. We have rejected ARINC's competitive necessity argument, and we are likewise unable to accept AT&T's unsupported assertion that competitive necessity justifies the retention of the

[44] The specialized common carriers' arguments in this regard overlook the fact that they too will be able to buy Telpak from AT&T at the tariffed rates and then resell the service to their own customers. Thus, the shift of customers to AT&T does not necessarily follow.

[45] However, as we noted in paragraph 5, supra, AT&T provides Telpak jointly with Western Union (but with no other carrier). Also AT&T makes available to Western Union (but to no other carrier "supergroups" of 60 communications channels. Western Union can then resell this bulk offering to its customers. Thus, AT&T has selected one carrier, Western Union, for the joint provisions and resale of bulk offerings, but has denied other carriers this opportunity.

sharing restrictions. As we mentioned in paragraph 44, we do not accept the contention that removal of the restrictions necessarily requires any substantial repricing of Telpak. Even if a repricing were required, we note that AT&T has on several occasions increased the Telpak rates since the service was instituted. There was no showing in this record that these price increases lessened Telpak as a competitive alternative to private microwave; accordingly, we do not view any repricing due to the removal of the sharing restrictions as inherently destroying Telpak as a competitive response. In any event, as we have previously stated (paragraph 43, supra), we have never held that Telpak is the only proper response to any competition from private microwave.

49. The action we take herein is consistent with the Court's decision in its review of the Telpak Sharing case. The Court upheld the Commission's finding that the existing sharing provisions were unlawfully discriminatory, but reversed because unlimited sharing was not warranted to be just and reasonable. Here, we find that the record supports the finding that unlimited sharing is a just and reasonable practice which will bring about important public benefits (see paragraphs 75–88, infra). Although the Court stated that unlimited sharing was equivalent to an order of a "large scale rate reduction," we find that the Telpak offering as it now exists allows sharing at the lower rates by the larger communications users such as the airlines and government. Although a number of users will doubtless receive service at the lower rates now available to larger users, we do not see a "large scale rate reduction" happening. We have concluded (paragraphs 56–62, infra) that AT&T did not adequately quantify the revenue changes which would result from unlimited resale and sharing. Accordingly, we believe that we may require AT&T to remove the unlawful discrimination without determining the exact revenue impact thereof or setting the rates for service provided F.P.C., 373 F. 2d 485 (5th Cir. 1967). With respect to the Court's comment that there is an inconsistency between requiring unlimited sharing and authorizing a bulk rate for communications, we note that Telpak is not and has not been a bulk rate in the literal sense of the term. The benefits of the lower Telpak rates have been extended to large users and selected small users (acting through intermediaries) alike, regardless of whether the customer could or would shift to private microwave if the Telpak rate were not available. When viewed in its actual application, Telpak is not a "bulk rate". It is a pricing scheme which provides a discount to large customers (except resellers) and select small customers. Accordingly, it is not consistent with the concept of a bulk rate, justified by competitive necessity, to require that the artificial and discriminatory restrictions on Telpak resale and sharing be eliminated by making the service available to all users willing to pay the applicable tariff charge.[66] In summary, we have examined the lawfulness of the restrictions on resale and sharing of Telpak, in light of the features of Telpak which allegedly make it a unique offering. We find that there is no convincing evidence that either unlimited sharing or resale of Telpak will increase its cost to the point that it is no longer attractive. Even if such repricing did follow, we find that AT&T has failed to show that Telpak would thereby no longer be a competitive response to private microwave, or that any competitive response is still required. We find that Telpak is not now a "bulk rate" but is instead characterized by restrictions on sharing and resale (and exceptions thereto) which are artificial barriers to the enjoyment of the rates except by large users and small users acting through intermediaries upon arbitrary criteria not explained in this record. Thus, we find that the Telpak restrictions are unjust and unreasonable and unlawfully discriminatory under sections 201(b) and 202(a) of the Act. Moreover, we have considered the record herein and conclude that unlimited sharing and resale of Telpak are just and reasonable.

Other Considerations Regarding Lawfulness

A. MTS & WATS

50. We concluded in paragraphs 38–42, *supra*, that the broad prohibitions on the sharing and resale of private line service were unjust and unreasonable and unlawfully discriminatory. There remain a number of matters which warrant our attention and which relate, in one way or another, to whether some type of restrictions, different from those now existing, would be appropriate. First, however, we explain why we do not require any change in the restrictions on WATS and MTS.[67]

51. As heretofore noted (paragraph 16), AT&T opposes all modifications of its tariff restrictions on resale and sharing except those which the carrier itself makes. However, AT&T's only comment on MTS resale is that it presents fewer problems than resale of other services because both revenues and costs are usage sensitive and that, absent a change in cost disproportionate to revenue, the revenue/cost relationship will remain fixed as costs increase (AT&T's Comments at 18). GTE opposes MTS resale because it would create an unnecessary markup in toll charges; would create an unlimited class of new entities subject to Commission jurisdiction; and would lead to a direct conflict with state regulatory authorities (GTE's Comments at 23). Thus, the carriers do not raise any serious allegations of financial harm in support of their objections to elimination of the tariff provision on resale of MTS.

52. Various parties to this proceeding have requested us to remove the tariff prohibition on resale of MTS. NATA proposes that apartment dwellers should be permitted to share PBX equipment in an arrangement which would have the entire apartment building as the customer of the Bell companies. NATA contends that this will alleviate the capital requirements of the telephone companies, lead to more efficient apartment design, and result in savings on interstate calls to apartment dwellers. Wells National Service Corporation proposes a resale operation involving hospitals. AT&T views both NATA's and Wells' proposal as beyond the scope of this proceeding; it asserts that NATA raises an interconnection question properly at issue in Docket Nos. 19528, 19419 and 19691 and that Wells' proposal concerns the provision of local exchange service (AT&T's Reply Comments at 3).

53. We will not require any change in the prohibitions on MTS resale and sharing. We note that this issue raises difficult questions previously considered by this Commission in 1943. See Special Telephone Charges of Hotels, etc., 10 F.C.C. 252 (1943). At that time we considered the practice of hotels, apartments and clubs in placing surcharges on interstate toll calls received or sent by guests, tenants, or club members. We found that in placing surcharges on interstate toll calls, these entities were acting as agents of the telephone company and that the telephone company was therefore in violation of section 203(c) because the surcharges had not been tariffed. We ordered the telephone companies to cease and desist from this practice, and they did so by imposing a prohibition on tariff surcharges.

54. While resale of MTS might not cause any financial harm to telephone companies, the imposition of surcharges on interstate toll calls by hotels, hospitals, and clubs could have an adverse economic impact on certain segments of the using public. However, this record does not contain adequate information with respect to the respective benefits and detriments. The hotel and motel industry, which presumably would be affected by a change in the present tariff prohibitions, did not file comments, nor did any other party submit detailed information on this complex issue. Thus, we believe that it is appropriate not to make any changes in the existing restrictions.

55. With respect to WATS, we note that in A.T.&T., 46 F.F.C. 2d 81(1974), we removed from Docket No. 19129 certain issues concerning the lawfulness of the WATS tariff and placed them in issue in Docket No. 19989, the WATS investigation. Included in those issues was the lawfulness of the restrictions on sharing and resale of WATS. See 46

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[66] Because we do not have before us a true "bulk rate" available only to large users who would shift to private microwave absent the rate, we need not decide whether sharing and resale restrictions applicable thereto would be just and reasonable.

[67] Although we only refer herein to AT&T's "monopoly services", our reasoning applies equally to the "monopoly services" of Western Union and the other telephone companies.

F.C.C. 2d at 85; Associated Students of the University of Arizona et al., 43 F.C.C. 2d 197, 199 (1973). In our decision in Docket No. 19989, we stated that we stated that we would determine the lawfulness of the restrictions in the WATS tariff in this proceeding. See A.T.&T., ---- F.C.C. 2d ---- (FCC 76-497) released June 2, 1976). The record before us indicates that there are reasons why the restrictions on WATS must be viewed differently from those on private line service. First, although removal of the restrictions might lead to a further equalization of service and rates between large and small communication users, the removal of the restrictions might result in a significant shift of MTS users to the WATS offering. This shift would decrease MTS revenues, possibly requiring a rate increase for MTS, and might lead to an adverse impact on the revenue requirements for intrastate service as a result of changes in the separations data. Moreover, both MTS and WATS are switched services, with characteristics distinct from those of private line service, and we are not prepared to warrant that removal of the restrictions on WATS would lead to the benefits which we foresee for private line service (see paragraphs 75–88, infra). Accordingly, we will not require removal of the restrictions on sharing and resale of WATS. In view of this action, we are not reviewing AT&T's present practices under and interpretation of its MTS and WATS tariffs.

B. AT&T'S ECONOMIC IMPACT STUDY

56. AT&T and GTE both allege that they will suffer financial harm if existing tariff restrictions on resale and sharing are substantially modified. GTE did not support its allegations of financial harm with any studies, but instead requested that the Commission perform its own studies (GTE's Reply Comments at 6). AT&T did submit a limited study supporting its allegations of financial harm (AT&T's Comments, Attachment No. 1). In this study AT&T attempted to estimate revenue and cost effects upon Bell companies following one year of unlimited resale and sharing of Full Business Day WATS and Telpak. AT&T estimated revenue losses and cost increases due to customer shifts from MTS, Full Business Day WATS and Telpak. In particular, AT&T estimated revenue losses and cost increases due to customer shifts from MTS, Full Business Day WATS, non-Telpak private line services under AT&T Tariff F.C.C. No. 260, and SCC offerings to Telpak; and from Measured Time WATS and MTS to Full Business Day WATS. AT&T did not attempt to estimate the revenue and cost effects upon Bell companies following one year of unlimited resale and sharing of private line services other than Telpak and classes of WATS other than Full Business Day WATS. In particular, AT&T did not attempt to estimate the revenue and cost effects of the following potential customer shifts after one year of unlimited resale and sharing of all AT&T's communications services and facilities: shifts from MTS and WATS to non-Telpak private line services; shifts into or out of Inward WATS; and shifts into Measured Time WATS.

57. AT&T gives two reasons for its failure to supply studies in support of its allegation of financial harm resulting from unlimited resale and sharing of services other than Telpak and Full Business Day WATS. First, AT&T states that it was given insufficient time to perform a complete study detailing all probable effects following elimination of all tariff restrictions on resale and sharing. Second, AT&T states that the time constraint made it necessary to focus solely on Telpek and Full Business Day WATS because these services, in AT&T's opinion, are the most susceptible Bell offerings to unlimited resale and sharing in the first year after all tariff restrictions on these activities are eliminated.

58. We stated in the Notice that allegations of financial harm should be supported by studies underlying these allegations. We further requested that any revenue losses should be shown in dollar amounts and as a change in the rate of return (expressed as a percentage point after adjusting for cost increases). Finally, when no study had been made in support of an allegation of financial harm, because data was unavailable or for other reasons, we stated that "an explanation of the difficulties should be appended, along with a complete discussion of the necessary study * * *" Notice (paragraph 35). By failing to submit studies without explanation GTE has not complied with the procedures specified in the Notice. Although AT&T has submitted a limited study supporting its allegations of financial harm and has stated reasons why a complete study was not undertaken, we find the study to be methodologically defective and the reasons for not doing a complete study to be inadequate.

59. In its study of the revenue and cost effects on the Bell companies following one year of unlimited resale and sharing of Full Business Day WATS and Telpak, AT&T concludes that the resultant negative effect on the Bell Companies—taking into account both revenue losses and cost increases—would be $178.5 million annually.[*] AT&T further asserts that this is a "least loss" estimate because no attempt was made to estimate the revenue and cost effects due to customer shifts between other Bell offerings following unlimited resale and sharing of these offerings. We find AT&T's study to be defective in both the estimations of revenue losses and cost increases due to full resale and sharing of Telpak and Full Business Day WATS.

60. In quantifying the cost effects of unlimited resale and sharing of Telpak and Full Business Day WATS, AT&T has relied upon the costing programs "Private Line Incremental Annual Costs" (PLIAC) and "Incremental Network Costs" (INC), both of which AT&T utilized in Docket No. 19919, the HiLo proceeding. In A.T.&T., 55 F.C.C. 2d 224 (1975), reconsideration denied, 58 F.C.C. 2d 362 (1976), we found that the documentation supporting the PLIAC model was inadequate, and we thus were unable to make a favorable finding relative to the validity of AT&T's cost estimates in that proceeding. 55 F.C.C. 2d at 237. AT&T has submitted no further explanation of the PLIAC programs in this proceeding, and therefore we are compelled to again reject the cost effect estimation in its study.

61. We also find AT&T's revenue loss estimates to be without adequate documentation. The study is replete with unsupported assumptions about customer behavior. For example, AT&T assumes that present business customers of WATS and MTS in major metropolitan areas and large cities (as determined by AT&T's Tariff No. 264) will swiftly shift to Telpak and WATS. Nowhere does AT&T take into account that services over the national telephone network may qualitatively differ from private line services in ways that may make Telpak unattractive to present WATS and MTS customers. And in estimating the revenue effects of customer shifts from MTS to shared and resold Telpak, AT&T assumes a stimulation effect equal to one half of the savings that each customer experiences by making the shift. Nowhere is there any explanation for this assumed value and why it is not higher or lower.

62. Other illustrations of unsupported assumptions could be given, but we think that one assumption by itself compels us to reject AT&T's study. The entire study is predicated on the assumption that Telpak and WATS rates stay constant despite substantial shifts of customers into these services and despite the usage sensitive nature of Telpak and WATS rates. However, this assumption contradicts two of AT&T's basic positions: that unlimited resale and sharing of Telpak will probably lead to higher Telpak rates and perhaps elimination of the Telpak bulk discount; and that unlimited resale and sharing of WATS may lead to upward repricing of WATS. Because AT&T's entire study rests on an assumption contradictory to basic AT&T positions, we feel compelled to reject the conclusions of the study.

C. OTHER PRIVATE LINE SERVICES

63. FX service is private line service which is connected with the switched telephone network at one end; the private line may be one point-to-point line, or a through connection of several private lines. A CCSA is a particular man-

[*] As OTP observes, this figure represents only 0.75% of Bell System total annual revenue in 1973 and 2.0% of Bell's 1973 interstate toll service revenue. And OTP further notes that if MTS ratepayers entirely carried the burden of such a decrease in annual revenues and an increase in annual costs, they would have to pay only about 5 cents more per interstate call. Finally, OTP observes that if AT&T's estimated MTS revenue loss were absorbed in interstate toll rates, the increase would be approximately 3.3 cents per call. (OTP's Reply Comments at 30). Also, because we are not requiring the removal of the restrictions on WATS, any revenue effect based on AT&T's methodology would be less than $178.5 million.

ner in which through connections of private lines may be automatically configured for given periods of time.

The FX and CCSA offerings are private line offerings, and we find no reason to treat them differently from other private line services which are now to be made available for unlimited resale and sharing. AT&T did not provide any economic impact study relative to these services, nor did it advance any special reasons for considering the restrictions as they apply to FX and CCSA as any different from those on other private line service.

64. Unlimited resale and sharing of a private line service does not, of course, encompass the conversion of that private line service into MTS or the equivalent thereof. Thus, any resale or sharing of FX service must maintain the basic private line character of that service. Under present policy, to qualify as a private line service, at least one aspect of the service must be a dedicated facility not used or usable for local telephone exchange service.

65. Before discussing the effect of resale and sharing of private line service other than Telpak or FX, we note that in 1974, only $560 million, or 6%, of AT&T's total interstate revenues came from non-Telpak private line service. Of this amount, $454 million, or 82%, came from voice grade and under private line service which allowed joint use arrangement; $471 million came from private line service allowing, in addition, resale by composite data service vendors. Thus, the economic impact of elimination of the restrictions in this area is not significantly large. Nonetheless, AT&T has opposed shared use of all discrete broadband offerings, and we will separately consider certain of its objections. The amount of revenue shift for these services was not studied by AT&T, as noted in paragraph 56, supra.

66. Heretofore, individual voice telephone and other voice grade channels have been available under Series 2000, 3000, and 4000. If Series 8000 were opened up to resale and all forms of sharing, the using public could now obtain individual voice telephone and other voice grade private line channels through resale and shared use of Series 8000 private line service. Similarly, individual teletypewriter and other telegraph grade private line channels have heretofore been available under Series 1000 through Series 4000. If Series 8000 were opened up to resale and all forms of sharing, the using public could now obtain individual teletypewriter and other telegraph grade services through resale and shared use of Series 8000 service. Heretofore, sharing under Series 1000, 2000, 3000 and 4000 has been limited to joint use arrangements. Removal of the general tariff prohibition on resale and other intermediary activities would allow the using public to engage in other forms of sharing with respect to voice grade and under private line services. In particular, sharing through a non-profit intermediary entity would be an alternative to joint use arrangements under Series 1000, 2000, 3000, and 4000. Heretofore, resale of Series 1000 through 4000 and Series 8000 service has been permitted to a limited extent by composite data service vendors. At this time, we cannot predict the additional private line services which would be made available for resale of private because of the rapid growth in technology that resellers could employ in connection with AT&T's transmission facilities.

In summary, removal of the general prohibition on resale and shared use with respect to Series 1000 through 4000 and Series 8000 would mean that voice grade and under private line services could now be obtained under Series 8000 as well under Series 1000 through 4000; that all forms of sharing would now be available to the public in their utilization of Series 1000 through 4000 and Series 8000; and that the public could now take advantage of additional point-to-point and multi-point voice grade and under private line services offered by resale entities.

67. AT&T has objected to resale and sharing of Series 8000 voice grade channels, apparently because this may lead to revenue loss from Series 2000 through 4000 services if users shifted to Series 8000 in order to satisfy voice grade private line requirements: Thus, AT&T may therefore be compelled to upwardly reprice Series 8000 service, and present Series 8000 customers may, as a result of these rate increases, discontinue taking service from AT&T. Although AT&T has nowhere expressly invoked the competitive necessity doctrine as justifying the maintenance of current Series 8000 rates, insofar as they are lower than rates under Series 2000 through 4000 for comparable services, competitive necessity appears to underlie AT&T's objection to resale and shared use of Series 8000 voice grade channels. A showing of competitive necessity would require that the carrier show that three criteria are met. See the Telpak Sharing case.[*] In this proceeding, AT&T has not even attempted to meet any of these criteria. AT&T has made no efforts to establish that present Series 8000 customers would switch to competitive alternatives but for present Series 8000 voice grade channels rates; that present Series 8000 rates per channel are just sufficiently discounted from Series 2000 through 4000 rates to prevent customer losses to competitive alternatives; and that Series 8000 rates for voice grade private line services are compensatory. Having failed to establish competitive necessity in justification of Series 8000 voice grade channel rates, AT&T may not assert that it will lose present Series 8000 customers if Series 8000 rates are increased. And increased Series 8000 rates would allow AT&T to recoup any revenues lost from Series 2000 through 4000 due to full sharing of Series 8000 voice grade service. Moreover, an increase in Series 8000 rates may be unnecessary if full resale and sharing of Series 8000 channels leads to decreased costs to AT&T in the provision of voice grade private line services. Thus, it may be that AT&T can provide 12 voice grade channels in bulk more cheaply than it can provide individual voice grade channels. Therefore, any decrease in Series 2000 through 4000 revenues due to full resale and sharing of Series 8000 voice grade service may be somewhat offset by decreased costs to AT&T in providing voice grade private line service. AT&T has failed to demonstrate that the discounted Series 8000 voice grade channel rates are not wholly related to cost savings in providing the bulk voice grade channel offering. Without this showing, it is as reasonable to conclude that AT&T will benefit from full resale and sharing of Series 8000 voice grade service as it is to conclude that AT&T will be adversely impacted from full resale and sharing of Series 8000 voice grade service.

68. Likewise, we view AT&T's objections to resale and sharing of Series 6000 and 7000 to be without merit. Because these offerings consist of one-way transmission facilities, present customers of Series 6000 and 7000—specifically, radio and television networks—would seem to be the only customers who stand to benefit from shared use of Series 6000 and 7000. By contrast, present customers of voice grade and under private line service, which generally have a need for 2-way transmission facilities, would be unlikely candidates for sharing Series 6000 and 7000 channels. Additionally, Series 6000 and 7000 channels are broadband channels. To provide even one-way voice transmission, resellers or sharers would have to undertake substantial investment in multiplexing equipment. This additional cost, we believe, makes resale and sharing of Series 6000 and 7000 unlikely even for a one-way voice grade channel service. But AT&T seems to argue that a Commission order removing the tariff prohibition on resale and shared use of Series 6000 and 7000 offerings would require AT&T to undertake construction of two-way transmission facilities to replace the existing one-way transmission facilities for video and audio transmission in order that customers who presently receive service on Series 100 through 4000 private line channels could satisfy their communications requirements by shared use of Series 6000 and 7000 channels. If this is AT&T's position, it has misconstrued the objectives of this rulemaking. Our inquiry is limited to the question whether tariff restrictions on resale and shared use of existing or future communications services and facilities offered at the carrier's initiative are lawful under sections 201(b) and 202(a). In this proceeding our objective is not to determine whether carriers should change the physical characteristics of thir present offerings. Thus, we do not view removal of tariff restrictions on resale and shared use of Series 6000 and 7000 as creating any substantial additional costs for AT&T, or resulting in a loss of revenues from Series 2000 through Series 4000 because

[*] See footnote 4, supra.

customers for these voice grade services are unlikely to shift over to Series 6000 and 7000 offerings if shared use of these offerings were permitted.

69. DDS channels are similar to those of telephone and wideband channels in that they may be used as individual data links or connected into complex networks. Under a joint use arrangement, they can be shared on an alternate use basis, or through the use of TDM-derived subchannels. As we have heretofore noted (paragraph 32, supra) sharing of DDS is permitted subject to the other tariff restrictions which we have discussed. It appears from the nature of the service that sharing of DDS would be attractive if sharing of other services were not permitted. In considering the impact of the removal of resale restrictions on DDS to allow resale by entities other than CDSVs, we are hampered by the fact that DDS is a relatively new offering and accounts at present for only a small portion of AT&T revenues. However, it may be concluded that resale and sharing of DDS would not bring about any substantial shift from the AT&T bulk offering or monopoly services.

70. In its Reply Comments (p. 10), AT&T states that the question whether the DDS resale and sharing provisions are just and reasonable is at issue in Docket No. 20288, and it does not discuss those provisions or the economic impact of their removal. It is true that in the designation order in Docket No. 20288, American Telephone and Telegraph Co., 50 F.C.C. 2d 501 (1974), we stated that included in the investigation was to be consideration of whether the terms and conditions for resale and shared use, as reflected in the tariff filing, were just and reasonable. 50 F.C.C. 2d at 515. However, we also stated that information in that proceeding would provide data regarding the matters under consideration in this proceeding and that "the economic and technical aspects of more widespread resale and shared use" of DDS should be investigated in that proceeding. 50 F.C.C. 2d at 512. We believe that it is within our authority to decide the lawfulness of the restrictions on resale of DDS in this proceeding, and we find no justification for limitation of resale to CDSV carriers. We hereinafter set forth (paragraphs 75–88), infra) the public benefits to be derived from resale and sharing of the AT&T private line services, and we believe that the conclusions set forth therein are equally applicable to DDS. We need not await the conclusion of Docket No. 20288 to require that the unlawful discrimination against entities other than CDSVs be eliminated, and we conclude that unlimited sharing and resale of DDS is the just and reasonable practice.

D. RESTRICTIONS OF OTHER CARRIERS

71. Western Union offers private line service under Western Union Tariff F.C.C. No. 254. Its tariff restrictions on resale and sharing of private line service basically parallel AT&T's restrictions. Resale is expressly prohibited, and each customer must have a "communications requirement of his own for * * * use" of the private line service.[70] Additionally, both joint use and authorized use arrangements are permitted. Western Union's authorized use provisions are less restrictive than AT&T's provisions: authorized users need not be in the same line of business as the customer [71], but, if they are in the same line of business, transmission of communications between authorized users is allowed.[72]

72. Western Union did not perform a study as to the effect of resale and sharing on its services. It stated that it was impossible to conduct a study of potential impact "absent knowledge of the extent of the proposed resale, and the services and markets involved * * * " This reasoning is not persuasive, in view of the fact that Western Union could have made various assumptioins of its own to demonstrate the impact of unlimited resale and sharing of its services, or a limited stuly with respect to the elimination of restrictions on one particular service. For the reasons set forth in our discussion of the lawfulness of that AT&T tariff restrictions (see paragraphs 38–42, supra), we find the Western Union restrictions on sharing and resale of private line service to be unjust and unreasonable and unlawfully discriminatory. However, as with AT&T, we do not require the elimination of restrictions on monopoly services. We recognize that the action which we are taking may stimulate services which compete with Western Union's "monopoly service." However, competition of this nature is already available to some extent under Commission policy, and we see no reason why elimination of the Western Union restrictions will preclude it from competing effectively in all phases of the resale market.[73] We conclude that it would not be in the public interest to withhold liberalization of private line resale and sharing, because there is no showing that there will be a detrimental impact on its Public Message Telegraph and Telex services.

73. With respect to the specialized common carriers and the domestic satellite carriers, we will not set forth their restrictions on sharing and resale. In view of our decision that the AT&T tariff restrictions are unlawful, except as to the monopoly MTS and WATS offerings, we conclude that no reason exists to treat other carriers in any different manner. Accordingly, we find unlawful such tariff restrictions which are inconsistent with our decision herein. We recognize that the expansion of sharing and resale of communication service will have an impact upon these carriers. They may face a loss of business from individual users sharing wide channel service or accessing DDS channels through resellers. On the other hand, technically sophisticated user groups and brokers should represent attractive aggregated markets for specialized and satellite carrier services. Thus, ARINC, which serves as a broker to the airlines, has ordered lines from one of the specialized carriers.[74] Further, as OTP notes (Reply Comments at 32–3), these carriers can enter the brokerage market themselves to take advantage of the very tariff rates which might otherwise dissuade them from constructing their own facilities.

74. The International Record Carriers (IRC) have commented about the lawfulness of restrictions on sharing and resale in view of their positions with respect to foreign governments. RCA Globcom states the problem:

> * * * the foreign end of each international communications circuit is generally owned and operated by an entity or instrumentality of a foreign sovereign state. Communication is, of course, not possible without the agreement of such foreign entity.

RCA states that the resale of international communications service is contrary to the "thrust and emphasis" of the C.C.I.T.T.[75] Recommendations. Accordingly, it recommends that the Commission not unilaterally adopt substantive policies regarding the resale of international services and facilities without coordinating with interested foreign administrations (comments at 7). ITT also states that the international telecommunications administrations are generally opposed to the resale of international services and facilities. We have considered the views that the IRCs should not be subject to our policy regarding resale and sharing of their services, or, in the alternative, that resale and sharing should be required only if the foreign entity agrees to such practices. Neither position is, in our view, consistent with the statutory obligation of the IRCs as common carriers subject to our jurisdiction. First, the IRC objections are vague and do not establish a reasonable probability of harm. Moreover, we have found that the prohibitions on resale and sharing are unjust and unreasonable, and unlawfully discriminatory under Section 201(b) and 202(a) of the Act. We may not exempt the IRCs from bringing their tariffs into agreement with our interpretation of the law simply because a foreign entity does not agree with us, for whatever reason. As we have recently held, our jurisdiction over the charges (and practices) of the IRCs is not dependent upon the agreement of their foreign cor-

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[70] Western Union Tariff F.C.C. No. 254, sections 2.2.3, 2.5.

[71] *Id.* at section 2.2.1(B). As heretofore noted, AT&T requires that all authorized users be in the same line of business as the customer. AT&T Tariff F.C.C. No. 260, section 2.2.1(B).

[72] *Id.* at section 2.2.1(C).

[73] As OTP notes (Reply Comments at 31–2), Western Union already acts as an intermediary making extensive use of AT&T services, and offers a number of services through unregulated subsidiaries. Moreover, the market for Western Union's private line services may be stimulated by the demand by resellers and sharing arrangements for its underlying transmission capability.

[74] ARINC Comments, footnote 49.

[75] The International Telegraph and Telephone Consultative Committee of the International Telecommunications Union.

respondents. See AT&T, 57 F.C.C. 2d 1103 (1976).

PUBLIC BENEFITS OF RESALE AND SHARING

75. Although we disagree with OTP in certain respects—specifically, its position that resale is not in common carrier activity and its view that regulation of resale would be contrary to the public interest—we do agree with OTP that numerous public benefits would ensue from unlimited resale and sharing activities, which in part entails elimination of underlying carrier tariff restrictions on resale and sharing. Removal of these tariff restrictions on resale and sharing would create further pressures on carriers to provide their services at rates which are wholly related to costs. When similar services are available from a single carrier, but one service is available in unit quantities while the other service is available on a bulk discount basis, resale and sharing of the bulk quantity service would compel the carrier to price the bulk offering at rates wholly related to cost savings in providing the bulk quantity. If the carrier priced the bulk offering at rates not wholly related to attendant cost savings, a reseller could profitably subscribe to the bulk quantity, pay the bulk rates, and resell the capacity in unit quantities at rates below the tariffed unit quantity rate. The underlying carrier would then have to realign the relationship between unit and bulk rates to make that relationship wholly cost related or else lose the business of small-volume users who shift their demands to the reseller. The same pressures on the underlying carrier would ensue if small volume users aggregated their communications offerings to take advantage of the bulk discount rates. In neither of these instances does the underlying carrier lose business to another carrier in the literal sense. Rather, the underlying carrier continues to provide the service, but its customer becomes the reseller or sharing intermediary. To the extent that the service offered is cost related, the underlying carrier is not adversely affected by the change in its relationship with the ultimate user. In fact, the shift to providing service through an intermediary may reasonably be expected to stimulate demand for underlying carriers' communications services and facilities.

76. While we recognize that deviations from cost-related pricing may on occasion be in the public interest, it has long been our policy that carriers should basically price according to service costs and that exceptions from this principle must be clearly warranted. Private Line Rate Cases, 34 F.C.C. 244 (1961); 34 F.C.C. 217, 231 (1963). If a carrier recognizes that its communications services and facilities can be resold or shared, it will price them according to costs. If the carrier chooses to deviate from this pricing technique, it will have to ask that a particular service offering be exempted from resale and sharing, and provide the necessary justification therefor. The Commission can then decide whether the proposed deviation is clearly warranted prior to commencement of the service. In this way, we believe that resale and sharing will serve as a vehicle for efficient enforcement of sections 201(b) and 202(a) of the Act.

77. We also expect the using public to benefit from resale and sharing through better management of specialized communications networks. As OTP notes, resellers will have an economic incentive to produce cost savings for their customers in order to justify their services (OTP's Reply Comments at 25). AT&T argues that resellers would not provide the using public with better management of communications networks (AT&T's Response Comments at 17–18). First, AT&T asserts that the public can presently take advantage of communications consulting firms. AT&T also contends that resellers would be primarily interested in reselling communications services and facilities rather than providing advice to the using public.

78. We are not persuaded by either of AT&T's arguments. We believe that the reseller will have significantly different, and potentially greater, interests in and capabilities for specialized network management than will either consulting firms or the underlying carriers. Because the reseller has a direct economic interest in the specialized network it will manage, there are substantial direct incentives for efficient and innovative management not characteristic of the consulting firm. On the other hand, because the reseller will operate in a highly competitive yet limited scope environment, with no large monopoly service to place large demands on its talents and resources or to provide a cushion against competitive inroads, its interests and expertise in managing the very specialized networks with which it is involved may well be more finely honed than those of the underlying carriers. This in turn will provide both the incentive and the capability for the reseller to provide extensive advice and assistance as part of its network management function, in order to make its service offerings as attractive and responsive as possible.

79. We also expect that non-profit intermediaries will provide user groups with better management of their communications networks. This will be especially true when the intermediary is collectively owned by the user group, as ARINC is owned by airlines which it services. ARINC considers itself to exemplify the benefits which OTP predicts will flow from intermediary activities (ARINC's Response Comments at 3). While the airlines might obtain management expertise if they hired outside consultants, they apparently have found—as we would expect—that the direct financial and operational involvement of ARNIC provides significant benefits.

Although ARINC serves a user group made up of entities from the same industry, we believe that intermediary sharing by entities from diverse industries will also lead to better management of communications networks (see also paragraph 126, infra).

80. We also believe that underlying carriers will benefit from the management expertise provided by resellers and non-profit intermediaries to the using public. Contrary to AT&T's contention that intermediaries will create forecasting problems for the Bell companies, we view intermediary activity as assisting the Bell companies in forecasting user demands. Whereas the underlying carrier is concerned with meeting the diverse needs of large segments of the using public, the reseller or non-profit intermediary will be concerned with the needs of a few user groups and should be in closer touch with those user groups than the underlying carrier. Consequently, the intermediately entity will develop better demand information than the underlying carrier, and this demand information will be conveyed to the underlying carrier when the intermediary orders communications services and facilities. Accordingly, at this time we view AT&T's assertion that forecasting problems will arise as speculative. Moreover, as OTP notes (Reply Comments at 31), the carriers can insulate themselves to some extent from uncertainties in demand by requiring resellers to absorb some of the uncertainty (by requiring termination charges, etc.).

81. We foresee expanded resale and sharing as resulting in the future development of a two-tiered interstate telecommunications industry and market structure. The first tier will be comprised of carriers offering basic recommunications channels and switching services in two markets—to the public at the "retail" level, and to other common carriers and resale carriers at the "wholesale" level. The second tier will be comprised of carriers and other entities leasing the preponderance of their communications plant from the first tier carriers for the ultimate purpose of reselling these to the public sector—either directly in the form of point-to-point communications channels, or implicity, when these channels and switching facilities are combined to form a switched private line data or voice communications service, or a communications based data processing service.[*]

82. The first tier carrier sector will doubtless be characterized by the capital-intensive financial structure of its participants as it is now. Investments may be expected to be concentrated in terrestrial and satellite transmission facilities, and in time and space division switching plant. The basic conformation should include, as it does today, a nationwide network of intercity terrestrial microwave and coaxial facilities compris-

[*] In its filing, Telenet maintains that although a resale entity may not have a large investment in transmission plant, the investments in switching computer hardware and software may indeed be large enough to approach the natural monopoly condition. Assuming, arguendo, that this may be so under some circumstances, the foreseeable second tier industry structure and regulatory climate does not impose such conditions, but rather allows participants to reach such a state as a result of normal market development.

ing thousands of voice and data channels provided by the Bell System, the independent carriers, Western Union, and the other common carriers. These terrestrial facilities will be augmented with the satellite transmission circuits offered by ice market. This combined transmisthe multiple entrants in the domestic satellite transmission facilities and servsion plant, and any associated switching service, will continue to be made available with a wide variety of options for bandwidth and data speed, among point-to-point and switched digital and analog channels. The second tier carrier may also offer fundamental service at the retail level, using a transmission and switching plant leased entirely or in part from a first tier carrier.

83. The second tier carrier may also serve specialized submarkets not served by the first tier carriers, offering fundamental communications services. Indeed the scope of possible second tier services embraces the entire spectrum of market activity considered in the Computer Inquiry. (See paragraph 118, *infra*). Potential service offerings by resale entities thus include, inter alia: (a) Private line data and voice switching, (b) resale of point-to-point circuits derived by multiplex equipment from a leased circuit, (c) resale of private line circuits obtained from any bulk rate offerings of first tier carriers, (d) brokerage of first tier private line service offerings, and (e) hybrid communications service.

84. In short, we see a potential merging, in whole or in part, of the resale, specialized carrier and data processing industries into a highly competitive "information handling" industry, employing a combination of wholly-owned facilities, customer-provided facilities, and services and facilities provided by the underlying carriers. Because none of these activities, either separately or collectively, now exhibits substantial economies of scale or other natural monopoly or essential public service characteristics, we see no reason at this time to limit the various service combinations which may be offered. We will consider the regulatory implications of this finding in paragraph 118, infra.

85. With certain exceptions private line service is available on a full-time, minimum period basis. A private line customer may have a communications requirement justifying the acquisition of a private line even though the customer's requirement is for less than full-time communications. We believe that this phenomenon is fairly common and that a substantial amount of private line capacity is wasted as a result. Further resale and sharing of private line services should reduce this waste and lead to a more efficient utilization of private line service. In the long run, this should benefit all ratepayers because underlying carriers will be able to satisfy the same quantum of communications requirements at lower costs, thereby resulting in lower rates. Another form of waste may arise when a private line customer has a communications requirement for data transmission at a speed which does not match the carrier's offerings. In order to satisfy this communications requirement the customer must acquire private line service of bandwidth in excess of that needed to satisfy its requirement. The excess bandwidth represents wasted capacity. We also believe that this is a fairly common phenomenon, and that resale and sharing will reduce this waste, thereby leading to more efficient utilization of private line capacity and ultimately lower rates.

86. We also believe that greater availability of communications services and facilities will create additional incentives for research and development. Resellers will want to employ the latest technological developments in order to make the most efficient use of the carriers' transmission capacity. By the same token, underlying carriers will have a new incentive to introduce new transmission technologies as soon as they develop, knowing that otherwise they may lose business to resellers. We view as unfounded the contention made by GTE (GTE's Response Comments at 12) that resellers will try to freeze technological developments by opposing an underlying carrier's improvements of its communications plant. And any such opposition would, in any event, be subject to Commission review. Resellers should be cognizant of the risks inherent in their venture into the communications field. *Carterfone*, supra, 13 F.C.C. 2d at 424.

87. Finally, we believe that the expanded resale and sharing provisions ordered herein, and the second tier of carriers we expect to evolve as a result thereof, will not significantly harm—and may in fact benefit—the underlying carriers themselves. It is a well known principle of economics—amply demonstrated throughout the history of telecommunications—that the introduction of new sources of supply and/or service offerings results in an expansion of the market demand. Where, as here, these new sources and service offerings are possible without the addition of significant investments or resources, it is particularly advantageous. We fully expect the total market for specialized telecommunications services to grow as a result of this action. Admittedly, the rates for the underlying carriers' services (particularly for bulk offerings) will be forced toward relevant costs—although we would expect a lessening of the tendency to price private line services below relevant costs, when this provides no competitive advantage to the underlying carrier vis-a-vis its specialized carrier or other competitors. But the increased revenue-producing usage as well as the more efficient utilization of the underlying carriers' services and facilities by the resellers should substantially if not completely offset any adverse economic effects.

88. In summary, we reasonably expect the following benefits to result from elimination of all tariff restrictions on resale and sharing of private line services: a further trend toward cost-related pricing by underlying carriers; a reduction in the public resources devoted to enforcement of sections 201(b) and 202(a); more efficient utilization of existing communication capacity; better management of communications networks; improved marketing of communications services and facilities; a wider variety of communications offerings; and increased research, development, and implementation of communications technology. Recent history suggests that this will be so. For example, in November, 1969 Datran, a new SCC, filed its request for authorization, granted in April, 1972, for a new switched digital data service (34 F.C.C. 2d 306). Bell responded competitively with an authorization request in October, 1972 to construct its non-switched Digital Data System utilizing in part unused frequency space in its existing microwave system through a new technique called Data Under Voice (47 F.C.C. 2d 586). Since Carterfone, we have witnessed similar developments in the terminal equipment market, with both AT&T and the various independent manufacturers striving to outdo one another in technological and service improvements. We believe that resolution of many of the issues in this proceeding need not await development of detailed proof of the benefits. It is sufficient that our expectations be reasonable conclusions. National Association of Regulatory Utility Commissioners v. F.C.C., 525 F. 2d 630 (D.C. Cir. 1976).

JURISDICTION

89. In the Notice (paragraph 27) we stated:

> PCI, Graphnet, MDT and Telenet have all filed for Section 214 certification on condition that it is required. When determining the reach of our regulatory jurisdiction under Section 214 the principal question is whether or not a communications service for hire is being offered to the public and not on the operational characteristics of the provider. It is well settled that Section 214 authorization is required for the operation of, or transmission over or by means of, interstate lines derived from another carrier's plant. [Citing Mackay Radio and Telegraph Company, 6 F.C.C. 562 (1938)]

Parties responding to the Notice were virtually unanimous in adopting the position we set forth therein, which presumed that the resale of communication service was common carriage subject to Title II of the Communications Act. However, OTP, in its Reply Comments, takes the view that resale is not subject to common carrier regulation under the Act. In view of this position, to which a number of parties have responded, we will consider the applicability of Title II regulation to the resale and sharing of communications services.

90. It has been suggested that the degree of competition in the shared use and resale areas should determine whether we should exercise any regulatory control over the industry. OTP argues that economic regulation such as that under Title II is justified solely by the presence or likely emergence of monopoly power either by "natural monopoly characteristics" or by govern-

mental grant of a franchise; that Title II was designed to protect against potential abuse of monopoly powers; and that the regulatory controls contained therein were not designed for use in a "normal competitive business environment." OTP maintains that communications brokerage (which, OTP states, includes shared use and value added service) is not characterized by monopoly features and should therefore be unregulated." The Department of Justice agrees with the OTP and states that "We find it difficult to conceive of any manner in which the brokerage of communications services could expose the public to the potential abuses of monopoly pricing which warrant common carrier regulation." (DOJ Reply Comments at 3). DOJ sees the existence of strong competition for brokerage services from the regulated carriers, and states that the imposition of common carrier regulation might deprive the public of the benefits of innovation which would be expected in a competitive setting.

91. In response to OTP's position, Telenet claims that there are "natural monopoly" characteristics in the value added network business, and that the economic studies relied on by OTP underestimated the fixed capital requirements for the value added carriers and the maximum achievable economies of scale. Thus, Telenet takes the position that it is too early to determine whether the value added networks will or will not ultimately exhibit natural monopoly characteristics. Telenet also takes issue with the view that the regulation of communications is appropriate only when there is a monopoly or likely emergence of a monopoly; rather, it argues that the Commission must assure that "competition is fair, that the public is served without discrimination, and that other essential communications services are not adversely impacted to the detriment of the public interest." (Telenet Response Comments at 15).

92. Although the policy considerations discussed in the preceeding two paragraphs are relevant to the nature of the regulation which we adopt (see paragraphs 102 to 129, infra), we are of the view that the essential issue is whether entities providing shared use and resale services are common carriers as that term is used in the Act." As the United States Court of Appeals for the District of Columbia, recently concluded in two cases styled identically," the definition of a communications common carrier set forth in the Communications Act is circular and unhelpful. Inasmuch as the legislative history of section 3(h) of the Act (47 U.S.C. 151(h)) also fails to set forth a cogent explanation of communications common carriage, we, like the courts, must search judicial and administrative decisions to determine the legal characteristics of communications common carrier.

93. OTP also recognized the obvious circularity of section 3(h) of the Act, and thus relied on judicial decisions to support its contention that resale activities do not constitute common carriage, "in the ordinary sense of the term," and that Title II of the Act therefore does not apply to resale activity because it was intended to govern common carriage only "in the ordinary sense of the term." Noting that Title II was largely modeled upon the Interstate Commerce Act, OTP states that it is helpful to look at the regulatory treatment of freight forwarders under the latter act. First, OTP observes that freight forwarders by railroad were held to be shippers in their relationship to railroads. ICC v. Delaware, L&W. R.R. Co., 220 U.S. 235 (1911); Great Northern R.R. v. O'Connor, 232 U.S. 508 (1914); Lehigh Valley R.R. Co. v. United States, 283 U.S. 501 (1930). Secondly, OTP notes that the ICC, with judicial approval, held that freight forwarders by motor vehicle were not common carriers because they were not engaged in carrying merchandise directly. Acme Fast Freight v. United States, 30 F. Supp. 968 (SDNY 1940), aff'd per curiam, 309 U.S. 638 (1940). Finally, OTP notes that the Interstate Commerce Act had to be specifically amended in 1950 to bring freight forwarders within the ambit of common carrier regulations. Based on this treatment of freight forwarders, OTP concludes that communications services offered by intermediaries do not constitute common carriage "in the ordinary sense of the term."

94. As heretofore noted (paragraph 37) we concur with OTP's view that the treatment of freight forwarders under the Interstate Commerce Act is helpful to resolution of certain issues in this proceeding, but we disagree with OTP's reading of the freight forwarding precedents and its application of these precedents to determine our jurisdiction over resale and sharing.

95. OTP commences its argument by referencing language in the conference report accompanying the bill which became the Communications Act of 1934. This language refers to section 3(h) as not including any person who is not a "common carrier in the ordinary sense of the term." It is not clear, however, that this language was intended to apply to anything but press associations:

> It is to be noted that the definition does not include any person if not a common carrier in the ordinary sense of the term, and therefore does not include press associations or other organizations engaged in the business of collecting and distributing news services which may refuse to furnish to any person service which they are capable of furnishing, and may furnish service under varying arrangements, establishing the service to be rendered, the terms under which rendered, and the charges therefor. H.R. Conf. Rep No. 1918, 73rd Cong., 2d Sess., at 46 (1934).

Nevertheless, press associations may have been treated as merely an example of persons and entities which were not to be treated as common carriers "in the ordinary sense of the term." Therefore, we shall proceed to review the transportation precedents cited by OTP and their relevance to the regulatory status of resale and sharing entities under the Communications Act.

96. OTP, citing several Supreme Court decisions (para. 93, supra), states that the Court affirmed the I.C.C.'s position that freight forwarders by railroad were not common carriers. However, the I.C.C. viewed these decisions differently than OTP. In the Freight Forwarding Investigation, 229 I.C.C. 201 (1938), the I.C.C. considered these decisions insofar as they related to the I.C.C.'s jurisdiction over freight forwarders by railroad. Noting that the Supreme Court had recognized freight forwarders as shippers "in their relation to the rail lines," 229 I.C.C. at 299, the I.C.C. observed that the Supreme Court had never assessed the regulatory status of freight forwarders under the Interstate Commerce Act in their relationship to the public because:

> The question whether forwarders, in their relation to the public in general, are common carrier agencies upon a set of facts similar to those disclosed on this record was not important in the cases wherein the courts held that forwarders were shippers in their relation to the rail lines. 229 I.C.C. at 299.

The I.C.C. concluded that freight forwarders by railroad normally "possess characteristics of a common carrier in relation to the public." Id. Upon review of the Supreme Court decisions cited by OTP and other transportation precedents, we concur with the I.C.C.

97. A transportation common carrier has been defined by the Supreme Court as "* * * one who undertakes for hire to transport the goods of those who may choose to employ him from place to place." The Propeller Niagara v. Cordes, 21 How. 7, 22 (U.S. 1858). A principal word in that definition is the verb "undertake": common carrier status under common law depends upon the nature and extent of the undertaking rather than upon ownership or operation of the means of transportation. See Ahearn, "Freight Forwarders and Common Carriage," 15 Ford. L. Rev. 248, 257 (1948) and cases cited therein. Thus, freight forwarders were held to be common carriers at common law even though they generally did not control the means of transportation. Read v. Spaulding, 18 N.Y. Superior Ct., 395, 404 (5 Bosworth

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[7] In support of this argument, OTP urges that the brokerage industry has certain economic characteristics such as the absence of need for substantial investment to enter the field and an exhaustion of the economics of scale at a fraction of the estimated market.

[8] Section 3(h) of the Act provides that: " 'common carrier' or 'carrier' means any person engaged as a common carrier for hire in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this Act; but a person engaged in radio broadcasting shall not, insofar as such a person is so engaged, be deemed a common carrier."

[9] National Ass'n of Reg. Util Comm'rs v. F.C.C., 525 F. 2d 630 (D.C. Cir. 1976) cert. denied, ------ U.S. ------ (1976); National Ass'n of Reg. Util. Comm'rs v. F.C.C., No. 75-1075, ------ F. 2d ------ (Fem. 10, 1976).

1859), aff'd 30 N.Y. 630 (1864); Cownie Glove Co. v. Merchants' Dispatch Transportation Co., 130 Iowa 327, 329 106 N.W. 749, 750 (1906). We do not believe that Congress intended to reverse the common law status of freight forwarders when it enacted the Interstate Commerce Act in 1887. On the contrary, it appears that Congress simply intended to regulate only one class of transportation common carriers, namely railroads, in 1887. Express companies were also considered to be common carriers at common law; although recognizing their status as common carriers, the I.C.C. held that they were not subject to the Act as it read in 1887. 1 I.C.C. 677, 682 (1887). An express amendment to the Act was necessary before the I.C.C. could apply common carrier regulation to express companies. Similarly, freight forwarders apparently were exempt from I.C.C. regulation not because they were not common carriers but because the services they provided did not constitute "transportation service" or services "connected with such transportation" within the meaning of section 15 of the Act, 49 U.S.C. 15, as amended. Lehigh Valley R.R. Co., supra, 243 U.S. at 446–47. Thus, the I.C.C.'s jurisdiction over transportation common carriers depended upon the means of transportation as well as the nature of the undertaking. This principle also extended to freight forwarders by motor vehicles. The I.C.C. awarded certificates of public convenience and necessity to freight forwarders only when they leased or otherwise controlled the motor vehicles by which goods were transported. In Acme Fast Freight, supra, the courts affirmed the ICC's refusal to certify those Acme operating divisions which did not lease or otherwise control motor vehicles. Section 203(a)(14) of the Interstate Commerce Act, 49 U.S.C. 203(a)(14), as amended, defines a common carrier by motor vehicle as any person:

> who • • • undertakes, whether directly or by a lease or any other arrangement, to transport • • • property, for the general public in interstate or foreign commerce by motor vehicle for compensation, whether over regular or irregular routes, including such motor vehicle operations of • • • freight forwarders • • •

In affirming the I.C.C.'s decision, the District Court agreed with the I.C.C. that a broad reading of the term "undertake • • • to transport" would conflict with other provisions of the Act. In particular, the District Court held that a broad reading would conflict with Section 206(a), 49 U.S.C. 206(a) as amended, which states that no common carrier by motor vehicle "shall engage in any interstate or foreign operation on any public highway" without a certificate of public convenience and necessity. The court noted that freight forwarders do not operate on public highways when they ship goods through independent motor vehicle contractors (30 F. Supp. at 973) and therefore were exempt from certification. Thus freight forwarders did not "undertake • • • to transport" goods when they did not lease or otherwise control the motor vehicles performing the transportation.

98. In summary, we disagree with OTP's contention that freight forwarders were not transportation common carriers "in the ordinary sense of the term." It is our view that freight forwarders were transportation common carriers but, prior to 1950, were not subject to common carrier regulation by the I.C.C. unless they actually controlled the means of transportation.

99. OTP also relies on the theory that brokerage does not require capital investment in facilities and thus argues that common carriage regulation may depend upon whether the facilities used in the carriage are owned or leased. Under this theory, the assumption of the financial risk entailed by capital investment is an indication that the entity is operating as a common carrier. Compart United States v. Drum, 368 U.S. 370 (1962). If such "own versus lease" examination is relevant in considering the existence of common carriage in the subject proceeding, however, we would also have to consider the type of lease, its duration, the extent to which and on what terms it could be terminated, and similar factors. In its Response Comments, Telenet argues that the resale entities envisioned in this proceeding cannot be easily labeled as to the ownership of their facilities, and that any attempt to base regulation on ownership would be futile. Telenet also notes that "value added" carriers which do lease transmission facilities may in the future own computer-based switching centers or microwave transmission facilities, and that a definition of common carrier which relies on the ownership of facilities will restrict the entities' freedom of technical and economic judgments regarding the satisfaction of their plant requirements.

100. The preceding paragraphs review theories which could suggest that anything but full Title II jurisdiction is appropriate for resale entities. The majority of comments, however, show no hesitancy in urging that a finding of Title II jurisdiction is mandated by MacKay Radio and Telegraph Company, supra. In that case we held that the lease of a telegraph circuit into an area not previously served by the lessee carrier required that we first issue a certificate of convenience and necessity under Section 214 of the Act even though the carrier's use of the leased line was not exclusive. In reaching that decision we looked to the carrier's purpose in extending its service into a new area and to the "far-reaching effects" of a different interpretation of its authority. Because MacKay was conceded to be a common carrier, we did not consider in that proceeding whether such activities by their very nature establish an entity to be a common carrier under the Act; consequently, OTP suggests that we not read MacKay so broadly that we apply common carrier regulation to any "intermediary function." As a technical matter, OTP is correct in arguing that MacKay is not expressly controlling, but as a practical matter we see no reason for retreating from our position that the extension of service to new area by leased facilities requires certification.

101. Inasmuch as we have decided that resellers will be engaged in interstate communication by wire and radio, we now shall determine whether they are common carriers within the meaning of the Act. In doing so, we must re-examine the essential characteristics of common carriage. In the recent NARUC cases cited in footnote 79, supra, the Court of Appeals discusses the essential incidents of common carriage.[80] The court concluded that "the primary sine qua non of common carrier status is a quasi-public character, which arises out of the undertaking 'to carry for all people indifferently • • •.'"[81] This is not to say that an entity must offer a particular service to the entire public; it is enough that the service is imbued with the public interest and that it be offered indifferently to all the members of a user group interested in obtaining the service.[82] In Frontier Broadcasting Co v. Collier, 24 F.C.C. 251, 254 (1958), the Commission defined communications common carriage as that activity whereby:

> a carrier holds itself out or makes a public offering to provide facilities by wire or radio whereby all members of the public who choose to employ such facilities and to compensate the carrier therefore may communicate or transmit intelligence of their own design and choosing between points on the system of that carrier and other carriers connecting with it.[83]

Although the foregoing definition is somewhat inaccurate to the extent that it implies that the using public actually transmits intelligence over common carrier facilities, it, nevertheless, is useful because it emphasizes the importance of the offering. We already have described the resale activity, and with the exception that some resellers may not own any transmission plant, we perceive no difference between resale and traditional communications common carriage. The fact that an offeror of an interstate wire and/or radio communication service leases some or all of its facilities—rather than owning them—ought not have any regulatory significance.[84] The public neither cares nor inquiries whether the offeror owns or leases the facilities. Resellers will be offering a communications service for hire to the public just as the

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[80] See also, *e.g.*, Propeller Niagara v Cordes, 21 How. 7, 22 (U.S. 1858), and Stimson Lumber Co. v. Kuykendell, 275 U.S. 207 (1927).

[81] NARUC v. F.C.C., No. 75–1075, p. 10, __ F. 2d __, (D.C. Cir. 1976), footnote omitted.

[82] See Terminal Taxicab Co. v. Katz, 241 U.S. 252, 255 (1927), for the proposition that common carriage does not necessitate carriage for the whole public.

[83] See also Industrial Radiolocation Service, 5 F.C.C. 2d 197, 202 (1966).

[84] In fact, Western Union leases a substantial part of its communications facilities now. It has never been suggested that it is not a common carrier in its offering of services over leased facilities.

traditional carriers do. The ultimate test is the nature of the offering to the public. No one contends that resellers will make a private offer of communications service rather than a public offering. Nor will we permit resellers to operate in a discriminatory fashion. Accordingly, the offering which resellers will make will satisfy the "sine qua non" of common carrier status, and they will be considered as such. Later experience may show that the public interest would be served by deregulation of resellers. If so, to the extent that the law allows it, we will review the matter and act accordingly.

REGULATION OF RESALE AND SHARING

A. RESALE

102. Having determined that the resale of communications service is a common carrier activity within the meaning of the Communications Act, we turn now to the question of how the Commission should regulate entities engaging in resale. In Item of Inquiry 12 of the Notice, we called for comments regarding the most desirable manner of rate regulation, appropriate accounting and financial reporting and the nature of regulation over commencement of operation, standards of service and termination of service. A number of parties made general or specific recommendations in this area, assuming or arguing that resale entities were subject to full regulation under Title II of the Act. With respect to entry requirements, the three certificated resale carriers—Telenet, PCI and Graphnet—all suggest that certification pursuant to section 214 is required for initiation of service. Graphnet, however, urges that the criteria for grant of a certificate should be flexible when the proposed service is "value added." We have previously (paragraph 18) expressed our view that the term "value added" is too vague to be accorded regulatory significance. If "value added" were to be a criterion in the regulation of resale entities, problems arise if an underlying carrier thereafter offers the service and thus deprives it of its "added value" feature.[55] Accordingly, we will not give any regulatory significance to the existence of "added value" in considering an application for certification pursuant to section 214.

103. Telenet has argued that entry should not be authorized unless a public need for the service has been shown. This question was among the issues raised by Western Union in RM-2218. Thus, Western Union states that each entity seeking certification as a carrier providing resale service should be required to demonstrate how it will provide a special benefit to the public which is not otherwise available. We are not willing to impose such a requirement. We have previously discussed (paragraphs 75–88) the public benefits to be realized from resale and sharing. It appears from the record in this proceeding that competition in the resale market may be an inherent characteristic, given, inter alia, the apparent absence of a need for substantial investment. It would be inconsistent with this observation to require that a prospective carrier demonstrate that it will offer a unique service not provided by another certificated carrier. Several factors are significant in this regard. First, we note that the industry characterized by resale carriers operating primarily with leased communications facilities is growing and dynamic in nature. New entities can reasonably be expected to provide communications services not heretofore available, but we recognize that these firms may not have yet developed to the point where they can provide a unique offering. It would not be in the public interest to raise a barrier to entry of these firms. Second, the requirement of fulfilling a special need not otherwise available would give undue preference to the already certificated resale carriers, who would be in a favorable position to bar potential competitors. The certificated resellers have repeatedly suggested to the Commission that competition in this area will provide safeguards against excessive rates and profits (see paragraph 113, infra).[56] If the resale market is to be characterized by a significant degree of competition, it is all the more preferable that entry be relatively open and that no established carrier be given preferred status. Thus, we will not provide a "protective umbrella" to the already certificated carriers. See Specialized Common Carrier Inquiry, 29 F.C.C. 2d 870 (1970). Finally, as we mention in other parts of this Report and Order, the new carriers will not necessarily be constructing their own transmission facilities, so that failure to survive competition will not result in the inefficient or uneconomic utilization of communications facilities.

104. Our determination that certification of a resale carrier need not depend upon a specific showing that there is a public need for the service, nor upon a showing that the service to be offered is unique, is consistent with precedent and applicable legal principles. In the Supreme Court's decision in F.C.C. v. RCA Communications Inc., 346 U.S. 86 (1953), the Court pointed out that in reaching a conclusion that duplicating authorizations are in the public interest wherever competition is considered feasible, the Commission is not required to make specific findings of tangible benefit. It further held (346 U.S. at 97):

> In the nature of things, the possible benefits of competition do not lend themselves to detailed forecast [citation omitted], but the Commission must at least warrant, as it were, that competition would serve some beneficial purpose such as maintaining good service and improving it.

In our decision in the Specialized Common Carrier case we concluded that there was sufficient ground for a reasonable expectation that new entry would have some beneficial effects, and we so warranted.

105. We have previously alluded to the need for and desirability of open entry by resale carriers. In our first packet-switched data message service certificate grant for leased facilities, we stated that we intended to follow a liberal policy of authorizing such operations.[57] And we specifically found that the findings and philosophy reflected in our Specialized Common Carriers decision dealing generally with the market for data transmission and other specialized services were relevant and supported a competitive environment for the development and sales of the type of service proposed by PCI. In our grant of a certificate to Graphnet to provide a leased facility, nationwide, computerized, packet switched facsimile communication system, we found over the protest of Western Union that the proposed service was primarily a competitive undertaking which fell under our liberal open entry policy.[58] The same open entry policy was applied to Telenet's application for a leased facility, packet switched data communications network, over the protest of Western Union, with the acknowledgment that the new packet switched carriers would have an impact upon the structure of the industry.[59]

106. In our action today we are eliminating discrimination in resale, brokerage and shared use of existing facilities. Our action today envisages not only novel and innovative services but also resale proposals and shared use which will consist of divisions of full time private line circuits and derived channels of lesser grade which will enable smaller users to make efficient, discrete use of private line offerings at less cost. In such uses the advantages will be in terms of cost savings and selectivity rather than technical innovation. Such advantages manifestly are also in the public interest. We here warrant, as we did in the Specialized Common Carrier Decision, that the entry of resellers and the expansion of shared use will have beneficial effects and will outweigh any possible detriments. Insofar as the entry of new resellers will duplicate services of existing resellers, we find this fact not to be a barrier where the public interest will be

[55] It may also be argued that any resale of communications "adds value" because the user finds it more preferable to take service from the reseller than from the underlying carrier.

[56] Although we in no way abdicate our responsibility to insure that the rates for resale services are just and reasonable, we concur in the observation that the very nature of the market will lessen our direct involvement in their establishment. The natural tendency of the resale market will be to minimize the opportunity for one firm to charge excessive rates. This is especially so where the Communications Act requires that all rates be published and this Commission provides for public comments and protests thereupon.

[57] Packet Communications, Inc., supra, 43 F.C.C. 2d at 925.

[58] Graphnet Systems, Inc., supra, 44 F.C.C. 2d at 801–2.

[59] Telenet Communications Corp., supra, 46 F.C.C. 2d at 681–2.

served. Washington Utilities and Transportation Commission v. F.C.C., 513 F. 2d. 1150 (10th Cir. 1975). The public benefits described herein (paragraphs 75–88, *supra*) are convincing evidence of the appropriateness of our policy.[90]

107. We have determined that the open entry of resale entities would be in the public interest. We turn now to the question whether, and to what extent, an applicant for certification as a resale carrier should be required to show the economic impact of its entry into the market.[91] In view of our above determination regarding the nature of the resale market, we are of the opinion that a requirement that economic impact be shown by each applicant is unnecessary and would simply be an artificial barrier to entry. Again, we look to the fact that an applicant will be seeking to enter a market wherein other entities (both resale carriers and to some extent underlying carriers) are providing service in a competitive climate. The record in this proceeding establishes that our action will have only minor economic impact on the underlying carriers, and may in fact result in stimulation of demand for their services and facilites. This issue is one which properly is decided in a broad rulemaking proceeding such as this, where many interested parties have been afforded an opportunity to present their views and comment on the views of others. Likewise, in the Specialized Common Carrier Inquiry, 29 F.C.C. 2d 870 (1971), we resolved broad policy issues and declined to thereafter establish a "multiplicity of proceedings to consider the same contentions over and over again * * *" 29 F.C.C. 2d at 900. In that case, we found that it would be contrary to the public interest to hold comparative hearings on issues of economic exclusivity, 29 F.C.C. 2d at 923. There, as here, there is a general need for the proposed service and here the need may be met without construction of communications facilities. We point out again, however, that all the resale entities initially providing service may not be able to survive the competitive market. We assume, however, that each applicant will have satisfied itself that it can survive.

108. Notwithstanding our decision not to require (a) a showing of a special need for service not now available, (b) a showing that the proposed service "adds value," or (c) an assessment of the economic impact of entry, we will require that applicants seeking certification as common carriers providing resale services establish that they are technically, legally and financially qualified to provide the service which they propose. No party herein advocating regulation of resale under Title II of the Act has suggested that we relax these requirements, and we see no reason to eliminate the need for these findings prior to certification. We fully recognize the right of an interested party to file pleadings relating to applications for certification, and our obligation to consider the arguments raised therein. However, arguments raised with respect to the need for resale service and the anticipated economic impact on existing carriers will be considered in light of the findings which we make in this proceeding.

109. Parties have also filed comments regarding the need for certification of resale network reconfiguration, after the carrier has initially been certified. Telenet and PCI, for example, argue that line-by-line certification is neither proper nor required by section 214 of the Act. They maintain that a carrier should be authorized to provide service to a given geographical area, and should thereafter be permitted to reconfigure its system without prior Commission authorization. Telenet states that other provisions of the Act, such as the tariff filing requirements of section 203, will insure that a carrier is not departing from the authority granted by its original certification.

110. Although we see some merit in these arguments we believe it more appropriate and consistent with present practice for a reseller to request, in a section 214 application, authority to lease a specified number of channels of communications. It would also specify the nature of the "channel of communication". The Commission authorization will cover the blanket request, if appropriate, and the reseller may then lease the facilities from any underlying carrier without further Commission action. However, if the reseller's requirements exceeds the number of channels of communications authorized, an additional section 214 authorization would be required.

111. We also consider in this area the necessity of obtaining a section 214 authorization for the addition of multiplexing or computer swtiching equipment. We have recognized that resale carriers may have substantial investment in such equipment even though they do not own any transmission facilities. Telenet argues that the Commission should allow a carrier to supplement its network by adding new points of network access "with a minimum of regulatory involvement," but also states that such network expansion through the establishment of new switching centers should be preceded by a supplemental section 214 application (Telenet's Comments at 45–8). We point out that the Commission has heretofore required authorization of the addition of multiplexing equipment, because this is a creation of new "lines" or "channels" under section 214. We see no need to make any exception to this requirement with respect to resale carriers. With respect to switching equipment, we find that the record in this proceeding does not support any change in our present position in this matter. Thus, certification of switching equipment as part of a complete transmission service will not be required.

112. Closely related to the issue of certification to enter into the resale of communications service is the question as to the need for certification of discontinuance of service. Section 214(a) of the Act provides that:

> No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience, and necessity will be adversely affected thereby * * *

RCA Globcom, for one, has argued that there should be regular section 214 authorization for discontinuance of service. In view of the nature of resale carriers, however, it might be argued that a 30 or 60 day notice of discontinuance is appropriate. We have considered the requirements of the statute and the policy considerations suggesting "notice of exit" regulation, and conclude that we will require certification under Section 214 for a resale carrier to discontinue service. This may not be a burdensome procedure in view of the service being offered.[92] To the extent that a customer obtains service through telephone equipment connected either by MTS or private line to the resale carrier's facilities, a change in the reseller's central office equipment or the discontinuance of a reseller's central office may in fact not be an impairment, reduction or discontinuance of service. If a resale carrier does undertake to withdraw the availability of service to a geographical area, we see no reason why this proposed action should be any less subject to the requirements of Section 214 then, for example, the discontinuance of a public telegraph office. In summary, the resale carriers have chosen to enter the arena of common carrier regulation, and they must be subject to the requirements such as exit control.

113. Our foregoing comments regarding the certification requirements to en-

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[90] Our finding herein may be distinguished from the factual situation leading to the decision in Hawaiian Telephone Co. v. F.C.C., 498 F. 2d 771 (D.C. Cir. 1974). The court there held that the Commission could not attempt to equalize competition among competitors at the expense of finding whether the public interest would be served. Here, we first note that the competition will be primarily among the resale carriers, not among the traditional underlying carriers owning the facilities. Moreover, we have set forth the public benefits which are expected to result from resale (see paragraphs 75–88, supra). These benefits flow naturally from the competitive market for resale services, and accordingly we are able to find and warrant that competition for resale services is inherent in and serves the public interest.

[91] This question is similar to issue 4 raised by Western Union in RM–2218. In the Notice (paragraph 30), we stated that the issue as it pertained only to Western Union may not be subject to resolution in this proceeding, although parties were invited to comment on the adverse competitive impact, if any, of resale services.

[92] Taking a contrary view, OTP argues (Reply Comments at 43) that certification prior to operation would have a chilling effect on entry because of the threat of regulation and because: In addition, barriers to entry can easily become barriers to exist. Open exit is a requirement if management errors or misjudgments are not to be ultimately passed on to consumers.

ter and leave the market for resale services is only part of the regulatory scheme which we must consider in this proceeding. At our sugggestion (Notice, paragraph 31, Item of Inquiry 12, parties have commented on the nature of the on-going regulation of resale carriers, including manner of rate regulation (if any), accounting and reporting requirements, and standards of service. The three certificated resale carriers argue that there is no need for rate regulation or regulation of the firms' overall profit level, in view of the competitive nature of the market and the pricing restraints inherent in such competition. They argue that the traditional nature of common carrier regulation should not be made applicable in this area. Telenet, for example, maintains that neither rate of return/rate base nor operating ratio regulation is appropriate for the industry. It states that the Commission can later develop ratemaking principles for resale carriers based on industry operating experience and data. On the other hand, the underlying carriers generally argue that resale carriers should be subject to traditional regulatory treatment to assure that the competition is fair and that there is no discrimination among customers.

114. Parties advocating regulation of resale carriers do not appear to dispute the need for one type of rate regulation: the prohibition of section 202(a) against unjust or unreasonable discrimination in charge practices, regulations, etc. As Telenet notes (Comments at 38), the Act "* * * imposes certain obligations upon all carriers, and upon the Commission, which cannot be shirked merely because the carrier is of the 'resale' or 'value added' type." We agree with this proposition, but believe that it applies equally to the provisions of section 201(b) of the Act which requires that all charges for communications service be just and reasonable. The parties advocating "loose rate regulation" do not attempt to reconcile their position with the statutory constraints. It is not sufficient to state that the rates for resale services will be just and reasonable because they will be set according to the going market price in a competitive environment. See F.P.C. v. Texaco, Inc., 417 U.S. 380 (1974). Accordingly, we conclude that it is not appropriate for us to adopt a policy whereby the rates and profit levels of resale carriers are allowed to be set at the prevailing market price. However, see our discussion regarding adequate rates of return for new carriers, not providing monopoly services, in a newly developing competitive market. Southern Pacific Communications Co., ___ F.C.C. 2d ___ (FCC 76-578, released June 24, 1976); American Satellite Corp., 55 F.C.C. 2d 1 (1975).

115. It has been suggested by some parties that we adopt "simplified" or "relaxed" tariff filing requirements for resale entities. However, no specific proposals have been presented for our consideration, and we are not aware of any burdensome procedures in our present regulations which would warrant special tariff filing procedures for resale carriers. Thus, we do not make any special provisions in this area.

116. In the Notice, we called for comments on the desirability of setting rates on an operating ratio basis instead of a rate of return/rate base method. We encouraged interested parties to give their views on the most appropriate type of rate regulation, and did not mean to limit comments to the two ratemaking procedures set forth therein. Unfortunately, this subject was given little in-depth discussion by most parties filing comments, including the carriers with substantial experience in ratemaking principles.[44] Telenet did adduce detailed reasons as to the undesirability of both ratemaking approaches as applied to resale entities; it urges that the appropriate method of rate regulation (if needed at all) be determined in the future when the operating and economic experience of the resale market can be considered. We will not at this time enter into a discussion of the merits and disadvantages of the two approaches, nor will we make any conclusions as to the most appropriate method of setting rates for resale entities. We believe that there is considerable merit to Telenet's argument that a decision now would be premature. Instead of setting this issue for further comment, however, we have decided to allow the carriers in the first instance to determine the ratemaking approach best suited to their operations, and to present such justification to the Commission at the appropriate time. In the meantime, all carriers will be subject to the Commission's substantive rules for rate filings, including the provisions of § 61.38 (unless the carrier's revenue level exempts it from the applicability of the regulation). We may in the future find it preferable to consider this question again in the broad context of industry characteristics and economics, but for now it appears preferable to proceed on a case-by-case basis.

117. In the Notice, we did not specifically call for comments on the desirability of establishing quality of service standards applicable to resale carriers. However, this issue has been raised either implicitly or explicitly by a number of parties submitting comments. It has been contended that the resale of communications service is not desirable because, inter alia, the existence of a middleman between the underlying carrier and the ultimate customer may lead to a deterioration of service. The issue arises in two contexts: whether certification should be conditioned upon the provision of certain minimal service standards and whether these standards should be included in the carrier's tariffs. With respect to entry, we have heretofore stated that a showing of technical and financial qualifications must be shown before certification is authorized. We recognize, however, that there may exist a need for low cost/low quality service and we do not rule out the possibility of certification of such service. What we will require is a showing that the applicant in fact can meet the standards which it proposes. With respect to the ongoing operation of a carrier engaged in the resale of communications service, we will not at this time require specific tariff provisions relating to the quality of service. The fears of the carriers that there will be a degradation of service as the result of a middleman appear to be overstated (See our discussion at paragraphs 75-88, supra).

118. Several parties have commented about the applicability of the "maximum separation" principle of our Computer Inquiry, supra, to resale carriers. In the Computer Inquiry, we required that a communications carrier desiring to offer data services (hybrid data processing or remote access data processing) must form a separate corporation to conduct such operations.[45] In its comments, Telenet urges that we make applicable this principle to resale carriers, and CBEMA maintains that there is no reason to reconsider the policy determinations arrived at in the Computer Inquiry.

No party filing comments supported a change in the "maximum separation" rule. Although we do not herein adopt any changes in § 64.702 of the rules, we believe that a resale carrier providing the services which we reasonably anticipate (see paragraphs 75-88, supra) may not be able to do so consistent with the requirement of separate corporations. We note in this regard that the purpose of the rule is to insure that no cross subsidization exists between a carrier's monopoly services and its data processing services. Because we anticipate that resale services will be provided by entities which do not provide monopoly services, it appears that the public interest would be served by a waiver of § 64.702 for such entities upon their request, on a case by case basis. Thus, we will consider requests for waiver of the rule in light of the considerations set forth in this Report and Order. We do not, of course, preclude the entry of the underlying carriers into the various resale-related markets. However, due to the significant potential which exists for the cross-subsidization of these competitive service offerings from the basic monopoly services—with attendant impact on both the monopoly service users and the competitive environment—we believe that the principle of "maximum separation" enunciated in the Computer Inquiry should apply here as well. Accordingly, underlying carriers which provide basic monopoly services as part of their normal business will be required to establish separate, arms-length subsidiaries in order to engage in resale or

[44] For example, AT&T simply says that resellers should be "regulated in the same manner and to the same degree as the common carrier," including "scrutiny of rates and profits" to assure that there exists no discrimination. AT&T's Comments at 35.

[45] 47 CFR 64.702.

related activities.[65] However, the provision of services or facilities to an affiliated company is not "resale" as we use that term herein, and this paragraph is not applicable to such activity.

119. In summary, we have found that the resale of communications service, which is a common carrier activity within the scope of Title II of the Communications Act, will be regulated in basically the same manner as other common carriage. Applicants for entry to or departure from a market will be required to obtain certification, and the Commission will exercise its jurisdiction to insure that the rates and practices of such carriers are just and reasonable. Arguments presented by certificated resale carriers that they should be subject to a "relaxed" regulatory scheme are vague, and for the most part unsupported by specific proposals which are consistent with their statutory obligations. We have not adopted any regulations pertaining only to resale carriers, recognizing that open entry into the resale market is in the public interest, and that the market may well be characterized by competitive activity among resale carriers with relatively small capital investment.

B. SHARING

120. We defined sharing in paragraph 23, supra, as a non-profit arrangement in which several users, perhaps having no community of interest other than to communicate between the same two geographic points or to communicate with each other, collectively use communications services and facilities obtained from an underlying carrier or a resale carrier, with each user paying the communications related costs associated with subscription to and collective use of the communications services and facilities according to its pro rata usage of such communications services and facilities.[66] A bona fide sharing arrangement exists wherein each participant has a communications need (other than a need to resell the service to others) for the services and facilities being shared. Although the distinction between sharing and resale may not always be clear, we have concluded that sharing, unlike resale, is not common carriage subject to our Title II jurisdiction.[67] However, once an element of profit enters into an arrangement otherwise characterized as sharing, we will consider whether Title II jurisdiction is required. We base this position not merely upon the presence of profit. Rather, we look to the substantial likelihood of an indiscriminate offering to the public once one sharer seeks to engage in a profit-making activity.

121. Central to the comments regarding unauthorized resale is the argument that there are limitless ways in which profit may be derived from a sharing arrangement. Parties have suggested various means by which such abuse could be detected, and we will discuss these proposals herein. First, we must resolve the threshold question of whether sharing should be allowed only through non-profit intermediaries (see paragraph 25, supra). This is an approach which would probably provide the most comprehensive protection against resale by uncertificated entities, because the operation of an intermediary chartered as and providing service through a non-profit corporate entity is prima facie not common carriage "for hire" within the meaning of the Act. Despite the seeming attractiveness of this approach, we do not adopt it. Sharing only through a non-profit intermediary corporation would negate the joint use arrangements presently allowed with respect to some carrier offering, and it is this type of arrangement which is more likely to benefit a smaller communications user desirous of sharing. Accordingly, we find that sharing may legally and practically be accomplished by direct subscription to the service by a user, even though that user is an individual or a for-profit corporation.

122. In a "pure" sharing arrangement, where a group of users is furnished communications service by an underlying carrier and the users divide the charge according to their relative usage, paying no other charge for the sharing arrangement, there is little opportunity for profit to one member. We anticipate, however, that sharing will be more widely characterized by an individual or a for-profit corporation taking the lead role (either as an intermediary responsible for paying the carrier the entire tariff charge or as a primary user of the service), and providing the other users with other services augmenting the communications service. It is with respect to the legality of this type of arrangement that many parties have spoken. There are a number of possible abuses of such a sharing arrangement, and a number of solutions thereto, presented in this record. Telenet argues that sharing should be allowed only by a certain number of sharers, or, in the alternative, that sharing by more than five members be allowed only upon a formal determination by the Commission as to the legality of the sharing arrangement. In response, ARINC disagrees with a limitation on the number of sharers, and with the "trip wire" approach whereby exceeding a certain number of sharers brings about more complex reporting and "certification" requirements. MCI generally agrees with a "trip wire" approach, and suggests that below the limit, initial and periodic reports must be filed with carriers above the number, reports would be filed with the Commission. We do not see merit in either limiting sharing to, or requiring different supervision over, a given number of sharers. There is no evidence in this record which would justify our selection of the maximum number of sharers. Moreover, as ARINC points out (Reply Comments at 22), limitation of the number of sharers in an industry-wide sharing arrangement may work to the detriment of smaller members, which could be excluded from a favorable communications system by large members citing Commission limitations on membership limits. We see no substantial correlation between the number of members of the sharing arrangement and the possibility of unlawful resale disguised as sharing. Accordingly, we do not adopt any limitation on the authorized number of participants in a sharing arrangement.[68]

123. One of the most widely discussed aspects of sharing has been the lawfulness of a management fee imposed on the other users, and the allocations to the other users of charges for "augmenting" the communications service.[69] Herein, argue several parties, lies the disguised profit in sharing arrangements. Telenet states:

> Where mere sharing of a line is involved, and none of the sharing parties supplies hardware or software of the purpose of facilitating the sharing arrangement or enhancing the ultimate communications service, the only potential for profit arises out of the possibility that the Customer might allocate to his Joint Users a greater portion of the facilities carrier's charges than justified by their proportional use. However, where the Customer adds to the lines leased from the facilities carrier channelizing or switching equipment, software, or other enhancing features, or undertakes administrative responsibilities on behalf of the Joint Users, a virtually limitless potential for profit arises if the Customer is permitted to charge his Joint Users for a portion of these ancillary costs. (Telenet Comments at 19)

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[65] If a carrier obtains communications services and facilities from an underlying carrier and then uses such services and facilities to provide its own monopoly services, that activity is "resale" as we use the term in this document. However, such resale to provide monopoly services may be undertaken without resort to the "maximum separation" rule provided for herein, because that resale alone does not provide an opportunity to subsidize competitive services from monopoly services. On the other hand, to the extent that any supplier of monopoly services engages in resale or related activities for the purpose of providing competitive communications or data processing services, the principle of "maximum separation" shall apply to all such activities.

[66] Although we refer to sharing of costs according to pro rata usage, as does AT&T, we do not herein rule out any other manner of allocation of the costs of the sharing arrangement, so long as one user does not realize a profit from such allocation (other than reduction of its own communications costs).

[67] As noted in paragraph 128, infra, however, we do not believe that we are without jurisdiction of any kind with respect to the sharing of communications service.

[68] In view of our decision with respect to reporting requirements, we also reject the suggestion that sharing by a given number of users bring into effect different reporting requirements. See paras. 127–128, infra.

[69] As pointed out in paragraph 8 of our Notice, under RCA's Joint User Plan the Joint User would pay RCA a management fee which is computed on the basis of mileage of the network used, number of access points and speed of communication.

Telenet proposes one solution, not generally shared by other parties—the customer may not charge to any joint user any fee other than a proportion of the carrier's line charge, and the customer's charge must be no less than its proportionate use of the shared facilities. If the carrier billed the users directly, no charge could be collected by any user. If a user desired to collect a fee for the "augmented" services, such as network management, it would have to seek certification as a common carrier. This requirement would limit sharing to the "pure" sharing arrangement to which we referred in paragraph 122, supra. In view of our conclusion that sharing through a non-profit intermediary is permissible sharing, the suggestion must be rejected. Even as applied to sharing without a non-profit intermediary, we believe that it goes too far in attempting to regulate disguised resale, at the expense of smaller users which need more than "pure" sharing, but for whom association in a non-profit intermediary is not practical. Accordingly, we will permit sharing parties to augment their communications service, sharing the costs of the augmented service on a basis proportionate to their usage.

124. MCI takes the position that a user should not be allowed to charge a management or service fee for its activities in managing the network, but it would allow capital and operating expenses to be pro-rated among the users. Other parties generally state that all costs should be shared on a non-profit basis, either stating or implying that a management fee should be allowed. We have considered all these positions and believe that the imposition of a management fee by one user on other users is inconsistent with the concept of sharing as a non-profit activity. Included in the management fee might be numerous "costs" which are designed to reimburse one user for its entrepreneurship in organizing the arrangement. We recognize that the network management may be required, and accordingly we do not believe it to be consistent with non-profit sharing for network management to be provided by an outside entity, so long as no sharer obtains a profit therefrom. For a smaller user arrangement, it might be more advantageous for one user to manage the operation without allocation of any fee, in which case it would be compensated for its efforts simply by sharing the cost of its communications requirements. This is entirely consistent with the rationale of bona fide sharing—economy—which weighs the expense of entering into a sharing arrangement against the costs of making that arrangement work. If the user finds that its costs of management exceed the economies derived from the sharing arrangement, it has the option of obtaining outside management services, or abandoning the sharing arrangement as unsuited for its particular needs. As we have noted, there may well be resellers available to provide such a user with service at attractive terms.

125. Although parties did not comment on it to any extent, there is another allocation of expense related to the management fee—the expense of advertising for users to join in the arrangement. If the true motive for sharing is economy, it is questionable whether extensive advertising, with allocation of the costs thereof to the other users, is in keeping with the definition of sharing as a non-profit arrangement. This is especially true if the publicity is coupled with short term sharing arrangements, in which case the "sharing" begins to take on a characteristic of common carriage—an indiscriminate offering to the public for profit. See N.A.R.U.C. v. F.C.C., 525 F 2d 630 (D.C. Cir. 1976). We believe that sharing is more aptly characterized by long term arrangements than an invitation to join in a short term joint arrangement. We are not holding that it is impermissible for a sharing arrangement to advertise for additional members, nor do we set a minimum time commitment that each user must respect. We simply set forth our view that there are criteria which have traditionally been looked to in defining common carriage, and thus regulation under Title II of the Act. If we are called upon to rule whether a particular entity is providing resale service or merely sharing, we will not hesitate to make a factual finding regarding whether the offering is being made indiscriminately.

126. It has been suggested by several parties that sharing should be limited to entities in the "same line of business." It is not clear upon what rationale such a requirement could be based, except as a possible deterrent to the existence of resale disguised as sharing. To the extent that such a requirement is thought necessary to conform with the "single customer" provisions, we point out that these exceptions have been found to be unlawfully discriminatory (see Appendix E). We believe that the best policy is to allow a customer to share its facilities with any other entity regardless of their respective lines of business, and that a restriction of sharing to industry-oriented groups—acting through an intermediary or otherwise—would be an unreasonable restriction upon the subscriber's use of its service.[99]

127. There remain two final but very important questions with respect to our supervision over sharing arrangements: should prior Commission approval be required (either affirmatively or by failure to disapprove), and to what extent should reporting requirements be required (and to whom)? With respect to the first question, Telenet and MCI suggest that potential sharers—or at least potential sharers above a threshold—should give notice to the Commission of their intent to engage in joint use. In the absence of any objection, the arrangement would become effective after a given period of time. Other parties advocating sharing argue that it should be "unregulated" and not subject to "red tape". As to the second question, we have received various proposals for the reporting of sharing arrangements both to the Commission directly and to the carrier. These proposed reporting details and the filing intervals are diverse, as might be expected.[100] On the other hand, some parties, such as Dow Jones, maintain that any reporting by sharing arrangements would be costly and useless.

128. We have carefully considered these questions, and conclude that it is now appropriate to require prior notice to or approval of the Commission, nor will we adopt any uniform reporting of finances and operation. We caution, however, that although we have found that sharing is not common carriage subject to the provisions of Title II of the Act, we are not devoid of jurisdiction reasonably ancillary to the effective performance of our responsibilities for the regulation of telecommunications common carriers. United States v. Southwestern Cable Co., 392 U.S. 157 (1968). We recognize that sharing may have a substantial impact upon the activities of the regulated carriers, and perhaps on other regulatory policies which we have adopted. It appears now that the adoption of specific regulations pertaining to the authorization and ongoing supervision of sharing arrangements might be burdensome to a great number of sharers and a barrier to entry to potential sharers, especially smaller entities. Although such reporting requirements may assist in the supervision of unlawful resale in the form of sharing, we are not convinced that this possible benefit outweighs the disadvantages. In the future, if we find that resolution of individual cases regarding improper sharing could be alleviated by reporting, we reserve the right to again consider this matter. We note in this regard that the present tariff provisions allowing joint use do not require notification or reporting to the Commission, and that they have for the most part not led to abuse. To the extent that the lack of notification and reporting of sharing have led to abuse, we believe that the guidelines as to the distinction between resale and sharing set forth herein will obviate the abuses. We stress, however, that we are not making the finding that it would be improper for a carrier to require information from entities desir-

[99] Also, we find unjust and unreasonable, and hence unlawful, the requirement in AT&T's tariff (see para. 33, supra) that authorized users may communicate only with the customer, who is in the same line of business, but not with each other.

[100] Telenet, for example, would require that the carrier whose services are being shared report semi-annually to the Commission with respect to the number of sharers and the charges therefor. Customers would also be required to submit semi-annual reports to the Commission pertaining to the lines leased from carriers, contracts with other customers, the basis for allocation of charges, etc. At the other extreme, the Truckers suggest that the certificated user groups (which it views as extensions of the single customer exceptions) file reports on their activities every five years.

ing to share its services, so long as the carrier requirements do not frustrate the policy which we are adopting herein. We anticipate that we may be presented with complaints that a carrier has refused to provide service to a sharing arrangement because it believes that the arrangement is in fact an uncertificated resale carrier. In such a case, we will resolve the matters according to the facts of the particular situation. Likewise, we may be presented with a complaint that a carrier is furnishing service to an uncertificated reseller which the carrier considers to be a sharing arrangement. Again, we will proceed with consideration of the case on its particular facts. We realize that it might be thought to be preferable to adopt a set of regulations which strictly delineated resale and sharing, but this may not be a realistic approach in view of the difficulty in maintaining a clear distinction between these activities.

129. In summary, we have expressed our view that three forms of sharing may reasonably be anticipated as a result of our decision:

(a) Sharing through a non-profit intermediary;

(b) "Pure" sharing wherein two or more users combine their needs to share only the costs of communications line service; and

(c) Sharing, either through a for-profit intermediary or in an arrangement wherein one user is the primary user, in which line costs and charges associated with "augmented" services are shared according to usage. In this case, no management fee may be charged unless the payment is made to an entity other than a sharing participant.

We have imposed no notification or reporting requirements on the sharing arrangements, except that we recognize the possible need of the carriers to obtain information to determine that the customer proposes to use the service consistent with our policy.

Conclusions

130. We have determined in this proceeding that unlimited resale and sharing of all services other than monopoly services is just and reasonable, and that tariff provisions which prevent or restrict such practices are unjust and unreasonable, and thus unlawful. Unlimited resale and sharing of private line services are prescribed as just and reasonable. Moreover, we have concluded that the so-called "single customer" provisions found in the carriers' tariffs are unjustly and unreasonably discriminatory, and accordingly unlawful. We find that resale of communications service is a common carrier activity and that entities engaging in resale are fully subject to the provisions of Title II of the Communications Act. Sharing will be allowed consistent with the criteria set forth herein, and we do not at this time require that prior notification or reports be made to the Commission by sharing groups. We do not require the elimination of the restrictions on MTS and WATS.

131. Several parties have filed comments subsequent to the due dates, and have requested that their pleadings be accepted. No objections to these requests were filed, and we find that acceptance and consideration of the comments would be beneficial to our resolution of the issues herein. In view of this fact, we hereby accept all late-filed comments which were properly served on all parties.

132. Accordingly, *it is ordered*, That the policies set forth herein are effective immediately, and all common carriers subject to the jurisdiction of the Commission shall file revised tariffs by September 1, 1976 eliminating restrictions on the resale and shared use of their services which are not consistent with these policies. Any motion for stay of the effectiveness of this action shall be filed by August 2, 1976.

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

Federal Communications Commission [102]
Vincent J. Mullins,
Secretary.

Appendix A—Western Union's Proposed Issues in RM 2218

1. Whether as a general policy the public interest would be served by permitting the entry of "value-added" or "pseudo carriers" to compete with the specialized and general purpose carriers.

2. Whether the further fragmentation of the industry which would result from establishment of resale-type services in competition with essential primary services now available from general purpose carriers is in the public interest.

3. Whether the proliferation of "value-added" carriers which will rely on facilities obtained primarily from Bell will promote or restrict competition.

4. What would the impact of competition of the nature provided by "value-added" and "pseudo carriers" be on Western Union's ability to perform its common carrier obligations under the Communications Act.

5. Whether competition of the nature provided by the "value-added" and "pseudo carriers" with the prime services of Western Union is in the public interest.

Appendix B—Items of Inquiry

1. What is the justification for the restrictions on resale and third party traffic in the currently effective private line service of AT&T and Western Union?

2. Would the public interest be served by a removal of all restrictions on resale of private line services? What would the effect thereof be on:

a. AT&T and Western Union: Consider the impact on such factors as facilities fill and planning, traffic volumes revenues, and rate of return for the company as a whole and by affected service or particular route.

b. The Communications Industry apart from AT&T and Western Union: How would removal of resale restrictions affect the viability of other carriers with their own lines of communication, the stimulation of research and development, the market for new equipment, the development of new carriers, the stimulation of the market for wire and radio communications?

c. Communications users: Discuss possible new services, new pricing structures, effect on cost of existing services, better communications management and stimulation of the use of the most efficient type of carrier for each type of service.

3. If a total removal of restrictions on resale is not desirable what specific restrictions are recommended? Fully justify any recommended restrictions and discuss in terms of the factors listed in question two.

4. Consider restrictions on resale of other services of AT&T, Western Union and other carriers in the same manner as called for by questions one, two and three above.

5. What is the justification for limiting the sharing of private line services to, generally, voice grade and under services and for requiring those desiring to effectuate a sharing arrangement to have a communications need of their own?

6. Would the public interest be better served by removing all restrictions on the sharing of private line facilities? If that would not be desirable, recommend necessary or desirable restrictions and justify any recommendations taking into consideration the effect of each on the carriers, other elements of the communications industry and the using public.

7. What is the public need for sharing of private line facilities? Discuss any new technologies being developed which would make sharing more attractive, new user applications of sharing and the relationship between the need for sharing and the availability of facilities for resale. Specifically, what need for sharing would remain if all restrictions on the resale of private line facilities were eliminated?

8. What is the need for sharing of other services of AT&T and Western Union as well as the services of any other communications common carrier?

9. What is the justification for provisions of Section 2.2.1 of AT&T's Tariff F.C.C. No. 260 and Western Union's Tariff F.C.C. No. 254 which accord special tariff treatment to the airlines, corporate conglomerates, stock exchanges and their members, and others? Do such tariff provisions, constitute in whole or in part, unjust or unreasonable discrimination, or subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of section 202(a) of the Communications Act?

10. Should the provisions under consideration in question 9 be found to involve unlawful discriminations, what action should the Commission take to remove such unlawfulness? Fully justify any recommended tariff changes and discuss their consistency with any recommended changes with regard to resale and shared used of private line facilities in general.

11. Should the Commission regulate the sharing agreement made between customers and joint users and, if so, to what extent and in what manner? What reports should be required? Specifically consider possible guidelines governing the manner in which the cost of effectuating the sharing arrangement should be shared so that there is a clear distinction between sharing and resale?

12. How should the Commission regulate the entities reselling communications services and facilities? If in some instances full regulation would not be desirable recommend the manner and extent to which regulation is desirable. Specifically consider the most desirable manner of rate regulation for the various types of resale entities. For such entities would the setting of rates on the basis of operating ratios rather than rate base-rate of return be more effective? What

[102] Statements of Commissioners Lee and Hooks filed as part of the original document. Statement of Commissioner Robinson to be issued at a later date.

accounting system and financial reporting should be required? What regulation over commencement of operation, standards of service and termination of service is desirable?

APPENDIX C—PARTIES SUBMITTING INITIAL COMMENTS

Aeronautical Radio, Inc. (ARINC)
Air Transport Association of America, Inc. (ATAA)
American Facsimile Systems, Inc. (AFSI)
American Newspaper Publishers Association (ANPA)
American Petroleum Institute (API)
American Satellite Corp. (ASC)
American Telephone and Telegraph Co. (AT&T)
American Trucking Associations, Inc. (ATAI)
Associated Press
Association of American Railroads (AAR)
Bank Wire
Bunker Ramo Corporation
Citicorp
CML Satellite Corp. (CML)
Commodity News Services, Inc. (CNS)
Computer and Business Equipment Manufacturers Ass'n (CBEMA)
Data Transmission Co. (Datran)
Dow Jones
Graphnet Systems, Inc. (Graphnet)
GTE Service Corp. (GTE)
ITT World Communications, Inc. (ITT)
MCI Telecommunications Corp. *et al.* (MCI)
National Association of Manufacturers (NAM)
National Association of Motor Bus Owners (NAMBO)
National Retail Merchants Association (NRMA)
North American Telephone Association (NATA)
Orlando Communications Club, Inc. (Orlando)
Packet Communications, Inc. (PCI)
RCA Global Communications, Inc. (RCA Globcom)
Remote Processing Services Section of the Association of Data Processing Service Organizations, Inc. (RPSS)
Securities Industry Automation Committee (SIAC)
Southern Pacific Communications Co. (SPCC)
Telenet Communications Corporation (Telenet)
Tymshare, Inc.
United System Service, Inc. (USS)
Utilities Telecommunications Council (UTC)
Wells National Services Corporation (Wells)
Western Union Telegraph Co. (Western Union)
Xero-Fax, Inc.

PARTIES SUBMITTING REPLY COMMENTS

Aerospace Industries Association of America, Inc. (AIA)
Altair Airlines
ANPA
AP
ARINC/ATAA
AAR
API
AT&T
ATAI
Bunker Ramo
CBEMA
CITICorp
CNS
DATRAN
Department of Justice (DOJ)
Graphic Scanning Corp.
Graphnet
GTE
ITT
MCI
NAM
NAMBO
NRMA
Office of Telecommunications (OTP)
Orlando
RCA
RPSS
SIAC
SPCC
Telenet
Tymshare
United Press International, Inc. (UPI)
USS
UTC
Western Union
Xero-Fax, Inc.

PARTIES SUBMITTING RESPONSE COMMENTS

ARINC/ATA
AFSI
ANPA/AP/CNS
AT&T
ATAI
Bunker Ramo
CBEMA
Datran
GTE
ITT
MCI
NAMBO
NATA
RCA
RPSS
SIAC
SPCC
Telenet
Tymshare
USS
Wells
Western Union
Xero-Fax

APPENDIX D—NECESSITY OF EVIDENTIARY HEARING

1. As we determined in the Notice, we have concluded now, after review of all the comments, that the procedures used in this rulemaking proceeding have accorded all parties the procedural rights required under the Communications Act, the Administrative Procedure Act and judicial precedent. However, ARINC and ATA in their joint response comments have argued that before any tariff provision can be found unlawful—in particular, before their own provision can be found to be unlawfully discriminatory—Section 205(a) of the Communications Act mandates an evidentiary hearing.[1] ARINC and ATA observe that Section 205(a) was adapted from Section 15(1) of the Interstate Commerce Act (I.C.A.)[2], and they assert that the latter provision had been construed by the Supreme Court to require an evidentiary hearing by the I.C.C. prior to making a finding that a tariff provision was unlawful, I.C.C. v. Louisville and Nashville R.R. Co. 227 U.S. 88 (1913). ARINC and ATA further contend that the recent Third Circuit opinion, affirming an interconnection order made by this Commission without an evidentiary hearing, merely interpreted Section 201(a)[3] of the Communications Act as not requiring an evidentiary hearing. Bell Telephone Co. of Pennsylvania and AT&T v. F.C.C., 503 F. 2d 1250 (3rd Cir. 1974), cert. denied, 422 U.S. 1026 (1975). ARINC and ATA argue, therefore, that Bell Telephone is inapposite since Section 201(a) only requires an "opportunity for hearing" in contrast to the "full opportunity for hearing" required by Section 205 (a). Similarly, ARINC and ATA argue that precedents construing Section 1(14)[4] of the I.C.A., from which section 201(a) of the Communications Act was adopted, are also inapposite. United States v. Allegheny-Ludlum Steel Corp., 406 U.S. 224 (1973); United States v. Florida East Coast Ry. Co., 410 U.S. 224 (1973). Although in both decisions the Court held that an evidentiary hearing was not statutorily compelled by Section 1 (14), ARINC and ATA note that the Court did not pass on the question of what type of hearing was required under Section 15(1) of the I.C.A.

2. As we observed in the Notice (paragraph 33), the A.P.A., which governs proceedings before administrative agencies, sets forth two basic procedures for use in agency rulemaking and adjudicatory proceedings.[5] The procedures of sections 7 and 8[6] of the A.P.A. apply to agency adjudications and rulemakings in which the rules being considered "are required by statute to be made on the record after opportunity for an agency hearing." (Emphasis added). The procedures of Sections 4[7] apply to the so-called "notice and comment" rulemaking proceedings. In the *Notice*, we stated our belief that "notice and comment" rulemaking proceedings were legally sufficient to accomplish our purposes in Docket 20097. In other recent Commission statements, we have also taken the position that certain hearing provisions under Title II of the Communications Act do not require trial type proceedings. In the Matter of AT&T's High Density-Low Density Structure, 45 F.C.C. 2d 88, 89 (1974); In the Matter of Bell System Tariff Offerings of Local Distribution Facilities For Use By Other Common Carriers, 46 F.C.C. 2d 413, 418–19 (1974) (hereinafter the HiLo order and OCC Interconnection decision, respectively). ARINC and ATA have now called upon us to justify this position with respect to the Section 205 (a) hearing provision.

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[1] 47 U.S.C. 205(a) provides as follows: Whenever, after full opportunity for hearing, upon a complaint or under an order for investigation and hearing made by the Commission on its own initiative, the Commission shall be of opinion that any charge, classification, regulation, or practice of any carrier or carriers is or will be in violation of any of the provisions of this Act, the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable charge or the maximum or minimum, or maximum and minimum charge or charges to be thereafter observed, and what classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent that the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any charge other than the charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

[2] 49 U.S.C. 15(1).

[3] See footnote 9 of Appendix E.

[4] 49 U.S.C. 1(14).

[5] The A.P.A. defines a "rule" as "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy * * * and includes the approval or prescription for the future of rates * * *" 5 U.S.C. 551(4). "Rulemaking" means "agency process for formulating, amending, or repealing a rule." 5 U.S.C. 551(5). An "order" is defined as "the whole or a part of a final disposition * * * of an agency in a matter other than rulemaking." 5 U.S.C. 551(6). Finally the A.P.A. defines "adjudication" as the "agency process for the formulation of an order." 5 U.S.C. 551(7).

[6] 5 U.S.C. 556–57.

[7] 5 U.S.C. 553(c).

[8] 5 U.S.C. 553.

3. In the OCC Interconnection decision, we stated that, because we were making determinations of policies, procedures and other questions common to a large number of applications, we could proceed by rulemaking procedures different from the Section 7 and 8 procedures. 46 F.C.C. 2d at 418. We specifically cited Section 4(j) of the Communications Act which expressly authorizes us to conduct proceedings "in such a manner as will best conduce to the proper dispatch of business and to the ends of justice."[9] In HiLo we stated, without elaboration, that neither the legislative history of Section 204[10] and 205 nor that of their models in the I.C.A. indicates that trial type proceedings are mandatory, 45 F.C.C. 2d at 89. Finally, in both the Notice and in HiLo we treated the absence of the words "on the record," or words of similar import, as indicative that Sections 7 and 8 procedures were not mandatory under the A.P.A. Notice (paragraph 33, note 24); HiLo, 45 F.C.C. 2d at 89. Thus, to recapitulate, we have relied on a number of factors in concluding that trial type rulemaking proceedings are not required under the hearing provisions in Title II. Briefly, these factors are:

1. The presence of general policy questions common to a large number of regulatees;

2. Section 4(j) of the Act requiring that we conduct our proceedings "as will best conduce to the proper dispatch of business and to the ends of justice."

3. Our reading of the legislative history of the Communications Act pertinent to the hearing provisions under Title II; and

4. The absence of the words "on the record" in any of the hearing sections under Title II.

4. We intend to elaborate on each of these factors, but prior to doing so, we note that our present position relative to section 205 (a) may appear to be a shift from an earlier policy of granting full evidentiary hearings in considering the lawfulness of tariff provisions. In particular we held an evidentiary hearing in the Telpak Sharing case, 23 F.C.C. 2d 670 (1970), before finding the Telpak sharing provisions to be unlawful. After the Second Circuit reversed our prescription of unlimited Telpak sharing and remanded the case to the Commission for further proceedings (American Telephone and Telegraph Co. v. F.C.C., 449 F.2d 439(2d Cir. 1971)), we specifically declined to make any prescription because to do so, in our opinion, would have unduly prolonged that proceeding and would have been contrary to the public interest. Telpak (Decision and Order on Remand) 31 F.C.C. 2d 674, 675 (1971). Although the Court had not specified the nature of the further proceedings prior to prescription, we construed the Court's decision to mean that a "fuller evidentiary record" was necessary to prescribe unlimited Telpak sharing, and, for the above stated reasons, we chose not to undertake further evidentiary proceedings. This decision was affirmed in National Ass'n of Motor Bus Owners v. F.C.C. 460 F. 2d 561 (2d Cir. 1972). We do not view the Second Circuit's reference to evidentiary proceedings in the latter decision as controlling on the type of hearing required by section 205(a). And for the reasons stated below, we believe that we unnecessarily implied in the Telpak Sharing case that evidentiary proceeding were necessary before the Commission could make a finding of unlawfulness or prescribe under Section 205(a).

5. Of the four factors listed in paragraph 3, supra, the last appears to be the controlling consideration relative to A.P.A. procedural requirements. It is generally recognized that the presence or absence in a statutory hearing provision of the words "on the record," or words of similar import, is a "[virtual] touchstone test of when Section 556 and 557 proceedings are required." Mobil Oil Corp. v. F.P.C., 483 F. 2d 1238, 1250 (D.C. Cir. 1974). See also Allegheny-Ludlum Steel Corp., supra; Florida East Coast Ry. Co., supra; Bell Telephone Co. of Pennsylvania, supra. As a corollary, the statutory phrase "opportunity for hearing" or similar phrases do not trigger Sections 556 and 557 of the APA. Bell Telephone Co. of Pa., supra 503 F. 2d at 1264. As already noted (paragraph 1), ARINC and AT&T argue that these cases are inapposite because they merely construe the phrase "opportunity for hearing" and do not pass on the phrase "full opportunity for hearing" contained in Section 205(a) of the Communications Act, and whether the word "full" triggers the evidentiary hearing requirements of Sections 556 and 557 of the A.P.A. We are not convinced by the statutory argument proffered by ARINC and ATA. The F.P.C. has confronted the same issue and reached the same conclusion as this Commission does now. The Natural Gas Act[11] requires the F.P.C. to conduct "full hearings" with respect to the filing of initial rates by new natural gas companies under Section 4(e)[12], but merely requires a "hearing" when the F.P.C. investigates rates of existing natural gas companies under Section 5(a)[13]. The F.P.C. has construed both hearing requirements as virtually equivalent in that both are satisfied by informal rulemaking procedures. Re Area Rate Proceeding for Appalachian and Illinois Basins, 44 F.P.C. 1121, 86 P.U.R. 3d 16 (1970). The authority to proceed other than by oral evidentiary hearings under the "full hearing" provision of Section 4(e) has been sustained in American Public Gas Ass'n v. F.P.C., 498 F. 2d 718, 722 (D.C. Cir. 1974). Moreover, administrative agencies should tailor their proceedings to fit the issues under consideration. City of Chicago v. F.P.C., 458 F. 2d 731 (D.C. Cir. 1971), cert. denied, 405 U.S 1074 (1972). The issues under consideration in Docket 20097 are predominantly policy questions. We note that although section 214(d)[14] requires a "full opportunity for hearing" in certain instances prior to finding that new or additional carrier facilities would serve the public convenience and necessity, the Commission's grant of certificates upon policy determinations reached without an evidentiary hearing has received judicial approval. Washington Utilities & Transportation Commission v. F.C.C., 513 F. 2d 1142 (9th Cir. 1975), cert. denied, 423 U.S. 836 (1975). In the Specialized Common Carrier Inquiry, interested parties were allowed to submit comments and reply comments, to engage in oral argument before the Commission, and to submit rebuttal comments to oral argument. 29 F.C.C. 2d at 879. In sum, judicial approval of both the F.P.C. procedures in American Public Gas Ass'n, supra, and our own procedures in Washington Utilities & Transportation Commission, supra, leads us to conclude that the presence of the word "full" in Section 205(a) does not trigger Section 7 and 8 procedures. While statutory language other than "on the record" may trigger the procedures of these sections (Allegheny-Ludlum Steel Corp., supra, 406 U.S. at 757), the Supreme Court held in United States v. Florida East Coast Ry. Co., supra, that the term "on the record":

> • • • is, however, the language which Congress used, and since there are statutes on the books that do use these very words . . . adherence to that language cannot be said to render the provision nugatory or ineffectual. 410 U.S. at 237–8.

The Court further held that the term "hearing" in the A.P.A. "does not necessarily embrace either the right to present evidence orally and to cross-examine opposing witness, or the right to present oral argument to the agency's decisionmaker." 410 U.S. at 240. The authority to proceed informally thus exists even though the proceeding may be held pursuant to 5 U.S.C. 556(d). 410 U.S. 241.

6. Even though we have concluded that the language in section 205(a) of the Communications Act does not mandate an evidentiary hearing, under the A.P.A., we are still obliged to examine the entire Communications Act and its legislative history to ascertain the congressional intent with respect to the hearing provisions of the Act. Florida East Coast Ry. Co., supra, 410 U.S. at 238–42; Phillips Petroleum Co., supra, 475 F. 2d at 851 (Congressional intent as contained in the specific statute is a "more reliable test" than statutory language); Mobil Oil Corp., supra, 483 F. 2d at 1251. As we have noted, the Communications Act of 1934 was largely modeled on the I.C.A., apparently to take advantage of the established body of law construing the latter statute.[15] The Senate Report to the 1934 bill which ultimately became the Communications Act of 1934 stated that judicial review standards applicable to I.C.C. orders would also apply to F.C.C. orders and that this Commission's findings of fact would be set aside by the courts: "only where the Commission's action has been arbitrary or has transcended the legitimate bounds of the Commission's authority." Louisville and Nashville R.R. Co., supra, was cited for this proposition. As already stated (paragraph 1), ARINC and ATT argued that the Supreme Court in Louisville and Nashville R.R. Co. construed Section 15(1) of the I.C.A. as mandating an evidentiary hearing. Therefore, both parties conclude that section 205(a) of the Communications Act requires an evidentiary hearing as well because it was adopted from Section 15(1). We disagree with both parties' reading of the Supreme Court's decision in Louisville and Nashville R.R. Co. We construe the Court's statements with respect to the requirement for an evidentiary hearing (227 U.S. at 91, 93) as a requirement imposed by due process of law and not as a statutory mandate under section 15(1) of the ICA. We are not alone in taking this view of Louisville and Nashville R.R. Co. In Florida East Coast Ry. Co., supra, the Supreme Court charatcerized the above case as one of a group of cases which:

> expressly speak in constitutional terms, while others are less than clear as to whether they depend upon the Due Process Clause of the Fifth and Fourteenth Amendments to the

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[9] 47 U.S.C. 154(j).

[10] 47 U.S.C. 204 provides in pertinent part as follows: Whenever there is filed with the Commission any new charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof • • • and after full hearing the Commission may make such order with reference thereto • • • (Emphasis added).

[11] 15 U.S.C. 717 et seq.

[12] 15 U.S.C. 717c(e).

[13] 15 U.S.C. 717d(a).

[14] 15 U.S.C. 214(d) provides in pertinent part: The Commission may, after *full opportunity for hearing*, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier, party to such proceeding, to provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier and to extend its line or to establish a public office; but no such authorization or order shall be made unless the Commission finds, as to such provision of facilities, as to such establishment of public offices, or as to such extension, that it is reasonably required in the interest of public convenience and necessity • • • (Emphasis added)

[15] See Senate Report No. 781, 73d Congress, 2d Session, 3–5.

Constitution, or upon generalized principles of administrative law formulated prior to the adoption of the Administrative Procedure Act. 410 U.S. at 242.

In its discussion of the Louisville and Nashville R.R. Co. case, the Court viewed the situation as one where the I.C.C. was acting in a "quasi-judicial" capacity because complaints from shippers had been filed with the I.C.C. alleging that a particular railroad's rates were unlawful. 410 U.S. at 243. This distinction is important and will be considered below. Because the I.C.C. was acting in a "quasi-judicial" capacity, we do not view the case as holding that section 15(1) of the I.C.A. per se mandates an evidentiary hearing.[16] Thus, we conclude that the legislative history of the Communications Act does not support ARINC's and ATA's position that section 205(a) of the Communications Act mandates an evidentiary hearing.

7. We earlier stated that section 4(j) of the Communications Act provides further support for our position that we may resolve the issues in this proceeding without an evidentiary hearing (paragraph 3, *supra*). Section 4(1) is also pertinent in this regard, and provides that the Commission may:

perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

With respect to section 4(j), the Supreme Court held in F.C.C. v. *WJR*, The Goodwill Station, Inc., 337 U.S. 265 (1949) that:

* * * Congress was mindful not only of the ends of justice but also of the proper dispatch of the Commission's business, a matter not unrelated to achieving the ends of justice, and left largely to its judgment the determination of the manner of conducting its business which would most fairly and reasonably accommodate those ends. 337 U.S. at 282.

In that case, the Court relied in part on section 4(j) in upholding a Commission decision which was reached only on the basis of written pleadings. Although the applicable statute allowed the party "reasonable opportunity to show cause" why certain action should not be taken, the Commission was held to have "broad discretion" to conclude pursuant to section 4(j) that oral argument in that case was not required. We also note that the Natural Gas Act[17] confers upon the F.P.C. certain authority to fashion its procedures to accomplish its statutory functions, as do sections 4 (i) and (j) of the Communications Act. In Phillips Petroleum Co., supra, the Court of Appeals held that this language gave the F.P.C. a "broad authority" in determining the form of the hearing required by statute. Although we recognize that Sections 4 (i) and (j) must not be treated as conferring carte blanche authority upon this Commission, Mobil Oil Corp., supra, and that sections 4 (i) and (j) would not be sufficient to dispense with an evidentiary hearing if Section 205(a) were interpreted to require it, we believe that the instant proceeding is one in which these sections provide additional support for proceeding informally. Pre-established procedures coupled with limited staff resources have placed great stress upon the Commission's ability to carry out its substantive objectives. *Nader* v. *F.C.C.*, 520 F. 2d 182 (D.C. Cir. 1975). Consequently, we believe that "notice and comment" rulemaking is not only appropriate for resolution of many issues presented by the Items of Inquiry, MCI and Western Union in this proceeding, but is also necessary to carry out the substantive provisions of Titles I and II with reasonable effectiveness. See Permian Basin Area Rate Cases 390 U.S. 747 (1968).

8. We noted in paragraph 3, supra, that the I.C.C. in Louisville & Nashville R.R. Co. was acting in a "quasi-judicial" capacity, and that this led to the requirement therein that an evidentiary hearing be held. In our examination of the single customer provisions, we would be remiss if we failed to note some similarity between the complaints against the special rates accorded to present AT&T "single customers" and the New Orleans Board of Trade's complaint against the Louisville and Nashville Railroad with respect to certain transportation rates for shipments from New Orleans to certain other cities. In both instances, there is and was an absence of general policy questions common to a large number of regulatees. In Louisville & Nashville R.R. Co., supra, there was a complaint against rates set by one railroad; in this proceeding, there is a complaint against preferential rates set by two carriers for a limited number of user groups. Consistent with the Supreme Court's reading of Louisville & Nashville R.R. Co. in Florida East Coast Ry. Co. supra, we will assume, arguendo, that certain questions presented by the single customer provisions are "quasi-judicial" in nature.[18] In order to resolve the complaint concerning the single customer provisions, we accordingly will determine whether ARINC and the other single customers have been granted due process in an evaluation of the single customer provisions.

9. Congress envisioned Sections 4, 7, and 8 of the A.P.A. as providing the "outer boundaries" of administrative procedures. Mobil Oil Corp., supra, 483 F. 2d at 1253. Therefore, it is unlikely that anything more stringent than the procedures of Sections 7 and 8 would ever be required to satisfy the due process clause in the Fifth Amendment when an agency acts in a quasi-judicial capacity. We accordingly look to Section 7 to determine whether a full evidentiary hearing would be required before we decide the Section 202(a) issue with respect to each single customer provision. As we stated above, the Supreme Court has specifically recognized that Section 7 does not mandate in every case anything more than an evidentiary submission in written form. Florida East Coast Ry. Co., 410 U.S. at 241. Section 7 provides:

A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination *as may be required for a full and true disclosure of the facts.* In rulemaking * * * an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form. (Emphasis added.)

Courts have previously considered this section when confronted with a party's claim that it was denied due process. There must first be "a specific proffer by petitioners as to the subjects they believed required oral hearings, [and] what kind of facts they proposed to adduce * * * [and] as to particular lines of cross-examination * * * they propose to pursue." *American Airlines, Inc.* v. *C.A.B.*, 359 F. 2d 624, 633 (D.C. Cir. 1966), cert. denied, 385 U.S. 843 (1966). See also *Long Island R.R.* v. *United States*, 318 F. Supp. 490, 499 (E.D. N.Y. 1970). The petitioner must show that adjudicatory procedures in the agency's resolution of the issues would have made a difference in the agency's decision to resolve issues either by informal rulemaking or adjudicatory procedures. *Upjohn Co.* v. *Finch*, 422 F. 2d 944, 955 (6th Cir. 1970); *Siegel* v. *A.E.C.*, 400 F. 2d 778, 782, 784–85 (D.C. Cir. 1968); American Public Gas Association, supra, 498 F. 2d at 723. Moreover, there must be a question of fact involved, not merely questions of law or policy. ARINC and ATA do not show what difference adjudicatory procedures would make in this case if oral hearings were held on the lawfulness of the single customer, nor do they meet the other criteria set forth in American Airlines, Inc.

Finally, these parties have had an opportunity in Docket No. 18128 to present their cases in evidentiary hearings, and have referred to their presentation in that case to support their position in this proceeding. See Appendix E, wherein these presentations are considered. It is therefore impossible to conclude that they have been denied due process.

APPENDIX E—SINGLE CUSTOMER PROVISIONS

1. As we stated in the Notice (paragraph 13), certain tariff provisions which are found at Section 2.2.1 of the private line tariffs of both AT&T and Western Union permit a limited class of subscribers to order communications services for users having a specified relationship to the subscriber. These are the so-called single customer provisions.[1] Because Western Union's single customer provisions roughly parallel those of AT&T, we will focus our discussion on AT&T's single customer provisions.[2] We have previously made reference to one such provision, Section 2.2.1(E), which allows an organized stock or commodity exchange to order services:

for the transmission of communications to or from an exchange member located on the floor of such exchange and relating directly to the business of the member.

In effect, the stock or commodity exchange functions as an intermediary between exchange members and AT&T. Therefore, Section 2.2.1(E) represents an exception to the resale and third party traffic prohibition found at Section 2.2.3. Curiously, AT&T fails to include Section 2.2.1(E) as an express exception to its prohibition on resale and third party traffic with the other exceptions expressly included in Section 2.2.3. These latter exceptions are Sections 2.2.1(F), 2.2.1(G), 2.2.1(H) and 2.2.1(J). Section 2.2.1(G) permits ARINC to subscribe to AT&T's private line services "[for] the transmission of communications to, from, within

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[16] We note in passing that the Court of Appeals in Phillips Petroleum Co., supra, characterized Louisville & Nashville R.R. Co. as "a pre-Administrative Procedure Act case which is fully out of harmony with that statute". 475 F. 2d 842, 849, n. 7.

[17] Note 11, supra.

[18] We do not believe, however, that this proceeding is "quasi-judicial" as it pertains to the single customer provisions. In Florida East Coast Ry. Co., supra, the Court recognized the distinction between "proceedings for the purpose of promulgating policy-type rules or standards" and those "designed to adjudicate particular facts." 410 U.S. at 245. The former proceedings are "quasi-legislative" and appear to be more similar to the instant proceeding than are the latter.

[1] AT&T Tariff F.C.C. No. 260, Sections 2.2.1 (C)–(J). Western Union Tariff F.C.C. No. 254, Sections 2.2.1 (D)–(G).

[2] Throughout the discussion of single customers provisions, the term "private line tariff" only refers to AT&T Tariff F.C.C. No. 260. Other AT&T private line tariffs—Nos. 267–268—do not contain single customer provisions.

and between air carriers."[3] Section 2.2.1(H) allows the United States Postal Service to subscribe to service "for its use in the provision of its Facsimile Mail Service." Section 2.2.1(J) allows a composite data service vendor (CDSV) to subscribe to service "for the transmission of switched data (non-voice) communications for its patrons when such communications relate directly to the business of such patrons." Finally, section 2.2.1(F), the so-called power pool provision, is denoted in section 2.2.3 as an exception to the resale and third party traffic prohibition even though no intermediary is mentioned as the "customer" within that Section. All other single customer provisions identify the customer and the scope of resale activity which can be undertaken by the customer. In contrast to these other provisions, section 2.2.1(F) focuses only on the user group's identity, stating that private line service is available:

where the use of the service relates to coordination or exchange of electrical pooled power, for the transmission of communications between any two or more stations of such services or similar services furnished to others who are parties to the coordinating or exchange arrangement.

There are three other single customer provisions, but none is expressly recognized in AT&T's private line tariffs as an exception to the resale and third party traffic prohibitions. These include the so-called corporate conglomerate provision, section 2.2.1(C), whereby a customer can subscribe to private line service for a subsidiary corporation over which the customer exercises 50 percent control of the voting stock "[for] the transmission of communications relating directly to the subsidiary's business."[3a] The final two single customer provisions in AT&T's private line tariff relate to official governmental communications. Section 2.2.1(D) allows a federal department or agency to subscribe to private line services "[for] the transmission of communications to or from any station on a service furnished" to that department or agency when the head, or duly authorized representative, of such department or agency notifies AT&T in writing that use of the service "is intended only for official United States Government business." Section 2.2.2 (I) allows the United States Government "pursuant to the Intergovernmental Cooperation Act of 1968"[4] to subscribe to private line services "[for] the transmission of communications of a state or local government agency."[5] We also consider the government single customer provisions to be exceptions to the resale prohibition even though AT&T's private line tariff nowhere states that these are exceptions.

2. While many of the so-called single customer provisions can be viewed as exceptions to the resale and third party traffic prohibition in AT&T's private line tariff, they may simultaneously be viewed as exceptions to the shared use restrictions on AT&T's private line services, specifically the prohibition on sharing of services provided over discrete wideband facilities and the virtual prohibition on sharing of Series 5000 (Telpak) service. In many instances the intermediary is collectively owned in some manner[6] by some or all members of the user group, and therefore may be considered nonprofit.[7] A user group obtaining private line service through an intermediary owned in some manner by the user group may be viewed as engaging in a sharing arrangement through an intermediary. As we stated in paragraph 25 of the text, a primary advantage of sharing through an intermediary is that it allows specified user groups—such as the airlines, stock exchange members, and electric power pools—to enjoy the administrative convenience resulting from the purchase of communications services in conjunction with other members of the user group. And we also observed in the Notice (paragraph 13) a further advantage to single customer status: it allows user groups who are accorded such status by AT&T to aggregate their communications needs—both as to communications among group members and as to communications within a single member's operation—thereby making the purchase of Series 5000 services economically feasible. Thus, certain user groups, because of their single customer status, are allowed to order communications services under Telpak discount rates, which would not be available to the users taken singly.[8]

3. Because other user groups, including the Truckers, have been denied single customer status and therefore were unable to take advantage of the Telpak discount rates, we initiated an investigation in Docket 19746 to determine whether such exemptions for specified user groups constituted unjust and unreasonable discrimination with the meaning of Section 202(a) of the Act. As we stated at paragraph 12 of the text, because the single customer provisions were, in effect, exceptions to the resale and shared use restrictions we incorporated the issues raised in Docket 19746 into this proceeding. More specifically, Items on Inquiry 9 and 10 (see Appendix B) raised the same issues that were under investigation in Docket 19746. Briefly, Item of Inquiry 9 questioned whether AT&T's and Western Union's single customer provisions are unlawfully discriminatory.

4. Several parties contend that the single customer provisions do not present any issue of unlawful discrimination under section 202(a). ARINC argues that unlawful discrimination cannot arise from the affirmative provision of any service, including Telpak, by the carriers to present single customers. ARINC asserts that it had made a "reasonable request" for service and, therefore, under section 201(a) of the Communications Act[9] the carriers were obligated to furnish the requested service. ARINC bases the reasonableness of its request upon the Commission's 1937 finding that "a rapid, efficient, dependable, coordinated system of communications is necessary at all times for the safety of the airlines on the airways" *Aeronautical Radio, Inc.*, v. *AT&T*, 4 F.C.C. 155 (1937) (hereinafter ARINC case) and the fact that ARINC had provided the airlines with a coordinated communications system for over 45 years. ARINC further asserts that the Commission's 1937 finding is still valid today. As a corollary to its argument premised on Section 201(a), ARINC states that its right to service is independent of any carrier tariff provisions. In sum, ARINC concludes that the single customer issue, properly framed, is whether there had been any improper refusal by the carriers to honor meritorious requests for single customer status made by other entities proposing to serve the inter-member and intra-member communications requirements of certain user groups. To buttress its argument, ARINC cites precedents from both the I.C.A. and the Communications Act.[10] The precedents under the I.C.A. dealt with section 1(4) from which section 201(a) of the

[3] To qualify as a subscriber for the air carriers collectively, Section 2.2.1(G) requires that the subscribing entity be an "aeronautical communications company licensed under The Aviation Services rules of the Commission [47 C.F.R. §§ 87.1ff] to operate stations in the aeronautical mobile and fixed services." ARINC holds such licenses.

[3a] We do not find this "corporate conglomerate" provision to be unlawfully discriminatory.

[4] Intergovernmental Cooperation Act of 1968 82 Stat. 1098–1107 (1968) 42 U.S.C. 4201ff.

[5] As already stated Western Union's private line tariff contains single customer provisions which roughly parallel AT&T's single customer provisions. However Western Union's tariff does not contain single customer provisions for the electric power pools, the United States Postal Service, state or local governments, and CDSVs.

[6] For example, ARINC is incorporated under the laws of the State of Delaware. In its Comments (pp. 4–5), ARINC stated that 99 percent of its stock is held by trust, regional, commuter and United States and foreign flag air carriers while the remaining 1 percent is owned by general aviation, non-carrier interests. SIAC is a wholly owned subsidiary of the New York Stock Exchange.

[7] As already stated in our discussion of bona fide sharing arrangements (paras. 23–26 of the text), there are numerous potentials for such arrangements to become profit-making resale ventures for some person or entity. To that extent, our statement in the text must be qualified.

[8] CDSVs are the only single customers precluded by the AT&T private line tariff from ordering Telpak service. Section 3.2.5(A).

[9] 47 U.S.C. 201(a) provides, in pertinent part as follows:

It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes.

[10] ARINC cites the following court and agency decisions which construed the carrier's duty to serve under the I.C.A.:

American Trucking Assn's v. *Acheson T.&S.F. Ry.*, 387 U.S. 397, 406 (1967); *Brotherhood of Ry. & S.S. Clerks* v. *Florida E.C. Ry.*, 384 U.S. 238, 245 (1966); *Menasha Paper Co.* v. *Chicago & N. Ry Co.*, 241 U.S. 55, 58 (1916); *Chicago R.I. & P. Ry.* v. *Hardwick Farmers Elev. Co.*, 226 U.S. 426, 434 (1912); *Hannibal & St. J.R.R.* v. *Swift*, 79 U.S. 262, 270 (1871); *N. J. Steam Nav. Co.* v. *Merchants Bank*, 47 U.S. 344, 381 (1848); *Johnson* v. *Chicago, M St. P&P Ry.*, 400 F. 2d 968, 971 (9th Cir. 1968); *Montgomery Ward & Co.* v. *Northern Pac. Term. Co.*, 128 F. Supp. 475, 490 (D. Ore. 1953); *Lucking* v. *Detroit & Cleveland Nav. Co.*, 273 F. Supp. 677, 583 (E.D. Mich. 1921); aff'd 284 F. 497 (6th Cir. 1922), aff'd 265 U.S. 346 (1924); C.O.D. and Freight-Collect Shipments, 343 ICC 692, 760 (1974); and Northern Pac. Ry. Discontinuance of Trains, 333 ICC 15, 39 (1968).

ARINC also cites the following court and agency decisions which construed the carrier's duty to serve under the Communications Act:

MCI Communications Corp. v. *American Tel & Tel Co.*, 369 F. Supp 1004, 1022 (E.D. Pa. 1973), vacated and remanded on other grounds, 496 F. 2d 214 (3rd Cir. 1974); *Chastain* v. *AT&T*, 43 F.C.C. 2d 1079, 1084 (1973), petition for reconsideration denied, 49 F.C.C. 2d 749 (1974); *Johnson* v. *Southwestern Bell*, 18 F.C.C. 2d (1969); *KOTA Cable T.V. Co.* v. *Minnesota Microwave*, 26 F.C.C. 2d 16 (1970).

become meaningless to equate "customer" status with special rate treatment. SIAC takes a similar position to that of ARINC with respect to section 201(a). In addition, SIAC argues that single customer status should be distinguished for resale and sharing arrangements, which presumably would include Telpak sharing arrangements. As opposed to these latter arrangements where there is no community of interest between sharers or between resellers and users, SIAC contends that there is a community of interest between the single customer and those partaking in the use of its communication services. SIAC argues that this distinction based upon affinity between users and the single customer bears legal significance. SIAC contends that Section 201(a) requires a carrier to serve entities having this affinity with users whereas carrier restrictions against resale and sharing are subject to a broader test of reasonableness under section 201(b) of the Communications Act. SIAC cites no cases in support of this legal proposition. As did ARINC, SIAC argues that rates are not at issue in this proceeding.

Communications Act was adopted.[11] ARINC next observes that we had expressly stated that rates were not at issue in this proceeding.[12] Therefore, ARINC reasons that it would

5. At the outset, we would point out that single customer status cannot be separated from the rate advantages accruing to an entity or group accorded this status. Members of single customer user groups enjoy the discount by being able to aggregate their communications needs and thus justify subscribing to Telpak, which is priced lower than a like (or smaller) quantity of private line circuits ordered separately. Nor can we accept ARINC's and SIAC's implicit view that section 201(a) is independent of section 202(a) if provision of that service would place a carrier in violation of section 202(a)'s proscription against unjust or unreasonable discrimination. We take notice that in ARINC, supra, ARINC brought its complaint against AT&T on several grounds, including (1) AT&T's refusal to render to ARINC private line teletypewriter service for the use and benefit of the aviation industry, and (2) AT&T's refusal to provide such service to ARINC at press rates which were lower than the regular commercial rates on private line teletypewriter service. 4 F.C.G. at 156. Although we held that ARINC would be entitled to the private line teletypewriter service once it had reasonably requested such service from AT&T,[13] we also held that it was not unreasonably or unjustly discriminatory against ARINC for AT&T to refuse to provide this service to ARINC at the lower press rates. 4 F.C.C. at 167. In short, we found ARINC's request for private line teletypewriter service at press rates to be "unreasonable" under section 201(a) because it would be "unjustly or unreasonably" discriminatory under section 202(a). Based on the 1937 ARINC precedent, we believe that single customer status, insofar as it accords preferential rate treatment to several user groups, does present questions of unjust or unreasonable discrimination under section 202(a).[14] Moreover, we find no precedents under the Communication Act or the I.C.A. supporting SIAC's view that the reasonableness test under Section 201(a) is narrower than the reasonableness test under section 201(b). And judicial construction of the I.C.A. provision from which section 201(b) was adopted indicates a relationship between that provision and the antidiscrimination provisions of the I.C.A.[15] *I.C.C.* v. *Baltimore and Ohio R.R. Co.*, 145 U.S. 263, 277 (1892).[16]

6. Because of the extended discussion involved, we have set out in Appendix D the basis for our conclusion that the parties have been accorded the procedural rights required under the Communications Act, the Administrative Procedure Act and judicial precedent. We now turn to the specific reasons set forth as justification for ARINC's discriminatory rate treatment. ARINC asserts that market conditions alone—that is, competitive necessity—justifies its recognition as a single customer entitled to receive the TELPAK offering. In support thereof, ARINC cites: (1) the record in Docket 18128; (2) ARINC's current experience as a private microwave licensee for the air transport industry, and (3) Commission statements made in the TELPAK Sharing Case. ARINC contends that the above record clearly establishes that an ARINC nationwide microwave system would be a realistic alternative in the event that ARINC lost its ability to obtain private line services for the airlines at TELPAK rates. ARINC and ATA cite AT&T Exhibit 1, pp. 15–20; ATA Exhibit 4, pp. 22–23; and ARINC's own initial comments, pp. 41–45 (describing ARINC's private microwave experience and its consideration of competitive alternatives to AT&T and Western Union services). We not the ARINC was the only single customer to argue that its status was justified by competitive necessity. Neither AT&T nor Western Union, from whom ARINC obtains private line services at bulk rates, sought to justify ARINC's status on this ground. AT&T relied on public policy to justicy ARINC's status and Western Union chose not to comment on the single customer issue.

7. The Telpak Sharing case, supra, 23 F.C.C. 2d at 613, sets forth the criteria which must be met if a discriminatory rate or preference is to be justified as necessary to meet competition.

ARINC and ATA are the sole possessors of the information which would dispose of the first criterion. In this proceeding ARINC and ATA have maintained that their substitute source of communications service is a nationwide private microwave system and that the airlines will shift to private microwave if ARINC loses its single customer status. Because ARINC and ATA are the sole possessors of the information which would prove these "exceptional facts," they carry the burden of proof with respect to the first criterion. *Copley Press, Inc.* v. *F.C.C.*, 444 F. 2d 984, 988–89 (D.C. Cir. 1971).

8. An analysis of the material submitted in this proceeding and in Docket 18128 by ARINC fails to convince us that ARINC's single customer status is justified on the basis of competitive necessity. The evidence adduced by ARINC lacks in critical respects the degree of definiteness and commitment needed to justify its preferential position. ARINC has been investigating the feasibility of a private microwave system for the airlines for approximately twenty years. To date, however, ARINC never has introduced into the record evidence that: (a) Its board of directors has authorized the construction of a nationwide private microwave system; (b) it has a contractual commitment from any financial institution to supply it funds at specific terms for the construction of a private microwave system; and (c) its member airlines endorse the construction of a system and are committed to purchasing service from such a system. The submission of studies showing the cost of a complete private microwave system for the airline industry and repeated assertions that the industry will switch to a private microwave system if its costs for communications service from common carriers increase are not adequate in themselves to satisfy the first criterion of our competitive necessity showing. The accuracy of ARINC's study is questionable.

We note that: (a) The cost data consists only of "ball park" figures, i.e., very preliminary estimates; (b) they contain no hard survey or cost information for the actual microwave station sites; and (c) they pay little attention to frequency congestion problems extant in some areas. The actual merit of these studies, thus, is questionable. Moreover, we believe that we can state without equivocation that the mere theoretical feasibility of a private system does not establish the actuality of such an alternative, nor does it prove that ARINC's membership would opt to participate in a private microwave system even if such a system was a real alternative to common carrier service. Thus, ARINC's preferential single customer status is not justified of the basis of competitive necessity.[17]

9. ARINC and ATA might have made a supplemental showing to the one which they made in Docket 18128 indicating the actual microwave station sites selected to provide their nationwide private microwave system, a reasonably exact estimate of the cost of building such a private microwave system, and an explanation of how they planned to deal with the frequency congestion problems in some areas. Neither ARINC nor ATA made such a supplemental showing. Nor did they they submit or request the statements of various airlines' personnel who could provide

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[11] 49 U.S.C. § 1(4), as amended (1970).

[12] Resale and Shared Use of Common Services, 48 F.C.C. 2d 1077 (1974).

[13] In the ARINC case, the record was unclear as to whether ARINC had actually requested private line teletypewriter service from AT&T. 4 F.C.C. at 166.

[14] In 1937, the Commercial rates for private line teletypewriter service were $36 per mile per annum for 60 speed service for 24 hours a day whereas the press rates for the same service were $30 per mile per annum. 4 F.C.C. at 161. Thus, ARINC was merely seeking a rate preference of $6 per annum for each private line ordered. Today, the rate preference accorded to ARINC is considerably larger.

[15] 49 U.S.C. 2, 3(1).

[16] SIAC additionally contends that there is no Section 202(a) issue raised by SIAC's single customer status as to Telpak because, according to SIAC, it does not avail itself of the Western Union or AT&T single customer provisions for organized stock exchanges. SIAC maintains that AT&T and Western Union (also MCI and RCA Globcom) recognize SIAC as a "customer" under Section 2.5 of their private line tariffs, and that SIAC is merely providing service to stock exchange members pursuant to these carriers' "authorized use" provisions. AT&T Tariff F.C.C. No. 260, Section 2.2.1(B); Western Union Tariff F.C.C. No. 254, Sections 2.2.1 (B), (C). Even if SIAC has properly relied upon tariff sections other than the single customer provisions, this provides SIAC with no absolute right to preferential rate treatment. Whether such preferential rate treatment is justified depends upon Section 202(a) of the Communications Act, and not on any carrier tariff provision. Telpak Sharing case, 23 F.C.C. 2d 606 (1970).

[17] After the record in Docket No. 20097 was closed, ARINC announced its plans to upgrade and improve its private line intercity network. However, ARINC did not move to supplement its comments in this proceeding to show how any changes would affect its claim to preferential rate treatment due to competitive necessity.

such information. As previously noted, section 7 of the Administrative Procedure Act accords a party the right "to conduct such cross-examination as may be required for a full and true disclosure of the facts." ARINC and ATA have failed to demonstrate that cross examination was required for a full disclosure of the facts or that they would, in some manner, be prejudiced by the denial of an evidentiary proceeding. Rather, they have relied on a blanket assertion that section 205(a) compels the Commission to grant them an evidentiary hearing on the issue of unlawful discrimination. As we have stated (appendix D), it is our opinion that section 205(a) requires only notice and comment procedures. We have given both parties the opportunity to submit three rounds of comments and they have failed to point to any particular issue on which cross-examination would have further developed the facts. Accordingly, we find that ARINC and ATA were accorded due process by this Commission and that they have not justified their single customer status, insofar as TELPAK is available to the airlines, on the basis of competitive necessity. *American Public Gas Association* v. *F.P.C.*, 498 F. 2d 718 (D.C. Cir. 1974).

10. AT&T, GTE, and several other parties argue that public policy considerations alone justify the present single customer provisions. These parties have raised issues of law and policy, and consequently due process does not require that we resolve these issues through an evidentiary hearing. GT&E cites *Transcontinental Bus Systems, Inc.* v. *C.A.B.*, 383 F. 2d 466 (5th Cir. 1967) (hereinafter Transcontinental) to support its contention that public policy considerations justify existing single customer provisions. In Transcontinental, independent motor carriers and a national trade association of motor bus operators sought review of a C.A.B. order approving the military standby, youth, and young adult tariffs of several air carriers. It is sufficient to note that the persons who qualified for service under these tariff provisions enjoyed substantially lower rates than other air travellers. The motor carriers maintained that only a cost difference was a valid justification for a discounted rate. The C.A.B., on the other hand, broadly argued that it legally could consider all factors that it considered as reasonably related to the tariff, including the public welfare, the competitive situation, and the needs of national defense in determining whether a rate is unjustly discriminatory. The court held that the C.A.B. is neither limited solely to consideration of reduced rates nor free to resort to unfettered consideration of public policy. The court's reasoning is most compelling, and thus we think it appropriate to quote from its decision at some length:

> For while the Board has acquired an expertise in matters relating to air transportation, that expertise does not extend to and include all the social policy factors which it here argues it may evaluate and consider. The implementation of social policy on a broad and expansive scale is, within the Constitutional framework, a matter for Congress. While Congress may delegate to an administrative body under appropriate guidelines the actual implementation and execution of a general social objective incorporated in a statute, *any intent to commit such matters to the agency must appear either explicitly or by necessary implication in the enabling statute.* We are unable to find such delegated authority which would enable the Board to consider social policy factors which are not incorporated in the Federal Aviation Act of which have not been deemed relevant in the course of the history of rate regulation in the transportation industry. (383 F. 2d at 484.) (Emphasis added.)

Additionally, while the court in Transcontinental affirmed the CAB's approval of the military standby tariffs, it suggested that the tariffs were justified on the grounds that factors independent of the passengers' status as servicemen rendered the conditions of service dissimilar. The court noted that the C.A.B. had found that the standby tariffs enabled the air carriers to compete effectively against surface carriers for military business and that they increased the morale of the armed forces and thus contributed to the national defense.

11. Since the Federal Aviation Act of 1957, 49 U.S.C. 1301 et seq., was also modeled on the I.C.A. we feel that Transcontinental is persuasive precedent. Accordingly, we may consider public policy factors as justifying the single customer provisions, but the factors which we properly may consider are the only those which appear either explicitly or by necessary implication in our enabling statute. Section 1 of the Act (47 U.S.C. § 151) charges us with regulating interstate and foreign wire and radio communication.

> [s]o as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication * * *

In addition to these objectives, Title II of the Act (47 U.S.C. 202 et seq.) infuses the rule of equality into our regulatory scheme for communications common carriers. Tariff provisions which are unlawfully discriminatory do not automtically become just and reasonable, and thus lawful, simply because they grant preferential treatment to an entity whose business is related to one or more of the social policies explicitly or implictly found in the Communications Act. AT&T's Telpak Offering, and equivalent discounted bulk services offered by other carriers, do not afford communications users service unavailable through other offerings; it does, however, give users a substantial discount for ordering bulk channels. Consequently we must ask whether, and in what way, the discriminatory rate preferences accorded single customer subscribers advance a social policy which we may consider as justifying the discrimination.

12. ARINC seeks to justify the airlines' preferential rate treatment on the grounds that it promotes safety of life and property. UTC makes the same contention relative to the electric utilities, and, moreover, asks the Commission to direct the carriers to extend this preferential rate treatment to other utility user groups. AT&T also argues that single customer status for both ARINC and the electric utilities is justified because it promotes safety of life and property. As noted, the Transcontinental case limits the extent to which our regulatory program may seek to further social policies. In formulating our regulatory scheme for common carriers we cannot consider social policies which do not appear either explicitly or by necessary implication in the enabling statute. Even if a social policy explicitly or implicitly appears in the Communications Act, Transcontinental does not obligate us to further the policy by one particular means—preferential rate treatment. We believe that we have discretion as to the means which we employ to carry out "the purpose of promoting safety of life and property through the use of wire and radio communications * * *" 47 U.S.C. 151 (1970). In the ARINC case, supra, one of ARINC's complaints against AT&T was the latter's refusal to provide preferential press rates for private line teletypewriter service to the airlines to promote the safety of life and property in the air (4 F.C.C. at 156). But, as previously noted, the Commission held that the promotion of safety of life or property in the air through the use of wire and radio communications was adequately effectuated by requiring that AT&T treat ARINC as a single customer (4 F.C.C. at 166), and that preferential rate treatment was unrelated to the furtherance of that purpose. Id. at 167. After examining the comments of ARINC, ATA, UTC, and NAMBO, we have concluded that the statutory objective of promoting the "safety of life and property through the use of wire and radio communications" does not alone justify otherwise unlawfully discriminatory rates.

13. Several parties argue that single customer status should be extended to groups of users whose members are in the same line of business. This argument seems to be analogous to the C.A.B. cases which approved discriminatory rates for charter groups whose members had a prior affinity.[18] The C.A.B. found that the "prior affinity" requirement did not create an unlawful discrimination. It reasoned that opening up regularly scheduled international flights over the North Atlantic to limited group chargers would increase the carriers' fill factors, which were alarmingly low, but which, if the composition of the group was restricted by the prior affinity requirement, would not create a massive diversion from the standard fare service, and thus defeat the very purpose of the group fares, i.e., increase the carriers' return on investment by raising their fill factors. Although the courts have not reversed the C.A.B.'s approval of affinity group tariffs, the United States Court of Appeals for the Second Circuit did state in dicta that,

> there is something for saying that the individual passenger's affinity to some organization should be irrelevant to his right as a member of the public to have equal access to all modes of service offered by common carriers.[19]

14. We do not think that similar tariff provisions extending single customer status with respect to Telpak service to groups of users whose members are in the same line of business would be in the public interest. The C.A.B. unquestionably has encountered substantial practical difficulties in applying the affinity group tariffs. Clear evidence of imperfections of these tariffs is found in the C.A.B.'s adoption of other regulations which make charter transportation available to all segments of the traveling public without regard to membership in affinity groups. We presently perceive no practical way of limiting the availability of Telpak sharing if single customer status is accorded to all "same line of business" groups. Moreover, there are differences between the air transportation and the communications industry which lead us to conclude that "affinity" would not be a reasonable justification for discrimination. One adverse effect would be the hinderance of communications between groups with different affinities.

15. We have heretofore mentioned that the Truckers (and NAMBO) contend that they also should be granted single customer status. In addition to advancing the safety of life and property arguments which we have already rejected, they contend that as a matter of public policy we should find tariff provi-

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[18] See, e.g., *C.A.B.* v. *Carefree Travel, Inc.*, 513 F. 2d 375 (2d Cir. 1975); *National Air Carrier Association* v. *C.A.B.*, 442 F. 2d 862 (DC. Cir. 1971); and Agreement Adopted by the International Air Transport Association Relating to Group Fares, 36 CA.B. 33 (1962).

[19] *C.A.B.* v. *Carefree Travel, Inc., supra*, 513 F. 2d at 389.

sions lawful which work to equalize competition between air and surface carriers. Because we find ARINC's single customer status with respect to Telpak to be unlawful, and we extend the benefits of resale and sharing to all customers, we need not address this argument.

16. In view of the foregoing, we find that the single customer provisions are unlawfully discriminatory and thus in violation of section 202(a) of the Act. Our decision herein will allow the governmental entities to continue to share communication services and facilities, either jointly or through an intermediary. Thus, the question whether provisions of the Communication Act and the Inter-governmental Cooperation Act provide a basis for special treatment of these customers is moot.

[FR Doc.76-21372 Filed 7-23-76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 1]

[Docket No. RM 76-24]

SETTLEMENT AND DISPOSITION OF ISSUES

Procedural Rules

JULY 19, 1976.

In the matter of petition of certain utilities and other for amendment of 18 CFR 1.4(d) to facilitate settlement of disposition of particular issues in proceedings before the commission.

A Petition,[1] attached and made a part of this notice, has been filed by certain utilities and others[2] requesting that the Commission initiate a rulemaking proceeding to amend § 1.4(d) of its rules of practice and procedure, Chapter I, Title 18 of the Code of Federal Regulations. Notice is hereby given pursuant to the provisions of the Administrative Procedure Act, particularly 5 U.S.C. 553, and the provisions of the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h) and the provisions of the Natural Gas Act, as amended, particularly sections 15 and 16 (52 Stat. 829, 830; 15 U.S.C. 717n, 717o) that the proposed amendment is being considered for adoption.

The Petition proposes that the Commission amend § 1.4(d) of its rules by adding new subparagraphs (2)(v), (vi) and (vii). No other amendments or other changes to § 1.4(d) are proposed.

The purpose of the proposed amendment is to facilitate the expeditious disposition of matters before the Commission by allowing informal discussions between Commission Staff Counsel and counsel for parties to proceedings before the Commission and discussion with Commission Staff Counsel or other Commission employee (except a Commissioner or any employee of the Commission who may reasonably be expected to be involved in the decisional process) of proposed settlements or proposed agreements for disposition of particular issues.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than August 9, 1976, data, views, comments or suggestions in writing concerning the proposed amendment. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before action on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, and mailing address and telephone number of the person to whom communications concerning the proposals should be addressed, and whether the person filing a submittal requests a conference with the Staff of the Federal Power Commission to discuss the proposed amendment. The Staff, in its discretion, may grant or deny written requests for conference.

The proposed amendment to § 1.4(d) of the Commission's rules of practice and procedure would be made pursuant to the authority granted the Commission by the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h) and the Natural Gas Act, as amended, particularly sections 15 and 16 (52 Stat. 829, 830; 15 U.S.C. 717n, 7170).

The Petition proposes that the Commission amend Paragraph (d) § 1.4 Part 1, Rules of Practice and Procedure, in Subchapter A—General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding new subparagraphs (2)(v), (vi), and (vii), as follows:

§ 1.4 Appearances and practice before the Commission.

* * * * *

(d) Ex parte communications * * *

(2) The prohibitions contained in paragraph (d)(1) of this section do not apply to a communication:

* * * * *

(v) Between staff counsel assigned to the proceeding and counsel to any party or parties to the proceeding;

(vi) Which proposes settlement or an agreement for disposition of any or all issues in the proceeding, or which seeks to clarify facts relevant to the proceeding, which communication is between staff counsel assigned to the proceeding or (in the presence of or with the prior approval of such staff counsel) any other employee of the Commission (except a Commissioner, a member of his personal staff, an Administrative Law Judge or any other employee of the Commission who is or may reasonably be expected to be involved in the decisional process of the proceeding) and counsel to any party or parties to the proceeding or (in the presence of or with the prior approval of such counsel) any such party or the agent of any such party;

(vii) Which all the parties agree may be made on an ex parte basis.

* * * * *

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.[3]

By the direction of the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT—UNITED STATES OF AMERICA BEFORE THE FEDERAL POWER COMMISSION

[Docket No. RM76-24]

PETITION OF CERTAIN UTILITIES AND OTHERS FOR AMENDMENT OF COMMISSION'S RULES TO FACILITATE SETTLEMENT OR DISPOSITION OF PARTICULAR ISSUES IN PROCEEDINGS BEFORE THE COMMISSION [4]

Petition For Amendment, 18 CFR Part 1, Section 1.4(d).

Pursuant to the Administrative Procedure Act and § 1.7(b) of the Commission's rules of practice and procedure and on behalf of the Petitioners named at the foot of this petition, the undersigned respectfully petition the Commission to issue an order amending § 1.4(d) of its Rules of Practice and Procedure to facilitate the disposition of matters before the Commission by withdrawing

(a) Any prohibition against communications between counsel for any parties to the proceeding and staff counsel assigned to the proceeding, and

(b) Any prohibition against communications proposing settlement or an agreement for disposition of any issues in any pending matter, or seeking to clarify relevant facts, between staff counsel assigned to the proceeding and counsel for any party, or in their presence or with their prior approval between any other employee of the Commission (except a Commissioner, a member of his personnel staff, an Administrative Law Judge or any other employee of the Commission who is or may reasonably be expected to be involved in the decisional process of the proceeding) and a party or agent of a party, and

(c) Any prohibition against any communication which all the parties agree may be made on an ex parte basis.

AMENDMENT REQUESTED

Petitioners respectfully request that paragraph (d)(2) of § 1.4 of the Commission's Rules of Practice and Procedure be amended by adding new subparagraphs (v), (vi) and (vii) as shown below: [5]

(d) *Ex parte communications.* In order to avoid all possibilities of prejudices, real or apparent, to the public interest and persons involved in proceedings pending before the Commission—(1) Except as permitted in paragraph (d)(2) of this section, no person who is a party to, or his counsel, agent, or other person acting on his behalf, and no interceder in, any on-the-record proceedings, shall submit ex parte, off-the-record communications to any member of the Commission or of his personal staff, to the Administrative Law Judge, or to any other em-

[1] The Petition was filed on July 1, 1976, pursuant to Section 1.7(b) of the Commission's Rules, 18 CFR 1.7(b).

[2] A list of the Petitioners is included in the attachment hereto.

[3] The complete text of the Petition is to be published as a part of this notice in the FEDERAL REGISTER.

[4] Pleadings, documents and communications in respect of this Petition should be addressed to Frederick T. Searls, Esq., Debevoise & Liberman, 700 Shoreham Building, 806 15th Street, NW., Washington, D.C. 20005; telephone number (202) 393-2080.

[5] No change is made in paragraph (d)(1) or in subparagraphs (i), (ii), (iii) and (iv) of paragraph (d)(2), or in paragraphs (d)(3), (4), (5) and (6).

ployee of the Federal Power Commission, regarding any matter pending before the Commission in any contested on-the-record proceeding, and no Commissioner, member of his personal staff, Administrative Law Judge, or any other employee of the Federal Power Commission, shall request or entertain any such ex parte, off-the-record communications. For the purposes of this paragraph, the term "contested on-the-record proceeding" means a proceeding required by statute, constitution, published Commission rule or regulation or order in a particular case, to be decided on the basis of the record of a Commission hearing, and in which a protest or a petition or notice to intervene in opposition to requested Commission action has been filed; the term "interceder" shall include any individual outside the Commission, whether in private or public life, partnership, corporation, association, or other agency, other than a party or an agent of a party, who volunteers a communication.

(2) The prohibitions contained in paragraph (d)(1) of this section do not apply to a communication:

(i) From an interceder who is a local, State, or Federal agency which has no official interest in and whose official duties are not affected by the outcome of the on-the-record proceedings before the Commission to which the communication relates;

(ii) From an interceder relating to matters of procedure only;

(iii) From a party to, or his counsel, agent, or other person acting on his behalf, in an on-the-record proceeding, if the communication relates to matters of procedure only and is directed to the Secretary of the Commission, staff counsel, or any other employee in the presence of or with the prior approval of staff counsel;

(iv) From any person when otherwise authorized by law;

(v) Between staff counsel assigned to the proceeding and counsel to any party or parties to the proceeding;

(vi) Which proposes settlement or an agreement for disposition of any or all issues in the proceeding, or which seeks to clarify facts relevant to the proceeding, which communication is between staff counsel assigned to the proceeding or (in the presence of or with the prior approval of such staff counsel) any other employee of the Commission (except a Commissioner, a member of his personal staff, an Administrative Law Judge or any other employee of the Commission who is or may reasonably be expected to be involved in the decisional process of the proceeding) and counsel to any party or parties to the proceeding or (in the presence of or with the prior approval of such counsel) any such party or the agent of any such party;

(vii) Which all the parties agree may be made on an ex parte basis.

AUTHORITY OF COMMISSION TO AMEND ITS RULES OF PRACTICE AND PROCEDURE IN THIS FASHION

It is clear that the Commission has authority under statute to amend its rules of practice and procedure. Federal Power Act, sections 308, 309 (15 U.S.C. § 825 (g) and (h)); Natural Gas Act, sections 15, 16 (15 U.S.C. 717n and 717o).

REASONS FOR AMENDMENT SOUGHT BY PETITIONERS AND PETITIONERS' INTEREST IN THE SUBJECT MATTER

The number of cases pending before the FPC has increased steadily and dramatically and is still increasing.

The Chairman of the Commission pointed out in testimony before the Senate Committee on Government Operations on May 27, 1976 that the total number of cases before the Commission in January, 1976 was 10,480 and it had grown to 14,454 by the end of March, while the Commission decides, on the average, about 62 cases per week. Delay in the disposition of cases pending before the Commission is prejudicial to the public interest, and specifically to he interest of the utilities which are regulated by the Commission and to the interest of the customers of such utilities. Such delays make it more difficult to plan the construction and operation of utility facilities and more difficult to finance the construction of such facilities. Such delays also make more difficult the solution of problems relating to the potentially increasing shortage of energy, and such delays also add to the complexity and expense of proceedings before the Commission. Furthermore, in many cases such delays may be detrimental to consumers by maintaining in effect for periods longer than is necessary, albeit subject to refund with interest, rates that are ultimately reduced by Commission action or settlement agreements.

The Commission has recognized the need for improvements in procedure. By Order No. 547 issued April 1, 1976 in Docket No. RM 76-12 the Commission announced a policy and amendment of its rules to encourage the submission of proposals relating to problems which will face the Commission, thus affording the Commission an early opportunity to consider administrative reforms in a general context [new Section 2.1a(a) of Part 2, Chapter I, Title 18 of the Code of Federal Regulations].

Petitioners are involved and will be involved in proceedings before the Commission and are affected by procedures which make the resolution of matters before the Commission more expensive and more time consuming.

The salutary purpose and generally beneficial effect of the Commission's Rule 1.4(d), regarding Ex parte communications, has been impaired by the construction placed upon the rule which prevents informal discussion between staff counsel and counsel for parties to proceedings before the Commission, and which also prevents discussion of proposed settlements or proposed agreements for disposition of particular issues.[6] The language of the rule is in contrast to the rules of at least two of the agencies which, as discussed below, recognize the need for informal discussion among counsel and also the need for discussions leading to settlement of cases or agreement as to particular issues in cases.

The rules of the National Labor Relations Board provide that prohibited ex parte communications shall not include:

(c) Oral or written communications which all the parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis.

(d) Oral or written communications proposing settlement or an agreement for disposition of any or all issues in the proceeding. (29 CFR 102.130.)

The Rules of the Civil Aeronautics Board provide that the prohibitions of private communications on the merits shall not be deemed to apply to:

The usual informal communications between counsel, including discussions to effectuate a stipulation, or to settlement discussion between parties and the Board's enforcement staff * * *. (14 CFR 300.2(a).)

Public policy clearly favors the settlement of controversies by discussion, explanation and compromise. Free and informal discussion is necessary and essential to identify matters which are not genuinely in issue, or which even if disputed are not of genuine importance in a particular context. Free discussion between counsel is part of our traditional legal system, which is based on the assumption that responsible counsel will not burden courts, commission and other tribunals with tedious, time consuming, repetitive and wasteful litigation of issues which are not genuinely disputed or which can be resolved between counsel. To exclude staff counsel from such discussions, while counsel for parties are free to talk among themselves but not to staff counsel, prevents counsel from fulfilling a duty which they owe to our legal system, namely, to attempt to resolve disputes by discussion and negotiation rather than by litigation.

The proposed amendments will promote more effective and timely regulation of the utilities subject to the Commission's jurisdiction by assisting in clarification of factual situations, elimination of misunderstandings, providing information as to the positions of the parties and the Staff, expediting stipulations, and promoting settlements.

The proposed amendments are entirely consistent with provisions relating to ex parte communications in legislation now pending in Congress generally referred to as the "Government In The Sunshine Act". S. 5, as passed by the Senate on November 6, 1975, and H.R. 11656, as reported to the House of Representatives on March 8, 1976 by the Committee on Government Operations and on April 8, 1976 by the Committee on the Judiciary, both contain provisions consistent with the new rules now proposed, and such rules could of course remain in effect if legislation is enacted in the proposed form and becomes effective (as proposed in the bills) 180 days after enactment. The petitioners respectfully submit that the much-needed improvements in the rules of the Commission should not and need not be held up until the statute becomes effective, and the statute, even when effective, would not obviate the need for these improvements in the rules.

Wherefore, for the foregoing reasons Petitioners respectfully request the Commission to revise § 1.4(d)(2) of the Commission's

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[6] The present language of the rule has no great antiquity and there is no evidence that it was supported by any particular reasoning. From December 19, 1947 (See 12 FR 8473) until April 6, 1973 the Commission's rule regarding ex parte communications applied only to communications to members of the Commission, their personal staffs, the hearing examiner or any employee of the Commission participating in the decision in an on-the-record proceeding. By Order No. 479 issued April 6, 1973 (49 FPC 870) the Commission amended the rule by making it applicable to all Commission employees whether or not they had any role in the process of decision. No explanation for the change was provided beyond the observation that "the Commission believes that the prohibition should not be limited to those who participate in decision-making but should apply to all Commission employees in order to ensure fairness in its proceedings." The Commission noted that notice and comments were not required since the amendment related to a matter of Commission practice and procedure.

rule of practice and procedure as proposed in this petition.

Respectfully submitted,

FREDERICK T. SEARLS,
HOWARD C. ANDERSON,
Debevoise & Liberman, 700 Shoreham Building, 806 15th Street, N.W., Washington, D.C. 20005, and

WILLIAM G. PORTER, JR.,
Porter, Stanley, Platt & Arthur, 37 West Broad Street, Columbus, Ohio 43215.

On behalf of:

Alabama Power Company, Appalachian Power Company, Baltimore Gas & Electric Company, Columbus & Southern Ohio Electric Company, Commonwealth Edison Company, Connecticut Light & Power Company, Duke Power Company, Hartford Electric Light Company, Holyoke Water Power Company, Indiana & Michigan Electric Company, Jersey Central Power & Light Company, Kansas City Power & Light Company, Kentucky Power Company, Kingsport Power Company, Metropolitan Edison Company, Michigan Power Company, Mississippi Power Company, New England Power Company, Northeast Utilities Service Company, Ohio Power Company, Pacific Gas & Electric Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Public Service Company of Indiana, South Carolina Electric & Gas Company, Union Electric Company, Virginia Electric & Power Company, Western Massachusetts Electric Company, Wheeling Electric Company, Wisconsin Electric Power Company, Wisconsin Power & Light Company.

RAYMOND N. SHIBLEY,
Farmer, Shibley, McGuinn & Flood, Suite 850, 1120 Connecticut Avenue, N.W.

On behalf of:

Detroit Edison Company, Panhandle Eastern Pipe Line Company, Trunkline Gas Company.

JAMES N. HORWOOD,
Spiegel & McDiarmid, 312 Watergate Office Building, 2600 Virginia Avenue, N.W., Washington, D.C. 20037.

Law firm which represents Municipal Electric Systems and Rural Electric Systems and Rural Electric Cooperatives in twenty-three states.

WILLIAM C. WISE,
Suite 200, 1019 19th Street, N.W., Washington, D.C. 20036.

Attorney for a large number of Rural Electric Cooperatives and Municipal Electric Systems.

[FR Doc.76-21456 Filed 7-23-76;8:45 am]

[18 CFR Part 141]

[Docket No. RM76-16]

LABOR DEPARTMENT, RESIDENTIAL ELECTRIC BILL DATA

Renotice of Proposed Rulemaking

JULY 19, 1976.

Pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553 and sections 301, 304, 309 and 311 of the Federal Power Act (49 Stat. 854–856, 858–859; 16 U.S.C. 825(a), 825(b), 825(c), 825c(b), 825c(c), 825h, 825j), the Commission gives notice that it proposes to amend its regulations by adding a new § 141.28 to Part 141 of the Approved Forms under the Federal Power Act to revise FPC Form No. 3–P for the collection of electric bill data.

Section 311 of the Federal Power Act (49 Stat. 859; 16 U.S.C. 825j) provides that the Commission is to secure and keep current information relating to the rates, charges and contracts in respect of the sale of electric energy and its service to residential, rural, commercial and industrial consumers and other purchases by private and public agencies. In accordance with Section 311 and pursuant to an agreement between the Federal Power Commission and the Bureau of Labor Statistics (Division of Statistical Standards of the Bureau of the Budget) dated November 5, 1940, the Commission has been supplying monthly electric bill data for a selected number of communities to the Bureau of Labor Statistics in order to eliminate duplicate requests among government agencies for information on electric rates.

The original notice of proposed rulemaking, issued on June 4, 1976, was incomplete in that it did not adequately describe the total burden and reporting specifications to be imposed on the responding utilities. Specifically, significant increases in the numbers of communities for which bills are to be calculated by each responding utility, and in the total number of monthly electric bills each respondent is to report, were not properly identified. It is concluded that a renotice is desirable to ensure that final Commission action will be based upon an accurate notice and that the respondents comments will have been based upon an adequate description of the proposed changes. A detailed listing of the numbers of communities and bills to be priced by each utility is provided in Appendix G.

The data now collected are used in the compilation of the Consumer Price Index and the Wholesale Price Index, the Federal government's official indicators of price movements and are widely used for measuring changes in the Nation's economy. The data, collected on FPC Form No. 3–P, consist of (1) residential electric bill data for the Consumer Price Index, and (2) commercial and industrial electric bill data for the Wholesale Price Index. The Bureau of Labor Statistics determines the data to be collected.

Consumer Price Index: A total of 116 communities (three communities are counted twice—Anchorage, Alaska; Cleveland, Ohio; Portland, Oregon) serviced by eighty-one utilities are canvassed monthly by the Commission to determine the price of electric service to residential customers. In addition, three communities in Alaska (Juneau, Fairbanks and Ketchikan) served by three utilities are canvassed on May 15 and November 15 only. These communities surveyed comprise fifty-six Standard Metropolitan Statistical Areas (SMSA) or Pricing Sample Units (PSU).

A total of 404 residential electric bills comprise the monthly sample for the Consumer Price Index. Between three and five residential bills are reported for each community canvassed. Each residential electric bill consists of a net base bill, a total bill and where applicable a fuel adjustment, sales and/or gross receipts tax, and other tax or charge. If applicable, respondents are also requested to provide the monthly fuel cost and the fuel adjustment per kilowatt-hour and the rate of sales or other tax.

Wholesale Price Index: Eighty-eight cities (thirty-two are also canvassed for residential service and Cleveland, Ohio is counted twice) served by eighty-eight utilities are canvassed monthly to determine the price of electric power to commercial and industrial customers.

A total of 171 electric power bills comprise the monthly sample for the Wholesale Price Index. Four utilities supply bills for commercial service only and one utility supplies a bill for industrial service only. Each commercial and industrial electric bill consists of a net base bill and a total bill, and where applicable, a fuel adjustment and/or other charge. Sales taxes are not to be included, however taxes charged to the utility and passed on to the customer are to be included.

The Bureau of Labor Statistics is presently revising the Consumer Price Index with a scheduled initial publication date of April 1977. The current Index will be continued until September 1977, and then terminated. Both indices will be published during the interim period. No change in the Wholesale Price Index is planned at this time. Pursuant to the revisions being instituted by the Bureau of Labor Statistics, the Commission proposes to make the appropriate changes and additions to its Form No. 3–P. The changes are:

(1) The schedule entitled "Residential Electric Bill Data for U.S. Bureau of Labor Statistics—Consumer Price Index" would be entitled "Schedule 1" in addition.

(2) The schedule entitled "Commercial and Industrial Electric Bill Data for the U.S. Bureau of Labor Statistics—Wholesale Price Index" would also be entitled "Schedule 2" in addition.

The following additional proposed changes all pertain to "Schedule 1":

(3) Bill specifications would not be preprinted on Line 1, Line 7 and Line 13 as is done presently, e.g. 100 kWh, 250 kWh and 500 kWh. Instead, each individual respondent would be given a unique set of kilowatt-hour (kWh) specifications, as shown in Appendix G, for reporting monthly bills. This will greatly increase the accuracy of the measurement of the Consumer Prive Index. However, a fixed 500 kWh residential bill will be included for all communities, in order to allow preparation of quarterly FPC rate trend supplements to its annual publication "Typical Electric Bills."

(4) An additional line titled "Subtotal" would be added. This will greatly aid in identifying data for use in two separate indexes; one calculated on bills without taxes and one calculated on bills with taxes.

(5) All applicable taxes would be calculated by respondent and the total amount reported on one line titled "Taxes." This line would replace the lines titled "Sales

or gross receipt tax" and "other tax or charge." This will more easily identify the various components of the total price.

(6) The lines titled "Other tax or charge" would read "Other charges." Applicable charges other than taxes would be reported here and would be needed to calculate a subtotal (a bill without taxes).

(7) The lines titled "Total Bill (nearest 1¢)" will read "Total Bill including taxes (nearest 1¢)." This will provide bills with taxes for calculating an index including taxes.

(8) In addition to supplying the fuel cost per kWh and fuel adjustment per kWh as are now required on Lin 31 and Line 32 respectively, respondents would be asked to supply Minimum Bill and Minimum Kilowatt-hours included for each specified rate schedule; purchased power adjustment per kWh; power cost adjustment per kWh. This will aid in verification of the bill data and identify the specific type of fuel adjustment as reported on the line title "Fuel adjustment."

(9) Respondents would also be asked to report applicable tax rates, such as the sales tax, gross receipts tax, franchise tax and others, as well as to report the percent of prompt payment discount. This will aid in verification of the bill data and identify the various taxes reported as a total on the line titled "taxes."

A sample of revised Form No. 3–P is shown in Appendix A.

The utilities required to file the schedules on existing Form No. 3–P and revised Schedule 1 and listed in the several appendices. The fifty-one utilities listed in Appendix B do not currnetly file Form No. 3–P. They would commence reporting only residential data on revised Schedule 1 as of the date an order issues in this rulemaking. The fourteen utilities listed in Appendix C are currently reporting commercial and industrial data only, and will continue to do so in the future. They do not currently report residential data but would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking. The fifty-three utilities listed in Appendix D are currently reporting residential data on the existing schedule, and shall continue doing so through September 1977, when such reporting would be terminated. In addition, they would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking. This short period of paralled reporting will be required for coordination of the revised Schedule 1. The ten utilities listed in Appendix E are currently reporting residential data on the existing schedule and would continue to do so through September 1977 when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and shall continue to do so. The twenty-one utilities listed in Appendix F are currently reporting on residential data on the existing schedule and would continue to do so through September 1977. At that time all such reporting would be terminated.

The one hundred and eighteen utilities listed in Appendix G would commence reporting residential data on revised Schedule 1 of Form 3–P as of the date and order is issued in this rulemaking. The number of communities and bills to be priced is listed alphabetically by state and utility.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than August 2, 1976 data, views, comments or suggestions in writing concerning all or part of the revisions proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny requests for conference.

The proposed amendments to Part 141 of the Commission's Approved Forms under the Federal Power Act would be issued under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly sections 301, 304, 309 and 311 (49 Stat. 854–856, 858–859; 16 U.S.C. 825 (a), 825 (b), 825 (c), 825c(b), 825c(c), 825h, 825j).

Accordingly, the Commission proposes to amend Part 141, Statements and Reports (Schedules) in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.28 revising FPC Form No. 3–P, Monthly Report of Residential, Commercial and Industrial Electric Bill Data, in the format set out in Appendix A attached hereto. New § 141.28 will read as follows:

§ 141.28 Form No. 3–P, Monthly report of residential, commercial ahd industrial electric bill data.

This form is designed to obtain monthly information concerning residential, commercial and electric bill data. Data collected include the net base bill, fuel adjustment, other charges, taxes, fuel cost per kilowatt-hour (kWh), fuel adjustment per kWh, minimum bill and kWh for each specified rate schedule, tax rates for the sales tax, gross receipts tax, franchise tax and others, as well as the amount of applicable discounts. The data are to be used in computing the Consumer Price Index and the Wholesale Price Index.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

REVISED FORM NO. 3–P AND INSTRUCTIONS ON A FORM NO. 3–P

Reference: Monthly Residential, Commercial and Industrial Electric Bill Data for the U.S. Bureau of Labor Statistics—Consumer and Wholesale Price Indexes.

Gentlemen: Your cooperation is requested in providing each month to the Commission specified electric bills for transmittal to the U.S. Bureau of Labor Statistics, for use in computing the Consumer Price Index, Wholesale Price Index and other indexes. These price indexes are the Government's official indicators of price movements and are widely used for measuring changes in the national economy.

Please verify, and if necessary correct, the appropriate bills to be charged to residential, commercial and industrial customers under rates and applicable adjustments effective on the 15th of each month, for the kilowatt-hours specified. The base bills computed should be net bills, after discount for prompt payment or before penalty for late payment. Please report the total amount of applicable, purchased power and/or power cost adjustment and show basis for this figure on lines 37–40. Other charges should include surcharges, interim rate adjustment or other charges directly affecting the base rate. The subtotal should include all of the above applicable charges before any taxes. The total amount of taxes (including sales, gross receipts, franchise, utility, etc.) should be reported on the line applicable fuel adjustment, purchased power titled "Taxes" and the rate of tax reported on lines 42–45, as applicable. The "Total Bill" should include all applicable charges and taxes.

If no change has occurred since the preceding month, simply check the "no change" box at the top of the column for the current month. When any change occurs, please enter the complete bill computation. PLEASE ATTACH ONE COPY OF THE NEW OR REVISED RATE SCHEDULE, IF THE BASE RATE CHANGES.

An envelope requiring no postage is enclosed for your use in returning the schedule to us. PLEASE RETURN THIS SCHEDULE BEFORE THE 25TH OF THE MONTH.

Very truly yours,

W. RIDGWAY,
Chief, Bureau of Power.

Schedule 2, Appendix A (Cont.)

COMMERCIAL AND INDUSTRIAL ELECTRIC BILL DATA
FOR BUREAU OF LABOR STATISTICS - Wholesale Price Index

INSTRUCTIONS: Bills should be adjusted to 85% power factor and computed to the nearest cent. Fuel, tax (except sales taxes), commodity or wage level adjustments, if applicable, should be included in the total bill. If bills are changed from those last reported, please insert the revised data.

Where the change is based on new or revised rate schedules ONE COPY of such rate schedules should be enclosed. Detailed specifications for computing these bills are the same as those used for the annual typical bill reports to the Commission.

(If no change enter "✓" in box provided)

	19___		19___		
COMMERCIAL - 40 KW, 10,000 KWH BILL	DEC 15 ☐	JAN 15 ☐	FEB 15 ☐	MAR 15 ☐
Rate Designation				
Net base bill	$	$	$	$
Fuel adjustment				
Other charges (Specify)				
Total Bill (Nearest 1¢)				
INDUSTRIAL - 500 KW, 200,000 KWH BILL				
Rate Designation				
Net base bill	$	$	$	$
Fuel adjustment				
Other charges (Specify)				
Total Bill (Nearest 1¢)				

COMMERCIAL - 40 KW, 10,000 KWH BILL	APR 15 ☐	MAY 15 ☐	JUNE 15 ☐	JULY 15 ☐
Rate Designation				
Net base bill	$	$	$	$
Fuel adjustment				
Other charges (Specify)				
Total Bill (Nearest 1¢)				
INDUSTRIAL - 500 KW, 200,000 KWH BILL				
Rate Designation				
Net base bill	$	$	$	$
Fuel adjustment				
Other charges (Specify)				
Total Bill (Nearest 1¢)				

COMMERCIAL - 40 KW, 10,000 KWH BILL	AUG 15 ☐	SEPT 15 ☐	OCT 15 ☐	NOV 15 ☐	DEC 15 ☐
Rate Designation					
Net base bill	$	$	$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					
INDUSTRIAL - 500 KW, 200,000 KWH BILL					
Rate Designation					
Net base bill	$	$	$	$	$
Fuel adjustment					
Other charges (Specify)					
Total Bill (Nearest 1¢)					

RESIDENTIAL ELECTRIC BILL DATA FOR U.S. BUREAU OF LABOR STATISTICS - Consumer Price Index

UTILITY NUMBER

LINE NO.	CITY AND STATE (If no change enter "x" in box)	19__ Dec. 15 ☐	19__ Jan. 15 ☐	Feb. 15 ☐	Mar. 15 ☐	Apr. 15 ☐	May 15 ☐	June 15 ☐	July 15 ☐	Aug. 15 ☐	Sept. 15 ☐	Oct. 15 ☐	Nov. 15 ☐	Dec. 15 ☐	LINE NO.
1	KWH BILL: Rate Designation														1
2	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	2
3	Fuel adjustment 1/														3
4	Other charges 2/														4
5	Subtotal														5
6	Taxes 3/														6
7	TOTAL BILL (Nearest 1¢ including taxes)														7
8	KWH BILL: Rate Designation														8
9	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	9
10	Fuel adjustment 1/														10
11	Other charges 2/														11
12	Subtotal														12
13	Taxes 3/														13
14	TOTAL BILL (Nearest 1¢ including taxes)														14
15	KWH BILL: Rate Designation														15
16	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	16
17	Fuel adjustment 1/														17
18	Other charges 2/														18
19	Subtotal														19
20	Taxes 3/														20
21	TOTAL BILL (Nearest 1¢ including taxes)														21
22	KWH BILL: Rate Designation														22
23	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	23
24	Fuel adjustment 1/														24
25	Other charges 2/														25
26	Subtotal														26
27	Taxes 3/														27
28	TOTAL BILL (Nearest 1¢ including taxes)														28
29	KWH BILL: Rate Designation														29
30	Net base bill	$	$	$	$	$	$	$	$	$	$	$	$	$	30
31	Fuel adjustment 1/														31
32	Other charges 2/														32
33	Subtotal														33
34	Taxes 3/														34
35	TOTAL BILL (Nearest 1¢ including taxes)														35
36	Minimum bill & Kwh included														36
37	Fuel Cost														37
38	Fuel Adjustment per Kwh														38
39	Purchased power adjustment per Kwh														39
40	Power cost adjustment per Kwh														40
41	Prompt payment discount (¢)														41
	RATE OF TAXES:														
42	Sales tax														42
43	Gross receipts tax														43
44	Franchise tax														44
45	Other taxes														45
46															46

INSTRUCTIONS: If bills are changed from those last reported, please insert the revised data. Where the change is based on new or revised rate schedules ONE COPY of such rate schedules should be enclosed. Bills should be computed to the nearest cent. Fuel, sales, and other taxes, commodity or wage level adjustments, if applicable, should be included in the total bill.

1/ Include purchased power and/or power cost adjustment.

2/ Other charges include surcharges, interim rate adjustments and any other charges.

3/ Taxes include sales tax, gross receipt, franchise and any other tax.

FPC Form 3-P (5-76)

APPENDIX B

The fifty-one utilities listed in Appendix B do not currently file Form No. 3–P. They would commence reporting only residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Athens Electric Department, Alabama
Matanuska Electric Association, Inc., Alaska
Tucson Gas & Electric Company, Arizona
Alameda Bureau of Electricity, California
Banning Electric Department, California
Intermountain Rural Electric Association, Colorado
Florida Power Corporation
Tampa Electric Company, Florida
Homestead Municipal Electric Department, Florida
Albany Water, Gas & Light Commission, Georgia
Central Georgia Electric Membership Corp.
Public Service Company of Indiana, Inc.
Iowa-Illinois Gas & Electric Company
Webster City Municipal Light & Power, Iowa
Kentucky Power Company
New Orleans Public Service, Inc., Louisiana
New Bedford Gas & Edison Light Company, Massachusetts
Western Massachusetts Electric Company
Minnesota Power & Light Company
Anoka Water, Light Department (Municipal), Minnesota
Detroit Lakes Municipal Utilities, Minnesota
Wadena Electric & Water Works Department, Minnesota
Mississippi Power Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Hannibal Board of Public Works, Missouri
Montana Power Company
Grand Island Electric Department, Nebraska
Jersey Central Power & Light Company
Orange & Rockland Utilities, Inc., New York
Rochester Gas & Electric Corp., New York
Carolina Power & Light Company
Columbus & Southern Ohio Electric Company
Toledo Edison Company, Ohio
Painesville Electric Division, Ohio
Central Lincoln People's Utilities District, Oregon
Metropolitan Edison Company, Pennsylvania
Pennsylvania Electric Company
Pennsylvania Power Company
Windber Electric Corporation, Pennsylvania
Blackstone Valley Electric Company, Rhode Island
The Narragansett Electric Company, Rhode Island
South Carolina Electric & Gas Company
The Middle Tennessee Electric Membership Corp.
Community Public Service Company, Texas
Brownsville Public Utilities Board, Texas
Garland Electric Department, Texas
Robstown Utility System, Texas
Logan City Municipal Power & Light Department, Utah
Public Utilities Dist. No. 1 of Cowlitz County, Washington

APPENDIX C

The fourteen utilities listed in Appendix C are currently reporting commercial and industrial data only, and will continue to do so in the future. They do not currently report residential data, but would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Huntsville Utilities, Alabama
Arkansas Power & Light Company
Colorado Springs Department of Public Utilities, Colorado
United Illuminating Company, Connecticut
Florida Power & Light Company
Louisville Gas & Electric Company, Kentucky
Louisiana Power & Light Company
Chicopee Electric Light Department, Massachusetts
Nebraska Public Power District
Ohio Edison Company
Memphis Light, Gas & Water Division, Tennessee
Texas Electric Service Company
San Antonio Public Service Board, Texas
Appalachian Power Company, Virginia

APPENDIX D

The fifty-three utilities listed in Appendix D are currently reporting residential data on the existing schedule, and shall continue doing so through September 1977, when such reporting shall be terminated. In addition, they would commence reporting residential data on revised Schedule 1 as of the date an order issues in this rulemaking.

Anchorage Munic. Light & Power Department, Alaska
Chugach Electric Association, Inc., Alaska
Pacific Gas & Electric Company, California
San Diego Gas & Electric Company, California
Southern California Edison Company
Los Angeles Department of Water & Power, California
Public Service Company of Colorado
Connecticut Light & Power Company
Potomac Electric Power Company, District of Columbia
Georgia Power Company
Hawaiian Electric Company, Inc.
Commonwealth Edison Company, Illinois
Illinois Power Company
Indianapolis Power & Light Company, Indiana
Central Maine Power Company
Baltimore Gas & Electric Company, Maryland
Boston Edison Company, Massachusetts
Brockton Edison Company, Massachusetts
Cambridge Electric Light Company, Massausetts
Massachusetts Electric Company
Consumers Power Company, Michigan
Detroit Edison Company, Michigan
Northern States Power Company (Minn.)
Kansas City Power & Light Company, Missouri
Union Electric Company, Missouri
Independence Power & Light Department, Missouri
Public Service Electric & Gas Company, New Jersey
Consolidated Edison Company of N.Y., Inc.
Long Island Lighting Company, New York
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation, New York
Duke Power Company, North Carolina
Cincinnati Gas & Electric Company, Ohio
Cleveland Electric Illuminating Company, Ohio
Ohio Power Company
Pacific Power & Light Company, Oregon
Portland General Electric Company, Oregon
Duquesne Light Company, Pennsylvania
Pennsylvania Power & Light Company
Philadelphia Electric Company, Pennsylvania
West Penn Power Company
Nashville Electric Service, Tennessee
Central Power & Light Company, Texas
Dallas Power & Light Company, Texas
Gulf States Utilities Company, Texas
Houston Lighting & Power Company, Texas
Texas Power & Light Company
Utah Power & Light Company
Virginia Electric Power Company
Puget Sound Power & Light Company, Washington
Public Utility Dist. No. 1 of Snohomish County, Washington
Seattle Department of Lighting, Washington
Wisconsin Electric Power Company

APPENDIX E

The ten utilities listed in Appendix E are currently reporting residential data on the existing schedule and would continue to do so through September 1977 when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and would continue to do so.

Hartford Electric Light Company, Connecticut
Orlando Utilities Commission, Florida
Kansas Gas & Electric Company
Kansas City Board of Public Utilities, Kansas
Braintree Electric Light Department, Massachusetts
Peabody Municipal Light Plant, Massachusetts
Reading Municipal Light Department, Massachusetts
Mississippi Power & Light Company
Cleveland Division of Light & Power, Ohio
Austin Electric Department, Texas

APPENDIX F

The twenty-one utilities listed in Appendix F are currently reporting only residential data on the existing schedule, and would continue doing so through September 1977. At that time, all such reporting would be terminated.

Florence Electricity Department, Alabama
Alaska Electric Light & Power Company
Fairbanks Municipal Utilities System, Alaska
Ketchikan Public Utilities, Alaska
College Park Munic. Elec. Light Department, Georgia
East Point Municipal Electric Department, Georgia
Northern Indiana Public Service Company
Logansport Municipal Utilities, Indiana
Iowa Electric Light Power Company
Union Light, Heat & Power Company, Kentucky
Wellesley Municipal Light Plant, Massachusetts
Niles Board of Public Works, Michigan
Otter Tail Power Company, Minnesota
Nevada Power Company
Atlantic City Electric Company, New Jersey
Central Hudson Gas & Electric Corp., New York
The Dayton Power & Light Company, Ohio
Mangum Light & Power Department, Oklahoma
Union Utility Department, South Carolina
Martinsville Municipal Electric Department, Virginia
Wisconsin Public Service Corporation

APPENDIX G

The one hundred and eighteen utilities listed in Appendix G would commence reporting residential data on revised Schedule 1 of Form 3P as of the date an order is issued in this rulemaking. The number of communities and bills to be priced is listed by utility alphabetically by state.

Utility	Number of communities to be canvassed	Total number of bills to be priced
Alabama:		
Athens Electric Department	1	4
Huntsville Utilities	1	5
Alaska:		
Anchorage Municipal Light & Power Department	2	18
Chugach Electric Association, Inc.	1	3
Matanuska Electric Association, Inc	1	3
Arizona:		
Tucson Gas & Electric Co	1	9
Arkansas:		
Arkansas Power & Light Co	2	10
California:		
Alameda Bureau of Electricity	1	4
Banning Electric Department	1	4
Los Angeles Department of Water & Power	1	10
Pacific Gas & Electric Co	35	50
San Diego Gas & Electric Co	11	25
Southern California Edison Co	20	28
Colorado:		
Colorado Springs Department of Public Utilities	1	10
Intermountain Rural Electric Association	1	4
Public Service Company of Colorado	10	19
Connecticut:		
Connecticut Light & Power Co	3	13
United Illuminating Co	1	7
District of Columbia:		
Potomac Electric Power Co	4	13
Florida:		
Florida Power Corp	3	7
Florida Power & Light Co	16	31
Homestead Municipal Electric Department	1	4
Tampa Electric Co	2	4
Georgia:		
Albany Water, Gas & Light Commission	1	10
Central Georgia Electric Membership Corp	1	4
Georgia Power Co	5	22
Hawaii:		
Hawaiian Electric Co., Inc	4	9
Illinois:		
Commonwealth Edison Co	12	31
Illinois Power Co	2	10
Indiana:		
Indianapolis Power & Light Co	1	5
Public Service Co. of Indiana, Inc	4	7
Iowa:		
Iowa-Illinois Gas & Electric Co	6	16
Webster City Municipal Light & Power	1	4
Kentucky:		
Kentucky Power Co	2	4
Louisville Gas & Electric Co	4	10
Louisiana:		
Louisiana Power & Light Co	2	7
New Orleans Public Service, Inc	1	4
Maine:		
Central Maine Power Co	5	10
Maryland:		
Baltimore Gas & Electric Co	12	25
Massachusetts:		
Boston Edison Co	6	13
Brockton Edison Co	3	4
Cambridge Electric Light Co	1	4
Chicopee Electric Light Department	1	4
Massachusetts Electric Co	5	7
New Bedford Gas & Edison Light Co	4	10
Western Massachusetts Electric Co	3	6
Michigan:		
Consumers Power Co	8	19
Detroit Edison Co	12	28
Minnesota:		
Anoka Water, Light Department (municipal)	1	4
Detroit Lakes Municipal Utilities	1	4
Minnesota Power & Light Co	1	4
Northern States Power Co. (Minnesota)	11	22
Wadena Electric & Water Works Department	1	4
Mississippi:		
Mississippi Power Co	3	10
Missouri:		
Hannibal Board of Public Works	1	4
Independence Power & Light Department	1	4
Kansas City Power & Light Co	2	19
Missouri Edison Co	3	4
Missouri Power & Light Co	1	4
Missouri Public Service Co	1	4
Union Electric Co	15	25
Montana:		
Montana Power Co	4	10
Nebraska:		
Grand Island Electric Department	1	7
Nebraska Public Power District	1	4
New Jersey:		
Jersey Central Power & Light Co	3	4
Public Service Electric & Gas Co	19	28

Utility	Number of communities to be canvassed	Total number of bills to be priced
New York:		
Consolidated Edison Co. of New York, Inc.	10	25
Long Island Lighting Co.	13	19
New York State Electric & Gas Corp.	8	13
Niagara Mohawk Power Corp.	11	34
Orange & Rockland Utilities, Inc.	4	7
Rochester Gas & Electric Corp.	3	7
North Carolina:		
Carolina Power & Light Co.	4	12
Duke Power Co.	1	7
Ohio:		
Cincinnati Gas & Electric Co.	10	25
Cleveland Electric Illuminating Co.	9	22
Columbus & Southern Ohio Electric Co.	1	10
Ohio Edison Co.	2	3
Ohio Power Co.	1	7
Painesville Electric Division	1	4
Toledo Edison Co.	3	7
Oregon:		
Central Lincoln People's Utilities District	2	7
Pacific Power & Light Co.	2	13
Portland General Electric Co.	3	13
Pennsylvania:		
Duquesne Light Co.	9	16
Metropolitan Edison Co.	2	4
Pennsylvania Electric Co.	4	7
Pennsylvania Power Co.	2	10
Pennsylvania Power & Light Co.	12	31
Philadelphia Electric Co.	3	19
West Penn Power Co.	8	10
Windber Electric Corp.	2	4
Rhode Island:		
Blackstone Valley Electric Co.	2	4
The Narragansett Electric Co.	6	7
South Carolina:		
South Carolina Electric & Gas Co.	2	
Tennessee:		
Memphis Light, Gas & Water Division	1	10
Nashville Electric Service	2	7
The Middle Tennessee Electric Membership Corp.	2	4
Texas:		
Central Power & Light Co.	4	13
Community Public Service Co.	1	10
Brownsville Public Utilities Board	1	4
Dallas Power & Light Co.	1	7
Garland Electric Department	1	4
Gulf States Utilities Co.	3	10
Houston Lighting & Power Co.	5	25
Robstown Utility System	1	4
San Antonio Public Service Board	2	10
Texas Electric Service Co.	1	7
Texas Power & Light Co.	3	10
Utah:		
Logan City Municipal Power & Light Department	1	7
Utah Power & Light Co.	1	4
Virginia:		
Appalachian Power Co.	2	7
Virginia Electric & Power Co.	10	30
Washington:		
Puget Sound Power & Light Co.	7	13
Public Utility District No. 1 of Snohomish County	5	7
Public Utility District No. 1 of Cowlitz County	2	4
Seattle Department of Lighting	1	7
Wisconsin:		
Wisconsin Electric Power Co.	12	34

[FR Doc.76-21521 Filed 7-23-76;8:45 am]

[18 CFR Part 154]

[Docket No. R-406]

GAS TARIFFS

Purchased Gas Cost Adjustment Provision; Correction

JUNE 14, 1976.

In the Appendix of the notice of proposed rulemaking issued in this docket on May 10, 1976, "Utah Gas Service Co." and "Western Transmission Corp.", should appear in the column headed "3-1 and 9-1". "Texas Gas Pipeline Corp.", should appear in the column headed "6-1 and 12-1".

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21458 Filed 7-23-76;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 STATE

Agency for International Development

DEPUTY ASSISTANT ADMINISTRATOR, BUREAU FOR ASIA

Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator, Bureau for Asia, I hereby delegate to the Deputy Assistant Administrator, Bureau for Asia, authority to act as my alter ego, to be responsible, under my direction and concurrently with me, for all aspects of the activities of said Bureau. In accordance with this delegation, said Deputy Assistant Administrator is authorized to represent me, and to exercise my authority, with respect to all functions now or hereafter conferred upon me by A.I.D. delegations of authority, regulations, manual orders, handbook provisions, directives, notices or other documents, by law or by any competent authority.

This redelegation of authority is effective immediately.

Dated: July 13, 1976.

ARTHUR Z. GARDINER, JR.,
Assistant Administrator,
Bureau for Asia.

[FR Doc.76-21491 Filed 7-23-76;8:45 am]

[No. 99.1.78]

MISSION DIRECTOR, USAID/EGYPT

Redelegation of Contracting Authority

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 123836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to the Mission Director, USAID/Egypt, the authority to sign or approve the following instruments, up to an amount of $500,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) AID grant-financed host country contracts for technical assistance; and

(4) Amendments to the instruments specified above.

The authorities herein delegated may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(1) Authority up to $25,000 may be redelegated at the Mission Director's discretion:

(2) Authority over $25,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the cases of a redelegation to the Mission Director's principal deputy).

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority 99.1.64 (40 FR 803) dated December 23, 1974 is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed. This redelegation of authority shall be effective on the date of signature.

Dated: June 28, 1976.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.76-21490 Filed 7-23-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 28393]

NEW MEXICO

Application

JULY 19, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 6 W.,
Sec. 29, SW¼NW¼;
Sec. 30, SE¼NE¼ and NE¼SE¼.

This pipeline will convey natural gas across .598 of a mile of national resource land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.76-21548 Filed 7-23-76;8:45 am]

[U-33567]

UTAH

Proposed Withdrawal and Reservation of Lands

The United States Bureau of Reclamation, Department of the Interior, has filed application for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid rights.

The applicant desires the withdrawal for reclamation purposes in connection with the LaVerkin Unit, Colorado River Basin Salinity Control Act of June 24, 1974 (88 Stat. 266). The lands are located in Washington County approximately twenty-six miles northeast of St. George, Utah.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing by August 20, 1976, to the undersigned officer of the Bureau of Land Management, Department of the Interior, University Club Building, 136 South Temple.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand 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 essential to meet the appli-

cant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

T. 41 S., R. 13 W.
Sec. 9: Lots 7, 8, 9, and 10, NE¼, W½SE¼;
Sec. 10: SE¼SW¼;
Sec. 15: NW¼.

The area described aggregates 545.46 acres.

PAUL L. HOWARD,
State Director.

[FR Doc.76-21549 Filed 7-23-76;8:45 am]

NORTH MENAN BUTTE, IDAHO

Restricted Vehicle Use

Notice is hereby given in accordance with Title 43 CFR Group 6000—Outdoor Recreation, and in conformance with the principles established by the National Environmental Policy Act of 1969, that certain lands located in the North Menan Butte area are closed to overland motorized vehicles except on designated roads and parking areas. This restriction does not apply to snowmobiles and other over-the-snow vehicles.

Careful review and analysis has found that increasing use of this area by motorized vehicles is causing serious damage to the natural landscape. Because of the steep, fragile environment, continued use by motorized vehicles will cause increased damage to the terrain and vegetation.

All forms of motorized vehicles, with the exception of over-the-snow vehicles, including those used in mining exploration, resource management and administration, communications maintenance and casual operation for outdoor recreation purposes, are excluded from the area except 1) the main, 4-wheel drive access road to the summit of the Butte and 2) a designated spur road and parking area on the south slope.

The restriction applies to 1280 acres of Federal land on North Menan Butte located in Madison County approximately 20 miles north of Idaho Falls and 10 miles west of Rexburg.

The legal description of this area is:

BOISE MERIDIAN, IDAHO

Township 5 North, Range 38 East
Sec. 3 (all);
Sec. 2, W½;
Sec. 4, E½SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, NW¼, W½NE¼, NE¼NE¼.

Township 6 North, Range 38 East
Sec. 34, SE¼SW¼, SW¼SE¼.

All lands within the above described area are restricted from the date of this notice. A map of the restricted area is posted in the Idaho Falls District Office located at 940 Lincoln Road, Idaho Falls, Idaho 83401. Cooperation of all will be sincerely appreciated.

WILLIAM L. MATHEWS,
Idaho State Director,
Bureau of Land Management.

JUNE 30, 1976.

[FR Doc.76-21550 Filed 7-23-76;8:45 am]

Office of the Secretary

GLENN L. KOESTER

Appointee's Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on June 30, 1976, as Deputy Director, SWPP, Defense Electric Power Administration, an officer or director:

Kansas Gas and Electric Company

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Kansas Gas and Electric Company

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None

Dated: July 15, 1976.

GLENN L. KOESTER.

[FR Doc.76-21551 Filed 7-23-76;8:45 am]

PAUL WALLOF

Appointee's Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on July 12, 1976, as Regional Power Liaison Representative, Defense Electric Power Administration, an officer or director:

None

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Texas Utilities Company

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None

Dated: July 15, 1976.

PAUL WALLOF.

[FR Doc.76-21552 Filed 7-22-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Louisiana Grain Inspection Point

Notice is hereby given pursuant to § 26.99 of the regulations (7 CFR 26.99) under the U.S. Grain Standards Act that on June 4, 1976, there was published in the FEDERAL REGISTER (41 FR 22639) a notice announcing a request by Gulf Coast Inspection and Weighing, Inc., Beaumont, Texas, that its assignment of inspection points be amended to add Lake Charles, Louisiana, as a designated inspection point. Interested persons were given until July 6, 1976, to submit written views and comments with respect to the proposed amendment of assignment.

No comments were received with respect to the June 4, 1976, notice in the FEDERAL REGISTER. After due consideration of market needs and circumstances and other material available to the Department, the assignment of Gulf Coast Inspection and Weighing, Inc., Beaumont, Texas, is amended to add Lake Charles, Louisiana, as a designated inspection point.

(Sec. 7, 39 Stat. 482, as amended 82 Stat. 764; 7 U.S.C. 79(f); 37 FR 28464 and 28476.)

Effective date: This notice shall become effective July 26, 1976.

Done in Washington, D.C. on July 20, 1976.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.76-21512 Filed 7-23-76;8:45 am]

Forest Service

OFF ROAD VEHICLE USE AND POLICY, WENATCHEE NATIONAL FOREST, R–6

Availability of Draft Environmental Statement

The notice of availability for the Off-Road-Vehicle Use and Policy, Wentachee National Forest, Washington, USDA–FS–R6–DES(Adm)–76–13, that appeared in the FEDERAL REGISTER Volume 41, Number 35, Friday, February 20, 1976, is amended to extend the review period to September 15, 1976.

Dated: July 19, 1976.

ROBERT R. TYRREL,
Director,
Planning, Programing and Budgeting.

[FR Doc.76–21544 Filed 7–23–76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, August 24, 1976, at 9 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total system performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening Remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Completion of outline of the work program on software and discussion on how assignments will be made.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting wil be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/377–4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on December 5, 1975 (40 FR 56960).

Dated: July 20, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76–21493 Filed 7–23–76;8:45 am]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, August 24, 1976, at 1 p.m. in Room 3814B, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls, applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations:

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening Remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Performance measurement of peripheral equipment as part of computer systems.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 25, 1975, pursuant to section 10(d) of the Federal Advisory Committee Act that

the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on December 5, 1975 (40 FR 56960).

Dated: July 21, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-21492 Filed 7-23-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76F-0272]

E. I. DUPONT DE NEMOURS & CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3216) has been filed by E. I. duPont de Nemours & Co., Wilmington, DE 19898, proposing that § 121.2501 Olefin polymers (21 CFR 121.2501) be amended to provide for the safe use of ethylene, propylene, 1,4-hexadiene terpolymer in a blend with either polyethylene or polypropylene as articles or components of articles intended for food contact.

The environmental impact analysis report and other relevant materials have been reviewed, and it has been determined that the proposed use of the additive other than in carbonated beverage bottles will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours Monday through Friday.

The Food and Drug Administration is currently preparing an environmental impact analysis report on plastic bottles for carbonated beverages and beer, the draft of which was made public (see FR Doc. 75-9591, appearing in the FEDERAL REGISTER of April 14, 1975 (40 FR 16708)). The final draft will include the above petitioned additive.

Dated: July 14, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76-21516 Filed 7-23-76;8:45 am]

[Docket No. 76G-0273]

INVERSAND CO.

Filing of Petition for Affirmation of Gras Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 5G0052) has been filed by the Inversand Co., 226 Atlantic Ave., Clayton, NJ 08312, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that greensand zeolite and manganese greensand zeolite used in the treatment of potable and industrial water are generally recognized as safe (GRAS).

Any petition which meets the format requirements outlined in 21 CFR 121.40 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminery indication of suitability for affirmation.

Interested persons may, on or before September 24, 1976, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: July 13, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76-21515 Filed 7-23-76;8:45 am]

[Docket No. 76F-0255]

NALCO CHEMICAL CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 384(b)(5))), notice is given that a petition (FAP 6A3144) has been filed by the Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 60521, proposing that § 121.1099 Defoaming agents (21 CFR 121.1099) be amended to provide for the safe use of a copolymer condensate of ethylene oxide and propylene oxide as a component of defoaming agents intended for use in processing food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours Monday through Friday.

Dated: July 14, 1976.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.76-21514 Filed 7-23-76;8:45 am]

Health Services Administration

NEW JERSEY

Results of Notification to Physicians Regarding Agreement To Designate Professional Standards Review Organization Area IV

On June 1, 1976, the Secretary of Health, Education, and Welfare published in the FEDERAL REGISTER a notice in which he announced his intention to enter into an agreement with the Essex Physicians' Review Organization, Inc. designating it as the Professional Standards Review Organization for PSRO Area IV of the State of New Jersey, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.34.

Such notice was also published in three consecutive issues of the "Newark Star Ledger" on June 1, 2, and 3, 1976. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area IV of the State of New Jersey of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IV of the State of New Jersey who ob-

jects to the Secretary entering into an agreement with the Essex Physicians' Review Organization, Inc. on the grounds that such organization is not representative of doctors in PSRO Area IV of the State of New Jersey, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022 on or before July 1, 1976.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area IV of the State of New Jersey, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percentum of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area IV of the State of New Jersey have expressed timely objection to the Secretary entering into an agreement with the Essex Physicians' Review Organization, Inc. Therefore, the Secretary will proceed to enter into an agreement with the Essex Physicians' Review Organization, Inc. designating it as the Professional Standards Review Organization for PSRO Area IV of the State of New Jersey.

Dated: July 19, 1976.

JOHN E. MARSHALL,
Associate Administrator for Operations, Health Services Administration.

[FR Doc.76-21567 Filed 7-23-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the National Advisory Council on Adult Education will meet on August 15, 1976, from 8:30 p.m. to 11 p.m., Des Moines Hilton Inn, 6111 Fleur Drive, Des Moines, Iowa, and on August 16, 1976, from 8:00 a.m. to 4:30 p.m., Des Moines Hyatt House, 6215 Fleur Drive, Des Moines, Iowa.

The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes the Regional Program Officer/State Directors' reports, and NACAE standing and ad hoc committee reports.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004).

Signed at Washington, D.C. on July 19, 1976.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.76-21546 Filed 7-23-76;8:45 am]

Public Health Service

HEALTH SERVICES ADMINISTRATION

Qualified Health Maintenance Organizations

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of June 1976 the following entities have been determined to be qualified health maintenance organizations under section 1310 (d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

List of Qualified Health Maintenance Organizations

Name, address, service area, and date of qualification

(Pre-operational qualified health maintenance organization: 42 CFR 110.603(c))

1. Prudential Health Care Plan, Inc., P.O. Box 2884, Houston, Texas 77001. Service area: Radius of 25 air miles of the medical group's facilities within greater Houston metropolitan area. Date of Qualification: June 2, 1976.

(Transitionally qualified health maintenance organization: 42 CFR 110.603(b))

2. SHARE Health Plan, 1515 Charles Avenue, Saint Paul, Minnesota 55104. Service area: Hennepin (Minnesota), Ramsey (St. Paul), Anoka (north of St. Paul), Washington (east of St. Paul), and Dakota (south of St. Paul) Counties. Date of Qualification: June 30, 1976.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5.00 p.m., Monday through Friday, at the Office of the Administrator, Health Services Administration, Department of Health, Education, and Welfare Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: July 15, 1976.

LEWIS M. HELLMAN,
Administrator, Health Services Administration.

[FR Doc.76-21547 Filed 7-23-76;8:45 am]

Social and Rehabilitation Service

ENGLISH LANGUAGE AND EMPLOYMENT SERVICES FOR ADULT INDOCHINESE REFUGEES

Availability of Funding for Instruction

I. PURPOSE AND SCOPE

This notice describes the availability of one-time national funding for English language instruction, training, and employment services for Indo-Chinese refugees. In line with the overall national objective of self-sufficiency for Indo-Chinese refugees, the Refugee Task Force and the Voluntary Resettlement Agencies (VOLAGs) issued a policy paper on March 15, 1976, "Indo-Chinese Refugee Assistance Program—Strategy and Objectives", which stated: "Our objective is to achieve a significant shift of numbers of Indo-Chinese refugees from cash assistance rolls to employment and self-sufficiency." In furtherance of this objective, funding authority will be made available to HEW Regional offices for project grant awards to public and non-profit private agencies for short-term, intensive employment assistance activities for Indo-Chinese refugees who are currently receiving cash assistance payments or likely to receive such assistance in the future.

The Indo-Chinese Refugee Assistance Program is not intended to continue beyond September 1977. However, the Department of Health, Education, and Welfare is concerned about the rising numbers of refugees receiving cash assistance. This program has been instituted as a short-term, intensive response to this problem.

Time and budgetary constraints do not allow for expensive long-term vocational training programs for refugees. Projects to be funded will be those that emphasize direct job placement wherever possible, and provide work-related English language and short-term vocational training leading to secure jobs with advancement potential and the usual employee fringe benefits.

II. AUTHORIZATION

Funds for the activities listed below are authorized under the Indochina Migration and Refugee Assistance Act of 1975, Pub. L. 94-23, as amended by Pub. L. 94-313. Specifically, that act authorizes funds to be appropriated to the Social and Rehabilitation Service, HEW, for the performance of functions set forth in the Migration and Refugee Assistance Act of 1962, Pub. L. 87-510. One of those functions is "for establishment and maintenance of projects for employment or refresher professional training of individuals * * * who, having regard for their income and resources, need such employment or need assistance in obtaining such retraining." The period of performance of any grant awarded under this notice shall not extend past September 30, 1977.

III. ELIGIBLE GRANTEES

Eligible grantees are State and local governments public and non-profit private agencies or any combination of

these. Private for-profit agencies or firms are not eligible for grants.

IV. Allotment of Funds

Project grant applications will be funded on merit, as outlined in item 9, "Criteria for Evaluating Applications." Funding authority will be made available to the ten HEW regions taking into account the number of refugee cases receiving cash assistance as of June 1, 1976.

The June 1, 1976, cash assistance caseloads for Indo-Chinese refugees are as follows:

	Cases
Alabama (estimate)	33
Alaska	1
Arizona	11
Arkansas	58
California	4,561
Colorado	320
Connecticut	104
Delaware	18
District of Columbia	169
Florida	474
Georgia	98
Hawaii	462
Idaho	18
Illinois	427
Indiana	171
Iowa [1]	285
Kansas	100
Kentucky	153
Louisiana	134
Maine	13
Maryland	380
Massachusetts	158
Michigan [1]	886
Minnesota	185
Mississippi	6
Missouri	194
Montana	16
Nebraska	95
Nevada	41
New Hampshire	8
New Jersey	157
New Mexico	29
New York [1]	248
North Carolina	96
North Dakota	19
Ohio	258
Oklahoma	163
Oregon	506
Pennsylvania	401
Rhode Island	17
South Carolina	15
South Dakota	29
Tennessee	27
Texas	667
Utah	58
Vermont	10
Virginia	388
Washington	1163
West Virginia	23
Wisconsin [1]	177
Wyoming	7
Guam (estimate)	235

[1] As of May 1, 1976.

It is estimated that the funding that could be available to the regions will be as follows:

Region I	$181,000
Region II	236,000
Region III	795,000
Region IV	517,000
Region V	934,000
Region VI	612,000
Region VII	363,000
Region VIII	262,000
Region IX	1,092,000
Region X	8,000
Total	5,000,000

The funds allotted for Region X are available for projects in Alaska and Idaho. The States of Washington and Oregon are providing the services through a separate program conducted by the State Social Services Offices. Organizations interested in providing services to refugees in Washington and Oregon should contact the State Social Service office directly.

Similarly, four counties in California: Los Angeles, Orange, San Diego and San Francisco, are funded by a separate grant to provide the services included in this program. Private organizations interested in providing services to refugees in these four counties should contact the respective County Social Services Offices.

V. Eligible Projects

Proposed projects must provide for direct services to refugees and must be designed to move employable adult refugees receiving cash assistance, likely to receive cash assistance, or in need of employment services into permanent full-time employment.

Allowable activities include:

1. Identification and employability assessment of eligible adults.

2. Job placement services.

3. Provision of English language training, provided that such training emphasizes the teaching of English that is essential to the attainment of employment, including language training which is related to the needs of a specific occupation.

4. Short-term vocational training, with emphasis on transferability of existing skills and experience to the equivalent local occupational standards.

5. Vocational counseling, testing, employability-enhancing, job training and follow-up counseling.

Project Plans must show how the selected activities will support the national objective. A range of services, and a mix of activities that reflects the individual needs of each area to be served are encouraged. Jointly funded or supported activities are allowed and encouraged.

Project activities may be carried out by third parties (including profit-making organizations) under contract from the grantee; However, the grantee may not contract out 100 percent of the services, and must in any case retain full administrative control of the services provided. Intent to contract with 3rd parties must be fully described in the grant application. If, subsequent to the grant, the grantee desires to enter into a contract arrangement with a third party, a contract amendment must be approved by Regional Commissioner, Social and Rehabilitation Service, as outlined in Chapter 1-430 of the HEW Grants Administration Manual.

VI. Definition of a Refugee

For the purpose of participation in these projects, a refugee is defined as: An alien who has fled from and cannot return to Cambodia, Vietnam, or Laos because of persecution or fear of persecution on account of race, religion, or political opinion, and has been paroled into the United States by the Immigration and Naturalization Service (INS) as a refugee, or cannot return to Vietnam, Cambodia, or Laos and has been granted Voluntary departure status by the Immigration and Naturalization Service (INS) as a refugee. (Parole is granted only prior to or at entry into the United States. Voluntary departure status is granted only when a refugee entered as a non-immigrant or entered without inspection.)

In order to be eligible, the refugee must possess a Form I-94 issued by INS indicating that the person either has been paroled into the United States or has been granted "voluntary departure" status.

VII. Eligible Participants

Listed in priority order, the eligible target groups are:

Unemployed adult refugees receiving public cash assistance.

Unemployed adult refugees likely to receive public cash assistance.

Underemployed adults receiving supplementary cash assistance.

Underemployed adults.

Employed adults in need of upgrading opportunities for career advancement.

VIII. Application Submission and Approval Procedures

Eligible applicants may request grant applications, information, and assistance from the HEW Regional offices. Individuals to contact are listed at the end of this notice. The HEW Regional Office, with technical assistance from the Refugee Task Force, the Office of Education, and SRS, will work closely with potential grantees in developing projects.

Grant applications must be received by the Regional Director's Office for review by the Regional Review Panel no later than 5 p.m., August 31, 1976. No grant applications will be accepted after this date.

A regional review panel will be convened by the Regional Director in accordance with the procedures outlined in Chapter 1-62 of the HEW "Grants" Administration Manual". The review panel will review, evaluate and rank the project proposals received based on criteria outlined in item 9 of this anouncement. The review panel's recommendations, and the recommended grant applications, along with the Regional Director's concurrence and/or comments, will be forwarded to the Acting Director of the Refugee Task Force, the Administrator of the Social and Rehabilitation Service, and the Commissioner of Education, or their designees. Upon their concurrence, the Regional Social and Rehabilitation Service Commissioner will award grants no later than September 30, 1976.

IX. Criteria for Evaluating Applications

Project grant applications will be evaluated on the following criteria:

1. Familiarity and experience of the applicant organization in Indochinese refugee resettlement, manpower pro-

grams, and/or teaching English as a second language.

2. Projected impact of the proposed program in reducing dependency (number of refugees affected). The total number of refugees affected will be a major factor in the award of grants.

3. Qualifications of individual professional personnel.

4. Understanding and analysis of the problem.

5. The extent to which the grant application outlines a clear and achievable plan to reduce unemployment among target adult refugees.

6. Feasibility of accomplishment of the project in the time allowed.

7. The extent to which the proposed project mobilizes, coordinates, and expands existing resources and activities which are providing, or could provide, services to refugees, including:

(a) Ongoing SRS and OE activities under the Refugee Assistance Program.

(b) State or local resettlement task forces or committees.

(c) Voluntary efforts undertaken by VOLAGS, other resettlement agencies, and Indochinese associations and coalitions.

(d) Other public or private human service programs.

8. Comprehensiveness and coordination of proposed project components such as English language training, skill training, job development and placement.

9. Adequacy of facilities and other resources.

10. Reasonableness of estimated cost in relation to anticipated results. (Cost/benefit ratio)

Selection of a state for a project grant does not preclude a project award to other public or non-profit private agencies within the State. However, applicants form the same geographic area must demonstrate their willingness and intention to work cooperatively with each other and with other agencies serving the same population.

X. Application Content

All applicants both public and private, will use the Federal Management Circular 74-7 form "Application for Federal Assistance (Non-Construction Program)" in submitting project proposals. Grant applications must include the following items:

(1) *Identification of the target population.* Includes estimated number of refugees, number receiving cash assistance, number of employable adults, and locations of concentrations of refugees receiving cash assistance.

(2) *Organizational status and location.* Description of the proposed grantee or grantees and their experience in refugee, employment and education programs.

(3) *Project objectives.* Description of proposed project objectives.

(4) *Existing service deliverers.* Brief overview of existing state and local services to refugees and identification of service gaps.

(5) *Direct services needed.* Identification of direct services needed and projection of numbers of refugees to be served by each activity, where applicable.

(a) Eligibility determination; (b) assessment of the local labor market; (c) employability assessment of each refugee served; (d) vocational counseling and testing; (e) English language training; (f) vocational training; (g) on-the-job training placements; (i) job development and placement; (j) follow-up counseling and assistance.

(6) *Supportive services.* Supportive services required such as health services, transportation, and day care, indication of how they will be provided.

(7) *Work plan.* A work plan to meet the project objectives including identification of service deliverers for the above outlined activities and a procedure to ensure service linkages. A description of anticipated contracting with third parties should be included.

(8) *Management plan.* A plan for fiscal and program management to accomplish the program objectives.

(9) *Program budget.*

XI. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for federal monitoring and auditing of the grants. This record-keeping shall include but is not limited to:

(1) Case records of refugees receiving services.

(2) Quarterly statistical reports indicating:

a. The number of refugees served,

b. Numbers of refugees receiving English and vocational training,

c. Numbers of refugees placed in jobs,

d. Of those placed, the number of refugees still employed 3 months from the date of employment. No records need be created past September 30, 1977.

(3) Cash assistance status report of refugees served;

(4) Fiscal records.

Grantees are required to submit quarterly statistical, narrative, and monthly fiscal reports.

XII. Conditions of Award

All grants made under this announcement will be subject to:

(1) The HEW regulations in 45 CFR, Part 74, "Administration of Grants."

(2) The SRS "Grants Administration Policies", DHEW Publication No. 74-04001, July 1972. Copies of the cited documents may be obtained from the Regional Refugee Assistance Coordinators along with the grant application forms.

XIII. Additional Information and Technical Assistance

Additional information, grant applications, and technical assistance can be obtained from the following Regional Refugee Assistance Coordinators.

Refugee Assistance Coordinators

Region I, Ed O'Connell, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203; 617-223-6810.

Region II, Mel Chatman, Federal Building, 26 Federal Plaza, New York, New York 10007; 212-264-3618.

Region III, Ed Sprague, 3535 Market Street, Philadelphia, PA 19101; 215-596-6615.

Region IV, Terry Barker, 50 Seventh St. NE., Atlanta, Georgia 30323; 404-526-5969.

Region V, Hiroshi Kanno, 330 South Wacker Drive, Chicago, Illinois 60606; 312-341-7800.

Region VI, Bill Crawford, 1200 Main Tower Building, Dallas, Texas 75202; 214-655-3338.

Region VII, Larry Laverentz, 601 East 12th Street, Kansas City, Missouri 64106; 816-374-2795.

Region VIII, Gene Ewing, 1961 Stout Street, Denver, Colorado 80202; 303-837-2831.

Region IX, John Ford, Federal Office Bldg., 50 Fulton Street, San Francisco, CA 94102; 415-556-8582.

Region X, Joe Langlois, Arcade Plaza, 1321 Second Avenue, Seattle, Washington 98101; 206-442-1290.

Good cause exists to dispense with notice of proposed rulemaking because it would be impracticable and contrary to the public interest due to the limited period of time remaining to apply for and process the subject grants.

Dated: July 21, 1976.

ROBERT FULTON,
Administrator of
Social and Rehabilitation.

[FR Doc.76-21518 Filed 7-23-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-76-569]

PEBBLE LAKE TRACT

Hearing

In the matter of: Pebble Lake Tract 1189-A, Gilbert H. Beck, Elma V. Beck as Trustee for Colin Van Wey Coffey, 76-145-IS OILSR No. 0-2770-02-570.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that: 1. Pebble Lake Tract 1189-A, Gilbert H. Beck, Elma V. Beck as Trustee for Colin Van Wey Coffey, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a notice of proceedings and opportunity for hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Pebble Lake Tract 1189-A located in Mohave County, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 6, 1976, in response to the notice of proceedings and opportunity for hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR

1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on August 20, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before July 30, 1976.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 9, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-21497 Filed 7-23-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-142]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Number

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from June 2, 1976 to June 7, 1976 (List No. 13-76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specification prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFEBOAT WINCHES FOR MERCHANT VESSELS

The Welin Davit Division, Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, Approval No. 160.015/97/1 expired and was terminated effective June 7, 1976.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Goodenow Manufacturing Company, 1301 W. 18th Street, Erie, Pennsylvania 16501, Approval Nos. 160.050/80/0 and 160.050/81/0 expired and were terminated effective June 2, 1976.

The Goodenow Manufacturing Company, 1301 W. 18th Street, Erie, Pennsylvania 16501, no longer manufactures certain unicellular plastic ring life buoys and Approval No. 160.050/82/0 was therefore terminated effective June 2, 1976.

WORK VESTS, UNICELLULAR PLASTIC FOAM

The Goodenow Manufacturing Company, 1301 W. 18th Street, Erie, Pennsylvania 16501, no longer manufactures certain unicellular plastic foam work vests and Approval No. 160.053/30/0 was therefore terminated effective June 2, 1976.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD FOR MERCHANT VESSELS

The International Cushion Company, 1110 N.E. Eighth Avenue, Fort Lauderdale, Florida 33311, no longer manufactures certain unicellular plastic foam life preservers and Approval Nos. 160.055/62/0 and 160.055/63/0 were therefore terminated effective June 3, 1976.

The Goodenow Manufacturing Company, 1301 West 18th Street, Erie, Pennsylvania 16501, no longer manufactures certain unicellular plastic foam life preservers and Approval Nos. 160.055/85/0 and 160.055/86/0 were therefore terminated effective June 2, 1976.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

The California Zonolite Company, 758 Colorado Boulevard, Los Angeles, California 90041, no longer manufactures certain structural insulations and Approval No. 164.007/34/0 was therefore terminated effective June 4, 1976.

Dated: July 21, 1976.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.76-21560 Filed 7-23-76;8:45 am]

[CGD 76-143]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interest persons that certain approvals have been terminated as herein described during the period from June 8, 1976 to June 10, 1976 (List No. 14-76). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory autrority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Sponge Rubber Products, Division of Grand Sheet Metal Products Company, 37 Canal Street, Shelton, Connecticut 06484, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/1/2, 160.050/2/2 and 160.050/3/2 were therefore terminated effective June 10, 1976.

The Campco Ventures Company, A Division of American Recreation Group, (A Limited Partnership), P.O. Box 49, Fairfield, California 94533, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/12/3, 160.050/13/3 and 160.050/14/3 were therefore terminated effective June 10, 1976.

The Gladding Corporation, Flotation Division, Box 8277, Station A, Greenville, South Carolina 29604, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/23/0, 160.050/24/0 and 160.050/25/0 were therefore terminated effective June 8, 1976.

The Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, New York 11201, no longer manufactures certain unicel-

lular plastic ring life buoys and Approval Nos. 160.050/33/0, 160.050/34/0, 160.050/35/0, 160.050/36/1, 160.050/37/1, 160.050/38/1 and 160.050/52/0 were therefore terminated effective June 8, 1976.

The Outdoor Supply Company, Inc., 8 Industry Drive, Oxford, North Carolina 27565, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/53/0, 160.050/54/0 and 160.050/55/0 were therefore terminated effective June 10, 1976.

The Tuffy Products, Inc., 540 W. Third Street, Bloomsburg, Pennsylvania 17815, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/74/0, 160.050/75/0 and 160.050/76/0 were therefore terminated effective June 9, 1976.

The Taylortec, Inc., 2549 Hickory Avenue, Metairie, Louisiana 70003, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/77/0, 160.050/78/0 and 160.050/79/0 were therefore terminated effective June 9, 1976.

Dated: July 21, 1976.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.76-21561 Filed 7-23-76;8:45 am]

[CGD-76-151]

PROPOSED HIGHWAY BRIDGES: MONROE COUNTY, FLORIDA

Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, in conjunction with the District Engineer, Jacksonville District Corps of Engineers. The hearing will be held at the Coral Shores School, U.S. Route 1, Plantation Key, Monroe County, Florida, at 7 p.m., August 26, 1976. The purpose of the hearing is to consider the applications from the Florida Department of Transportation to construct three bridges, one each across Whale Harbor Channel at Islamorada, Tavernier Creek at Tavernier and Snake Creek near Islamorada. These bridges are part of a program to replace 37 bridges carrying U.S. Route 1 between Tavernier and Key West. The bridges and approaches will be constructed immediately adjacent and parallel to the existing highway bridges. These existing bridges will be retained for pedestrian use and support for the Keys Aqueduct. They will be closed to highway use. A Negative Declaration on the environmental impacts was approved by the Federal Highway Administration as lead agency in compliance with the National Environmental Policy Act.

The Coast Guard solicits comments on the proposed locations and navigation clearances.

The Corps of Engineers solicits comments on the dredging and discharge of dredge or fill material associated with the earth fill portions of the bridges under the provisions of section 404 of Pub. L. 92-500.

The hearing will be informal. Both Corps of Engineers and Coast Guard representatives will preside at the hearing, make a brief opening statement describing the proposed bridges, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander(oan), Seventh Coast Guard District, 51 SW., First Avenue, Miami, Florida 33130, or the Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32201. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of these bridge permit application by submitting their comments in writing on or before September 27, 1976, to the Commander(oan), Seventh Coast Guard District, or the Corps of Engineers, Jacksonville. Each comment should state the reasons for support or opposition or proposed changes to the plans and the name and address of the persons or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander(oan), Seventh Coast Guard District, or the Corps of Engineers, Jacksonville, as appropriate. All comments received will be considered before final action is taken on the proposed bridge and section 404 permit applications. After the time set for the submission of comments, the Commander(oan), Seventh Coast Guard District, will forward the record, including all written comments and his recommendations, to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination of the bridge permits. The District Engineer, Jacksonville District, will make the final determination on the section 404 permits.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(c); 49 CFR 1.46(c)(10).)

Dated: July 21, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-21692 Filed 7-23-76;8:45 am]

[Docket No. CGD76-137]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

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 Chemical Transportation Industry Advisory Committee Task Group on Liquified Gas Vessels to be held August 11, 1976, in Room 7234 of the Nassif Building, 400 7th St., S.W., Washington, D.C. The meeting is scheduled to begin at 8:30 a.m. The agenda for this meeting is as follows: To discuss the IMCO for New Liquified Gas Ships, Res. A.328 (IX), specifically (1) Air locks. (2) Fire extinguishing stroke fire inerting media for pumprooms. (3) Personnel protection equipment. (4) Structural fire protection. (5) Sizing of the auxiliary relief valve allowed by § 5.3.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. W. E. McConnaughey, Commandant (G-MHM), U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on July 21, 1976.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.76-21794 Filed 7-23-76;11:26 am]

Office of Hazardous Materials Operations

HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

Grants and Denials of Applications for Exemptions

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted June 1976. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Grants

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
E76-312	DOT-E 1479	Rockwell International Corp., Canoga Park, Calif.	49 CFR 173.315(a)(1)..	To become a party to exemption 1479. (See application Nos. 75-133 and 75-179). (Mode 1.)
E76-392	DOT-E 2582	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.304(a)(2)..	To ship nitrosyl chloride in cylinders made in compliance with DOT 3E1800 with certain exceptions. (Modes 1 and 2.)
E76-325	DOT-E 2805	Allied Chemical Corp., Morristown, N.J.; Great Lakes Chemical Corp.; and Exxon Chemical Co., Houston, Tex.	49 CFR 172.5, 173.315 (a)(1).	To become a party to exemption 2805. (See application No. 76-52). (Mode 1.)
E76-324	DOT-E 2805			
E76-326	DOT-E 2805			
E76-150	DOT-E 3549	Monsanto Research Corp., Miamisburg, Ohio; U.S. Energy, Research and Development Administration Washington, D.C.	49 CFR 173.77, 173.65(a), (k).	To ship certain class A explosives in polyolefin film bags of 0.004 inch minimum thickness. (Modes 1 and 2.)
E76-168	DOT-E 3549			
E76-388	DOT-E 4108	Chemetron Corp., Chicago, Ill.	49 CFR 172.5, 173.315(a).	To ship certain nonflammable cryogenic compressed gases in a non-DOT specification cargo tank.
E76-230	DOT-E 4388	Air Products & Chemicals, Inc., Wayne, Pa.	49 CFR 173.314(c)	To ship certain flammable gases in a DOT specification 112A340W tank car. (Mode 3.)
E76-252	DOT-E 4404	SunOlin Chemicals Co., Claymont, Del.	49 CFR 172.5, 173.315(a)(1).	To ship liquefied ethylene in a specially designed and insulated cargo tank. (Mode 1.)
E76-181	DOT-E 4586	Albright and Wilson, Norwood, N.J.	49 CFR 173.247(a), 173.271(a); 46 CFR 146.23-100.	To become a party to exemption 4586. (See application Nos. 76-154, 76-361, 76-226 and 76-301). (Modes 1, 2, and 3.)
E76-227	DOT-E 4600	Michigan Chemical Corp., Chicago, Ill.	49 CFR 173.315, 178.245-3(a).	To ship anhydrous hydrogen bromide in a DOT specification 51 portable tank. (Modes 1 and 2.)
E76-166	DOT-E 5604	Gardner Cryogenics, Bethlehem, Pa.	49 CFR 172.5, 173.315; 46 CFR 146.24-100.	To ship nonflammable compressed gas in a non-DOT specification containerized portable tank. (Modes 1 and 3.)
E76-204	DOT-E 5912	United States Lines, Inc., New York, N.Y.	49 CFR 173.119(b), 173.125(a); 46 CFR 146.90.05-35, 98.35, 146.21-100.	To ship flammable and combustible liquids in non-DOT specification stainless steel portable tanks. (Modes 1, 2, and 3.)
E76-135	DOT-E 6116	AAI Corp., Baltimore, Md.	49 CFR 173.385(b); 46 CFR 146.25-300; 14 CFR 103.9.	To ship tear gas grenades in compliance with 46 CFR 146.25-300 and 49 CFR 173.385(a)(1). (Modes 1, 2, 3, and 4.)
E76-94	DOT-E 6211	Foote Mineral Co., Exton, Pa.; Stauffer Chemical Co., Westport, Conn.	49 CFR 173.247(a)..	To ship vanadium oxytrichloride in a DOT specification MC-310, MC-311, or MC-312 cargo tank. (Mode 1.)
E76-394	DOT-E 6258	Allied Chemicals Corp., Morristown, N.J.	49 CFR 173.119(a) (28).	To ship certain flammable liquids in a DOT specification 12A fiberboard box. (Modes 1 and 3.)
E76-66	DOT-E 6664	Sea Container, Inc., London, England.	49 CFR 173.119(b); 46 CFR 146.21-100.	To ship whiskey in non-DOT specification portable tanks. (Modes 1, 2, and 3.)
E76-261	DOT-E 6666	Osmose Wood Preserving Co. of America, Inc., Buffalo, N.Y.	49 CFR 173.365(a)(2); 46 CFR 146.25-200.	To ship a certain solid class B poison in non-DOT specification single-trip, 20 gage, open head steel drum. (Modes 1 and 3.)
E76-153	DOT-E 6667	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.346(a) (20); 46 CFR 146.25-200.	To ship certain class B poisonous liquid in a DOT specification 6D cylindrical steel overpack with an inside DOT-28L container.
E76-122	DOT-E 6688	Norris Industries, Los Angeles, Calif.	49 CFR 173.302(a) (1).	To ship compressed gases in a non-DOT specification seamless cylinder. (Modes 1 and 2.)
E76-46, E76-175, E76-302	DOT-E 6720	Sea-Land Service, Inc., Elizabeth, N.J.	46 CFR 90.05-35, 146.21-100, 146.21-200, 146.23-100, 146.25-200; 49 CFR pt. 173.	To ship certain hazardous materials in non-DOT specification portable tanks patterned after specification MC-307. (Modes 1, 2, and 3.)
E76-243	DOT-E 6749	Tesco Chemicals, Marietta, Ga.	49 CFR 173.217(b)....	To become a party to exemption 6749. (See application No. 76-205). (Modes 1 and 2.)
E76-248	DOT-E 6760	Riverside Chemical Co., Memphis, Tenn.	49 CFR 173.358, 173.359.	To ship certain class B poisonous liquids in a DOT specification 51 portable tank. (Mode 1.)
E76-247	DOT-E 6775	.....do.....	49 CFR 173.358, 173.359.	To ship certain class B poisonous liquids in DOT specification MC-331 tank motor vehicle. (Mode 1.)
E75-199	DOT-E 6793	Trafpak Ltd., Aylesbury, England.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346; 46 CFR 90.05-35, 146.21-100, 146.23-100, 146.25-200.	To ship certain hazardous materials in a non-DOT specification portable tank. (Modes 1 and 3.)
E76-263	DOT-E 6856	Western Electric, Reading, Pa.; Bell Laboratory, Murrayhill, N.J.	49 CFR 173.272(g).....	To ship sulfuric acid in DOT specification 15A, 15B, and 15C wooden boxes. (Mode 1.)
E76-244	DOT-E 6865	Kreider Truck Service, Inc., East St. Louis, Ill.	49 CFR 173.353(e).....	To ship methyl bromide in 2 1,176 gal DOT specification MC-330 cargo tanks. (Mode 1.)
E76-96	DOT-E 6939	Warren Petroleum Co., Tulsa, Okla.	49 CFR 173.315(a)(1), (c)(1).	To ship liquefied, flammable compressed gas in DOT specification MC-331 tank motor vehicle with certain modifications. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
E76-246	DOT-E 6974	Tavco, Inc., Chatsworth, Calif.	49 CFR 173.302(a)(1), 178.42.	To ship oxygen in steel cylinders made in compliance with DOT specification 3E with certain exceptions. (Modes 1, 2, and 4.)
E76-264	DOT-E 6988	Western Electric, Reading, Pa.	49 CFR 173.266(c)(4), 173.268(f), 178.168.	To ship certain corrosive liquids in certain type inside polyethylene bottles. (Mode 1.)
E76-201	DOT-E 7005	Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.119, 173.141(a)(10); 46 CFR 146.21-100.	To become a party to exemption 7005. (See application Nos. 76-201, 76-332, and 76-167). (Modes 1 and 3.)
E76-179	DOT-E 7010	Dow Chemical Co., Midland, Mich.	49 CFR 173.252(a)(4); 46 CFR 146.23-100.	To become a party to exemption 7010. (See application Nos. 76-336 and 76-257). (Modes 1 and 3.)
E76-197	DOT-E 7018	CBF Systems, Inc., New York, N.Y.	49 CFR 173.304(a)(1)..	To ship liquefied, nonflammable compressed gas in inside nonrefillable welded steel continers. (Mode 1.)
E76-386	DOT-E 7052	Garrett Manufacturing Ltd., Ontario, Canada.	49 CFR 173.206(d)(1)..	To become a party to exemption 7052. (See application Nos. 76-363, and 75-108). (Modes 1, 2, 3, and 4.)
E75-18	DOT-E 7268	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.304(a)(1); 46 CFR 146.24-100.	To ship compressed gases, n.o.s. In a nonrefillable DOT specification 39 cylinders. (Modes 1, 2, and 3.)
E76-109	DOT-E 7269	Mason & Hanger-Silas Mason Co., Inc., Amarillo, Tex.	49 CFR 173.65(a). ...	To ship certain class A explosives in strong inside siftproof paper or plastic bags overpacked in a DOT specification 21C fiber drum. (Modes 1 and 4.)
E76-380	DOT-7271	General Electric Co., San Jose, Calif.	49 CFR 173.397.....	To ship radioactive materials in packaging approved by the U.S. Nuclear Regulatory Commission. (Mode 2.)
E76-370	DOT-E 7272	Emerson Electric Co., St. Louis, Mo.	49 CFR 173.89(a) and (b); 14 CFR 103.9.	To ship certain class B explosives in strong wooden containers. (Mode 4.)
E76-271	DOT-E 7274	Union Carbide Corp., Tarrytown, N.Y.	46 CFR 146.24-100.....	To ship nonflammable compressed gases in roll-on/roll-off vacuum insulated portable tank. (Mode 3.)
E76-374	DOT-E 7278	ACF Industries, Inc., St. Charles, Mo.	49 CFR 179.201-7.....	To ship corrosive liquids in DOT specification 111A100W series tank cars. (Mode 2.)
E76-385	DOT-E 7279	Hill Brothers Chemical Co., Industry, Calif.	49 CFR 173.263(a)(15)..	To ship inhibited hydrochloric acid in a DOT specification 12B fiberboard box with an inside polyethylene container. (Modes 1 and 2.)
E76-274	DOT-E 7280	The Military Sealift Command, Washington, D.C.	46 CFR 146.27-30(4)...	To ship motor vehicles in compliance with all requirements of 46 CFR 146 with certain exceptions. (Mode 3.)
E76-17	DOT-E 7285	Ugine Kuhlmann of America Inc., Englewood Cliffs, N.J.	49 CFR 173.315(a); 46 CFR 146.24-100.	To ship monobromotrifluoromethane in a non-DOT specification portable intermodal tank. (Modes 1, 2, and 3.)

DENIALS

D7447—Request by FMC Corporation, Philadelphia, Pa.—To allow the use of the Environmental Protection Agency Poison label as a substitute for the DOT poison label on packages of Class B poisons registered with the DPA, denied 6/4/76.

D7411—Request by Mr. Sidney F. Brody, Beverly Hills, Calif.—To allow the carriage of an individually owned oxygen cylinder in the cabin of a passenger-carrying aircraft, denied 6/16/76.

EE-D7448—Request by Mr. Jack DeLowe, Hayward, Calif.—For an emergency exemptions to allow the carriage of an individually owned oxygen cylinder in the cabin of a passenger-carrying aircraft, denied 6/16/76.

E76-377—Request by Amtrol, Inc., West Warwick, Rhode Island—To allow the shipment of chlorpicrin and chlorpicrin-water mixtures in Department of Transportation Specification 39 cylinders, denied 6/17/76.

EE-D7442—Request by JSR America, Inc., New York, N.Y.—For an emergency exemption to allow a start-to-discharge setting of 10 psig for the pressure relief valves on the portable tanks prescribed therein, denied 6/18/76.

EE-D7449—Request by Independent Container Services, Inc., New York, N.Y.—For an emergency exemption to allow the shipment of non-toxified Castor Pomace in bulk in closed road trailers, denied 6/23/76.

E75-161—Request by Platte Chemical Company, Greeley, Colorado—To allow shipment of certain liquid organic phosphates in DOT-17C and DOT-17E drums reconditioned in accordance with 173.28(m), denied 6/25/76.

EE-D7540—Request by the Department of the Army, Washington, D.C.—For an emergency exemption to ship explosive projectiles in MILVANS loaded on flat cars equipped with cast iron brake shoes, denied 6/28/76.

E76-78—Request by Fabricated Metals, Inc., Modena, Pa.—To allow shipment of arsenic acid solution in 345 gallon capacity "Liqua-Bins", denied 6/29/76.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.76-21352 Filed 7-23-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 29385]

ISCARGO, HF NON-SCHEDULED SERVICE PERMIT APPLICATION (ICELAND)

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on August 6, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., July 20, 1976.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc.76-21565 Filed 7-23-76;8:45 am]

[Docket 26838]

PRIORITY RESERVED AIR FREIGHT RATES INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on September 8, 1976, at 10 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Economics will circulate its material on or before August 17, 1976, and the other parties on or before August 27, 1976. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., July 21, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-21566 Filed 7-23-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COLOMBIA

Establishment of Export Visa Requirement and Certification for Exempt Textile Products

JULY 20, 1976.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975, between the Governments of the United States and Colombia, the Government of Colombia has undertaken to limit its exports of cotton, wool and man-made fiber textile products to the United States to certain designated levels. Pursuant to this agreement, the Governments of the United States and Colombia have established an administrative mechanism to preclude circumvention of the licensing system for exports to the United States of cotton, wool and man-made fiber textile products, produced or manufactured in Colombia. The two governments have also agreed to establish an administrative mechanism to exempt the following from the levels of restraint of the bilateral agreement: (1) shipments of cotton, wool and/or man-made fiber textile products valued under $250; (2) handloomed fabrics of the cottage industry and handmade cottage industry products made from handloomed fabrics; and (3) traditional and folklore textile products of the cottage industry.

Effective on August 25, 1976, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton, wool or man-made fiber textile products, produced or manufactured in Colombia and exported on and after that date for which the Government of Colombia has not issued an appropriate export visa or certification for exemption, will be prohibited. Application of these requirements to wool and

man-made fiber textile products exported prior to August 25, 1976 is to become effective on October 25, 1976. The latter period will not apply to cotton textiles and cotton textile products which are subject to the levels of restraint of the bilateral agreement and which have been exported prior to August 25, 1976, because these have been subject to a visa requirement for the past two years. (See 39 FR 15528.) Cotton textiles and cotton textile products from Colombia which are visaed or certified for exemption in accordance with procedures established previously between the Governments of the United States and Colombia will not be denied entry until October 25, 1976.

The new export visa will be a rectangular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when that form is used). The visa will indicate the quantity of merchandise in the appropriate category unit and will also indicate the category or categories of the merchandise.

Cotton, wool and/or man-made fiber textile products that are to be exempted from the levels of restraint of the bilateral agreement shall be accompanied by a certification issued by the Government of Colombia. The certification will be a rectangular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice, when that form is used) and will include the signature and title of the official authorized to issue the certification; identify the items exempted; indicate the date the certification was signed and certified; and carry the certificate number. In the space marked "Description" on the certification stamp, the Government of Colombia will indicate that the shipment is: "Less than $250" in value, "a cottage industry product of handloomed fabric;" or will name the particular Colombian traditional or folklore product listed in the attachment to this notice. An export visa will not be required to accompany shipments of exempt items.

Copies of the export visa and certification stamps are published as enclosures to the letter set forth below. The names of officials authorized by the Government of Colombia to issue visas and certifications accompany this notice.

Interested parties are advised to take all necessary steps to insure that cotton, wool and man-made fiber textile products, produced or manufactured in Colombia, which are to be entered into the United States for consumption or withdrawal from warehouse for consumption will meet the stated visa and certification requirements.

There is published below a letter of July 20, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing the new administrative mechanisms.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce.

OFFICIALS AUTHORIZED BY THE GOVERNMENT OF COLOMBIA TO ISSUE EXPORT VISAS AND CERTIFICATIONS FOR EXEMPT TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES

Soledad Acevedo Fonseca
Jaime Arroyave Gomez
Antonio Ernesto Beltran Candia
Desiderio Caceres Rondon
Donaldo Castilla Quintana
Julian Contreras Trivino
Luz Mary Gonzales Mena
Magola Guerra Q.
Joaquin Gutierrez Isaza
Gloria Maria Lopez Naranjo
Jaime Netra Baena
Jaime Ospina Duque
Jose Ducardo Patino Vargas
Manuel Arturo Posada Gutierrez
Rafaela Vergara Echavez
Enrique White Salazar

COLOMBIAN TRADITIONAL FOLKLORE HANDICRAFT TEXTILE PRODUCTS

"Colombian Items" are traditional Colombian products, cut, sewn, or otherwise fabricated by hand in cottage units of the cottage industry. The following is the agreed upon list of such items:

(1) *Bedspread.*—Bedspread made on manual loom.

(2) *Blouse with crochet knitted neck.*—A blouse made of greige cloth heavily decorated around the neck, extending down the front and around the sleeves with *hand crochet* work. This blouse also has embroidered panels extending down the front on either side of the crochet work.

(3) *Embroidered Blouse.*—Hand cut and hand sewn blouse with extensive hand embroidery on the upper front and lower portions.

(4) *Embroidered Skirt.*—Hand cut and hand sewn skirt with extensive hand embroidery.

(5) *Blankets, Hand Woven.*—These colorful blankets are hand woven from wool, cotton or wool and cotton, heavy yarns to form striped or block patterns. The ends may be finished with spangles formed by the ends of the yarn and knotted, or may be hemmed.

(6) *Indian Embroidered Cloth.*—Cloth panels hand embroidered with various crude and colorful Indian scenes. Generally these cloths are used as wall hangings.

(7) *Typical Cumbia Dress.*—An ankle length dress with a very wide skirt trimmed with wide handmade lace. The entire dress is hand cut and hand sewn and is a typical dress for gaiety affairs.

(8) *Typical Guajira Dress.*—A traditional loose fitting woman's garment formed by a folded rectangular piece of fabric with a hole or slot in the center for the head, with intricate embroidery around the neck. This dress is made similar to a ruana, but has the outer edges sewn together except for slots for the hands and arms, and has closures on the front.

(9) *Typical Mapale Dress.*—A knee length dress consisting of very wide skirt having a row of heavy ruffles around the blouse portion and two bands of wide ruffles forming the skirt. A very gay colored festival dress.

(10) *Typical Mestiza Dress.*—A native handmade dress with wide neckline, ruffled collar and wide skirt with ruffles on the lower part of the skirt.

(11) *Hammock.*—Multicolored striped hammocks made by hand from coarse fabrics. Ends are formed and reinforced with strong rope. Net hammocks made on manual looms.

(12) *Jacket, hand knitted.*—Wholly hand knitted jacket. These jackets are usually knitted from wool yarns. Patched pockets, also hand knitted, are hand sewn to the garment.

(13) *Jacket of hand loomed fabric.*—These jackets are wholly hand made from hand loomed fabrics. Patched pockets, also of hand loomed fabric, are hand sewn to the garment.

(14) *Rauna.*—A cloak made from a heavy rectangular piece of fabric or a blanket with hole in the center for the head to pass through. This is a typical garment worn by men, women and children throughout the higher and cooler altitudes of Colombia. The men's ruana will generally have no fringes. Women's ruanas may have fringes and are sometimes slit from the neck opening to the edge to permit the wearer to put it on as a cape.

Children's ruanas sometimes have a collar around the opening with draw strings for a close fit. These garments are sometimes known as ponchos.

(15) *Rugs, hand woven or hand knotted.*—These rugs are usually made from wool yarns and are either wholly hand woven or hand knotted. They are generally square or rectangular in shape and are in colorful designs.

(16) *Macrame Shawl.*—Hand made shawls wholly of macrame lace or with macrame lace edge. The shawls are in various colors with the typical long fringe around the lower edges.

(17) *Sweaters and Cardigans, hand knitted.*—Wholly hand knitted sweaters and cardigans, generally a bulky knit with decorative vertical patterns.

(18) *Table Cloths and Napkins, embroidered.*—Table cloths and napkins cut and hemmed by hand and extensively embroidered by hand.

(19) *Colorful waist band.*—Hand plaited waist bands in multicolors. These are sometimes sewn together to form wide bands.

(20) *Wall hangings, rectangular.*—A colorful wall hanging made from coarse yarns connected to decorative crudely woven bands. These are hand made and come in various sizes.

(21) *Wall hanging, tree.*—Tree shaped wall hangings formed by connecting together crudely woven bands in graduated sizes with coarse yarns to form the outline of a tree. The wall hanging is decorated with small balls of cotton fiber.

(22) *Indian Color Knapsack.*—Knapsack made with belt like woven or plaited strap and multicolored bag, to be worn on the shoulder.

(23) *Pillow Covers, Embroidered by hand.*—Covers for throw pillow containing extensive hand embroidery covering 50 percent or more of the outer surface of the cover.

(24) *Hand made macrame handbags.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

JULY 20, 1976.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On April 30, 1974, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit, effective on June 2, 1974, and until further notice, entry into the United States

for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Colombia, which did not meet certain visa requirements. The directive of April 30, 1974 was amended by the directives of September 26, 1974 and June 5, 1975 from the Chairman, Committee for the Implementation of Textile Agreements, which changed the officials authorized by the Government of Colombia to issue export visas. The present directive cancels the directive of April 30, 1974, as amended by the directives of September 26, 1974 and June 5, 1975.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975, between the Governments of the United States and Colombia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on August 25, 1976, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–64, wool textile products in Categories 101–132, and man-made fiber textile products in Categories 200–243, produced or manufactured in Colombia, for which the Government of Colombia has not issued an appropriate visa, provided however, that wool textile products in Categories 101–132 and man-made fiber textile products in Categories 200–243, produced or manufactured in Colombia and exported prior to the effective date of this directive shall not be denied entry until October 25, 1976.

Cotton textiles and cotton textile products which have been visaed or certified for exemption in accordance with procedures established previously between the Governments of the United States and Colombia shall not be denied entry until October 25, 1976.

The export visa will be a rectangular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice, when such form is used). A facsimile of the visa is enclosed.

You are further directed to exempt from the levels of restraint established under the bilateral agreement shipments of cotton, wool, and/or man-made fiber textile products valued under $250; handloomed fabrics of the cottage industry and handmade cottage industry products made from handloomed fabrics; and traditional and folklore textile products which have been certified for exemption by the Government of Colombia in accordance with the procedure described below. This action will be effective on August 25, 1976.

The certification will be a rectangular stamp in blue ink on the front of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice, when such form is used) and will include the signature and title of the official issuing the certification; identify the items exempted; indicate the date the certification was signed and certified; and carry the certificate number. In the space marked "Description" on the certification stamp, the Government of Colombia will indicate that the shipment is: "Less than $250" in value; "a cottage industry product made from handloomed fabric;" or include the name of a particular Colombian folklore product. A copy of the certification stamp is also enclosed.

An export visa will not be required to accompany shipments of exempt cotton, wool, and man-made fiber textile products.

Merchandise covered by an invoice which has an exempt certification but includes both exempt and non-exempt textile products, will be denied entry.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool, and/or man-made fiber textile products, produced or manufactured in Colombia, notwithstanding the designated shipment or shipments do not fulfill the aforementioned visa and certification requirements, whenever requested to do so in writing by the Committee for the Implementation of Textile Agreements.

Textile products of the cottage industry of Colombia which have been certified exempt from the levels of restraint of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975, between the Governments of the United States and Colombia should be reported in accordance with the instructions transmitted in the letter of March 7, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 F.R. 5010), as amended on December 30, 1975 (40 F.R. 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton, wool and man-made fiber textile products from Colombia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, all within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

REPUBLIC OF COLOMBIA
INCOMEX
Licence No._____
For Shipping to USA Only
Category No.____ Quantity

Issued _____ 19____
Authorized Signature

REPUBLIC OF COLOMBIA
INCOMEX
Certificate No._____
For Shipping to USA Only
EXEMPTITEMS
Description

Issued _____ 19____
Authorized Signature

[FR Doc.76-21383 Filed 7-23-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 587-4; OPP-50218/50219/50220]

AMERICAN CYANAMID CO. AND GULF OIL CHEMICALS CO.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 135), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 241-EUP-78. American Cyanamid Company, Princeton, New Jersey 08540. This experimental use permit allows the use of 51 pounds of a plant regulator which is a mixture of [N-(1-ethyl-propyl)-3,4-dimethyl-2, 6-dinitrobenzamine] and xylene on tobacco (Maryland, cigar, and fire-cured) to evaluate control of suckers. A total of 27 acres is involved; the program is authorized only in the States of Maryland, Pennsylvania, Wisconsin, Tennessee, and Virginia. The experimental use permit is effective from May 24, 1976, to May 24, 1977.

No. 4090-EUP-19. Gulf Oil Chemicals Company, Merriam, Kansas 66202. This experimental use permit allows the use of 51 pounds of the herbicide cyperquat chloride (1-methyl-4-phenylpyridinium chloride) on turf to evaluate control of nutsedge. A total of 16.8 acres is involved; the program is authorized only in the States of Arkansas, California, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New York, Ohio, Oklahoma, Rhode Island, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 7, 1976, to June 7, 1977.

No. 4090-EUP-20. Gulf Oil Chemicals Company, Merriam, Kansas 66202. This experimental use permit allows the use of 39 pounds of the herbicide cyperquat chloride (1-methyl-4-phenyl-pyridinium chloride) on turf to evaluate control of nutsedge. A total

of 13 acres is involved; the program is authorized only in the States of California, Florida, Georgia, Mississippi, Missouri, Ohio, and Texas. The experimental use permit is effective from June 7, 1976, to June 7, 1977. This permit and the one above will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-21441 Filed 7-23-76;8:45 am]

[FRL 588-3; OPP-180078]

DEPARTMENT OF THE INTERIOR

Crisis Exemption Using Carbaryl To Control Flea Vectors of Plague In California

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), the Environmental Protection Agency (EPA) hereby gives notice that the National Park Service of the U.S. Department of the Interior (hereafter referred to as the "Applicant") has availed itself of a crisis exemption. The Applicant used a registered product containing 10 percent carbaryl to control plague-infected fleas in rodent burrows, specifically ground squirrel burrows. The location of the plague situation was the Devil's Postpile Campground in Devil's Postpile National Monument and Potwisha and Buckeye Flat Campgrounds in Sequoia National Park. This exemption was in accordance with, and was subject to, the provisions of §§ 166.2, 166.8, and 166.9 of 40 CFR Part 166. These regulations concerning the exemption of Federal and State agencies for the use of pesticides under emergency conditions were published in the FEDERAL REGISTER on December 3, 1973 (38 FR 33303). As required, the Applicant has submitted in writing the following certified information.

According to the Applicant, the presence of bubonic plague was confirmed in tests of vertebrate blood and in externally parasitic fleas found in the campground and adjacent housing area of the Devil's Postpile National Monument. The Applicant was concerned that visitors camping there in the approximately 12-acre area could be exposed to the disease; at that particular point in time, the Memorial Day holiday was coming up. It was felt that the pesticide should be applied enough in advance of potential exposure to permit the product to disintegrate to a safe level. Therefore, the application of carbaryl dust was made during the week beginning May 24, 1976.

Carbaryl applied as a 5 or 10 percent dust is registered for this use, but no carbaryl product registered for this use was available. In the Applicant's opinion, no other effective pesticide was available for this control except DDT, which is prohibited for use on National Park Service lands. The time element was critical, because of the opening date for visitation to the Devil's Postpile National Monument.

The campground and adjacent housing area of the National Monument contain numerous rodent burrows, which were treated individually with one-half (½) ounce of the product per burrow. The one-time treatment was carried out in one day with hand-held dusters, modified for introduction of measured amounts of pesticides. The entire treatment was carried out by U.S. Forest Service employees, who were assisted and trained by State of California Health Department specialists. The dust was introduced into burrows, so that external contamination would be minimal. Participating personnel were equipped with rubber gloves and respirators with a disposable organic vapor cartridge as well as standard filter apparatus. Other campgrounds in the vicinity of the Devil's Postpile National Monument, including the Sequoia National Park, were treated. Approximately 39 acres are involved.

The official file concerning this exemption is available for inspection in the Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-315, 401 M St., SW., Washington, D.C. 20460.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-21434 Filed 7-23-76;8:45 am]

SCIENCE ADVISORY BOARD

ECOLOGY ADVISORY COMMITTEE

Request for Nomination of Members

The Administrator requests nominations for the Ecology Advisory Committee, an entity of the Science Advisory Board. The current terms of the 15-member committee expire as of November 30, 1976.

The function of the Committee is to provide to the Administrator expert and independent advice on issues relating to the scientific and technical problems associated with ecological studies of pollution in the environment including such items as movement of materials, flow of energy, specific effects on biological systems (including biotic communities and large scale ecosystems); the strategies desired to meet these problems; the technical programs and priorities among them required to resolve these problems; the implications and significance of ecological principles as related to regulatory activities; and the effective utilization of scientific information in development of regulatory policy.

The members are scientists of recognized accomplishments in professional fields, such as the study of diverse freshwater, estuarine and marine, and terrestrial environments; ecological effects of pollutants; experimental ecosystems; ecosystem analysis; and modeling. Employees of Federal agencies will not be considered for membership.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The nominations should include a resume of the nominee's background, experience, and qualifications. This request for nominees does not imply any commitment on the part of the Agency to appointment of the individuals nominated, nor will formal replies to letters of nomination be sent.

Nominations should be submitted to Mrs. Thelma P. Ellison, Committee Management Office (PM-213), Room W441, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, no later than August 16, 1976.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

JULY 16, 1976.

[FR Doc.76-21446 Filed 7-23-76;8:45 am]

[FRL 587-6; OPP-50224/50225/50226]

FISONS CORP.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10065-EUP-4. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 9,450 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on sugarbeets to evaluate control of various broadleaf weeds and grasses by both broadcast and banded application. A maximum of 12,570 acres is involved if all applications are banded; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from May 17, 1976, to May 17, 1977. A temporary tolerance for residues of the active ingredient in or on sugarbeets has been established.

No. 10065-EUP-6. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 90 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on sugarbeets to evaluate control of various

broadleaf weeds and grasses by both broadcast and banded application. A maximum of 150 acres is involved if all applications are banded; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from May 17, 1976, to May 17, 1977. A temporary tolerance for residues of the active ingredient in or on sugarbeets has been established.

No. 10065–EUP–7. Fisons Corporation, Bedford, Massachusetts 01730. This experimental use permit allows the use of 6,000 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on sugarbeets to evaluate control of various broadleaf weeds and grasses by both broadcast and banded application. A maximum of 8,800 acres is involved if all applications are banded; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from May 17, 1976 to May 17, 1977. A temporary tolerance for residues of the active ingredient in or on sugarbeets has been established. This permit and the ones above will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76–21439 Filed 7–23–76;8:45 am]

[FRL 587–5; OPP–50221/50222/50223]

J. J. MAUGET CO., INC., ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7946–EUP–5. J.J. Mauget Co., Inc., Burbank, California 91504. This experimental use permit allows the use of 45 pounds of a fungicide which is a mixture of [2-(2-ethoxyethoxy) ethyl-2-benzimidazole carbamate] and 2-methyl benzimidazole carbamate on ornamental trees to evaluate control of certain fungus diseases. A total of 117.5 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Georgia, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, South Carolina, Texas, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from June 17, 1976, to June 17, 1977.

No. 10182–EUP–4. ICI United States, Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 345.5 pounds of the fungicide 5-butyl-2-(ethylamino)-6-methyl-4-pyrimidinyl dimethylsulfamate on apples, roses, and flowers (field and greenhouse) to evaluate control of powdery mildew. A total of 83.5 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from June 17, 1976, to June 17, 1977. Any crops treated under this permit will be destroyed or used for research purposes only.

No. 524–EUP–27. Monsanto Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 2,400 pounds of the herbicide glyphosate on citrus fruit to evaluate control of perennial and annual weeds. A total of 40 acres is involved; the program is authorized only in the States of Arizona, California, Florida, Hawaii, and Texas. The experimental use permit is effective from June 16, 1976, to June 16, 1977. A temporary tolerance for residues of the active ingredient in or on citrus has been established. A food additive tolerance for residues of the active ingredient in dried citrus pulp has also been established.

Interested parties wishing to review the experimental use permits are referred to Room E315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 16, 1976.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.76–21440 Filed 7–23–76;8:45 am]

[(FRL 588–2); OPP–180081]

STATE OF COLORADO

Issuance of Specific Exemption To Use DDT To Suppress Plague-Vectoring Fleas on Wild Rodents

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the State of Colorado (hereafter referred to as the "Applicant") to use 5 or 10 percent DDT dust to suppress populations of fleas which are vectoring plague and threatening the health of man. 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 St., SW., Room E–315, Washington, D.C. 20460.

According to the Applicant, it is predicted that 1976 will be a record high year for plague incidence in Colorado. High risk areas are defined as those areas in which Rock Squirrels (*Spermophilus variegatus*) live in close proximity to human residences or heavily used recreation areas. Other animal species that might be involved in sylvatic plague epizootics later in the year are the prairie dog species *Cyonys ludovicianus* and *C. gunnisoni*. Transmission of the plague bacillus from rodents to human occurs primarily between May and September, according to the Chief, Plague Branch, Center for Disease Control, U.S. Department of Health, Education, and Welfare, Fort Collins, Colorado; therefore, DDT applications should begin immediately.

The Applicant concedes that carbaryl (Sevin) dust, either as five (5) or ten (10) percent actual ingredient, is registered for this use, but due to non-persistence and resulting necessary re-applications, manpower shortages, and advanced season, carbaryl is considered to be inadequate to suppress the target flea populations.

The Applicant will use a five or ten percent DDT dust, as available. Three-man teams will apply the DDT with hand-powered dusting equipment to wild rodents' borrows near cities, towns, and campgrounds; initial treatments will be in six central counties—Fremont, El Paso, Pueblo, Huerfano, Teller, and Custer. One DDT application will be made to each rodent burrow. Treatment began on June 22 and will terminate on July 31, 1976. Two members of the Center for Disease Control staff will provide general supervision of the pesticide applications with assistance from at least twelve registered sanitarians from the Colorado Department of Health. The Applicant states that, since DDT dusts will be applied directly into the rodent burrows, few adverse environmental effects are anticipated.

The Chief of the Plague Branch has further stated that widespread but localized plague epizootics are presently sweeping through wild rodent populations in Colorado and New Mexico; in addition, a potentially serious threat of a plague epizootic exists in Arizona and California. In view of this situation, the Applicant requested that the specific exemption permit the use of DDT dust when needed during the period of June 22 to July 31, 1976, since it is highly probable that similar plague problems will arise in areas of Colorado other than those listed in this notice. This request was approved.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fleas vectoring plague has occurred; (b) there is no pesticide presently registered and available for use to control the wild rodent fleas in Colorado; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant health problems may result if these pests are 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 July 31, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following additional conditions:

1. DDT treatment is limited to high risk areas where wild rodents live in close proximity to areas of human habitation or high use recreation areas;

2. DDT will be applied directly into wild rodent burrows with hand-powered dusting equipment;

3. Total actual DDT used will be four hundred (400) pounds;

4. Each rodent burrow will receive a single application; and

5. Personnel of the Center for Disease Control, U.S. Department of Health, Education, and Welfare, and the Colorado State Health Department will supervise the pesticide application.

Dated: July 20, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-21435 Filed 7-23-76;8:45 am]

[FRL 587-8; OPP-180079]

TEXAS DEPARTMENT OF HEALTH RESOURCES

Issuance of a Specific Exemption To Control Rabid Skunks in Upshur County

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) granted a specific exemption to the Texas Department of Health Resources (hereafter referred to as the "Applicant") to use strychnine baits in a rabid skunk control program. The program was designed to contain an epizootic problem and prevent additional exposure to man and animals in the affected and adjacent area, respectively Upshur and Gregg Counties, Texas. This exemption was granted in accordance with, and was 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. The section 18 regulations provide that the Administrator may grant an emergency exemption to a Federal or State Agency when the following conditions exist:

(a) A pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use 40 CFR 166.1.

The exemption was also subject to the provisions of 40 CFR Part 164, specifically, Subpart D, published in the FEDERAL REGISTER on March 18, 1975 (40 FR 12261). In cases such as the one presented by this Applicant, if the request is for the use of a pesticide which has been finally cancelled or suspended, then the application constitutes a petition for reconsideration of such cancellation or suspension order. Therefore, the exemption cannot be granted without the requirement of a prior public hearing, unless certain conditions are found to exist.

Subpart D of the section 6 regulations provides that in emergency circumstances the Administrator may rule on the application without convening a formal hearing and without making a finding as to the question of substantial new evidence when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk: (i) To human health, or (ii) to fish or wildlife populations when such use would not pose a human health hazard; and

(2) That there is no other feasible solution to such risk; and

(3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by § 164.131; and

(4) That the public interest requires the granting of the requested use as soon as possible. 40 CFR 164.133.

According to the Applicant, populations of rabid skunks are threatening the health of man and domestic animals in an approximately 70 square mile area located in the southeastern portion of Upshur County; between April 1 and May 28, 1976, seventeen (17) rabid skunks have been confirmed by laboratory analyses and nine (9) clinical cases in skunks and one in a hog have been found in the affected area. Field investigations conducted by the Applicant showed a large skunk population in the affected portion of Upshur County and in the northern portion of Gregg County. An epizootic is underway, with a potential of spreading to uninfected areas in the two counties. Rabies immunization clinics in the current epizootic area have thus far prevented the spread of rabies into the domestic dog and cat population. Although the target species will be the skunk, other species of animals at risk will include dogs, cats, raccoons, ringtails, opossums, foxes, and coyotes. Investigation indicated that the heaviest skunk population was in and around barns, under homes, near and under junk piles and trash depositories. The area involved is also heavily populated with man, domestic pets, and farm animals. Special emphasis will be directed to the landowners to assure minimal risk to children and household pets.

The Applicant proposed to make the baits using strychnine alkaloid or strychnine sulfate powder placed in one inch square chunks of pork tallow. The amount of strychnine alkaloid required is ten (10) ounces to prepare 3,000 baits, with each bait containing 0.524 grains of active ingredient. Only veterinarians and technical personnel of the State Zoonosis Control Division, Bureau of Veterinary Public Health, will perform the baiting procedures. The Applicant stated that there will be no adverse effects to man or the environment because all contaminants will be removed from the area at the completion of the bait control program. The Center for Disease Control of the U.S. Public Health Service, U.S. Department of Health, Education, and Welfare, concurs with the existence of a public health hazard in the specified area of Upshur County, and with the desirability of the control program. The Fish and Wildlife Service of the U.S. Department of the Interior has advised EPA that no endangered or threatened species are known to occur in Upshur County.

It should be noted that experience with previous strychnine poisoned-bait programs has shown that it is not possible to prevent mortality of some species of non-target wildlife, and occasionally, domestic animals. However, the bait program will be conducted on only 70 square miles and will operate for no more than a six week period. It is likely that any mortality incurred by non-target wildlife species will be compensated by the reproduction in surviving individuals and migration from adjacent untreated areas.

In light of the above and pursuant to the controlling regulations, the Administrator determined that (a) a pest outbreak of rabid skunks had occurred; (b) there was no pesticide presently registered for use in suppressing populations of rabid skunks in Texas; (c) the application presented a situation involving a need to use the pesticide as requested to prevent an unacceptable risk to human health; (d) there was no other feasible solution to such human health risk; (e) the time available to avert the risk to human health was not sufficient to convene a hearing; and (f) the public interest required the granting of the requested use as soon as possible. Accordingly, the Applicant was granted a specific exemption to use the pesticide noted above until July 31, 1976, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. Bait stations containing pork tallow baits, each containing not more than 0.524 grains of strychnine alkaloid or strychnine sulfate, will be applied by experienced personnel of the Texas Department of Health Resources;

2. Ten (10) ounces of strychnine alkaloid or strychnine sulfate, or any combination of these two compounds, but not to exceed ten (10) ounces total, may be used to prepare baits for this program;

3. The program was authorized on June 21, 1976, and will terminate no later than July 31, 1976. Exposure time of any bait station shall not exceed three (3) consecutive days;

4. Each property owner or his designated representative will accompany the baiter while on the premises. This accompaniment will assure complete knowledge by the landowner of the location and amount of bait; a map of the area will be made to double-check bait location. All baits will be placed in a protective manner to avoid attraction of non-target species. All properties participating in the bait program will be posted with conspicuous warning posters at every entrance from any public road. These posters will remain in place until the baits are removed from the area;

5. As mentioned, the poison baiting program required baits to be placed in and around barns, under homes, and around trash piles, since these are the main breeding and harborage locations in the area. Baits will be placed at night and retrieved the following morning. Each location will be baited for three consecutive days;

6. All persons residing on treated properties will be notified of the day the bait will be placed in order to assure the protection of small children and domestic pets;

7. If dead animals are found, the carcasses will be buried and a record made of the species and location. Every bait removed from the field will be incinerated in an appropriate furnace designed for this purpose;

8. The Pesticide Branch, EPA Region VI, Dallas, Texas, will be advised of the initiation and progress of the bait program, so that they can proceed with any monitoring activities that may be appropriate; and

9. The Applicant is to comply with the provisions of section 166.5, "Procedure to be followed upon approval of a specific exemption", of the FIFRA, as amended.

This notice contains a summary of certain information set forth in the application. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-315, 401 M Street, SW., Washington, D.C. 20460.

Dated: July 20, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-21437 Filed 7-23-76;8:45 am]

[FRL 587-3; OPP—50215/50216/50217]

THOMPSON-HAYWARD CHEMICAL CO. AND MOBAY CHEMICAL CO.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 135), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 148-EUP-19. Thompson-Hayward Chemical Co., Kansas City, Kansas 66110. This experimental use permit allows the use of 457.23 pounds of the insecticide N-[[(4-chlorophenyl) amino]carbonyl]-2,6-difluorobenzamide in locations excluding cropland or areas used for food, feed, hay, or pasture or for potable water, livestock watering, or crop irrigation to evaluate control of mosquito larvae, including Culex, Anopheles, and Aedes species. A total of approximately 2,000 acres is involved; the program is authorized only in the States of California, Colorado, Florida, Illinois, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Ohio, Oregon, Texas, Utah, Washington, and Wyoming. The experimental use permit is effective from June 8, 1976, to June 8, 1977.

No. 3125-EUP-130. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 4,000 pounds of the insecticide dimethyl (2, 2,2-trichloro-1-hydroxyethyl) phosphonate on forest and shade trees to evaluate control of the Spruce Budworm. A total of 4,500 acres is involved; the program is authorized only in the State of Maine. The experimental use permit is effective from June 8, 1976, to June 8, 1977.

No. 148-EUP-22. Thompson-Hayward Chemical Co., Kansas City, Kansas 66110. This experimental use permit allows the use of 3,950.75 pounds of the insecticide N-[[4 - chlorophenyl)amino] carbonyl] - 2,6-difluorobenzamide on cotton to evaluate control of the Boll Weevil. A total of 6,051 acres is involved; the program is authorized only in the States of Texas, Mississippi, Arkansas, Louisiana, Oklahoma, North Carolina, South Carolina, Alabama, and Georgia. The experimental use permit is effective from June 7, 1976, to June 7, 1977. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-21442 Filed 7-23-76;8:45 am]

[FRL 487-71; OPP-50227/50228/50229]

3M CO.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 135), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7182-EUP-17. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 525 pounds of the herbicide diethanolamine salt of perfluidone (1,1,1-trifluoro-*N*-[2-methyl-4 - (phenylsulfonyl)phenyl]methanesulfonamide) on tobacco to evaluate control of purple and yellow nutsedge and many annual grasses and broadleaf weeds. A total of 210 acres is involved; the program is authorized only in the States of Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from June 11, 1976, to June 11, 1977.

No. 7182-EUP-18. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 345 pounds of the herbicide perfluidone (1,1,1-trifluoro-*N*-[2-methyl-4-(phenylsulfonyl) phenyl] methanesulfonamide) on tobacco to evaluate control of purple and yellow nutsedge and many annual grasses and broadleaf weeds. A total of 138 acres is involved; the program is authorized only in the States of Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from June 11, 1976, to June 11, 1977.

No. 4581-EUP-24. Pennwalt Corporation, Tacoma, Washington 98401. This experimental use permit allows the use of 2,510 pounds of an insecticide which is a mixture of xylene base aromatic solvent and 0,0-dimethyl 0-p-nitrophenyl phosphorothioate on almonds and potatoes to evaluate control of a variety of insects. A total of 5,020 acres is involved; the program is authorized only in the States of California, Maine, Michigan, Minnesota, Nebraska, New York, North Dakota, Oregon, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 10, 1976, to June 10, 1977. A permanent tolerance for residues of the active ingredient in or on almonds and potatoes has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-21438 Filed 7-23-76;8:45 am]

[FRL 588-1; OPP-180080]

VERMONT DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Carbaryl To Control Maple Leaf Cutter

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environ-

mental Protection Agency (EPA) has granted a specific exemption to the Vermont Department of Agriculture (hereafter referred to as the "Applicant") to use carbaryl (Sevin) on approximately 3,000 acres in Vermont to control populations of the Maple Leaf Cutter, which are threatening commercial and potentially commercial sugar maple orchards. 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 St., SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, populations of the Maple Leaf Cutter (*Paraclemensia acerifoliella* [Fitch]) have reached outbreak proportions in Vermont for the past three years, defoliating over 30,000 acres of sugar maple stands in 1975. In areas of heavy defoliation by this insect for three consecutive years, sugar maple tree mortality is imminent unless the pest is controlled; deciduous trees begin to die after three years of complete or nearly complete defoliation. Even on surviving trees, branch kill and top kill will occur, resulting in a reduction in quality and quantity of maple sap which is the raw material for the maple food products industry in the State. Surveys in 1976 have indicated that the populations of the Maple Leaf Cutter are at least equal to those of 1975, if not greater. Carbaryl sprays should be applied when the insect is in the 2nd and 3rd instars of the Maple Leaf Cutter caterpillar, so that the caterpillar population can be reduced prior to heavy defoliation, according to the Applicant. Thus, the optimum application time would be between June 20 and July 15, 1976.

There are no insecticides currently registered for control of any insect pest attacking sugar maples that are being used to produce a food crop. Several insecticides, including carbaryl, are registered for use on forest insect pests on sugar maples in forest situations. The Applicant also stated that there is no tolerance established for any insecticide on maple food products. A petition for a carbaryl tolerance of 0.5 ppm in the raw agricultural commodity maple sap has been received by EPA and is currently under review.

The Applicant proposed to use carbaryl (Sevin) applied from fixed-winged aircraft at a dosage rate of one (1.0) pound of actual carbaryl per acre. Most of the sugar maple acreage to be treated is located in the counties of Bennington, Lamoille, Windham, Windsor, Rutland, Washington, and Franklin, but small acreages requiring treatment are scattered throughout the State Personnel involved in the applications are experienced in all aspects of forest pest management, including insect, disease, and rodent control, and include personnel from the University of Vermont Agricultural Experiment Station and Extension Service, the Vermont Department of Forests and Parks, the Vermont Department of Agriculture, and Union Carbide Corporation. A maximum of 3,000 acres will be treated. The sugar maple stands to be treated contain no permanent bodies of water, although intermittent streams may be present. No significant drift of the material beyond the treated acreage is anticipated.

The Applicant stated that maple syrup losses valued at $250,000 were attributable to damage by the Maple Leaf Cutter in 1975, and similar losses are expected to occur this year. In addition, many commercial maple sugar operators have not "sugared" for two or more years to reduce the stress on infested trees, and many others will not operate during the 1977 spring sap season unless control measures are applied against this pest.

It has been determined that no short or long-term adverse effects on man or the environment are likely to result from this pesticide application. The Fish and Wildlife Service, U.S. Department of the Interior, has advised the EPA that no adverse effects to fish and wildlife populations will occur from the application of carbaryl (Sevin) on sugar maple orchards.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the Maple Leaf Cutter has occurred; (b) there is no pesticide presently registered and available for use to control the Maple Leaf Cutter in Vermont; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the Maple Leaf Cutter 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 July 31, 1976, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following additional conditions:

1. Aerial applications of carbaryl (Sevin) are limited to commercial and potentially commercial sugar maple orchards;

2. The Applicant will comply with the provisions of section 166.5, "Procedure to be followed upon approval of a specific exemption", of the FIFRA, as amended; and

3. It has been determined that a carbaryl residue not exceeding 0.5 ppm in maple sap does not constitute a hazard to the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

Dated: July 20, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.76-21436 Filed 7-23-76;8:45 am]

[FRL 586-8; OPP-42024]

STATE OF TEXAS

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 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), and under the authority of the Honorable Dolph Briscoe, Governor of the State of Texas, the Texas Department of Agriculture has submitted a State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis, pending enactment of proposed amendments to present legislation and subsequent regulations. Notice is hereby given of the intention of the Regional Administrator, EPA, Region VI, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan together with all attached appendices (except for sample examinations) may be examined during normal busines hours at the following locations:

Texas Department of Agriculture, Stephen F. Austin State Office Bldg., Room 927, Austin, Texas 78711, 512-475-4457.

U.S. Environmental Protection Agency, Region VI, Air & Hazardous Materials Division, Pesticides & Hazardous Materials Branch, 1600 Patterson Avenue, Room 1107, Dallas, Texas 75201, 214-749-1121.

Office of Pesticide Programs, EPA, Technical Services Division (WH-569), Federal Register Section, Room 401, East Tower, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460.

SUMMARY OF TEXAS STATE PLAN

The Texas Department of Agriculture is the lead agency and is responsible for coordinating activities of State agencies in the regulation of pesticide use and application. A Coordinating Council has been established and consists of representatives of each of the cooperating agencies, which are the Texas Structural Pest Control Board, Texas Department of Health Resources, Texas Water Quality Board, Texas Animal Health Commission, and Texas Agricultural Extension Service.

The Texas Department of Agriculture has the responsibility for certifying private applicators and commercial and non-commercial applicators involved in agricultural pest control (except animal pest control), forest pest control, ornamental and turf pest control (with the exception of those applicators under the jurisdiction of the Texas Structural Pest Control Board), seed treatment, right-of-way pest control, regulatory pest control, and demonstration pest control. The Texas Animal Health Commission will certify commercial and non-commercial applicators involved in animal pest control. The Texas Department of Human Resources will certify commercial and non-commercial applicators involved in public health and health related pest control. The Texas Structural Pest Con-

trol Board will certify commercial and non-commercial applicators involved in industrial, institutional, structural, and health related pest control, including those in a lawn and ornamental subcategory. The Texas Water Quality Board will certify commercial and non-commercial applicators involved in aquatic pest control. Under the Texas Pesticide Control Law, a commercial applicator is an applicator who owns or manages a pesticide application business. A non-commercial applicator is an applicator who is not a commercial applicator or a private applicator. Each agency will be responsible for developing and enforcing its own certification program, in coordination with the Texas Department of Agriculture.

The Texas Agricultural Extension Service has an approved training plan and will train all private, commercial, and non-commercial applicators under a cooperative agreement with the Texas Department of Agriculture.

Legal Authority for the program is contained in the Structural Pest Control Act (Art. 145b–6, Vernon's Annotated Civil Statutes), the Texas Pesticide Control Act (Art. 135b–5a, Vernon's Annotated Civil Statutes), proposed amendments to the Pesticide Control Act, and appropriate regulations which are described in detail in the plan.

The plan indicates that the State Lead Agency and cooperating agencies have or will have sufficient qualified personnel and funds to carry out the proposed program.

The State Lead Agency will submit an annual report to EPA by October 1st of each year and special reports as required.

The major categories for commercial and non-commercial applicators will be the same as the commercial applicator categories listed in 40 CFR 171.3(b). No new categories are proposed. Subcategories will be as follows:

AGRICULTURAL PEST CONTROL

i. Field Crop Pest Control
ii. Fruit & Vegetable Pest Control
iii. Weed & Brush Control
iv. Predatory Animal Control
v. Farm Storage Pest Control
vi. Fumigation

FOREST PEST CONTROL

i. Insect & Disease Control
ii. Weed & Brush Control

ORNAMENTAL AND TURF PEST CONTROL

i. Plant Pest Control
ii. Greenhouse Pest Control
iii. Weed Control

ANIMAL PEST CONTROL

i. Tick, Louse, and Mite Control
ii. Fly Control

AQUATIC PEST CONTROL

i. Aquatic Plant Control
ii. Aquatic Animal Control

HEALTH RELATED PEST CONTROL (INCLUDING PUBLIC HEALTH

i. Vector Control
ii. Rodent Control
iii. Sanitation

INDUSTRIAL, INSTITUTIONAL, STRUCTURAL, AND HEALTH-RELATED PEST CONTROL

i. Pest Control
ii. Termite Control
iii. Lawn and Ornamental
iv. Fumigation
v. Weed

The State estimates that 16,517 commercial and non-commercial applicators and up to 212,000 private applicators will need to be certified.

Commercial and non-commercial applicators will be certified by means of written examinations, one covering the general standards of competency (40 FR 171.4(b) and 171.6), and one covering the specific standards of competency (40 CFR 171.4(c)) for each category in which the applicator desires certification.

Complete copies of examinations for the subcategories of the Industrial, Institutional, Structural, and Health-Related category, and sample questions for all other categories and subcategories, are attached to the Plan. However, the State of Texas has requested that the examinations and sample questions not to made available for public inspection, in order to maintain their confidentiality. The Agency has acceded to this request and has removed the examinations and sample questions from the public inspection copies of the Plan.

In accordance with 40 CFR 171.7(e)(3), the State of Texas has described its current licensing program for applicators in the five subcategories of the Industrial, Institutional, Structural, and Health-Related category listed above, and has requested authority to certify those applicators licensed in these subcategories on the basis of written examinations without further demonstration of competency. 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. Accordingly, notice is hereby given of the intention of the Regional Administrator to approve the Texas request.

Private applicators will routinely be certified by one of two methods: completion of approved training or completion of a self-study course. Each method will cover the standards of competency set forth in 40 CFR 171.5 and 171.6. In the training course, after presentation of the training material, the trainees will complete a written questionnaire, or oral review questions will be asked, and the answers will be discussed in detail. The self-study method will consist of either home study of training materials or a slide/tape presentation available at county extension offices, followed by a written questionnaire which the applicator completes and submits to the Department.

In emergency situations, a previously uncertified private applicator may obtain single product, single purchase/single use certification through an interview with Texas Department of Agriculture or Extension Service personnel, or an approved dealer. A record of the interview will be made by the administering official and forwarded to the Department.

Federal employees qualified for certification under the Government Agency Plan will be certified by the State without further testing if the qualification requirements meet those established by the State.

The cooperating agencies have decided that the Indian governing bodies may develop their own certification plans in cooperation with the U.S. Department of Interior.

The State may waive all or part of any examination requirement on a reciprocal basis with any other State or Federal agency which has substantially the same standards. Copies of any agreements reached will be forwarded to EPA.

Each regulatory agency has field personnel located in various parts of the State. These personnel will maintain a close contact with applicators, checking their equipment, records, employee supervision procedures, and job performance.

Each cooperating agency will require commercial and non-commercial pesticide applicators to submit application annually for license renewal. Each application will be examined from the standpoint of technological changes in the use of pesticides in the categories and subcategories of pest control for which the any suffi
applicant seeks renewal. If there are any sufficient changes in the applicant's area of pesticide usage, training and/or re-examination will be required for the new developments.

Training programs will be offered at various times during each year for all applicators. These programs will provide an opportunity for certified applicators to maintain their level of competence. Many of these training programs will be part of applicator association and farm organization meetings held throughout the State.

Other pesticide regulatory activities include registration of pesticides, sampling and analysis, licensing of dealers, and investigation of damage claims.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Texas to the Regional Administrator, Region VI, Environmental Protection Agency, 1600 Patterson Avenue, Dallas, Texas 75201. The comments should be received on or before August 26, 1976, and should bear the identifying notation OPP–42024. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: May 28, 1976.

JOHN C. WHITE,
Regional Administrator, U.S. Environmental Protection Agency, Region VI.

[FR Doc.76–21445 Filed 7–23–76;8:45 am]

[FRL 586–6; OPP–33000/436]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94–140), and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data be developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: July 16, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/436)

EPA File Symbol 33955–LGO. Acme Div., PBI/GORDON CORP., 300 S. Third St., Kansas City KS 66118. ACME BENOMYL SYSTEMIC FUNGICIDE. Active Ingredients: Benomyl (Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 264–37. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. WEED-ONE 638. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 14.8%; Butoxyethanol ester of 2,4-dichlorophenoxyacetic acid 26.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 18972–1. Beaver Sales & Service 2320 W. Meighan Blvd., Gadsden AL 35904. BEAVERCIDE ODORLESS DISINFECTANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimthyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 802–30. The Chas. H. Lilly Co., 7737 E. Killingsworth, Portland OR 97218. MILLER'S 2,4-D AMINE D WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Dimethylamine Salt 49.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802–146. The Chas. H. Lilly Co. AMITOX, A SELECTIVE 2-4-D AMINE WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Dimethylamine Salt 15%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802–471. The Chas. H. Lilly Co. MILLER'S 2,4-DICHLOROPHENOXYACETIC ACID 80–5. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 79.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802–499. The Chas. H. Lilly Co. 2,4-D ATTACLAY 50–50. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 50%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715–199. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. AMINE 600 2,4-D. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 70.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715–245. Colorado International Corp. 2,4-D BUTYL ESTER 6 WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, n-butyi ester 79.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–130. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. AMINE 6D. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 70.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–161. Diamond Shamrock Corp. CROP RIDER "45" MULTI-PURPOSE WEED KILLER. Active Ingredients: Isooctyi Ester of 2,4-Dichlorophenoxyacetic Acid 35.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–201. Diamond Shamrock Corp. DACAMINE WEED KILLER. Active Ingredients: N-oleyi-1,3-Propylenediamine Salt of 2,4-Dichlorophenoxyacetic Acid 21.9%; 2,4-Dichlorophenoxyacetic Acid 11.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–246. Diamond Shamrock Corp. TECHNICAL DIMETHYLAMINE-D (2,4-D). Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 72.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–249. Diamond Shamrock Corp. TECHNICAL ISOPROPYL-D (2,4-D). Active Ingredients: Isopropyi Ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–251. Diamond Shamrock Corp. TECHNICAL 2-ETHYLHEXYL-D (2,4-D). Active Ingredients: 2-Ethyihexyi Ester of 2,4-Dichlorophenoxyacetic Acid 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–252. Diamond Shamrock Corp. TECHNICAL BUTYL-D (2,4-D). Active Ingredients: Butyi Ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–266. Diamond Shamrock Corp. 2,4-D ACID TECHNICAL FLAKE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–276. Diamond Shamrock Corp. DACAMINE TURF HERBICIDE. Active Ingredients: N-Oleyi-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic Acid 33.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–295. Diamond Shamrock Corp. LO-VOL 4D WEED KILLER. Active Ingredients: Isooctyi Ester of 2,4-Dichlorophenoxyacetic Acid 69.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–296. Diamond Shamrock Corp. AMINE 4D WEED KILLER. Active

Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–300. Diamond Shamrock Corp. 2,4-D 20% TERRA G WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 30.17%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–302. Diamond Shamrock Corp. BUTYL 6D WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic Acid 78.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–304. Diamond Shamrock Corp. LO–VOL 6D. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 92.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–321. Diamond Shamrock Corp. BP LO–VOL 4D WEED KILLER. Active Ingredients: Butoxypropyl Ester of 2,4-Dichlorophenoxyacetic Acid 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–184. Dow Chemical Co., PO Box 1706, Midland MI 48640. BUTYL 400 A 2,4–D HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Esters 58.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–183. Dow Chemical Co. BUTYL 265. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Esters 39.0%; 2,4-D Acid Equivalent 31.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–159. Dow Chemical Co. ESTERON 99. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 41.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 464–LGT. Dow Chemical Co. DMA 4 RST HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%; 2,4-Dichlorophenoxyacetic Acid Equivalent 40.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–196. Dow Chemical Co. DMA 4 HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%; 2,4-Dichlorophenoxyacetic Acid Equivalent 40.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 464–279. Dow Chemical Co. ESTERON 76 BE HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Esters 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–349. Dow Chemical Co. WEED KILLER 4D. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid; Isooctyl Ester 70.0%; 2,4-Dichlorophenoxyacetic Acid Equivalent 46.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–395. Dow Chemical Co. 2,4-D SODIUM SALT WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Sodium Salt, Monohydrate 95%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–423. Dow Chemical Co. VERTON 2D HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 39.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–453. Dow Chemical Co. 2,4-D ACID. Active Ingredients: 2,4-D (2,4-Dichlorophenoxyacetic acid) 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–454. Dow Chemical Co. 2,4-DICHLOROPHENOXYACETIC ACID, DAMP. Active Ingredients: 2,4-D (2,4-Dichlorophenoxyacetic Acid) 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–456. Dow Chemical Co. 2,4-D, BUTYL ESTERS. Active Ingredients: Butyl Esters of 2,4-D (2,4-dichiorophenoxyacetic acid) 98.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–457. Dow Chemical Co. 2,4-D, BUTOXY PROPYL ESTERS. Active Ingredients: Butoxy Propyl Esters of 2,4-D, (2,4-dichlorophenoxyacetic acid) 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg No. 464–458. Dow Chemical Co. 2,4-D, ISOOCTYL ESTERS. Active Ingredients: Isooctyl Esters of 2,4-D, (2,4-dichlorophenoxyacetic acid) 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–463. Dow Chemical Co. ESTERON 44 IMPROVED HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, butyi esters 51.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–467. Dow Chemical Co. DMA 6 UNSEQUESTERED WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Dimethylamine Salt 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–513. Dow Chemical Co. 2,4-D, DIETHANOLAMINE SALT-5. Active Ingredients: 2,4-D [2,4-dichlorophenoxyacetic acid] diethanolamine salt 69.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–514. Dow Chemical Co. 2,4-D, TRITHANOLAMINE SALT-4. Active Ingredients: 2,4-D [2,4-dichlorophenoxyacetic acid] triethanolamine salt 64.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–518. Dow Chemical Co. 2,4-D, BUTOXY ETHANOL ESTER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxy Ethanol Ester 98.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 8584-G. English River Concentrates, Inc., PO Box E, Riverside IA 52327. ER SHOO-FLY MINERAL-16. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 1.19%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 8584-U. English River Concentrates, Inc. ER SHOO-FLY MINERAL SUPER 6. Active Ingredients: 2-chloro-1-(2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 1.19%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 8584-E. English River Concentrates, Inc. ER RABON 7.76 LARVICIDE PREMIX. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 7.76%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 8584-L. English River Concentrates, Inc. ER SHOO-FLY MINERAL MIX-10. Active Ingredients: 2-chloro-1-(2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 1.19%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 8584-A. English River Concentrates, Inc. ER SHOO-FLY PASTURE MINERAL-MG. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 1.19%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA Reg. No. 1990–76. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO-OP WEED-OUT 4 POUND LOW VOLATILE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Ester 70.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279–2503. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. KOLODUST 50 THIODAN 4 DUST FUNGICIDE-INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 4.00%; Sulphur 42.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM15

EPA File Symbol 7053-EU. Fremont Industry, Inc., Valley Industrial Park, Shakopee, MN 55379. FREMONT 9947. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 5905–96. Helena Chemical Co., Clark Tower, Suite 3200, Memphis TN 38137. HELENA BRAND 2,4-D ESTER 6. Active Ingredients: Mixed butyi and isopropyl esters of 2,4-Dichlorophenoxyacetic acid 78.1%; 2,4-Dichlorophenoxyacetic acid Equivalent 63.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM-23.

EPA Reg. No. 449–111. Techne Corp., PO Box 788, St. Joseph MO 64502. TECHNE NO. 6 BUTYL ESTER EMULSIFIABLE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyi Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 449–536. Techne Corp. TECHNE LOW-VOL 2,4-D-6 (LOW VOLATILE). Active Ingredients: 2,4-Dichlorophenoxyacetic acid, isooctyi ester 94.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1386–467. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO TURF TREETER LAWN WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, dimethyiamine salt 19.9%; Dicamba (2-methoxy-3,6-dichiorobenzoic acid, dimethylamine salt) 6.6%; Dimethylamine sales of related acids 1.1%. Method of Support: Application pro-

ceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–7. Wegro, Div. of Old Fort Industries, Inc., Box 82 Grand Rapids OH 43522. EMERALD GREEN WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–9. Wegro. GENTLE TIGER WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–10. Wegro. COLONIAL GREEN WEED KILLER AND LAWN FOOD. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–11. Wegro. GREEN MAKER WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–13. Wegro. GREEN MEADOW WEED KILLER AND LAWN FOOD. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–14. Wegro. TRIPLE GREEN WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–15. Wegro. STADIUM GREEN WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–16. Wegro. GREEN BEAUTY WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–17. Wegro. TRIPLE XXX WEED KILLER PLUS LAWN FOOD. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–19. Wegro. SPARK–L GREEN WEED KILLER AND LAWN FOOD 10–6–4. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–25. Wegro. MR GRO DOUBLE ACTION WEED AND FEED WITH IRON. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5815–28. Wegro. THE WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 6.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2124–714. W.R. Grace & Co., Agricultural Chemical Group, 100 N. Main St., Memphis TN. NACO 2,4-D WEED KILLER 4-D. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxy Propyl Esters 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76-21443 Filed 7-2376;8:45 am]

[FRL 586–7; OPP–33000/437]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received, in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of hte application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St SW, Washington DC 20469. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: July 15, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/437)

EPA File Symbol 4876–LI. AG Supply Co., Div. of Seedkem, Industrial Dr., Hopkinsville KY 42240. CHLORDANE–8 TERMITE CONTROL. Active Ingredients: Technical Chlordane 72%; Aromatic Petroleum Derivative Solvent 21%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Method of support changed from 2(c) to 2(b). PM15

EPA Reg. No. 2097–4. Beecham-Massengill Pharmaceuticals, 513–529 Fifth St., Bristol TN 37620. BENZYL BENZOATE WITH LINDANE. Active Ingredients: Benzyl Benzoate 28%; Gamma Isomer Benzene Hexachloride 1%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 17875–2. Boaters Choice, Inc., PO Box 561082, 8804 SW, 129 Terr., Miami FL 33176. ALGAE & BOTTOM CLEANER. Active Ingredients: Hydrogen Chloride 11.3%. Method of Support: Application proceeds under 2(a) of interim policy. Application for reregistration. PM32

EPA File Symbol 4450–UR. Chemex Chemicals & Coatings Co., Inc., 2822 35th St., Tampa FL 33605. CHEMEX DISINFECTANT BOWL CLEANER. Active Ingredients: Octyldecyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 8.000%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Re-

vised offer to pay statement submitted. PM32

EPA File Symbol 900–RRN. Chemical Service, Div. of American Chemmate Corp., Howard & West Sts., Baltimore MD 21230. C.S. BOWL CLEANER. Active Ingredients: Hydrogen Chloride 9.5%; Dimethyl Isopropylaminophenanthrene 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 7173–141. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. CHEMPAR DIURON-80% WP WEED KILLER. Active Ingredients: Diuron [3-(3,4 - dichlorophenyl) - 1,1 - dimethylurea] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 7173–86. Chempar Chemical Co., Inc. CHEMPAR DIURON 80% WP WEED KILLER. Active Ingredients: Diuron [3-3,4 - dichlorophenyl) - 1,1 - dimethylurea] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 7173–73. Chempar Chemical Co., Inc. CHEMIURON TECHNICAL A HERBICIDE FOR FORMULATING USE. Active Ingredients: Diuron 3-(3,4-dichlorophenyl)-1,1-dimethylurea 98%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA File Symbol 7056–LO. Chem Spray Aerosols, Inc., 16210 Farm Rd. 149, Houston TX 77040. CHEM SPRAY FOGOSOL II. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide technical 1.0%; N-Octyl Bicycloheptene Dicarboximide 1.66%; Petroleum Distillate 2.38%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 239–2186. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride 1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Change in geographic use pattern. Revised offer to pay statement submitted. PM25

EPA File Symbol 4715–EEO. Colorado International Corp., PO Box 7257, Denver CO 80207. DIURON TECHNICAL. Active Ingredients: Diuron: 3-(3,4-dichlorophenyl)-1,1-dimethylurea 97.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 9444–UI. Cline-Buckner, Inc., 16317 Pluma Ave., Cerritos CA 90701. FLEA & TICK SPRAY FOR DOGS. Active Ingredients: Pyrethrins 0.06%; Piperonyl Butoxide, Technical 0.60%; Carbaryl (1-Naphthyl N-methylcarbamate) 0.50%; Butoxypolypropylene glycol 5.00%; Petroleum Distillate 0.33%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 4643–10. Dearborn Chemical Div., Chemed Corp., 320 Genesse St., Lake Zurich IL 60047. DEARCIDE 706. Active Ingredients: N–Alkyl (7% C8, 6.5% C10, 53% C12, 19% C14, 8.5% C16, 6% C18)-1,3-Propanediamine 15.0%; Isopropyl Alcohol 15.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA Reg. No. 4643–9. Dearborn Chemical Div. DEARCIDE 705. Active Ingredients: N-Octadecenyl-1, 3-Propanediamine Monogluconate 26.10%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 7240–E. DoAll Co., 254 N. Laurel Ave., Des Plaines IL 60016. PRODO SERV I INDUSTRIAL MICROBIOSTAT. Active Ingredients: Sodium 2-pyridinethiol 1-oxide 40%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 3659–9. Dolphin Paint & Chemical Co., 922 Locust St., Toledo OH 43603. DOLFINITE COLORPAC WITH BIOMET ANTIFOULANT 9304. Active Ingredients: TBTF 6.13%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–15. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9307 LIGHT BLUE. Active Ingredients: TBTF 5.92%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–14. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9300 WHITE. Active Ingredients: TBTF 5.56%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–13. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9302 YELLOW. Active Ingredients: TBTF 6.12%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–12. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9303 DARK BLUE. Active Ingredients: TBTF 6.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–11. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9306 LIGHT GREEN. Active Ingredients: TBTF 6.05%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration, PM24

EPA Reg. No. 3658–10. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9305 RED. Active Ingredients: TBTF 6.79%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 3658–4. Dolphin Paint & Chemical Co. DOLFINITE COLORPAC WITH BIOMET ANTI-FOULANT 9308 BLACK. Active Ingredients: TBTF 7.05%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 5736–41. DuBois Chemicals, Div. of Chemed Corp., 3630 E. Kemper Rd., Sharonville OH 45241. BACTO LOOB BACTERIOSTATIC CONVEYOR CHAIN LUBRICANT. Active Ingredients: Triethanolamine and Potassium soap 34.31%; Tetrasodium Ethylanediamine Tetraacetic Acid 7.60%; Isopropyl Alcohol 7.00%; Para Tertiary Amylphenol 1.45%; Ortho-phenylphenol 0.75%. Method of Support: Application proceeds under 2(a) of interim policy. Application for reregistration. PM32

EPA Reg. No. 5736–24. DuBois Chemical. GSC GERMICIDAL SYNTHETIC CLEANER. Active Ingredients: Isopropyl alcohol 14.62%; Sodium Dodecylbenzene Sulfonate 7.39%; Sodium Ortho-Benzyl Para-Chlorophenate 5.79%; Sodium Ortho-Phenylphenate 3.95%; Sodium Para-Tertiary Amylphenate 0.88%; Essential Oil 0.25%; Trisodium Ethylene Diamine Tetraacetic Acid 0.20%. Method of Support: Application proceeds under 2(a) of interim policy. PM32.

EPA File Symbol 6009–A. Eastern Color & Chemical Co., 35 Livingston St., Providence RI 02940. ECCO MP–400 FUNGICIDE. Active Ingredients: 2,2'-Methylenebis (4-chlorophenol), Sodium Salt 35.1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 6009–T. Eastern Color & Chemical Co. ECCO MP–2006 FUNGICIDE. Active Ingredients: 2,2'-Methylenebis (4-Chlorophenol) 20.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA Reg. No. 1471–79. Elanco Products, Div. of Eli Lilly Co., PO Box 1750, Indianapolis IN 46206. HERBICIDE PAARLAN EMULSIFIABLE CONCENTRATE. Active Ingredients: Isopropalin (2,6-dinitro-N,N-dipropylcumidine) 68.6%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Change in use directions. Revised offer to pay statement submitted. PM25

EPA File Symbol 21270–RG. E. Targosz and Co., 736 Estes, Schaumburg IL 601172. LIQUID GERMICIDAL CLEANER. Active Ingredients: N-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; N-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium metasilicate anhydrous 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 270–110, Farnam Companies, Inc., PO Box 21447, Phoenix AZ 85036. SUPER SWAT REPELLENT. Active Ingredients: Pyrethrins 0.36%; Piperonyl Butoxide Tech 0.72%; N-octyl bicycloheptene dicarboximide 1.20%; 2,3,4,5-bis (2 butylene tetrahydro-2-furaldehyde 1.00%; Butoxypolypropylene Glycol 10.00%. Method of Support: Application proceeds under 2 (a) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 7234–TE. Forshaw Chemicals, Inc., 650 State St., Charlotte NC 28208. LUMBERITE RONDETS. Active Ingredients: Sodium Pentachlorophenate 79%; Sodium Salts of other chlorophenols 11%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA File Symbol 10864–0. Gamlen Chemical, Sybron Corp., 4 Midland Ave., Elmwood Park NJ 07407. GAMACIDE 1831. Active Ingredients: Sodium pentachlorophenate 23.70%; Sodium salts of other chlorophenols 3.30%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA Reg. No. 729–70. Gulf Oil Corp., Gulf Bldg., Houston TX 77002. PROFESSIONAL STRENGTH FLYING INSECT KILLER FORMULA 14. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2 - dimethyl-3-(2 - methylpropenyl)cyclopropanecarboxylate 0.200%; Related Compounds 0.27%; d-trans Allethrin (allyl homolog of Cinerin I) 0.500%; Aromatic Petroleum Hydrocarbons 0.265%; Petroleum Distillates 6.556%. Method of Suport: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 6552–O. Kay Dee Feed Co., 1919 Grand Ave., Sioux City IA 51107. KAY DEE RABON CATTLE SUPPLEMENT. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate 0.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 6552–I. Kay Dee Feed Co. KAY DEE RABON MINERAL. Active In-

gredients: 2 - chloro - 1 - (2,4,5 - trichlorophenyl) vinyl dimethyl phosphate 1.27%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 13186–A. Maintenance Research Laboratories, 11940 Grand River, Detroit MI 48204. ONYX NP 9.0. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 5579–1. Miracle Chemicals, 902 Second Ave. N., Grand Forks ND 58201. FRAGRANT CONTAX TOILET BOWL CLEANER. Active Ingredients: Hydrogen Chloride 23%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM32

EPA Reg. No. 524–285. Monsanto Chemical Co., 800 N. Lindbergh Ave., St. Louis MO 63166. LASSO. Active Ingredients: Alachlor 43.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 33370–4. Morton Herman Co., Inc., Arlington Heights IL 60004. SUPER HERMOX 9. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; Tetrasodium Ethylenediamine tetraacetate n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 33370–3. Morton Herman Co., Inc. SUPER HERMOX 2. Active Ingredients: N-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; N-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium Ethylenediamine Tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 2139–101. Nor-Am Agricultural Products, Inc., 1275 Lake Ave., Woodstock IL 60098. BETANAL. Active Ingredients: Phenmedipham 15.9%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 9241–G. The Powell Company, Inc., 700 N. Main St., Lima OH 45802. REB–23. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM 33

EPA Reg. No. 11320–1. Press Chemical & Pharmaceutical Laboratories, PO Box 9794, 584 E. Whittier St., Columbus OH 43206. LA VEEZE CONCENTRATED SANITIZING CLEANSER. Active Ingredients: Alkyl (C12 67%, C14 25%, C16 7%, C8, C10, and C18 1%) Dimethyl Benzyl Ammonium Chloride 1%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA Reg. No. 35137–0. Price Research, Ltd., 205 Westport Rd., Kansas City MO 64111. PRICE ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39054–G. The Lakeland Cash Feed Co., Inc., P–D–Q., Inc., PO Box 116, Lakeland FL 33802. P–D–Q 12–12 SUPPLEMENT WITH RABON ORAL LARVICIDE. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 0.71%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 12062–L. Pro-Boil Chemical Co., PO Box 54, Dunn LA 71230. PRO–BOLL M.P.–4. Active Ingredients: O,O-Dimethyl O-p-Nitrophenyl Phosphorothioate 45.48%; Xylene 49.52%. Method of Support: Application proceeds under 2(c) of interim policy, PM12

EPA File Symbol 33356–G. Quality Chemical Co., Inc., 1835 NE 144 St., N. Miami FL 33181. SANI–ZONE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 707–95. Rohm and Haas, Independence Mall, W., Philadelphia PA 19105. KARATHANE TECHNICAL. Active Ingredients: 2,4-dinitro-6-octyl phenyl crotonate, 2,6-Dinitro-4-octyl phenyl crotonate 73%; Nitrooctyl phenols (principally dinitro) 5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM13

EPA Reg. No. 4977–100. Southeastern Chemical Corp., PO Drawer 1026, Orangeburg SC 29115. ATOMIC ENDRIN–METHYL PARATHION 1.6–1.6–E. Active Ingredients: Endrin (Hexachloroepoxyoctahydro - Endo, endo-dimethanonaphthaline 17.84%; O,O-Dimethyl O-p-nitrophenyl thiophosphate 17.84%; Xylene 59.09%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 12020–1. Staveley Chemicals, Ltd., Staveley Works, Chesterfield, Derbyshire S43 2PB, England. DIURON TECHNICAL. Active Ingredients: Diuron (3-(3,4-Dichlorophenyl)-1,1-dymethylurea 97%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 6023–14. Stoker Co., PO Box 2010, El Centro CA 92243. STOKER K DUST. Active Ingredients: 2,4-dinitro-6-octyl phenyl crotonate, 2,6-Dinitro-4-octyl phenyl crotonate 0.949%; Nitrooctyl phenols (principally dinitro) 0.065%. Method of Support: Application proceeds under 2 (b) of interim policy. Application for reregistration. PM13

EPA File Symbol 9782–EL. Woodbury Chemical Co., PO Box 4319, Princeton FL 33030. PARAN 6–3E. Active Ingredients: Parathion (0,0-diethyl 0-p-nitrophenyl phosphorothioate) 56.8%; 0,0-dimethyl 0-p-nitrophenyl phosphorothioate 28.4%; Xylene-Range Aromatic Solvent 7.0%. Method of Support: Application proceeds under 2(c) of interim policy. Revised offer to pay statement submitted. PM12

EPA File Symbol 984–AI. Whitmoyer Laboratories, Inc., 19 N. Railroad St., Myerstown PA 17067. VACOR MOUSE KILLER. Active Ingredients: N-3-pyridylmethyl N'-p-nitrophenyl urea 2%. Method of Support: Application proceeds under 2(a) of interim policy. PM11

EPA Reg. No. 8177–20. The Valspar Corp., 200 Sayre St., Rockford IL 61101. VALSPAR VINYL ANTI-FOULING BOTTOM PAINT 3505 WHITE. Active Ingredients: Tributyltin Fluoride 11.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 8177–19. The Valspar Corp. VALSPAR VINYL ANTI-FOULING BOTTOM PAINT 3537 COHO BLUE. Active Ingredients: Tributyltin Fluoride 11.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 8177–18. The Valspar Corp. VALSPAR VINYL ANTI-FOULING BOTTOM PAINT 3548 BRIGHT RED. Active Ingredients: Tributyltin Fluoride 12.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 876–29. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. BANVEL 10 G GRANULES. Active Ingredients: Dicamba (3,6-dichloro-o-anisic acid) 10.0%; Related acids 1.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

[FR Doc.76–21444 Filed 7–23–76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

LP–GAS TRANSPORTATION AND STORAGE SUBCOMMITTEE OF THE LP–GAS INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the LP-Gas Transportation and Storage Subcommittee of the LP-Gas Industry Advisory Committee will meet Thursday, August 12, 1976, at 9 a.m., in the Founders Room, Mayo Hotel, 115 West 5th Street, Tulsa, Oklahoma.

The Subcommittee was established to make recommendations to the parent Committee with respect to policy and implementation of programs that affect the LP-Gas industry.

The purpose of the meeting is to establish procedures to accomplish a proposed study of future U.S. requirements for propane and butane covering the period 1977 through 1980.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202) 961–7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on July 21, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76–21581 Filed 7–21–76;4:41 pm]

SHELL OIL CO.

Extension of Time for Filing Comments

On June 21, 1976, the Federal Energy Administration (FEA) issued a notice (41 FR 26261, June 25, 1976) proposing to change an earlier Order to Shell Oil Company (Shell) authorizing use of separate allocation fractions in connection with production from Shell's various propane subsystems. The change in the earlier Order, if adopted by FEA, would permit Shell to use separate allocation fractions for its Ciniza and Kalkaska Subsystems but would require Shell to allocate the remainder of its allocable supply of propane subject to a single allocation fraction. Interested persons were invited to submit comments concerning the proposal by July 12, 1976.

Shell was the only party which responded to the notice. Shell requested FEA to extend the comment period by an additional 45 days in order to more fully document its response. FEA has agreed to extend the comment period as requested. Therefore, any person wishing to comment on FEA's proposed action may submit views, argument and data for FEA's consideration at the address specified in the original notice on or before August 26, 1976.

MICHAEL F. BUTLER,
General Counsel.

JULY 21, 1976.

[FR Doc.76-21563 Filed 7-21-76;3:03 pm]

FEDERAL HOME LOAN MORTGAGE CORPORATION

ORGANIZATION, RULES AND ACCESS TO RECORDS

Public Information

Notice is hereby given as to the present (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). In accordance with 5 U.S.C. 552 (a)(4)(A), the Corporation will accept public comments on Section 4E hereof, concerning fees in connection with access to records, until September 1, 1976. Comments should be sent to Mr. Don Hill, Director-FOIA, Federal Home Loan Mortgage Corporation, 311 First Street, N.W., Washington, D.C. 20001.

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 urgently needed 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.

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, N.W., 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 office	*Administrative areas*
Northeast: 2001 Jefferson Davis Hwy., Suite 901, Arlington, Va. 22202, (703) 685–2400.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, West Virginia.
Atlanta: 229 Peachtree St., NE., Suite 2600, Atlanta, Ga. 30343, (404) 659–3377.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Chicago: 111 East Wacker Dr., Suite 1515, Chicago, Ill. 60601, (312) 861–8400.	Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin.
Dallas: 12700 Park Central Pl., Suite 1800, Dallas, Tex. 75251, (214) 387–0600.	Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wyoming.
Los Angeles: 3435 Wilshire Blvd., Suite 1000, Los Angeles, Calif. 90010, (213) 487–4800.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington.

B. *Corporate 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 Administrative 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 responsible directly 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) Descriptions 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 de-

scribed 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, NW., Washington, D.C. 20001, during normal business hours.

(i) Sellers' Guide Conventional Mortgages.

(ii) Servicers' Guide.

(iii) Sellers' Guide FHA/VA Mortgages.

(iv) Mortgage Insurer Eligibility Requirements.

(v) Home Mortgages Underwriting Guidelines.

(vi) How to Package and Sell Conventional Home Mortgage Loans to The Mortgage Corporation.

(vii) Policy and Procedural Manual.

(viii) Annual Report.

(ix) Mortgage Finance Review.

(x) FNMA/FHLMC Uniform Mortgage Instruments.

(xi) FHLMC Uniform Mortgage Instruments.

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 section and subject to the limitations stated in section 5 of this Notice. It is the policy of the Corporation to disclose its records 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. 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.

B. *Statements of Policy, Interpretations, and Staff Manuals and Instructions.* Subject to the provisions of section 5 of this section, 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 indentifying 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 identifying 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 section, 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, N.W., 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 and 20 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 in which 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 ten 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 any denial under paragraph F, the person making the request may, within 30 calendar days of the date of written notification thereof, appeal from said denial by written application, stating the grounds therefore, to the Vice President-General Counsel of the Corporation at the address set forth in section 4D.

(ii) The Vice President-General Counsel, or his designee, shall make his determination with respect to the appeal within 20 days (excepting Saturdays, Sundays and legal public holidays) after receipt of said application. If on appeal the denial of the request for records is upheld, in whole or in part, the FOIA Director shall promptly notify the applicant in writing of such determination and 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 (iii) of this section.

(iii) In the event of any denial under paragraph G(ii), the person making the request may, within 30 calendar days of the date of written notification thereof, appeal from said denial by written application, stating the grounds therefore, to

the Board of Directors of the Corporation at the address set forth in section 4D.

(iv) The Board, or such Member thereof as it may designate, shall make its determination with respect to the appeal within 20 days (excepting Saturdays, Sundays and legal public holidays) after receipt of said application by the Board of Directors. If on appeal the denial of the request for records is upheld, in whole or in part, the FOIA Director shall promptly notify the applicant in writing of such determination and of the provisions for judicial review thereof 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. 522(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 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 designated Member thereof may initiate and process an appeal from such determination.

I. *Time Extention 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 Corporation, information of the Corporation that has not been published in accordance with this Notice and is not available to the public through other sources will not be made available to the public or otherwise disclosed if such information is:

(i) Exempt from disclosure by statute or executive order;

(ii) Contained in or related to examination, operating, or condition reports prepared by or on behalf of, or for the use of, or otherwise transmitted to, the Corporation relating to the affairs of any FHLMC Seller/Servicer or affiliate thereof, or any other person engaged in, or proposing to engage in, business with the Corporation, or insurance with respect to mortgage interests purchased by the Corporation.

(iii) Privileged or related to the business, personal, or financial affairs of any person and is furnished in confidence;

(iv) Related solely to the internal personnel rules or other internal practices of the Corporation;

(v) Contained in personnel, medical and similar files (including financial files), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(iv) Contained in inter-corporate, inter-agency and intra-corporate memoranda or letters that would not be routinely available by law to a private party in litigation with the Corporation, including but not limited to memoranda, reports, and other documents prepared by the Corporation's staff or by the staff of the Corporation acting as agent for others, and records of deliberations and discussions at meetings of the Corporation or of its Board of Directors or of its staff.

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 or employee 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 as 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).)

J. J. FINN,
Secretary.

[FR Doc.76-21494 Filed 7-23-76;8:45 am]

FEDERAL MARITIME COMMISSION

ATLANTIC CONTAINER LINE, LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 16, 1976. 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:

George F. Galland, Esquire, Galland, Kharasch, Calkins & Brown, Canal Square, 1054 Thirty-First Street, NW., Washington, D.C. 20007.

Agreement No. 9498–4 modifies the basic agreement to provide that the above, may transport intermodal shipments whether or not under through documentation moving through any ports which such vessels are authorized to serve, and in addition shall have the full intermodel privileges of any conference under whose jurisdiction they operate.

By order of the Federal Maritime Commission.

Dated: July 21, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–21570 Filed 7–13–76; 8:45 am]

GULF/UNITED KINGDOM CONFERENCE AND SEATRAIN INTERNATIONAL S.A.

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, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 16, 1976. 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:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10140–2 extends the agreement to cover intermodal shipments moving under a through bill of lading or otherwise; matters relating to per diem, free time and detention on carrier provided equipment; positioning of such equipment; interchange; receiving, handling, storage, delivery and consolidation; depots, yards and freight stations and such other matters as may be ancillary to such intermodal movements. It also provides that the conference may agree with other conferences serving the same European ports in establishing rules, practices and charges relating to the inland movement of containers to and from member lines' terminals at those ports.

By order of the Federal Maritime Commission.

Dated: July 21, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–21571 Filed 7–23–76;8:45 am]

GULFSTREAM SHIPPING CO., INC. AND LYKES BROS. STEAMSHIP CO., INC.

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, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 16, 1976. 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:

Mr. Robert N. Mackay, Vice President—Traffic, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10255, between the above-named parties, is an agency agreement whereby Gulfstream Shipping appoints Lykes to act as its sub-agent at all United States Gulf ports, Tampa, Florida to Brownsville, Texas, to handle its interests in connection with Gulf Caribbean Marine Line, Inc. vessels.

Dated: July 20, 1976.

By order of the Federal Martime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–21568 Filed 7–23–76;8:45 am]

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

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, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 16, 1976. 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:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No. 9615–20, among the member lines of the Iberian/U.S. North Atlantic Westbound Freight Conference, amends the basic agreement by clarifying the procedures for restoration of a member's voting rights.

By order of the Federal Maritime Commission.

Dated: July 21, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76–21569 Filed 7–23–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-774]

ALABAMA POWER CO.

Filing of Initial Rate Schedule

JULY 19, 1976.

Take notice that Alabama Power Company on July 6, 1976 tendered for filing an Agreement with Baldwin County Electric Membership Corporation, intended as an initial rate schedule. The filing is for the proposed Baldwin Tie delivery point of the Baldwin County Electric Membership Corporation. The delivery point will be served at the Company's applicable revision to Rate Schedule REA-1 incorporated in FPC Electric Tariff, Original Volume No. 1, of Alabama Power Company as allowed to become effective, subject to refund, by Commission orders in FPC Docket Nos. E-8851 and ER76-659. The requested effective date is July 18, 1976.

Copies of the filing were served upon Baldwin County Electric Membership Corporation and its attorneys of record in FPC Docket No. E-8851.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21486 Filed 7-23-76;8:45 am]

[Docket No. CP75-347]

COLORADO INTERSTATE GAS CO.

Certification of the Record and Offer of Settlement

JULY 19, 1976.

Take notice that on June 22, 1976 Presiding Administrative Law Judge Israel Convisser certified the record and an offer of settlement to the Commission. The offer of settlement, submitted by Colorado Interstate Gas, would modify the application in Docket No. CP75-347 to the extent that CIG's request to reduce its firm peak day commitment to CF & I by 10,000 Mcf per day during the winter period is modified so as to limit service to CF & I so that the service authorized is the level of service contemplated in the Amended Agreements dated January 1, 1974 and May 13, 1976. These amended agreements are a part of the record in this proceeding.

Copies of the subject offer of settlement are on file with the Commission and available for public inspection. Any person, including the parties, desiring to comment on the matters contained therein should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on or before July 23, 1976. Any reply comments should be filed on or before July 30, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21483 Filed 7-23-76;8:45 am]

[Docket No. RP75-86, etc.]

COLORADO INTERSTATE GAS CO.

Filing of Settlement Agreement

JULY 14, 1976.

Take notice that on July 6, 1976, Colorado Interstate Gas Company (CIG) filed a proposed Stipulation and Agreement of Settlement, together with a Motion for Approval of Settlement. CIG states that the proposed agreement would resolve all matters raised in the captioned proceeding with the exception of certain issues specifically reserved for hearing.

Any person desiring to be heard or to protest said offer of settlement should file comments with the Federal Power Commission on or before July 23, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this settlement agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21462 Filed 7-23-76;8:45 am]

[Docket Nos. E-9556, E-6723, and IT-5026; E-6109 and E-6192]

COMISION FEDERAL DE ELECTRICIDAD, DIVISION GOLFO NORTE AND CENTRAL POWER AND LIGHT CO.

Application

JULY 14, 1976.

Take notice that Comision Federal de Electricidad, Division Golfo Norte (CFE) filed with the Federal Power Commission on April 19, 1976 an application in Docket No. E-9556 seeking an order, pursuant to section 202(e) of the Federal Power Act (Act), authorizing the transmission of electric energy from the United States to Mexico by means of certain 138,000 volt facilities of CFE located at the international border between the United States and Mexico in the vicinity of Laredo, Texas and covered by CFE's Permit signed by the Chairman of Commission on January 24, 1975, Docket No. E-8057. Central Power and Light Company (Central) filed a joinder in the application on April 19, 1976. Additional requests specifically included in the application or otherwise deemed to be included therein, which affect authorizations heretofore granted in various dockets, are set forth below.

CFE is an agency of the Republic of Mexico. Central is incorporated under the laws of the State of Texas, with its principal place of business at Corpus Christi, Texas.

By Commission order issued September 29, 1960, Docket No. IT-5026 (24 FPC 533), Servicios Electricos de Piedras Negras, S.A. (Servicios), a Mexican corporation, and Central were authorized to transmit electric energy from the United States to Mexico in an amount not to exceed 45,000,000 kwh per year at a rate of transmission not to exceed 7,500 kw over certain facilities of Servicios located at the United States-Mexican border in the vicinity of Eagle Pass, Texas, and covered by Presidential Permits of Servicios signed by the President of the United States on June 2, 1948, Docket No E-6109, and April 29, 1949, Docket No. E-6192. By Amendment signed by the Chairman of the Commission on February 8, 1971, the Presidential Permit in Docket No. E-6192 was modified so as to authorize the removal of the 12,000 volt facilities specified in the Permit and the construction, operation, and connection of 138,000 volt facilities as replacement therefor. CFE now seeks, pursuant to Executive Order No. 10485, dated September 3, 1953, further modification of the Presidential Permit in Docket No. E-6192 so as to reflect CFE's succession to the interest of Servicios in the facilities authorized by that Permit. CFE is also deemed to request, pursuant to the above-mentioned Executive Order, revocation of the Presidential Permit in Docket No. E-6109 inasmuch as the application states that CFE, as successor to Servicios in the ownership of the facilities authorized by such Permit, has removed those facilities. Additionally, CFE, as successor to Servicios in the electric utility business, and Central are asking the Commission, pursuant to section 202(e) of the Act, to modify the authorization granted in its order of September 29, 1960 by eliminating the limitations therein with respect to the amount and transmission rate of energy which may be exported to Mexico. According to the application, such limitations are no longer appropriate by reason of the current arrangements for the exchange of energy as set forth in the letter-agreement between Central and CFE, dated May 1, 1973 (Agreement), a copy of which is attached to and made a part of the application. The Agreement provides, in substance, that energy shall be exchanged between CFE and Central (Applicants) in such a manner that the exchange account will have a zero balance at least once during each calendar year.

By Commission order issued May 9, 1957, Docket No. E-6723 (17 FPC 652), Applicants were authorized to transmit electric energy from the United States to Mexico in the maximum amount of 233,000,000 kwh per year at a maximum transmission rate of 45,000 kw over certain 138,000 volt facilities of the International Boundary and Water Commission, United States and Mexico (IBWC), which are located at the United States-Mexican border and are part of the international Falcon Dam Project situated on the Rio Grande downstream from

Laredo, Texas, and between Zapata and Fronton, Texas. Applicants now request modification of the authorization granted in the Commission's order of May 9, 1957 so as to remove the limitations therein concerning the amount and transmission rate of energy which may be exported to Mexico. In support of their request, Applicants rely upon the energy exchange arrangements as described above.

The application states that Applicants propose to exchange electric energy under the Agreement at three points on the United States-Mexican border by means of the electric transmission facilities specified in the Presidential Permit, as amended, Docket No. E-6192, and in the Permit, Docket No. E-8057, together with IBWC's electric transmission facilities, all as described above, and states further that Applicants seek an order authorizing the transmission of energy from the United States to Mexico as contemplated by the Agreement. In view of those statements Applicants are deemed to request, pursuant to section 202(e) of the Act, authorization in Docket No. E-9556 to export energy from three points in Texas to various points in Mexico without limitation as to the amount or transmission rate over (1) 138,000 volt facilities of CFE located in the vicinity of Laredo and covered by its Permit, Docket No. E-8057, (2) the 138,000 volt facilities formerly owned by Servicios and now owned by CFE, which are located in the vicinity of Eagle Pass and covered by the Presidential Permit, as amended, Docket No. E-6192, and (3) the 138,000 volt facilities of IBWC located at or near the Falcon Dam. Applicants are also deemed to request, pursuant to section 202(e) of the Act, that the Commission terminate rather than modify the export authorizations heretofore granted to Servicios and Central in Docket No. IT-5026 and to Applicants in Docket No. E-6723, all as referred to above, in the event that the export authorization deemed to be sought in Docket No. E-9556 is granted by the Commission.

It is represented in the application that the export order sought by Applicants to reflect the Agreement's provisions for the exchange of electric energy would enable Central to utilize its electric generating capacity more efficiently and economically, thereby reducing Central's fuel requirements for generation of energy even though the amount of energy consumed by its customers may remain the same. Such export order would also allow Applicants to take advantage of the diversity of peak loads on their respective electric systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21465 Filed 7-23-76;8:45 am]

[Docket No. ER76-776]

CONNECTICUT LIGHT AND POWER CO.

Exchange Agreement

JULY 19, 1976.

Take notice that on July 8, 1976 The Connecticut Light and Power Company ("CL&P") tendered for filing a proposed Exchange Agreement pertaining to an exchange between CL&P and The United Illuminating Company ("UI") dated as of May 7, 1976.

CL&P states that the Exchange Agreement provides for an exchange between CL&P and UI of a specified amount of capacity from CL&P's oil-fired steam generating units known as Norwalk Harbor Units #1 & #2 and Devon Unit #7 (the "Units") for an equal amount of capacity from UI's oil-fired steam generating unit known as New Haven Harbor Unit #1 (the "Unit"), during the Term of the Exchange Agreement.

CL&P states that the Exchange Agreement provides for UI and CL&P to more economically supply their own respective customer loads in the southwestern area of Connecticut under certain system conditions which are expected to exist from time to time until UI has placed in service the proposed new 115 kV transmission lines from East Shore Substation to Grand Avenue Substation, New Haven. CL&P states that the energy costs from the Unit and the Units are substantially the same.

CL&P also states that the parties to the Exchange Agreement reached Agreement on the principles to be applied to this exchange prior to May 8, 1976. CL&P states, however, that the development of the detailed language of the Exchange Agreement prevented the filing of such rate schedule until this date.

CL&P requests that in order to permit CL&P and UI to achieve mutual benefits of this Exchange Agreement, the Commission, pursuant to Section 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed herewith to become effective on May 8, 1976.

CL&P states that UI has filed a certificate of concurrence in this docket.

CL&P states that a copy of this rate schedule has been mailed or delivered to CL&P, Hartford, Connecticut and UI, New Haven, Connecticut.

CL&P states that no facilities are to be installed or modified in order to supply the service to be furnished under this Exchange Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21487 Filed 7-23-76;8:45 am]

[Docket No. CP75-96, etc.]

EL PASO ALASKA CO., ET AL.

Notice Referring Suggestion of Expanded Inspection Trip to Presiding Administrative Law Judge

JULY 16, 1976.

By a pleading styled "Suggestion of Expanded Inspection Trip" filed in this proceeding on July 6, 1976, by the State of Alaska, it is suggested that the Presiding Administrative Law Judge in this proceeding accompany the members of the Commission on their inspection trip announced by notice issued June 29, 1976 (41 FR 27874, July 7, 1976). By the notice of June 29, 1976, it was announced that the members of the Commission would conduct a survey on or about August 1, 1976, of the Alaskan natural gas transmission facilities contemplated in this proceeding. The State of Alaska suggests that the presiding administrative law judge accompany the members of the Commission in order that he might have the benefit of a "first-hand view".

The Commission concurs that a "first-hand view" by the Presiding Judge might be beneficial in the decision; however, the Commission believes that the Presiding Judge is in the best position ultimately to determine whether such may, in fact, be the case. Accordingly, in recognition of the great complexity of this proceeding, the ever-increasing size of the record with which the Presiding Judge must deal, the continuing hearings at which the judge must preside, the fact that control of the fact-finding responsibilities of the Commission under the Natural Gas Act have been delegated to the Presiding Judge, and the fact that the Presiding Judge must render a decision in this proceeding in the first instance, take notice that the "Suggestion of Expanded Inspection Trip" is referred to the Presiding Judge to determine the desirability of his accompanying the members of the Commission on the trip announced by the notice of June 29, 1976. If the Presiding Judge should determine that it would be desirable for him to make this trip with the Commission or at a separate time, he will be permitted to

do so. The determination of the Presiding Judge in this matter shall be final.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21474 Filed 7-23-76;8:45 am]

[Docket No. RM76-1]

HYDROELECTRIC PROJECT LICENSES

Specified Reasonable Rate of Return

JULY 16, 1976.

Commission Order No. 550, Order Adopting Statement of Policy as to the Specified Reasonable Rate of Return, was issued June 24, 1976, in Docket No. RM76-1.

In the order the Commission referred to the Treasury Department's 10 year constant maturity series in connection with determining the cost of equity capital component of specified reasonable rates. The purpose of this notice is to provide further information on that series.

While the Treasury Department has been calculating the series for many years, they have not regularly published the data. However, the Federal Reserve Board (Fed) is planning to begin regular publication of the series in its GS-13 monthly release before the end of 1976.

To facilitate execution of Order No. 550, the Commission intends to notice the annual average rate as soon as it becomes available each year.

The 10-year constant maturity series is not to be confused with the Fed's currently-published long term (10 years or more) interest rate series. It is a completely different series, carefully constructed to be much more meaningful than the existing series. It is intended to represent what the Treasury would have to pay on newly-issued 10 year maturity bonds. Monthly observations for the series over the past few years are attached.

KENNETH F. PLUMB,
Secretary.

10-yr. constant maturity bond yields

Month	1972	1973	1974	1975	1976
January	5.948	6.465	6.989	7.501	7.742
February	6.081	6.636	6.957	7.392	7.793
March	6.069	6.709	7.209	7.728	7.73
April	6.194	6.689	7.512	8.227	7.56
May	6.126	6.847	7.576	8.060	7.90
June	6.107	6.900	7.585	7.861	
July	6.112	7.130	7.805	8.062	
August	6.210	7.405	8.044	8.398	
September	6.550	7.092	8.038	8.427	
October	6.480	6.794	7.897	8.138	
November	6.280	6.278	7.681	8.053	
December	6.358	6.744	7.434	7.997	
Average of monthly data	6.210	6.843	7.556	7.987	

[FR Doc.76-21453 Filed 7-23-76;8:45 am]

[Docket Nos. ER76-714; ER76-715; and ER76-716]

INDIANA AND MICHIGAN ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Establishing Section 206(a) Proceedings, Consolidating Proceedings, and Granting Intervention; Correction

JULY 15, 1976.

The attached Appendices A & B should have been appended to the order, Published in the FEDERAL REGISTER 7-2-76.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—INDIANA & MICHIGAN ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS

[Docket Nos. ER76-714, ER76-715 & ER76-716) Filing Date: May 28, 1976]

Designations	*Customer*
(1) Second Revised Sheet Nos. 7, 8, 8-1 & 10 plus Original Sheets 8-2 & 10-1 (Supersedes First Revised Sheet Nos. 7, 8, 8-1 & 10 under FPC Electric Tariff Vol. No. 1).	Municipal Customers served under FPC Electric Tariff Vol. No. 1 (Tariff Rate MRS)[1]
(2) First Revised Sheet Nos. 1, 2, 4, 5, 6, 8, 17, 20 & 22 plus Original Sheet Nos. 1A, 6-1, 6-2, 8-1, 17-1 & 20-1 (Supersedes Original Sheet Nos. 1, 2, 4, 5, 6, 8, 17, 20 & 22) under FPC Electric Tariff Vol. No. II.	Municipal Customers served under FPC Electric Tariff Vol. No. II (Tariff Rate WS)[2]
(3) Supplement No. 11 to Rate Schedule FPC No. 25.	Northern Indiana Public Service Co.
(4) Supplement No. 5 to Rate Schedule FPC No. 22.	Michigan Power Co.

APPENDIX B—INDIANA & MICHIGAN ELECTRIC COMPANY

COOPERATIVE WHOLESALE CUSTOMERS AT MAY 28, 1976

Customer:	*Current FPC Rate Schedule No.*
Fruit Belt Rural Electric Cooperative	46
Jay County REMC	48
Noble County REMC	50
Paulding-Putnam Electric Cooperative	52
United REMC	44-A
United REMC	44-B
Wayne County REMC	54
Whitley County REMC	56

[FR Doc.76-21470 Filed 7-23-76;8:45 am]

[1] Cities of Avilla, Bluffton, Columbia City, Frankton, Garrett, Gas City, Mishawaka, New Carlisle, Niles, South Haven, Sturgis, and Warren.

[2] Cities of Anderson and Auburn.

[Docket No. ES76-59]

IOWA SOUTHERN UTILITIES CO.

Application

JULY 19, 1976.

Take notice that on July 2, 1976, the Iowa Southern Utilities Company (Applicant) filed an application, pursuant to part 34 of the Commission's Regulations and Section 204 of the Federal Power Act, seeking authorization to engage in negotiations with underwriters regarding the proposed issuance and sale of approximately 200,000 shares of common stock via negotiated offering.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa and is engaged in the generation, transmission, distribution and sale of electrical energy in the State of Iowa.

The Applicant is in need of raising $145 million of outside capital by the end of 1980 to finance its 5-year construction program, the largest item of which is a 48% ownership share in the Ottumwa Generating Station, which station is expected to have a maximum capability of 675,000 KW.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The Application is on file at the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21485 Filed 7-23-76;8:45 am]

[Docket No. RM75-14]

JURISDICTIONAL SALES OF NATURAL GAS

Order Directing the Noticing of Staff Documents for Comment; Correction

JUNE 18, 1976.

National rates for jurisdictional sales of natural gas dedicated to interstate commerce on or after January 1, 1973, for the period January 1, 1975, to December 31, 1976.

Page 26270, paragraph 2, line 9, "associated gas reserves for 31 Offshore Louisiana Leases," should read "and nonassociated gas reserves for 31 Offshore Louisiana leases." Published in the FEDERAL REGISTER June 25, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21452 Filed 7-23-76;8:45 am]

[Docket No. ER76-552]

KANSAS CITY POWER & LIGHT CO.

Tender of Supplemental Data

JULY 19, 1976.

Take notice that on July 12, 1976, Kansas City Power & Light Company tendered for filing supplemental data intended to

make complete its original submittal of March 8, 1976. This action is in response to a deficiency letter issued by the Secretary of the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21482 Filed 7-23-76;8:45 am]

[Docket No. CP70-239]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Petition To Amend

JULY 19, 1976.

Take notice that on July 12, 1976, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP70-239 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to exchange natural gas with Cities Service Gas Company (Cities Service) at an additional point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner is authorized in the instant docket to exchange natural gas with Cities Service at several points and now proposes to receive exchange gas at an additional point on Petitioner's 16-inch pipeline in section 16, T. 24 S., R. 35 W., Kearny County, Kansas, to be known as the Deerfield exchange point. The gas would be delivered to Petitioner by Colorado Interstate Gas Company for the account of Cities Service and equivalent volumes would be delivered to Cities Service by Petitioner by displacement at the existing Haven exchange point near Haven in Reno County, Kansas.

Petitioner proposes to construct and operate a side valve connection at the Deerfield exchange point at an estimated cost of $13,100. The petition states that the facilities would be financed with current working capital or bank loans which may be funded through a security issue.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 12, 1976, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21478 Filed 7-23-76;8:45 am]

[Docket No. CP76-432]

LONE STAR GATHERING CO.

Application

JULY 19, 1976.

Take notice that on July 9, 1976, Lone Star Gathering Company (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP76-432 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1976, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation service presently rendered by Applicant. The total cost of the proposed facilities would not exceed $100,000, which would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1976, 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. PLUMB,
Secretary.

[FR Doc.76-21484 Filed 7-23-76;8:45 am]

[Docket No. ER76-162]

LOUISIANA POWER & LIGHT CO.

Withdrawal of Participation

JULY 19, 1976.

Take notice that on July 12, 1976, Electric Power Systems Association (EPSA) filed a notice of withdrawal of participation from proceeding pursuant to § 1.11(d) in the above-captioned proceeding.

EPSA states that the reason for its intervention herein was concern over the interpretation and application of subsection 1(b) on page A2 of Service Schedule "A" of the Interconnection Agreement which is the subject of the instant proceedings. As a result of conferences between representatives of EPSA and Louisiana Power and Light Company (LP&L) held subsequent to the Prehearing Conference before Administrative Law Judge Stephen L. Grossman on May 18, 1976, EPSA's representatives have satisfied their concerns over the method of calculation of subsection 1(b).

EPSA attaches to its notice of withdrawal LP&L's letter and calculations explaining the application of subsection 1(b) and asks that they be made a part of the record in this docket since it is on the basis of the information contained therein that EPSA has determined to withdraw from this proceeding.

Any person desiring to be heard as to said notice should file a response with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such responses should be filed on or before July 30, 1976. Responses will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21475 Filed 7-23-76;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Further Extension of Time

JULY 16, 1976.

On June 23, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 29, 1975,

as most recently modified by notice issued June 9, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, August 18, 1976.
Service of Intervenor Testimony, September 1, 1976.
Service of Company Rebuttal, September 15, 1976.
Hearing, September 28, 1976. (10 a.m., e.d.t.)

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21473 Filed 7-23-76;8:45 am]

[Docket No. RP73-8; PGA76-11]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

JULY 19, 1976.

Take notice that North Penn Gas Company (North Penn) on July 9, 1976, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective August 1, 1976.

North Penn states that the proposed increase in rates reflects an increase in rates filed by Consolidated Gas Supply Corporation on June 29, 1976 to become effective August 1, 1976, and an increase in rates from Transcontinental Gas Pipe Line Corporation filed May 28, 1976 to become effective July 1, 1976.

North Penn is requesting a waiver of any of the Commission's rules and regulations in order to permit the proposed rates to go into effect on August 1, 1976.

North Penn states that copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21477 Filed 7-23-76;8:45 am]

[Docket No. RP76-89]

NORTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending Revised Tariff Sheets and Setting Procedures; Correction

JUNE 14, 1976.

Line 9 is hereby corrected to read: "adjusted for nine months of known and measurable changes." Page 41 FR 22632, published in the FEDERAL REGISTER June 4, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21471 Filed 7-23-76;8:45 am]

[Docket No. CP76-412]

NORTHERN NATURAL GAS CO.

Application

JULY 14, 1976.

Take notice that on June 28, 1976, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-412 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the exchange of natural gas with El Paso Natural Gas Company (El Paso) and facilities used therefor in Pecos County, Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon the exchange of natural gas and 4,000 feet of 10-inch pipeline and a measuring station which are said to have enabled Applicant to receive volumes of gas from the Gomez Field in Pecos County which were in excess of the capacity of Applicant's treating facilities in the Gomez Field. Applicant states that due to declining deliverability from the Gomez Field the exchange and facilities are no longer required. It is said that the facilities would be removed for use elsewhere on Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1976, 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 permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21468 Filed 7-23-76;8:45 am]

[Docket No. CS71-286]

O. C. YORK AND J. R. LORETT, JR.

Redesignation; Correction

JULY 13, 1976.

In the matter of O. C. York and J. R. Lorett, Jr., Trustee under separate trusts for Richard Stoll Shannon, III, et al.

Please change the caption to read "O. C. York" instead of "A. C. York." Page 41 FR 19778, Published in the FEDERAL REGISTER May 13, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21469 Filed 7-23-76;8:45 am]

[Docket No. ER76-777]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Initial Rate Schedule

JULY 19, 1976.

Take notice that on July 9, 1976 Public Service Company of New Hampshire (PSNH) tendered for filing a Purchase Agreement with Respect to White Lake Gas Turbine Unit, dated as of May 1, 1976. The Agreement provided for the sale by PSNH to Central Maine Power Company of 15 megawatts of capacity and the energy associated therewith from PSNH's White Lake gas turbine generating unit during the term from May 1, 1976 through May 31, 1976.

PSNH requests waiver of the Commission's notice requirement and that the rate schedule be given an effective date of May 1, 1976.

PSNH states that a copy of this filing was served on Central Maine.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21476 Filed 7-23-76;8:45 am]

[Docket No. RP73-92 (PGA76-3)]

RATON NATURAL GAS CO.

Tender of Tariff Sheets

JULY 19, 1976.

Take notice that on July 9, 1976, Raton Natural Gas Company (Raton) tendered for filing proposed changes in the FPC Gas Tariff, Volume No. 1, consisting of Eleventh Revised Sheet No. 3A. Raton states that the purpose of this filing is to correct the omission from Raton's PGA filing of July 1, 1976 (Tenth Revised Sheet No. 3A) of additional increases in charges for gas purchased from Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21480 Filed 7-23-76;8:45 am]

[Project No. 516]

SOUTH CAROLINA ELECTRIC & GAS CO.

Application for New License for Constructed Project

JULY 14, 1976.

Public notice is hereby given that an application for a new license was filed on January 30, 1975 under the Federal Power Act (16 U.S.C. 791-825r) by South Carolina Electric & Gas Company (Correspondence to: George H. Fischer, Esq., Vice President and General Counsel, E. H. Crews, Jr., Vice President of Engineering Services, Construction, and Production, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218; and to Richard M. Merriman, Esq., Peyton G. Bowman, III, Esq., Reid and Priest, 1701 K Street, N.W., Washington, D.C., 20006) for its constructed Saluda Hydroelectric Project No. 516 located in Lexington, Newberry, Richland, and Saluda Counties, near the City of Columbia and the Town of Lexington, South Carolina. Project No. 516 is also located on the Saluda River and its tributaries, and affects the interests of interstate or foreign commerce. The original license for Saluda Project No. 516 expires August 4, 1977.

The project, with an installed capacity of 202,600-kW, consists of: (1) An earthfill dam about 7,838 feet long and 215 feet high, with a concrete spillway section equipped with six tainter gates, four of which are 37 feet 6 inches long by 25 feet high, and two of which are 44 feet long by 32 feet high (a state highway, S. C. Route 6, is built along the top of the dam); (2) a 41-mile long reservoir known as Lake Murray with a surface area of 50,000 acres and a useable storage capacity of 1.61 million acre-feet at full pool elevation 360 feet msl; (3) five intake towers 223 feet high, four of which are 30 feet in diameter, and the fifth of which is 60 feet in diameter, all connected to the dam by an aerial cableway; (4) four 16-foot i.d. steel penstocks, each 986 feet long, which convey water from the 30-foot diameter intake towers through the dam to the powerhouse (two of the four 16-foot i.d. steel penstocks are connected to surge tanks which are 38 feet in diameter and 219 feet high); (5) a 491-foot long section of arch shaped conduit which conveys water from the 60-foot diameter intake tower to a 227-foot long arch section containing two 14 foot i.d. steel penstocks, then through a 42-foot long bifurcation, and finally through a 364-foot long, 20-foot i.d. penstock to the powerhouse; (6) an indoor type powerhouse of concrete, steel and brick, 57 feet wide, 250 feet long and 100 feet high, containing generating Units No. 1 through No. 4 (3 at 32,500-kW and 1 at 37,600-kW), with a reinforced concrete extension to the powerhouse, 63 feet wide and 77 feet long and of fully outdoor design, containing generating Unit No. 5 (67,500-kW); (7) five 13.2/115-kV transformers located on top of the powerhouse; and (8) appurtenant facilities.

According to the application: (1) The power from the project is used in Applicant's integrated electrical system serving residential, commercial, industrial and other customers; (2) the net investment of the project is estimated to be $21,779,872 as of December 31, 1973; (3) the fair value of the project is estimated to be $92,776,332 as of December 31, 1973; (4) severance damages in the event of takeover by the United States are estimated to be $81,190,739; and (5) the project provides annual taxes paid to local, state, and Federal governments amounting to $870,120, of which $731,049 are county property taxes.

The Applicant maintains 10 recreation sites (37.2 acres) at Project No. 516 for public use without fee. Most of the sites contain a parking area, a boat ramp, and trash receptacles. Two sites at the dam also provide picnic shelters and restrooms. A site located on the south side of the Lake Murray Dam provides facilities consisting of 10 picnic shelters with drinking water, 3 barbecue pits, 1-2 lane boat ramp, 1 concession stand, 2 restrooms and a 200 car parking lot with a scenic overlook and a bathing beach. There are 61 islands owned by South Carolina Electric & Gas Company which are reserved for public use in an undeveloped state. In addition, the 348-acre Billy Dreher Island is presently being developed as a state park by the South Carolina Department of Parks, Recreation and Tourism. Public access to Lake Murray is also provided at 31 privately owned commercial facilities. These include landings, marinas, boating clubs and camping grounds.

Future recreational development would would involve expansion of existing facilities and construction of new facilities which may include, but would not be limited to, expansion and/or addition of boat landings, picnic tables, grills, restrooms, parking lots and camping sites. Applicant has reserved 6 sites totalling 110.92 acres for future public development.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 21, 1976, 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). 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 and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, § 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21461 Filed 7-23-76;8:45 am]

[Docket No. CP76-399]

SOUTHWEST GAS CORP., APPLICANT AND NORTHWEST PIPELINE CORP., RESPONDENT

Application

JULY 14, 1976.

Take notice that on June 21, 1976, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP76-399 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Northwest Pipeline Corporation (Respondent) to provide Applicant with an additional point of delivery of natural gas which Respondent is presently authorized to sell to Applicant, pursuant to Respondent's FPC gas

rate schedules, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed delivery point (Ignacio delivery point) is presently in existence as a point of interconnection between the facilities of Respondent and El Paso Natural Gas Company (El Paso) located at the outlet of Respondent's measuring facilities adjacent to its Ignacio gasoline plant in La Plata County, Colorado. Applicant proposes that it would take delivery at the Ignacio delivery point of volumes of gas not to exceed 50,000 Mcf per day on the basis of the best efforts of Respondent to deliver such gas to El Paso for the account of Applicant and the best efforts of El Paso to transport such gas. Applicant indicates that it takes delivery of gas from Respondent for its Northern Nevada Division at the Idaho-Nevada border and from El Paso for its Southern Nevada Division at a delivery point on the Arizona-Nevada state line at the Colorado River.

By the instant application, Applicant seeks an order requiring Respondent to deliver to El Paso at the Ignacio delivery point for the account of Applicant volumes available to Applicant, which volumes are entitlement gas, it is stated, that Applicant has a right to purchase and has paid the demand charge, if applicable, pursuant to the following service agreements:

	Date of Service Agreement	*Respondent's Applicable Rate Schedule*
(1)	May 22, 1974--	Rate Schedule ODL-1
(2)	Nov. 21, 1975--	Rate Schedule SGS-1
(3)	Dec. 11, 1975--	Rate Schedule TS-1
(4)	Aug. 7, 1975---	Rate Schedule LS-1

Applicant asserts that the purpose for the additional delivery point is to make available to Applicant's Southern Nevada Division the volumes of natural gas which Applicant is authorized to purchase from Respondent but which cannot be delivered or are not required on Applicant's Northern Nevada Division.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1976, 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 156.9). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21463 Filed 7-23-76;8:45 am]

[Docket No. ER76-629]

TAMPA ELECTRIC CO.

Effective Date

JULY 19, 1976.

Take notice that on July 12, 1976 Tampa Electric Company (Tampa) tendered for filing notice that service pursuant to its Rate Schedule FPC No. 5 was commenced on July 8, 1976. Rate Schedule No. 5 was filed by Tampa on April 21, 1976; notice of which was isued on April 27, 1976. The Commission accepted this filing by letter order dated July 1, 1976, subject to Tampa informing the Commission of the date service was initiated.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21481 Filed 7-23-76;8:45 am]

[Docket No. CI76-633]

TENNECO EXPLORATION, LTD.

Application

JULY 19, 1976.

Take notice that on June 22, 1976, Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Texas filed in Docket No. CI76-633 an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's Rules of Practice and Procedure to authorize Applicant to sell natural gas from West Cameron Block 642, Offshore Federal Domain to Columbia Gas Transmission Corporation. Under the terms of the Gas Purchase and Sales Agreement dated April 13, 1976, the gas would be sold at the initial rate of 287.75 cents per Mcf, together with the 5.0 cents per Mcf annual escalations. Tenneco requests pregranted abandonment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21488 Filed 7-23-76;8:45 am]

[Docket No. CI76-644]

TENNECO EXPLORATION, LTD.

Application

JULY 19, 1976.

Take notice that on June 28, 1976, Tenneco Exploration Ltd., P.O. Box 2511, Houston, Texas filed in Docket No. CI76-644 an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas and Procedure to authorize Applicant to sell natural gas from West Cameron Block 643, Offshore Federal Domain to Tennessee Gas Pipeline Company. Under the terms of the Gas Purchase and Sales Agreement dated February 26, 1976, as amended June 15, 1976, the gas would be sold at the initial rate of 287.75 cents per Mcf, together with the 5.0 cents per Mcf annual escalations. Tenneco requests pregranted abandonment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 4, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21479 Filed 7-23-76;8:45 am]

[Docket No. CP76-405]

TEXAS EASTERN TRANSMISSION CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JULY 14, 1976.

Take notice that on June 22, 1976, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP 76-405 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities for the change gas at an additional point under

all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants request authorization to exchange gas at an additional point under their exchange agreement on file as Rate Schedule X–14 of Texas Eastern's FPC Gas Tariff, Original Volume No. 2, and Rate Schedule X–4 of Transco's FPC Gas Tariff, Original Volume No. 2. The additional point would be located at the existing interconnection of Texas Eastern's 30-inch McAllen-Beaumont Line with the facilities of Mobil Oil Corporation (Mobile) serving Mobil's Beaumont Refinery in Jefferson County, Texas. Texas Eastern would deliver to Mobil, for the account of Transco, up to 5,000 Mcf of gas per day in return for an equal volume of gas to be delivered by Transco to Texas Eastern at the existing authorized Beauregard Parish (Ragley), Louisiana, exchange point or any other mutually agreeable authorized exchange point between Texas Eastern and Transco in the supply area. The additional delivery point is said to be necessary to enable Mobil to receive gas for its refinery to be transported by Transco from the Block 215 Field, Vermilion area, offshore Louisiana, without the necessity for the construction and operation of new facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1976, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21466 Filed 7–23–76;8:45 am]

[Docket No. G–6508]

TEXAS EASTERN TRANSMISSION CORP. AND TRUNKLINE GAS CO.

Petition To Amend

JULY 14, 1976.

Take notice that on June 28, 1976, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. G–6508 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioners request authorization to exchange natural gas at an additional point and to construct and operate facilities therefor, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioners request authorization to exchange natural gas under the agreement on file as Rate Schedule X–30 of Texas Eastern's FPC Gas Tariff, Original Volume No. 2, and Rate Schedule X–1 of Trunkline's FCC Gas Tariff, Original Volume No. 1, at a point on Texas Eastern's 24-inch transmission line near The Superior Oil Company's (Superior) Altair-Tait Field compressor station in Colorado County, Texas. The petition states that operation of the new exchange point, which would permit deliveries to either Petitioner, would increase the operating flexibility on Petitioners' systems and would permit Trunkline to receive gas dedicated to it by Superior from properties which could not otherwise be feasibly connected directly to Trunkline's system.

Texas Eastern proposes to construct and operate a tap and related equipment on its pipeline and Trunkline proposes to construct and operate crossover and metering equipment. The facilities are estimated to cost $16,485.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 3, 1976, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21464 Filed 7–23–76;8:45 am]

[Docket No. CP76–416]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JULY 14, 1976.

Take notice that on June 29, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP 76–416 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 facilities and the transportation and delivery of natural gas, on an interruptible basis, for South Jersey Gas Company (South Jersey), an existing resale customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the gas would be purchased by South Jersey from a production affiliate, South Jersey Exploration Company (Exploration), from production in the East Point Blue Field, Evangeline Parish, Louisiana, and delivered to Applicant near its Eunice No. 1 Interchange in Evangeline Parish where Applicant proposes to construct and operate facilities to connect its system to the gathering pipeline of National Gas Gathering Company. It is stated that South Jersey would reimburse Applicant for the cost of such facilities which is estimated to be $54,000. Applicant proposes to deliver said gas at existing points of delivery to South Jersey in New Jersey.

It is said that the quantity of gas transported would not exceed the quantity of gas curtailed under South Jersey's firm service agreement with Applicant and that initial transportation volumes are expected to approximate 500 Mcf per day.

Applicant and South Jersey have entered into a transportation agreement, dated May 7, 1976, which is for a primary term of one year from the date of initial delivery and from year to year thereafter, subject to termination by either party at the end of any contract year upon not less than 2 months prior written notice. It is indicated that South Jersey would pay Applicant an initial charge of 22.0 cents per Mcf of gas delivered, and additionally, of the volumes received for transportation, Applicant would retain 4.4 percent for use as compressor fuel and make-up for line loss.

Applicant asserts that the proposed interruptible transportation service is directly related to the curtailments in sales and deliveries which Applicant is not required to make due to a deficiency

in flowing gas supply on its system and is intended to make available to South Jersey from its own supplies, up to those volumes of gas which it would otherwise not receive due to such curtailments.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1976, 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. PLUMB,
Secretary.

[FR Doc.76-21467 Filed 7-23-76;8:45 am]

[Docket No. CP74-94 (Phase II)]

UNITED GAS PIPE LINE CO. V BILLY J. MCCOMBS, ET AL.

Extension of Time

JULY 14, 1976.

On July 8, 1976, Louis H. Haring, Jr., et al. filed a motion for an extension of time within which to file briefs on exceptions to the Initial Decision issued in the above-designated proceeding on June 16, 1976.

Upon consideration, notice is hereby given that the date for filing briefs on exceptions is extended to and including August 16, 1976 for all parties. The date for filing briefs opposing exceptions is extended to and including September 7, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21472 Filed 7-23-76;8:45 am]

31-10—58-26 1451

[Docket No. ER76-662]

UPPER PENINSULA POWER CO.

Submission of Additional Data

JULY 14, 1976.

Take notice that on July 2, 1976 Upper Peninsula Power Company (UPPCO) submitted cost support information ordered by the Commission in its letter of May 28, 1976.

UPPCO requests that the Commission permit this increase in rates to become effective as of June 1, 1975, the beginning of the current contract year.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21460 Filed 7-23-76;8:45 am]

[Docket No E-8851]

ALABAMA POWER CO.

Filing of Initial Rate Schedule

JULY 19, 1976.

Take notice that Alabama Power Company on July 6, 1976 tendered for filing an Agreement with Baldwin County Electric Membership Corporation, intended as an initial rate schedule. The filing is for the proposed Baldwin Tie delivery point of the Baldwin County Electric Membership Corporation. The delivery point will be served at the Company's applicable revision to Rate Schedule REA-1 incorporated in FPC Electric Tariff, Original Volume No. 1, of Alabama Power Company as allowed to become effective, subject to refund, by Commission orders in FPC Docket Nos. E-8851 and ER76-659.

Copies of the filing were served upon Baldwin County Electric Membership Corporation and its attorneys of record in FPC Docket No. E-8851.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21525 Filed 7-23-76;8:45 am]

[Docket Nos. E-7775, etc.]

APPALACHIAN POWER CO.

Deferral of Procedural Dates

JULY 16, 1976.

On May 13, 1976, Staff Counsel filed a motion to defer the procedural dates fixed by order issued December 24, 1975, as most recently modified by notice issued May 19, 1976, in the above-designated proceeding. The motion states that a joint motion for an order approving a settlement has been filed by Appalachian Power Company and its affected customers and that Staff Counsel has filed a statement supporting that motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred pending further action by the Commission.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21538 Filed 7-23-76;8:45 am]

[Docket No. RP72-142 (PGA76-6)]

CITIES SERVICE GAS CO.

Proposed Changes in Gas Tariff

JULY 19, 1976.

Take notice that Cities Service Gas Company (Cities Services) on July 12, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based solely on increased purchase gas costs which will result from filings by two of its pipeline suppliers, Arkansas Louisiana Gas Company (Arkla) and Oklahoma Natural Gas Gathering Corporation (ONGG).

By letter dated May 17, 1976, Arkla filed Fifth Revised Sheet No. 185 to its FPC Gas Tariff, Original Volume No. 3, to track increases in its purchased gas costs and a surcharge adjustment to clear the balance in its Gas Cost Adjustment Account and to recover the increase in such balance which will result from producer increases because of Opinion No. 749. Such Arkla rate is to become effective July 1, 1976. The Commission has not yet approved such increase.

ONGG's increased rate reflected on its Tenth Revised Sheet PGA-1 was accepted by Commission order issued June 30, 1976, in Docket No. RP72-115 (PGA76-4), suspended for one day, and permitted to become effective July 2, 1976.

Cities Service states that it has filed its Sixteenth Revised Sheet PGA–1 to reflect the rates on Arkla's Fifth Revised Sheet No. 185 and the rate on ONGG's Tenth Revised Sheet PGA–1.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72–142 and RP76–13.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21526 Filed 7–23–76;8:45 am]

[Docket No. CP76–402]

COLUMBIA GULF TRANSMISSION CO.

Application

JULY 19, 1976.

Take notice that on June 21, 1976, Columbia Gulf Transmission Company (Applicant), PO Box 683, Houston, Texas 77001, filed in Docket No. CP76–402 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Trunkline the gas Trunkline would be purchasing from Exxon Company, U.S.A. (Exxon), from Block 332, Eugene Island area, offshore Louisiana, through pipeline facilities Applicant owns singularly and with others in the Eugene Island area and in the Blue Water Project which it partially owns. Applicant states that it would redeliver the volumes transported, less plant shrinkage and fuel and a proportionate share of the compressor fuel and unaccounted for losses in Applicant's facilities utilized for the service, to Trunkline at the tailgate of Exxon's Garden City plant in St. Mary Parish, Louisiana.

The application shows that the gas from Block 332, Eugene Island area, would be produced from Exxon's "A" and "B" platforms in Block 314, Eugene Island area and that Trunkline's gas produced from said "A" platform would be delivered into facilities of Applicant on such platform and transported to the C-N-T Pipeline through a 12-inch pipeline owned by Applicant. It is stated that Trunkline's gas produced from said "B" platform would be delivered to Applicant at an existing side tap on the C-N-T Pipeline in Block 314, Eugene Island area.

Application asserts that for transporting gas from the aforesaid platform "A" to the onshore redelivery point, Trunkline would pay Applicant a rate of 17.75 cents per Mcf of gas transported. It is said that when deliveries are commenced from the aforesaid platform "B" a daily contract demand volume would be established and Trunkline would pay Applicant a monthly contract demand charge determined by multiplying the daily contract demand volume by $5.36. Further, it is proposed that an upward adjustment of 17.85 cents per Mcf would be applied for any daily volume delivered by Trunkline in excess of the daily contract demand volume and a downward adjustment of the same amount per Mcf would be applied if Applicant is unable to accept deliveries of gas which Trunkline tenders on any day, less gas consumed for fuel, up to the daily contract demand volume. The proposed service is for an initial term of five years, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1976, 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 interevene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21533 Filed 7–23–76;8:45 am]

[Docket No. RI76–116]

DORCHESTER GAS PRODUCING CO., ET AL.

Proposed Settlement Agreement

JULY 19, 1976.

Take notice that on July 1, 1976, Dorchester Gas Producing Company (Dorchester) submitted during hearing in this matter a proposed settlement agreement which was placed into the record as Exhibit No. 1 (Tr. 43). On motion of Dorchester and Natural Gas Pipeline Company of America (Natural), the Presiding Administrative Law Judge, on July 6, 1976, certified the proposed settlement agreement to the Commission.

Background. On January 4, 1976, Dorchester advised Natural, a pipeline purchaser of natural gas processed in a gasoline extraction plant operated by Dorchester, that a fire had damaged the plant. This notification coincided with the termination of all gas deliveries to Natural (approximately 78,000 Mcf per day), including both gas from Dorchester's own wells and that transported by it for Natural from wells of other sellers. After determining that it was operationally feasible to by-pass the plant, Natural, on January 9, 1976, requested Dorchester to resume immediate delivery of gas. Dorchester refused and advised Natural that it would not resume delivery until it could repair the gasoline plant. Upon petition of Natural, supported by several other parties, the Commission, on January 27, 1976, ordered Dorchester and the other producers involved to resume deliveries without delay. Deliveries were resumed January 31, 1976, by-passing the gasoline plant. On April 27, 1976, repair of the gasoline plant was completed and it was put back onstream. The proposed settlement agreement provides for payment to the producers, Dorchester, et al., for the plant shrinkage hydrocarbons which went to Natural during the plant by-pass period instead of to Dorchester, et al.

The proposed settlement agreement computes the value attributable to the shrinkage volumes by using actual gross proceeds received by Dorchester for liquids at its gasoline plant for September through December, 1975, less plant operating costs and depreciation charges, to obtain a value per MMBTU (million British thermal units) factor. This is computed to be $1.3003 per MMBTU, which is to be multiplied by the shrinkage volumes delivered during the by-pass period, expressed in MMBTU. The shrinkage volumes are calculated to be 15.5 percent of 5,966,502 MMBTU, the total gas delivered during the by-pass period.

The proposed settlement agreement would permit Natural to recover its payment to Dorchester, et al., through its jurisdictional rates.

Comments to the proposed settlement agreement may be filed with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before August 24, 1976. Such comments will be considered by the Commission in determining appropriate action, but will

not serve to make commenters parties to the proceeding.

The record in this proceeding, including the settlement proposal, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21530 Filed 7-23-76;8:45 am]

[Docket No. CP76-410]

EL PASO NATURAL GAS CO.

Application

JULY 19, 1976.

Take notice that on June 28, 1976, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas, filed in Docket No. CP76-410 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas by means of existing facilities for Southern Union Supply Company (SUSCO), a wholly-owned subsidiary of Southern Union Gas Company (Southern Union), a distributor customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Southern Union has experienced shortages and curtailment of gas supplies on its system, both as a result of curtailment of service from Applicant and otherwise, and further that Southern Union expects to experience increasing curtailments and shortages in the future. As a result, it is asserted, Southern Union has acquired gas supplies through its wholly-owned subsidiary, SUSCO, and is desirous of implementing an arrangement to make such supplies available to Southern Union's Priority 1, 2, and 3 customers.

The application shows that under a transportation agreement, dated April 13, 1976, between Applicant and SUSCO, Applicant would accept natural gas for transportation from SUSCO at mutually agreed-upon points of receipt on Applicant's gathering and mainline systems, subject to the availability of sufficient capacity in Applicant's system at said receipt points to receive the quantities of gas tendered by SUSCO, with the initial point of receipt located at the tailgate of Phillips Petroleum Company's Lusk Plant, Lea County, New Mexico. Applicant states that it would transport the gas quantities accepted for SUSCO from the receipt points by means of idle capacity in Applicant's system and would deliver to Southern Union for SUSCO's account 95 percent of the heating value contained in the transportation quantities at existing Southern Union delivery points along Applicant's system.

It is indicated that one of the existing Southern Union delivery points on Applicant's system serves the community of Borger, Texas, and Applicant sells and delivers natural gas to Southern Union for resale in Borger pursuant to Commission order issued in Docket No. CP73-57, which order directed Applicant to sell gas to Southern Union for resale only until Southern Union could develop its own supply sources for the Borger requirements. Applicant states that in recognition of the circumstances under which the Borger service area was added to its system, the transportation agreement provides that Applicant's dispatcher shall direct the delivery for SUSCO's account to Southern Union at the Borger delivery point each day the lesser of (i) a quantity of transportation gas sufficient to serve Southern Union's entitlement at Borger from Applicant on said day or (ii) 50 percent of the transportation quantity.

It is indicated that for each Mcf of natural gas delivered by Applicant to Southern Union for SUSCO's account, the transportation agreement provides that SUSCO would pay Applicant an initial transportation charge equivalent to the rate in effect under Applicant's Rate Schedule B-1, B-2, or B-3 (depending upon whether the delivery point is in Arizona, Texas, or New Mexico, respectively) less the rate in effect under Applicant's Rate Schedule X-1. Further, it is indicated that where the delivery point is located in an area of Applicant's system where the applicable sales rate schedule is Rate Schedule X-1, the transportation agreement provides an initial transportation charge of 9.0 cents per Mcf. It is said that the primary term of the transportation agreement extends through January 31, 1980, and would continue thereafter in effect from year to year, subject to termination by either party upon due notice to the other party.

The application shows that the initial gas supply which SUSCO has developed and desires to tender to Applicant for transportation under the requested authority is located in Lea County, New Mexico, and that SUSCO is the operator of the Gallagher No. 2 well (Morrow formation) and the owner of a 50 percent working interest therein. It is said that the remaining 50 percent working interest is owned by Wynn Exploration Company, Inc., which has agreed to sell the gas attributable to its interest to SUSCO as the gas is produced.

Applicant states that to the extent the quantity of transportation gas available to Southern Union on any day from SUSCO exceeds Southern Union's need for gas on that day to serve its customers' Priority 1, 2, and 3 end-use requirements, the transportation agreement provides that SUSCO would sell such excess gas to Applicant and that Applicant would treat such gas as a part of its total system supply available on that day for sale and delivery to its customers in accordance with the curtailment rules governing the operation of Applicant's system. Applicant states that it and SUSCO have entered into a residue gas purchase agreement, dated April 30, 1976, to cover the sale by SUSCO and the purchase by Applicant or excess gas attributable to the Gallagher No. 2 well.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 12, 1976, 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. PLUMB,
Secretary.

[FR Doc.76-21534 Filed 7-23-76;8:45 am]

[Docket No. CP74-35 (Phase I)]

EXXON PIPELINE COMPANY OF CALIFORNIA

Order on Rehearing Amending Prior Order, and Granting in Part and Denying in Part Application for Rehearing and Reconsideration

JULY 20, 1976.

On December 17, 1975, Exxon Pipeline Company of California (Applicant) filed an application for rehearing and reconsideration of the Commission's order issued November 17, 1975, authorizing it to construct an offshore natural gas pipeline from the Hondo Field, Santa Barbara Channel, Federal Domain, to onshore gas processing and treating facilities in Las Flores Canyon, Santa Barbara County, California. On January 15, 1976, the Commission granted rehearing and reconsideration for the limited purpose of further consideration.

The Commission's order of November 17, 1975, authorized Applicant to construct and test, but not operate, its proposed pipeline facility as Phase I in Docket No. CP74-35 [1] simultaneously with the construction of a crude oil line, sub-

[1] Phase II of this proceeding would concern the operation of the pipeline facilities and the transportation, treatment, and certification of the subject natural gas.

ject to obtaining the necessary permits for the oil line. Further, that order conditioned the issuance of the certificate inter alia to compliance by Applicant with twenty-seven conditions set forth in the Commission staff's Final Environmental Impact Statement (FEIS), issued in July, 1975.

In its application for rehearing and reconsideration, Applicant requests modification or deletion of certain conditions placed upon the certificate authorization. It objects to the language in paragraph (B) of the order that it is authorized "to construct and test, but not operate, its proposed pipeline facility as Phase I in Docket No. CP74–35 simultaneously with the construction of the crude oil line (subject to obtaining the necessary permits for the oil line) * * *". In Applicant's view, this portion of the order would appear to make construction of the natural gas pipeline dependent upon construction of the oil pipeline and obtaining permits for the oil pipeline from other government agencies. Applicant requests deletion of any requirement for construction of the gas pipeline simultaneously with the crude oil pipeline, and then only after all permits for the crude oil pipeline have been obtained because Applicant wishes to construct the natural gas pipeline and associated treating facilities irrespective of which of the alternative proposals for oil transportation is ultimately utilized.[2]

In addition, Applicant objects to several of the twenty-seven conditions contained in ordering paragraph (C) 5 by which the Commission adopted the staff's FEIS, and also requests that the certificate order be clarified to assure inclusion of the construction of the onshore treating facilities as a part of the pipeline project for which a certificate is being issued. Applicant opposes FEIS Condition No. 1, which requires it to "coordinate all construction, operation and future development with the county and state park officials and with the County Planning Commission and comply with all county land use ordinances." Its objections to the condition are that it may be considered as controlling the oil pipeline and that imposing local controls on Applicant through the FEIS is improper. Applicant also opposes FEIS Condition No. 5, requiring it to "construct the portion of the proposed pipeline through the surf zone and on the beach during the winter months to insure an adequate sand cover of the pipeline year round," on the ground that construction of the pipeline in a particular winter will not necessarily insure adequate sand cover because of annual variations in maximum scour during the winter season and the need for it to determine the maximum possible scour prior to pipeline construction. Finally, Applicant requests that FEIS Condition No. 7 be modified to enable it to bury the pipeline rather than require it to cover the pipeline with riprap in the kelp beds.

Insofar as Applicant's objections to ordering paragraph (B) of our order of November 17, 1975, are concerned, our aforesaid order pointed out that construction of the gas pipeline facility was being authorized in accordance with the instant application, wherein Applicant proposed to construct simultaneously a crude oil pipeline and a natural gas pipeline in parallel from the offshore platform to the onshore location, in order to reduce costs, minimize environmental disturbances, and eliminate the danger of damaging a previously built pipeline when building a new pipeline. We noted that there was a lack of gas sales contract by Exxon Corporation. Nevertheless, we found that to hold the construction of the natural gas pipeline in abeyance would cause undue environmental and safety risks, as well as substantial unnecessary costs. Hence, we concluded that the project was best expedited by phasing the proceeding and granting Applicant a Phase I certificate to construct but not operate the natural gas pipeline facility pending the filing of a contract for the sale of gas for resale by Exxon, which would be consolidated with the Phase II transportation proposal.

We deem it appropriate to add that the sole reason for granting certificating authorization at the time of the November 17, 1975 order was the necessity, as urged in the instant application and referred to above, for simultaneous construction in parallel of a crude oil pipeline and a natural gas pipeline from the offshore area. Applicant has indicated that it may be a number of years before any natural gas is available for transportation and sale for resale to California utilities, due to reinjection of natural gas in the oil-producing reservoirs. Thus, the existence of an alternative proposed crude oil offshore marine terminal, which would obviate the need for construction of a crude oil pipeline, would likewise obviate the need for the immediate construction of a natural gas pipeline, prior to the time that natural gas was available for transportation and sale. The Commission concludes, therefore, that the portion of the ordering paragraph (B) referring to the simultaneous construction of crude oil pipeline and natural gas pipelines is appropriate and should not be amended.

In the event that Applicant concludes that there will be no construction of a parallel crude oil pipeline, particularly in view of conditions imposed on the permit issued by the California Coastal Zone Conservation Commission, we shall require that Applicant either amend its present request for certificate authorization or file a new application reflecting Applicant's currently contemplated project. The amended or new application should comply with all applicable Commission Regulations, including our policy regarding the filing of a gas sales contract for the natural gas involved; and a request for waiver of any of those Regulations should be fully supported. Although construction of the oil pipeline is outside the ambit of Commission jurisdiction, the certificate application before us clearly contemplated simultaneous construction of the gas and oil pipelines in parallel. On the basis of the certificate application, we do not have a valid ground for certificating the construction of the gas pipeline alone at this time.

The objective of including in paragraph (B) the language that construction of the crude oil pipeline is subject to obtaining the necessary permits adds nothing to the otherwise legal requirements on Applicant to receive the necessary permits which such crude oil pipeline requires. Inclusion of such language in the order is solely to avoid any implication that approval of construction of a natural gas pipeline by the Commission approves construction of the crude oil pipeline, or that Applicant is free of any required permits for the crude oil pipeline by virtue of the issuance of the FPC certificate. As clarified herein, there is no need to amend paragraph (B) of the order of November 17, 1975.

Condition No. 1 of the FEIS relating to coordination with local officials is limited in its application to the natural gas pipeline proposed to be constructed by Applicant; for as made clear hereinbefore, the crude oil pipeline proposed to be simultaneously constructed is not the subject of Applicant's project which is the subject matter of this docket. Thus, the objection of the Applicant to Condition 1 will be considered only to the extent it affects the natural gas pipeline project. Applicant requests that Condition No. 1 be deleted, or in the alternative, be amended to apply to "reasonable rules and conditions imposed by the County for this use." Applicant refers to the order issued February 7, 1975, in Columbia LNG Corp., et al., Docket Nos. CP71–68, et al.

In Opinion No. 622, the Commission directed in ordering paragraph F(3):

> The authorizations granted herein shall not take effect as to any part of any facility, or operation of any part of any facility, until all necessary federal, state and local authorizations as to that part of the facility, or operation thereof, have been secured. A copy of each such authorization for each facility or part thereof, shall be submitted to the Commission prior to the commencement of service of such facility or part thereof. Such authorizations shall include, but are not limited to, building permits, Coast Guard clearances of vessels and harbor operations, and statements of compliance with applicable industry codes or regulatory codes governing the design, construction and operation of facilities in a safe manner.

In that proceeding, the Commission was requested by Fairfax County, Virginia to reaffirm the above condition, as Columbia LNG sought to enjoin the County from exercising jurisdiction over the construction and operation of facilities.

The Commission held (order, page 5):

> It is therefore well settled that, while states and localities may require their own permits, such restraints must be "reasonable", so as not to place a burden on interstate commerce by interfering with Federal regulatory juris-

[2] An alternative to construction of a crude oil pipeline is treatment, storage and shipment of oil from a marine terminal in federal waters not subject to state or local authorities. This alternative is described at pp. 139–141 of FEIS.

diction. Thus, while we reaffirm our condition that Columbia LNG obtain all necessary permits, and do not contest Fairfax County's authority to require permits, such local action must not be inconsistent with the Commerce clause of the Constitution and our jurisdiction. We herein merely reaffirm our Opinion Nos. 622 and 622–A and the conditions imposed thereby for the above stated reasons.

In view of the above, Condition No. 1 will be changed to read as follows:

Coordinate all construction, operation and further development with the county and state park officials and with the County Planning Commission, and comply with all rules and conditions imposed by the County for this use.

The above modified condition is consistent with the Commission's decision in Columbia LNG., supra. If there is a conflict between Applicant and a state or local authority, it must be resolved in a court of competent jurisdiction. Furthermore, the Applicant in its application for rehearing appears to agree that it is for the courts to resolve such questions in the event it is a requirement by a local authority which places a substantial burden on interstate commerce or interferes with the federal regulatory jurisdiction. Finally, Applicant cites no instance where there is an actual conflict, interference or unreasonable burden. The Commission therefore will modify Condition No. 1.

Upon review of the remaining objections raised by Applicant to the FEIS conditions in ordering paragraph (C) 5, we conclude that Condition No. 5 should be deleted because of the representation by Applicant that it will conduct a thorough analysis of oceangraphic data in order to establish the correct trench depth for adequate sand coverage. We also believe that Applicant's request for modification of Condition No. 7 is valid, and accordingly grant Applicant permission to bury rather than cover the pipeline.

In regard to Applicant's request that the November 17, 1975, order be clarified to assure certification of the onshore treating facilities, we note that in ordering paragraph (B) and in paragraph (C) 1, the term "pipeline facility" is used. The treating facility to be built in the Las Flores Canyon is a facility necessary for the transportation of gas in interstate commerce. Applicant's request for clarification of the use of the term "pipeline facility" will be granted. Information contained in this application, however, indicates that such treating facilities were not contemplated for construction and operation until some time subsequent to the pipeline construction.

The Commission orders. (A) the Commission order issued in Docket No. CP74–35, on November 17, 1975, is hereby amended as follows:

(1) Ordering Paragraph (C), Subparagraph 5, is amended as follows:

5. Staff's Final Environmental Impact Statement is adopted and Applicant shall comply with the conditions set forth therein at pages 154–156, except as follows:

Revise Condition No. 1 to read: "Coordinate all construction, operation, and further development with the county and state park officials and with the County Planning Commission, and comply with all rules and conditions imposed by the County for this use.

(2) Condition No. 5. Delete this recommendation entirely.

(3) Revise Condition No. 7 to read:

The pipeline should be installed through the surf zone by trenching, or by blasting a trench and burying the pipeline at a depth which would prevent exposure under conditions of maximum scour.

(4) "Pipeline facility" includes all facilities necessary for transportation of natural gas in interstate commerce and in particular those onshore gas processing and treating facilities of Applicant to be constructed in Las Flores Canyon.

(B) The order of November 17, 1975, is amended and clarified as set out above. In all other respects, the order herein of November 17, 1975, remains in full force and effect.

(C) Except to the extent hereinabove granted, the application for rehearing and reconsideration filed on December 17, 1975, by Applicant is denied.

By the Commisison.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21524 Filed 7–23–76;8:45 am]

[Docket Nos. CP66–110, CP70–19, CP71–222, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend

JULY 19, 1976.

Take notice that on June 28, 1976, Great Lakes Gas Transmission Company (Petitioner), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP66–110, et al., CP70–19, et al., and CP71–222, et al., a petition to amend further the Commission's orders, as amended, in said dockets issued pursuant to Section 3 of the Natural Gas Act by authorizing Petitioner to pay to TransCanada Pipelines Limited (TransCanada) for gas purchased by Petitioner the increased prices announced by the Government of Canada, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it purchases natural gas from TransCanada at a point on the international boundary near Emerson, Manitoba, under three gas purchase contracts. It is said that Gas Purchase Contract Nos. 1 and 2, dated July 14, 1967, and October 9, 1970, respectively, provide for purchase of up to 87,600 Mcf and 195,800 Mcf of gas per day, respectively, and that Gas Purchase Contract No. 3, dated June 11, 1971, provides for a yearly maximum gas purchase of 17,000 Mcf. It is indicated that the importation of these volumes was authorized by the Commission's orders and opinions issued in the subject docket.[1]

Petitioners state that the present purchase price of all gas is $1.60 per million Btu's.

It is asserted that on June 10, 1976, the Minister of Energy, Mines, and Resources of the Government of Canada issued a statement to the effect that the Government of Canada has directed the National Energy Board to increase the border export price of natural gas from the presently effective price of $1.60 per million Btu's to $1.80 per million Btu's to be effective on September 10, 1976, and $1.94 per million Btu's to be effective on January 1, 1977. The subject petition requests authorization to import gas at these increased rates. Petitioner states that denial or untimely issuance of the requested import authorization would result in termination or interruption, respectively, of gas sales by TransCanada to Petitioner. Petitioner requests timely authorization to enable it to put into effect the new border prices on September 10, 1976, and January 1, 1977.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 1976, 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21528 Filed 7–23–76;8:45 am]

[Docket Nos. ER76–404, ER76–658]

IOWA POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Granting in Part and Denying in Part Motions for Summary Disposition, Denying Motions To Reject, Granting Interventions, and Establishing Procedures

JULY 15, 1976.

On April 30, 1976, Iowa Power and Light Company (Iowa Power) tendered for filing in Docket No. ER76–658 a pro-

[1] Opinion No. 521 and order pertaining to Contract No. 1 was issued on June 6, 1967, in Docket No. CP66–110, et al. (37 FPC 1070); Opinion No. 577 and order pertaining to Contract No. 2 was issued on April 30, 1970, in Docket No. CP70–19, et al. (43 FPC 635); and order pertaining to Contract No. 3 was issued on June 1, 1971, in Docket Nos. CP71–222 and CP71–223 (45 FPC 1034 and 1037).

posed rate increase to the cities of Carlisle and Neola, Iowa (Cities).[1] For the reasons hereinafter stated, we shall require Iowa Power to file a revised fuel adjustment clause, reject that portion of the proposed rates based on the inclusion of construction work in progress (CWIP) in rate base, suspend the remainder for two months, and establish hearing procedures.

Iowa Power had previously filed on December 22, 1975, in Docket No. ER76–404 a proposed rate increase to Cities of $189,840 based on the twelve month period ended September 30, 1975. By letters dated January 28 and 29, 1976, the Commission Secretary informed Iowa Power that its December 22 filing was deficient and requested further cost-of-service data and testimony that would serve as its case-in-chief. On April 30, 1976, Iowa Power filed revised rates in Docket No. ER76–658 proposing to withdraw its December 22 filing in Docket No. ER76–404. The April 30 filing incorporating Iowa Power's case-in-chief with an updated cost of service study, results in increased revenues of $336,262 (135.23%) based on the twelve month period ended December 31, 1976. Iowa Power states that the updated cost-of-service data demonstrated the need for further increased rates. In its April 28 filing Iowa Power requested an effective date of May 31, 1976. In the event the Commission does not allow the proposed rates to become effective in their entirety on May 31, 1976, Iowa Power requests that it be granted immediate interim rate relief in the form of a rate increase of $262,092 (105.40%).

By letters dated May 28, 1976, the Commission informed Iowa Power that its April 30 filing was deficient with respect to certain filing requirements and that a filing date would not be assigned pending completion. On June 15, 1976, Iowa Power filed additional information in response to those letters and requested that the proposed rates be permitted to become effective July 20, 1976.

Public notice of the April 30 filing was issued on May 6, 1976, with protests or petitions to intervene due on or before May 24, 1976. Public notice of Iowa Power's June 15 submittal of additional information was issued on June 25, 1976, with protests and petitions to intervene due on or before July 6, 1976.

On May 24, 1976, the City of Carlisle filed a "Motion to Reject Rate and Fuel Filings, Protest and Petition to Intervene." On July 6, 1976, Carlisle supplemented that pleading. As grounds for rejection Carlisle alleges noncompliance with certain filing requirements. In the event the filing is not rejected Carlisle moves for summary judgment to eliminate the effects of inclusion of CWIP in rate base and the effects of tax normalization. Carlisle further requests that the proposed "energy adjustment charge" be rejected for noncompliance with the Commission's fuel adjustment regulations. Carlisle raises various other substantive issues and requests that the proposed rates be suspended for the full statutory five month period.

[1] See attached Appendix below for rate schedule designations.

On May 24, 1976, the City of Neola also filed a pleading entitled "Motions to Reject, Protest and Petition to Intervene and Requests for Summary Disposition." On July 6, 1976, Neola supplemented that pleading. Neola requests that the Commission reject the filing as in violation of its contract with Iowa Power, as patently deficient with respect to the Commission's regulations and as being discriminatory. Neola also seeks summary disposition as to the issues of federal income tax allocation, inclusion of CWIP in rate base, interperiod tax allocations, and the fuel adjustment clause. In the event the filing is not rejected Neola requests suspension of the proposed rates for five months.

Neola contends that its contract contemplates that a rate change cannot be levied against it without its consent unless the modification has been approved by final order of the Commission in a section 206(a) proceeding under the Federal Power Act. The contract dated July 13, 1962, provides in pertinent part as follows:

> Applicant agrees to use, receive and pay for, and Power Company agrees to furnish, electric energy on the basis of the rate schedule attached hereto and made a part of this application. Rate Schedule OU–1.
>
> * * * * *
>
> In the event Rate Schedule OU–1 is modified for general application to all users affected, Applicant (Town of Neola) agrees that the rates thereafter to be charged under this agreement shall be in accordance with any general modification of the Rate Schedule, effective at the date of such change or modification.

Neola points to the words "modified" and "modification" arguing that the use of these words in the past tense contemplates completed action by the Commission.

We find Neola's arguments unpersuasive. The Commission has consistently held in other cases that phrases such as "ordered",[2] "approved",[3] "authorized",[4] and "prescribed" * * * * "by the Commission" * * * do not permit unilateral filings under Section 205 of the Federal Power Act but merely recognize the Commission's authority to set the just and reasonable rate prospectively pursuant to section 206 of the Federal Power Act. However, we do not attach the same significance to the words "modified" and "modification". In a similar case[6] we found the phrase "lawful amendments" indistinguishable from the "effective superseding" language of the Memphis case.[7]

Furthermore, in its June 15 submittal of additional information Iowa Power responded that the July 13, 1962 contract has been cancelled. That contract provided for an initial term of 5 years to be continued thereafter until cancelled by either party upon 90 days prior notice. By letter dated August 1, 1974, Iowa Power served upon Neola a copy of its previous rate increase filing in Docket No. E–8995, stating:

> This letter is to provide you with notice of the Company's request for increased rates and to notify you of its intention to cancel, effective November 1, 1974, the present electric service agreement between the City of Neola and Iowa Power and Light Company for the sole purpose of revising the rates for service. Iowa Power intends to continue to supply the electrical needs of the City.

Neola contends however that the above cited language indicates merely an intention to modify or amend directed solely to the term of the contract dealing with rates and leaving the other terms untouched. Neola therefore submits that Iowa Power continued service on the same basis as before, making no attempt to negotiate replacement contract terms with Neola, having not filed a substitute contract with the Commission, and having not filed a notice of cancellation with the Commission.

We again must disagree with Neola. The August 1, 1974 letter clearly indicates Iowa Power's act of cancellation of the July 13, 1962 service agreement in its entirety. Moreover, neither the Federal Power Act nor the Commission's Regulations thereunder require that a rate schedule take the form of a contractual document or that a notice of cancellation be filed as to a cancelled rate schedule exept where no new rate schedule is to be filed in its place.

Our review indicates that the rates proposed herein are based in part on the inclusion of CWIP in rate base. Recent Commission decisions have made it clear that the Commission will not currently allow utilities to base rates upon the inclusion of CWIP in rate base.[8] As we stated in the Order Denying Application For Rehearing,[9] Georgia Power Company, Docket No. E–9091, issued September 19, 1975:

> The majority rule of public utility regulation holds that the value of plant under construction cannot be included in the rate base until the plant is "used and useful" in pro-

[2] Indiana & Michigan Electric Co. v. F.P.C., 530 F.2d 1060 (1976).

[3] Detroit Edison Company, Docket No. E–9294, order issued July 2, 1975.

[4] Kansas Power and Light Company, Docket No. ER76–39, order issued December 22, 1975.

[5] Southern California Edison Company, Docket No. E–8176, order issued January 23, 1975; reh. denied by order issued March 21, 1975.

[6] Iowa Electric Light and Power Company, Docket No. ER76–206, order issued December 31, 1975; reh. denied by orders issued February 20, 1976 and March 24, 1976. It should be noted that the subject service agreements in Dockets No. ER76–206 also state: "This Agreement shall at all times be subject to such changes or modifications by the Federal Power Commission, as said Commission may, from time to time direct in the exercise of its jurisdiction.

[7] United Gas Pipe Line Co. v. Memphis Light, Gas and Water Division, 358 U.S. 103 (1958).

[8] See e.g., Central Vermont Public Service Corporation, Docket No. E–9040, issued August 5, 1975; Green Mountain Power Corporation, Docket No. E–9446, issued June 13, 1975; New England Power Company, Docket Nos. E–9316 and E–9140, issued August 5, 1975; and Georgia Power Company, Docket No. E–9091, issued August 5, 1975.

[9] Pending review in Georgia Power Company v. FPC, No. 75–1940, D.C. Circuit, Denial of Application for Stay, issued October 3, 1975.

viding service to jurisdictional customers. We have consistently applied the "used and useful" rule throughout our formally reported final decisions. Our Uniform System of Accounts for public utilities and licensees clearly reflects that principle, although it has not been formally codified in a separate regulation, as is the case for gas pipeline companies, § 154.63(f), 18 CFR.

We note that while it has not been the policy of this Commission to permit utilities to earn a return on CWIP, that practice is currently being reviewed in Docket No. RM75–13.[10] For all of the above reasons, it would therefore be inappropriate for Iowa Power to reflect in its rates the inclusion of CWIP in rate base for facilities which will not be placed into service prior to the end of the test period. Accordingly, we shall require that Iowa Power file revised rates reflecting the elimination of CWIP from rate base.

Our review further indicates that the proposed rates include an "Energy Cost Adjustment" clause that does not comply with § 35.14 of the Commission's regulations respecting fuel adjustment clauses. The proposed adjustment clause provides for the inclusion of purchased energy costs other than fuel contrary to § 35.14(a)(2)(ii) of the regulations. Accordingly, we shall direct with Iowa Power to file a revised fuel clause that will conform with § 35.14 of the Commission's regulations in all respects.

As regards the remaining objections to the subject filing as raised in the pleadings of the Cities, the Commission believes that these issues may be developed as necessary in the proceedings hereinafter provided for.

Our review indicates that the proposed rates filed by Iowa Power on April 30, 1976, have not been shown to be just and reasonable and may be unjust, unreasonably, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall suspend the proposed rates for two months and establish hearing procedures. Iowa Power's filing of December 22, 1975, in Docket No. ER76–404 shall be deemed withdrawn. Iowa Power's request for immediate interim rate relief shall be denied. Cities' petitions to intervene shall be granted. All relief not herein granted shall be denied.

The Commission finds. (1) Good cause exists to permit Iowa Power to withdraw its filing in Docket No. ER76–404.

(2) Good cause exists to require Iowa Power to file revised rates based upon the exclusion of CWIP from rate base.

(3) Good cause exists to accept for filing the proposed rates filed in Docket No. ER76–658 and to suspend those rates for two months until September 20, 1976, when they shall become effective subject to refund, as hereinafter ordered and conditioned.

(4) Good cause exists to require Iowa Power to file a revised fuel adjustment clause conforming with § 35.14 of the Commission's regulations as revised by Order No. 517.

[10] Notice of Proposed Rulemaking issued November 14, 1974.

(5) Good cause does not exist to grant Cities' motions to reject and for summary disposition except to the extent hereinabove granted.

(6) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of Iowa Power's rate schedules as proposed to be revised herein.

(7) Good cause exists to allow Cities to intervene in this proceeding.

The Commission orders. (A) Iowa Power's filing in Docket No. ER76–404 is hereby deemed withdrawn and that docket is hereby terminated.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 hereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms, and conditions of service included in Iowa Power's FPC Electric Rate Schedules as proposed to be revised herein.

(C) Within 30 days of the issuance of this order Iowa Power shall file revised rate schedules and revised cost-of-service data reflecting the reduced rates resulting from the elimination of CWIP from rate base.

(D) Within 30 days of the issuance of this order Iowa Power shall file a revised fuel adjustment clause conforming with § 35.14 of the Commission's regulations as revised by Order No. 517.

(E) Pending a hearing and final decision thereon, Iowa Power's filing is hereby accepted for filing and suspended for two months, to become effective on September 20, 1976, subject to refund and subject to the condition that it file revised rates pursuant to Paragraphs (C) and (D) above.

(F) Except to the extent hereinabove granted, Cities' motions to reject and for summary disposition are hereby denied.

(G) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 20, 1977. (See Administrative Order No. 157).

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(I) Cities are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(J) Iowa Power shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates to be filed herein, as required by § 35.19a of the Commission regulations, 18 CFR 35.19a.

(K) The Secretary shall cause the prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

IOWA POWER & LIGHT COMPANY

Designation	*Other party*
Supplement No. 4 to Rate Schedule FPC No. 9 (Supersedes Supplement No. 3).	Town of Carlisle.
Supplement No. 4 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 3).	Town of Neola.

[FR Doc.76–21537 Filed 7–23–76;8:45 am]

[Docket No. CI76–228]

KENT GLASGOW

Order Accepting Stipulation and Agreement, Omitting Intermediate Decision and Granting Conditioned Price Relief

JULY 20, 1976.

On October 21, 1975, Kent Glasgow (Glasgow) filed in Docket No. CI76–228 an application pursuant to section 7(b) of the Natural Gas Act and §§ 157.30(b) and 250.7 of the regulations thereunder (18 CFR 157.30(b), 250.7) requesting authority to abandon sales for resale of natural gas in interstate commerce to Champlin Petroleum Company (Champlin) from three wells[1] located in the Northwest Cashion Field, Logan County, Oklahoma, which sales are subject of contracts dated October 1, 1973. The present sale price of the subject gas is 20.5 cents per Mcf at 14.65 psia.

Glasgow sells gas to Champlin which processes it at its Witcher Gasoline Plant and in turn resells it to Cities Service Gas Company (Cities Service) under the provisions of a 1949 contract, as amended, which is filed as Champlin Petroleum Company FPC Gas Rate Schedule No. 53, at a rate of 61.16 cents per Mcf at 14.65 psia, inclusive of tax, gathering allowance and Btu adjustment.

By order issued March 30, 1976, the Commission found sufficient cause existed for setting the abandonment application for formal hearing and established the procedures for that hearing.

[1] Mary Waswo No. 1, Mary Waswo B No. 1, and Martin No. 1.

On April 22, and 23, 1976, a hearing was held before Administrative Law Judge Michel Levant. During the second day of hearing the parties indicated a desire to have an informal conference to discuss settlement possibilities. During the settlement conference of April 23, 1976, and the days immediately following the parties agreed that the abandonment application be withdrawn and a petition for price relief be substituted pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

The hearing was reconvened on May 18, 1976, whereupon Glasgow presented a settlement proposal to the Presiding Administrative Law Judge. The settlement proposal would amend Glasgow and Champlin's contract to provide for an increase in the price of gas which Champlin will pay to Glasgow. The price would be increased to 64.31 cents per Mcf at 14.65 psia.[2] The increased price is to compensate Glasgow for workover costs and for installation of compressor facilities to resume gas deliveries into Champlin's line. Champlin submitted comments in support of the settlement proposal which were copied into the record. Champlin states it is agreeable to the settlement proposal and is willing to amend its gas purchase contract with Glasgow to 64.31 cents per Mcf. Champlin conditions its support of the settlement on Champlin's being permitted to pass along its increased purchased gas cost by collecting a rate of 94.04 cents per Mcf at 14.65 psia for its resale of Cities Service of the residue gas attributable to Glasgow's production. The 94.04-cent rate to Cities Service reflects the same shrinkage and process allowance we previously authorized in Docket No. CI73–530.[3] In that docket Champlin was authorized to change its rate for the sale of natural gas to Cities Service from the Witcher plant. Cities Service also submitted a statement in support of the settlement proposal which was copied in the record.

Cities Service states it is willing to pay Champlin 94.04 cents per Mcf for gas attributable to Glasgow's wells in order to enable Champlin to pay Glasgow 64.31 cents per Mcf as provided for in the settlement proposal. Staff has calculated the unit cost of gas, based on the testimony and evidence in the proceedings held on April 22, and 23, and believes a price of 64.31 cents per Mcf is justified in this case.

On May 20, 1976, the Presiding Administrative Law Judge certified the settlement proposal to the Commission. The certification was notice on June 1, 1976, with comments due on or before June 14. 1976.

[2] The rate sought by Glasgow does not reflect the increase in tax liability, if any, resulting from the Tax Reduction Act of 1975.

[3] Order issued September 28, 1973, which provides for a volume after processing of 73.7 percent of the original raw gas processed and a processing allowance of 6.9 cents per Mcf.

Upon review of the record compiled in this proceeding including all exhibits, testimony, comments and statements, the Commission finds that Glasgow has established the economic justification for special price relief in the form of a contractually authorized rate increase.

In conjunction with our acceptance and approval of the settlement proposal the Commission shall require Glasgow to amend its contract with Champlin and shall require Champlin to amend its contract with Cities Service to reflect the new rates and to file the necessary rate supplements with the Commission within 30 days.

The Commission finds: (1) The orderly execution of its functions requires the omission of the intermediate decision in proceeding.

(2) Good cause has been shown to grant Glasgow price relief as set forth in the settlement agreement filed in Docket No. CI76–228 and certified to the Commission on May 20, 1976.

The Commission orders: (A) In accordance with § 1.30(c)(1) of the Commission's rules of practice and procedure the intermediate decision procedure is omitted in this proceeding.

(B) The settlement proposal filed in this docket on May 18, 1976, is hereby approved and accepted subject to the following conditions:

1. Glasgow shall amend its contract with Champlin to reflect the 64.31-cent per Mcf rate authorized herein.

2. The contract amendments shall be filed with the Commission within 30 days of the issuance of this order.

(C) Champlin and Cities Service shall amend their contract to reflect the 94.04-cent per Mcf rate for gas attributable to Glasgow's wells.

(D) Champlin shall file the rate supplement necessary to reflect the 94.04-cent per Mcf residue rate authorized by paragraph (C), above within 30 days of the issuance of this order.

(E) Glasgow is permitted to withdraw the abandonment application previously filed in this docket.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21522 Filed 7–23–76;8:45 am]

[Docket No. RP73–8; PGA 76–11]

NORTH PENN GAS CO.

Proposed Changes in Gas Tariff

JULY 19, 1976.

Take notice that North Penn Gas Company (North Penn) on July 9, 1976, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective August 1, 1976.

North Penn states that the proposed increase in rates reflects an increase in rates filed by Consolidated Gas Supply Corporation on June 29, 1976 to become effective August 1, 1976, and an increase in rates from Transcontinental Gas Pipe Line Corporation filed May 28, 1976 to become effective July 1, 1976.

North Penn is requesting a waiver of any of the Commission's rules and regulations in order to permit the proposed rates to go into effect on August 1, 1976.

North Penn states that copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21531 Filed 7–23–76;8:45 am]

[Docket No. RP76–105–1]

NORTHERN NATURAL GAS CO.

Petition for Extrordinary Relief

JULY 19, 1976.

Take notice that on May 20, 1976, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. RP76–105–1 a petition for extraordinary relief authorizing Petitioner to provide up to 750,000 Mcf of natural gas service to its existing utility customers in accordance with its presently effective rate schedule ACDS–1 for the period, September 15, 1976, through March 15, 1977, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner proposes to render the subject service, which is said to be similar to that authorized in Docket Nos. CP74–63, RP75–12–1, and RP75–12–3, to provide special relief for its utility customers during the projected crop drying season when curtailment of deliveries of natural gas by Petitioner below the utility customers' firm entitlements would result in irrevocable losses from inadequate supplies of crop drying fuel.

The petition states that gas under Rate Schedule ACDS–1 would be made available by Petitioner on a best efforts basis pursuant to advanced operating arrangements on a daily basis. The utility customer that would have requirements for crop drying that could not be met on a given day by utilization of other existing rate schedules would nominate volumes of gas under Rate Schedule ACDS–1, and Petitioner would determine the availabil-

ity of such volumes and advise the utility accordingly. Should the nominations exceed the volumes available, volumes required for drying seed grain would be given priority. Petitioner states that deliveries proposed in the instant petition would not be subject to curtailment pursuant to Paragraph 9 of the General Terms and Conditions of Petitioner's FPC Gas Tariff, Third Revised Volume No. 1.

It is stated that service under Rate Schedule ACDS–1 is predicated upon using existing facilities and that no new facilities are proposed.

Any person desiring to be heard or to make any protest with reference to said petition for extraordinary relief should on or before August 4, 1976, 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21536 Filed 7–23–76;8:45 am]

[Docket Nos. CP75–340, CP75–341, CP75–342]

NORTHWEST PIPELINE CORP.

Application To Amend

JULY 19, 1976.

Take notice that on July 9, 1976, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket Nos. CP75–340, CP75–341, and CP75–342 an application to amend the Commission's order issued July 28, 1975, in said dockets pursuant to section 3 of the Natural Gas Act by authorizing the continued importation by Applicant of natural gas from Canada at the Kingsgate, British Columbia (Kingsgate), and Sumas, Washington (Sumas), import points at a price consistent to the recent directive of the Canadian Government, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Applicant requests authorization to continue to import gas purchased from Westcoast Transmission Company Limited (Westcoast) at Sumas and Kingsgate[1] at such price as has been established by the National Energy Board of Canada (NEB) pursuant to the policy expressed by the Canadian Government by the directive concerning prices for Canadian natural gas exports, issued June 10, 1976, by the Minister of Energy, Mines, and Resources for Canada. Applicant states that said directive instructs the NEB to establish a border price of $1.80 per Mcf for all Canadian gas effective for subject gas sales on September 10, 1976.

Applicant states that it has heretofore been authorized, among other things, in Docket No. CP73–332, and subsequently at the individual dockets listed below, to import the subject volumes of natural gas:

(1) Docket No. CP75–341 (Sumas—authorization to continue the importation of natural gas from Canada at a point near Sumas under the terms and conditions as set forth in an agreement, dated October 10, 1969, between Applicant and Westcoast, as amended, and at the prices established by the NEB.

(2) Docket No. CP75–342 (Kingsgate)—authorization to continue the importation of natural gas from Canada at a point near Kingsgate under the terms and conditions as set for in an agreement, dated September 23, 1960, between Applicant and Westcoast, as amended, and at the prices established by the NEB.

(3) Docket No. CP75–340 (Alberta and Southern Gas Company Limited, best efforts, Kingsgate)—authorization to continue the importation of additional volumes of natural gas from Canada at a point near Kingsgate under the terms and conditions as set forth in an agreement, dated October 6, 1975, between Applicant and Westcoast and at the prices established by the NEB.

Applicant states that it must pay Westcoast the export border price as ordered by the NEB in order that Westcoast comply with its export licenses or Applicant would suffer the loss of these supplies, which supplies Applicant expects to comprise approximately two-thirds of its annual gas supply during the twelve-month period ending March 31, 1977.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before August 11, 1976, 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21529 Filed 7–23–76;8:45 am]

[1] Applicant indicates that it is authorized to purchase from Westcoast up to 800,000 Mcf at 14.9 psia per day at Sumas and 151,731 Mcf at 14.73 psia on a peak day and 51,000,000 Mcf at 14.73 psia annually at Kingsgate, as well as an additional 125,000 Mcf per day on a peak day at Kingsgate and 30,000 Mcf on an annual average day on a best efforts basis.

[Docket Nos. E–8882, ER76–381, ER76–687]

PUBLIC SERVICE COMPANY OF COLORADO

Conference on Rates and Charges

JULY 19, 1976.

Take notice that on July 29, 1976, a conference of all parties to intervene in these proceedings, the Public Service Company of Colorado, any interested customers, and the Commission Staff will be held in Conference Room No. 3200 at the Federal Power Commission, 941 North Capitol Street, N.W., Washington, D.C., at 10:00 a.m. (d.s.t.).

Copies of this notice are being mailed this date to all jurisdictional customers and interested State Commissions.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21532 Filed 7–23–76;8:45 am]

[Docket No. RP73–64 (PGA 76–3)]

SOUTHERN NATURAL GAS CO.

Proposed Changes in Gas Tariff

JULY 19, 1976.

Take notice that Southern Natural Gas Company (Southern), on July 12, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective July 1, 1976.

Southern states that this filing is in accordance with Ordering Paragraph (D) of the Commission's Order Accepting for Filing and Suspending Proposed Tariff Sheets, issued June 30, 1976, which stated that "Southern may file a revised tariff sheet to become effective July 1, 1976, which reflects those claimed increased purchased gas costs which are other than the claimed increased costs associated with small producer purchases in excess of the rate levels prescribed by Opinion No. 742."

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–21527 Filed 7–23–76;8:45 am]

[Docket Nos. RP74-48, RP75-3]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Compliance Filing

JULY 19, 1976.

Take notice that on June 25, 1976, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing copies of a statement showing the amount refunded to each customer and a gas service refund statement and support schedules sent each customer receiving refunds. Transco states that this filing is in compliance with the settlement agreement approved by the Commission in this proceeding on November 13, 1975.

Transco states that on April 30, 1976, it distributed the amounts due under Article III, section 7 of the Settlement Agreement to each customer, based on deliveries for the period February 1, 1975 through September 30, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 30, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21523 Filed 7-23-76;8:45 am]

[Docket No. CP76-423]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JULY 19, 1976.

Take notice that on July 2, 1976, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. CP76-423 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's Statement of General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing an interruptible transportation service of up to a total of 3,500 Mcf of gas per day for a two-year term for Berwick Forge & Fabricating, Division of Whittacker Corporation; Champion Valley Farms, Inc.; Community Medical Center; Fitchburg Coated Products, A Division of Litton Business Systems, Inc.; Foster Wheeler Energy Corporation; Fulton Manufacturing Co., Inc.; Geisinger Medical Center; International Paper Company; National Pretzel Company; Samson Management Corp.; Schoot Optical Glass, Inc.; Sprout-Waldron Operations, Koppers Company, Inc.; Sunbury Community Hospital; The Trane Company; Watsontown Brick Company; West Side Area Vocational-Technical School; The Williamsport Hospital; and Wilkes-Barre Area Vocational-Technical School (Buyers), all existing consumer-customers of Pennsylvania Gas and Water Company (PG&W), one of Applicant's existing Rate Schedule CD-3 resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Buyers, acting severally and not jointly by and through The Stone Energy Corporation (Stone) as duly authorized agent, have purchased (1) from Peninsula Resources Corporation (Peninsula) up to 1,000 Mcf per day of gas to be produced from the Longhorn Field Extension, Duval County, Texas, and (2) from Southport Exploration, Inc., and Vulcan Materials Company (Southport, et al.) up to 2,500 Mcf per day of gas to be produced from the Bayou Piquant Field, Terrebonne Parish, Louisiana. It is indicated that Applicant has entered into an agreement, dated May 4, 1976, with Buyers, acting severally and not jointly and through Stone as duly authorized agent, and PG&W providing that Buyers would arrange to have the purchased gas delivered to Applicant at mutually agreeable points on Applicant's system and Applicant would redeliver the transportation volumes to PG&W at existing delivery points for the accounts of Buyers, and PG&W has agreed, in turn, to transport such quantities to Buyers for ultimate use in their respective plants or facilities.

The application indicates that the end-uses of gas by the Buyers are:

1. For priority 3 purposes for boiler fuel for which there is no immediately feasible alternate fuel;

2. For commercial or process priority 2 purposes; or

3. For commercial or process purposes for which there is no technically feasible alternate fuel and classified as priority 3 for the reason that the gas was purchased on an interruptible basis and would, if firm, qualify as priority 2 use.

The application shows the following information submitted by Applicant:

1. Since the volumes to be transported under this and any similar transportation arrangements with customers of distributor, when added to any volumes being transported for the distributor itself and the distribution customers' scheduled daily deliveries, shall not exceed the contract entitlement of the distributor from Applicant, there exists sufficient pipeline capacity to perform the service on a peak day, average day, and annual basis.

2. The proposed transportation services would have no impact on Applicant's ability to provide system-wide deliveries for priority 1 markets.

3. The initial rate for the transportation services would be 22.0 cents per Mcf of gas transported. Applicant would retain initially 4.4 percent of the volumes received for transportation as makeup for compressor fuel and line loss.

4. Applicant did not consider the subject natural gas supply to be available for purchase by it and did not attempt to purchase said gas because the Commission has given no indication that it would authorize a sale of such duration to interstate prices, pipelines at a competitive intrastate prices, it is stated.

The application indicates that only minimal connecting facilities are required by Applicant at the two locations where the gas would be delivered to Applicant for the account of Buyers for transportation. It is stated that the estimated cost of these facilities, to be reimbursed by Buyers, is $16.000.

The application shows that from the date of first delivery through the first contract year, Buyers would pay Peninsula $1.46 per Mcf and effective on the first day of each contract year thereafter during the term, the price would increase 5.0 cents per Mcf. The application further shows that from the date of first delivery through the first contract year Buyers would pay Southport, et al., $1.45 per Mcf and effective on the first day of the second and final contract year, the price would increase 10.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1976, 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 noitce of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-21535 Filed 7-23-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 20, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC report are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed report, comments (in triplicate) must be received on or before August 12, 1976, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

NUCLEAR REGULATORY COMMISSION

NRC requests an extension no change clearance of the NRC-Agreement State Exchange-of-Information Program. Pursuant to the Atomic Energy Act of 1954, as amended, the NRC has entered into agreements with 25 States providing for the discontinuance of the Commission's authority with respect to certain materials and the assumption of this authority by the State. All agreements include provisions under which the State and the Commission agree to keep each other informed of proposed changes in their regulatory programs and to obtain the assistance of other parties thereon. The NRC and Agreement States have agreed to an exchange-of-information program whereby the States furnish a semi-annual report to the NRC. This information is compiled by the NRC and included in an NRC semi-annual report which is distributed to the Agreement States. The NRC report includes summary information on the licensing, inspection, and enforcement activities of the Commission and the Agreement States and other information as appropriate. Respondents are the 25 States having agreements with the NRC. Each Agreement State submits two reports annually to the NRC and NRC estimates that each report requires approximately 12 hours to prepare.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-21539 Filed 7-23-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-27]

CHICORY ROOT—CRUDE AND PREPARED

Prehearing Conference

Notice is hereby given that a Prehearing Conference will be held at 10 a.m. on August 6, 1976, in the Hearing Room of the Administrative Law Judge, Room 610, Bicentennial Building, 600 E Street, NW., Washington, D.C., in the above styled investigation, the notice of investigation of which was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29496).

On or before August 3, 1976, counsel shall file and serve prehearing statements upon all parties in connection with this formal Prehearing Conference. Trial counsel must attend the Conference, unless he(she) calls the Presiding Officer and obtains permission for an associate fully knowledgeable about the case and with the same authority to stipulate as he(she) has, to attend in his(her) place.

Prehearing statements shall include:

1. Notice of intent to attend the above-noticed Prehearing Conference.

2. Motions pertaining to the scope of the temporary relief hearing.

3. A statement of the issues to be considered in the temporary relief hearing, with a statement which sets forth with particularity a party's contentions on each of the proposed issues.

4. A statement describing in detail the evidence each party proposes to present at the temporary relief hearing, relating such evidence to each of the issues, and including witnesses to be used at the hearing.

5. The names of all known witnesses, their addresses, and whether they are witnesses to event or expert, and if expert, the area of expertise. An estimate of trial time should be included.

6. All requests for stipulations on which the parties are reasonably certain they can agree both as to the facts, and the authenticity and admissibility of exhibits.

7. Any requests for further information.

8. A proposed agenda for the temporary relief hearing.

If any matters should arise not covered by these instructions, counsel shall call the chambers of the undersigned Presiding Officer.

Failure to comply with any of these requirements may result in a dismissal or a default, as may be appropriate.

Issued: July 20, 1976.

MYRON R. RENICK,
Presiding Officer.

[FR Doc.76-21496 Filed 7-23-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Proposed Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR-45 issued to Dairyland Power Cooperative (the licensee) for operation of the La Crosse Boiling Water Reactor (the facility) located in Vernon County, Wisconsin.

The amendment would establish operating limits in the Technical Specifications based upon an evaluation of ECCS performance calculated in accordance with an acceptable evaluation model that conforms to the requirements of the Commission's Interim Acceptance Criteria. In addition, the amendment would revise provisions in the Technical Specifications related to the replacement of 24 fuel assemblies in the facility core with fuel assemblies of a different design, constituting refueling of the core for operation during Cycle 5.

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), and the Commission's rules and regulations.

By August 25, 1976, the licensee 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, 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 Fritz Schubert, Esquire, Staff Attorney, Dairyland Power Cooperative, 2615 East Avenue South, La Crosse, Wisconsin 54601, the attorney for the licensee.

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 peti-

tioner 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 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 an other 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 May 18, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin.

Dated at Bethesda, Md., this 13th day of July 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-21258 Filed 7-23-76;8:45 am]

[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 No. 19 and No. 18 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 No. 3 and No. 4, located in Dade County, Florida. The amendments are effective as of their date of issuance.

The amendments consist of a license amendment and Technical Specifications change authorizing the transfer of by-product and special nuclear material between each of the Turkey Point Units.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the licenses 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 statement, negative declaration or 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 applications for amendments dated June 22 and June 24, 1976, and related filings dated August 23, 1974, January 10, 1975, January 2, April 8, May 25, June 23 and June 24, and July 8, 1976, (2) Amendments No. 19 and No. 18 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, NW., Washington, D.C., and at the Environmental & 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, Md., this 9th day of July, 1976.

For the Nuclear Regulatory Commission.

JACK WETMORE,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-21259 Filed 7-23-76;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Provisional Operating License No. DPR-21 issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1, located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

This amendment will (1) clarify the manner in which Millstone Unit No. 1 will reduce power starting at a core average burn-up of 1800 MWD/T prior to the end of fuel Cycle 4 and (2) provide uniform remedial action requirements in the form of Limiting Conditions for operation in the event that a value for Maximum Average Planar Linear Heat Generation Rate (MAPLHGR), Linear Heat Generation Rate (LHGR), or Minimum Critical Power Ratio (MCPR) is exceeded.

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 Ch. 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, negative declaration or 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 June 7 and June 16, 1976, (2) Amendment No. 28 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of July, 1976.

For the Nuclear Regulatory Commission.

JAMES J. SHEA,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-21260 Filed 7-23-76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.52, Revision 1, "Design, Testing, and Maintenance Criteria for Engineered-Safety-Feature Atmosphere Cleanup System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants," presents methods acceptable to the NRC staff for implementing the Commission's regulations with regard to the design, testing, and maintenance criteria for air filtration and adsorption units of atmosphere cleanup systems in light-water-cooled nuclear power plants. This guide applies to engineered-safety-feature atmosphere cleanup systems designed to mitigate the consequences of postulated accidents.

This guide was extensively revised as a result of comments from the public and additional staff review; consequently, it is being reissued for public comment.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.52, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by September 24, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 15th day of July 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-21262 Filed 7-23-76;8:45 am]

[Dockets Nos. 50-266, 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER 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. 10 and 12 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of their date of issuance.

The amendments will revise the provisions in the Technical Specifications for primary to secondary leak rate limits and would add steam generator tube surveillance requirements to the Technical Specifications.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on November 4, 1975 (40 FR 1247). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

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 statement, negative declaration or 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 applications for amendments dated August 14, 1974 and August 30, 1975, (2) Amendment No. 10 to License No. DPR-24, (3) Amendment No. 12 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wisconsin 54220.

A copy of items (2), (3) and (4) 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 12th day of July 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-21261 Filed 7-23-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, NUCLEAR REGULATORY COMMISSION

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 12-14, 1976, in Room 1046,[1] 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, AUGUST 12, 1976

8:30 a.m. to 9:45 a.m.: Executive Session (Closed).—The Committee will meet in closed executive session to exchange and discuss the personal opinions of individual members leading to the formulation of advice and recommendations regarding candidates for ACRS membership, procedures for conduct of ACRS meetings and related records, and proposed procedures for ACRS discussions with representatives of foreign governments. The Committee will also discuss the individual opinions and recommendations of ACRS members and consultants who may be present regarding proposed operation of the North Anna Power Station Units 1 & 2.

9:45 a.m. to 12:45 p.m. and 1:45 p.m. to 2:15 p.m.: North Anna Power Station Units 1 and 2 (Open).—The Committee will meet with representatives of the applicants and the NRC Staff to hear presentations and hold discussions regarding the request for an Operating License for this facility. Portions of this session will be closed if required to discuss proprietary information related to the design, construction or operation of these units. Closed portions will also be held if necessary to discuss security provisions for this facility and for Committee deliberative sessions.

2:15 p.m. to 2:45 p.m.: Executive Session (Closed).—The Committee will discuss the individual opinions and recommendations of ACRS members and consultants who may be present regarding the request for Preliminary Design Approval for the SWESSAR-Pl/RESAR-3S Standard Safety Analysis Report.

2:45 p.m. to 4:15 p.m.: SWESSAR-Pl/RESAR-3S (Open).—The Committee will hear presentations and hold discussions regarding the request for Preliminary Design Approval for this standardized type of nuclear facility. Portions of this session will be closed if required to discuss proprietary material related to this type facility. Closed sessions will also be held if needed to discuss security arrangements for this type facility and for Committee deliberative sessions.

4:15 p.m. to 6:30 p.m.: Executive Session (Closed).—The Committee will meet in closed session to exchange personal opinions and recommendations of ACRS members leading to the formulation of advice and recomemndations related to the Subcommittee evaluation of proposed Regulatory Guides and various aspects of NRC policy and practices including backfitting of nuclear plants and comprehensive, periodic review of nuclear facilities.

FRIDAY, AUGUST 13, 1976

8:30 a.m. to 9:15 a.m.: Executive Session (Closed).—The Committee will meet with the Executive Director for Operations to discuss NRC Staff practices and policies regarding internal staff consideration of backfitting of nuclear facilities and periodic, comprehensive review of nuclear facilities.

9:15 a.m. to 11:45 a.m.: Meeting with NRC Staff (Open).—The Committee will meet with members of the NRC Staff to hear presentations and to discuss reactor operating experience and licensing actions, resolution of generic items related to light-water reactors and the future schedule for ACRS activities.

11:45 a.m. to 12:15 p.m.: Executive Session (Closed).—The Committee will exchange and discuss the personal opin-

[1] The meeting of the ACRS and the Nuclear Regulatory Commission on Friday, August 13, 1976, will be held in Room 1115.

ions and recommendations of members and consultants who may be present related to the request for use of a modified core in the Shippingport Atomic Power Station.

1:15 p.m. to 2:15 p.m.: Meeting of ACRS and the Nuclear Regulatory Commission.—This meeting will include discussion of the following items:

(1) Status of ACRS activities regarding evaluation of generic matters requested by the Nuclear Regulatory Commission. This portion of the meeting will be open to members of the public and will be held in Room 1115.

(2) Proposed procedures and practices of the Commission and the ACRS, including procedures for the conduct of ACRS meetings and the handling of ACRS records. Since this portion of the meeting will deal solely with internal practices of these bodies, the meeting will be closed to members of the public.

2:15 p.m. to 5:15 p.m.: Shippingport Atomic Power Station (Open).—The Committee will hear presentations and hold discussions with representatives of the NRC Staff, the Division of Naval Reactors, ERDA, and their contractors related to proposed operation of the light water breeder reactor core in this facility. Portions of this session will be closed if necessary to discuss proprietary information related to this facility. Closed portions will also be held if required to discuss security arrangements for this facility and for Committee deliberative sessions.

5:15 p.m. to 6:30 p.m.: Executive Session (Closed).—The Committee will meet in closed executive session to exchange and discuss the personal opinions and recommendations of individual members leading to the formulation of advice and recommendations regarding a proposed ACRS report on the hypothetical core disruptive accident for LMFBR's.

SATURDAY, AUGUST 14, 1976

8:30 a.m. to 4 p.m.: Executive Session (Closed).—The Committee will meet in closed executive session to exchange and discuss personal opinions and recommendations leading to the formulation of advice with respect to the items considered at this meeting. Proposed ACRS activities and reports on generic matters such as radioactive waste management and underground siting of nuclear plants will also be discussed. The Committee will also exchange and discuss personal opinions and recommendations of individual members regarding prospective members, ACRS Committee procedures, and conduct of ACRS activities.

I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)), and to preclude unwarranted invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliverative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion 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.

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 August 5, 1976, 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:

SHIPPINGPORT ATOMIC POWER STATION

B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

NORTH ANNA POWER STATION

1. Louisa County Courthouse, Office of the County Administrator, Board of Supervisors, Louisa, VA 23093.

2. Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, VA 22901.

(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 August 11, 1976, to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 a.m. and 5 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 August 11, 1976.

(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 portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. 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, DC, on or after November 12, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-21763 Filed 7-23-76;9:01 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE NORTH ANNA POWER STATION, UNITS 1 AND 2

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the North Anna Power Station, Units 1 and 2 will hold a meeting on August 11, 1976 in Room 1046, 1717 H Street, NW., Washington, DC 20555. The purpose of this meeting

is to continue the ACRS review of the application of the Virginia Electric and Power Company for a license to operate Units 1 and 2.

The agenda for subject meeting shall be as follows:

Wednesday, August 11, 1976, 8:30 a.m.—The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to the proposed operation of the nuclear unit.

9 a.m. until the conclusion of business.—The Subcommittee will meet in open session to hear presentations by representatives of the NRC Staff, the Virginia Electric and Power Company, and their consultants, and to hold discussions with these groups pertinent to this review.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequatley covered. During the session Subcommittee members and consultants will discuss their final opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee will meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information, particularly with regard to specific features of the plant design and plans related to plant security.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee 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.

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 Subcommittee 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 sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 4, 1976 to Mr. R. Muller, ACRS, NRC, Washington, D.C. 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 NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555; at the Louisa County Courthouse, Office of the County Administrator, Board of Supervisors, Louisa, VA 23093; and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, VA 22901.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 10, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1413, Attn: Mr. R. Muller) between 8:15 a.m. and 5 p.m., e.s.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct 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 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 three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the 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 Mr. R. Muller of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 18, 1976 at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555, at the Louisa County Courthouse, Office of the County Administrator, Board of Supervisory, Louisa, VA 23093, and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, VA 22901.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 after November 11, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-21762 Filed 7-23-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Guides will hold a meeting on August 11, 1976 in Room 1062, 1717 H Street, NW., Washington, D.C. 20555. This meeting will have both open and closed sessions.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, August 11, 1976, 9 a.m. until about 10 a.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Revision 1 to Regulatory Guide 1.97, "Instrumentation for Light Water Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident."

(2) Revision 1 to Regulatory Guide 1.114, "Guidance on Being Operator at the Controls of A Nuclear Power Plant."

In connection with the above agenda items, the Subcommittee may hold one or more Executive Sessions, not open to the public, at approximately 8:30 a.m. and 10 a.m. to consider matters related to the above reviews. These sessions will involve an exchange of opinions and discussions of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

After the above portion of the meeting is concluded, the Subcommittee will meet in closed session with the NRC Staff and any consultants at about 10:00 a.m. until the close of business to discuss working

papers on Regulatory Guide 1.XX, "Acceptable Model and Related Statistical Methods for Analysis of Fuel Densification."

This portion of the meeting may include Executive Sessions both before and after the closed session with the NRC Staff. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process and that other closed sessions will be held to discuss and exchange views on working papers (5 U.S.C. 552(b)(5)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee 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.

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 Regulatory Guides 1.97 and 1.114 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 4, 1976, to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 10, 1976 to the Office of the Excutive Director of the Committee (telephone 202-634-1374, Attn: Mr. Gary R. Quittschreiber) between 8:15 a.m. and 5 p.m., e.s.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct 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) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 18, 1976 at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 after November 22, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-21761 Filed 7-23-76;9:01 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON FIRE PROTECTION

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Fire Protection will hold a meeting on August 11, 1976, in Room 1146, 1717 H St., NW., Washington, DC 20555. The purpose of this meeting will be to continue the review of Regulatory Guide 1.120, "Fire Protection Guidelines for Nuclear Power Plants."

The agenda for the subject meeting shall be as follows:

Wednesday, August 11, 1976, 11 a.m.—Members of the Working Group will meet in closed Executive Session with any of their consultants who may be present, to explore their preliminary opinions regarding matters which should be considered during the open session so that the Working Group can prepare recommendations to the NRC Staff.

11:30 a.m. until conclusion of business.—The Working Group will meet in open session to discuss with representatives of the NRC Staff and their consultants, if any, the proposed Regulatory Guide on Fire Protection.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered. During this session, Working Group members and consultants will discuss their opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and representatives from other Government agencies and the nuclear industry matters involving proprietary information, particularly with regard to specific features of plant designs.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)) and to protect proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group 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.

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 Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 4, 1976 to Mr. R. L. Wright, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 10, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Mr. Robert L. Wright) between 8:15 a.m. and 5 p.m., e.d.t.

(d) Persons with agreements or orders permitting access to proprietary 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 three working days prior

to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the 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 Mr. Robert L. Wright of the ACRS Office, prior to the beginning of the meeting.

(e) Questions may be propounded only by members of the Working Group and its consultants.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct 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.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 18, 1976, at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555 after November 11, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-21759 Filed 7-23-76;9:01 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON PEAKING FACTORS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Peaking Factors will hold a meeting on August 10, 1976 in Room 1046, 1717 H. Street, NW., Washington, D.C. 20555. This is the fourth of a series of meetings to review current methods of measuring power distribution in light-water power reactors whose cores are fabricated by the various reactor vendors. This meeting will be used to discuss power distribution in reactors whose cores have been fabricated by the General Electric Company.

The agenda for the subject meeting shall be as follows:

Tuesday, August 10, 1976, 8:30 a.m.— Members of the Working Group will meet in closed Executive Session, with any of their consultants who may be present, to explore their preliminary opinions regarding matters which should be considered during the open session so that the Working Group can prepare a report and recommendations to the full Committee.

9 a.m. until conclusion of business.— The Working Group will meet in open session to discuss with representatives of the NRC Staff and the General Electric Company current methods of measuring power distribution in nuclear reactor cores built by the General Electric Company.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered. During this session, Working Group members and consultants will discuss their opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and representatives from other Government agencies and the nuclear industry matters involving proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)) and to protect proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group 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.

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 may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 3, 1976, to Mr. T. G. McCreless, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 9, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5 p.m., e.d.t.

(d) Persons with agreements or orders permitting access to proprietary 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 three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the 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 Mr. T. G. McCreless of the ACRS Office, prior to the beginning of the meeting.

(e) Questions may be propounded only by members of the Working Group and its consultants.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct 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.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after August 17, 1976 at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555 after November 10, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-21760 Filed 7-23-76;9:01 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12625; File No. SR-CBOE-76-13]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; 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 July 1, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

ITEM 1. TEXT OF PROPOSED RULE CHANGES

Deleted language is in brackets []. New language is in italics.

CHAPTER III—MEMBERSHIP PUBLIC SECURITIES BUSINESS

Rule 3.1(a) Every individual member or member organization shall have as the principal purpose of its membership the conduct of a public securities business.

(b) A member shall be deemed to have such a purpose if and so long as

(1) The member has qualified and acts in respect of its business on the Exchange in one or more of the following capacities: (i) A member approved to transact business with non-affiliated public customers in accordance with Rule 9.1 or to clear Exchange transactions of other members in accordance with the Rules of the Clearing Corporation; (ii) a Market-Maker as defined in Rule 8.1; (iii) a Floor Broker as defined in Rule 6.70; (iv) a Board Broker as defined in Rule 7.1; and

(2) *all transactions are in compliance with Section 11(a) of the Securities Exchange Act of 1934 as amended and the rules and regulations adopted thereunder.* [at least 80 percent of the value of exchange securities transactions effected by it during the preceding six calendar months, whether as a broker or dealer, if effected for or with persons other than affiliated persons or is effected pursuant to transactions of the kind described below or transactions which are otherwise counted toward satisfaction of a public securities business requirement under the rules of the exchange on which such transactions are effected: (i) any transaction by a registered specialist in a security in which he is so registered, including any transaction by a registered Market-Maker entered into in accordance with Rule 8.7; (ii) any transaction for the account of an odd-lot dealer in a security in which he is so registered; (iii) any transaction by a block positioner acting as such, except where an affiliated person is a party to the transaction; (iv) any stabilizing transaction effected in compliance with Rule 10b-7 under the Securities Exchange Act of 1934 to facilitate a distribution of a security in which the member effecting such transaction is participating; (v) any bona fide arbitrage transaction, including hedging between an equity security and a security entitling the holder to acquire such equity security, or any risk arbitrage transaction in connection with a merger, acquisition, tender offer or similar transaction involving a recapitalization; (vi) any transaction effected in conformity with a plan designated to eliminate floor trading activities which are not beneficial to the market, which plan has been adopted by the Exchange and declared effective by the Securities and Exchange Commision; (vii) any transaction made with the prior approval of a floor official to permit the member effecting such transaction to contribute to the maintenance of a fair and orderly market, or any purchase or sale to reverse any such transaction; or (viii) any transaction to offset a transaction made in error.]

[(c) For purposes of this rule, an "affiliated person" of a member shall include (i) any person directly or indirectly controlling, controlled by or under common control with such member, whether by contractual arrangement or otherwise, provided that the right to exercise investment discretion with respect to an account, without more, shall not constitute control; (ii) any principal officer, principal shareholder or partner of such member or any person in whose account such person has a direct or material indirect beneficial interest; and (iii) any investment company of which such member, or any person controlling, controlled by or under common control with such member, is an investment adviser within the meaning of the Investment Company Act of 1940. A person shall be presumed to control another person, for purposes of this rule, if such person has a right to participate to the extent of more than 25 percent in the profits of such other person or own beneficially directly or indirectly, more than 25 percent of the outstanding voting securities of such person. For purposes of this Rule, the principal officers of a member include the president, executive vice-president, treasurer, secretary or any other person performing a similar function for an incorporated organization. A principal stockholder or partner of a member is any natural person actively engaged in the business of the member and beneficially owning, directly or indirectly, more than five percent of the outstanding voting securities of a member organization or having the right to participate to the extent of more than five percent in the profits of such member.]

(c) [(d)] (No change).

Qualifications of Individual Members

Rule 3.2. *Individual* memberships may be owned by [individuals] *natural persons who are* at least 21 years of age *and are registered as brokers or dealers pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, or are associated with registered brokers or dealers, and who meet the qualifications for membership in accordance with these Rules* and are citizens of the United States or such other countries as the Board shall approve. Every individual member [shall be of good character and financial responsibility and] shall be actively engaged in the securities or commodities business and devote the major portion of his time thereto. An individual member *and applicant for membership* shall be deemed to meet the requirements of paragraph (b) of Rule 3.1 if, *as either a general partner or an executive officer of a member organization,* his membership is registered for, or he is a nominee of, a member organization which is qualified to act in one or more of the capacities set forth in paragraph (b) of Rule 3.1.

Qualifications of Member Organizations

Rule 3.3. Memberships may be owned by or registered for corporations organized under the laws of one of the states of the United States or under other laws as the Board shall approve, or partnerships with at least two general partners *that are brokers or dealers registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, and that meet the qualifications for membership in accordance with these Rules.*

Every such organization shall be actively engaged in the securities or commodities business, [and may also engage in such other businesses as the Exchange may approve] and all of its general partners and executive officers, and the majority of its directors, shall be actively engaged in the business of the organization. Every member organization shall, with respect to each membership owned by it, designate an individual nominee who shall represent the organization with respect to such membership in all matters relating to the exchange. At least one of the general partners or executive officers of every member organization shall be either an individual member of a nominee of the organization. A member organization shall be deemed to meet the requirements of paragraph (b) of Rule 3.1 if an individual member registering his membership for the organization, or a nominee of the organiaztion, is qualified to act in one or more of the capacities set forth in paragraph (b) of Rule 3.1. A member organization shall not own or have registered a greater number of memberships than is reasonably necessary for it to carry on its Exchange activities.

Denial of and Conditions to Membership

Rule 3.4(a) The Exchange may deny membership to any registered broker or dealer or natural person associated with a registered broker or dealer and bar from becoming associated with a member organization any person who is subject to a statutory disqualification, as that term is defined in the Securities Exchange Act of 1934, as amended or is subject to a sanction imposed by the Commodity Futures Trading Commission for engaging in conduct violative of the

Commodity Futures Trading Act of 1974, which conduct is comparable to that which would result in a statutory disqualification, as described above.

(b) *The Exchange may deny membership to, or condition the membership of, a registered broker or dealer if: (1) such broker or dealer has previously violated, or is unable to satisfactorily demonstate its present and future capacity to adhere to, applicable provisions of (i) Sections 15 and 17 of the Securities Exchange Act of 1934, as amended, and all rules and regulations promulgated thereunder, (ii) Sections 4g and 4n of the Commodity Futures Trading Act of 1974 and all rules and regulations promulgated thereunder, or (iii) those rules relating to the maintenance of books and records of the Exchange and those other self-regulatory organizations of which such broker or dealer is or was a member; or (2) such broker or dealer (i) is subject to any unsatisfied liens or judgments of a material nature, (ii) has been or is the successor to an entity which has been subject to any bankruptcy proceeding, receivership, or arrangement for the benefit of creditors within the past three years, (iii) has engaged in an estabilshed pattern of failure to pay just debts, or (iv) is subject, in the case of a broker or dealer which is exempt from the application of Rule 15c3–1 of the rules and regulations under the Securities Exchange Act of 1934, as amended, to unsubordinated creditor claims incurred in the course of prior business dealings which are greater than 50% of the net assets of such broker or dealer.*

(c) *The Exchange may deny membership to, or condition the membership of, a registered broker or dealer, and may bar a natural person from becoming a member or associated with a member, or condition the membership of a natural person or association of a natural person with a member, if such broker, dealer or natural person (1) does not successfully complete those written proficiency examinations required by the Exchange in order to assess the applicant's capability to function in one or more of the capacities specified in paragraph (b) of Rule 3.1; (2) does not meet such other standards of training, experience, and competence as may be established by the Exchange; or (3) has engaged and there is a reasonable likelihood he will again engage in acts or practices inconsistent with just and equitable principles of trade. Applicants who fail a required examination may not take the examination a second time until thirty days have elapsed after the first attempt. A sixty day waiting period is required for any who fail in their second attempt and a 120 day waiting period is required before each additional attempt if the examination is failed a third time. The Board may waive a required examination for any applicant if, within two years of the date such applicant applied to the Exchange for membership, such applicant has successfully completed a comparable examination administered by a self-regulatory body or the Securities and Exchange Commission.*

PERSONS ASSOCIATED WITH MEMBER ORGANIZATIONS

Rule 3.5(a) *Persons associated with member organizations shall be bound by the Constitution and Rules of the Exchange and of the Clearing Corporation. The Exchange may bar a person from becoming associated with a member organization if such person does not agree in writing, on a form prescribed by the Exchange, to furnish the Exchange with information with respect to such person's relationship and dealings with the member organization as may be required by the Exchange, and to permit the examination of its books and records by the Exchange to verify the accuracy of any information so supplied.*

(b) *Each member organization shall file with the Exchange and keep current a list and descriptive identification of those persons associated with the member organization who are its executive officers, directors, principal shareholders, general partners and limited partners, and such persons, unless registered by the Exchange or by another national securities exchange or national securities association on behalf of the same member organization as members, allied members or principals, shall file a personal data sheet on a form provided by the Exchange. Neither a member organization nor such persons associated with a member organization shall be associated with or have any financial interest in any other organization engaged in the securities business unless such association or financial interest has been disclosed to and approved by the Exchange.*

(c) *A claim of any person associated with a member organization described in the first sentence of paragraph (b) of this Rule against such organization shall be subordinate in right of payment of customers and other members. No general partner, limited partner or principal shareholder of a member organization shall, without prior written consent of the Exchange, sell, assign, transfer or in any way encumber his or its interest in such organization.*

[Approved Persons of Member Organizations]

[Rule 3.4. Every member organization shall file with the Exchange and keep current a list and descriptive identification of all of its executive officers, directors, principal shareholders and general partners, all of whom must be approved by the Membership Committee as being of good character and financial responsibility; persons so approved are herein designated "Approved Persons." In connection with their approval, such persons, unless registered as members, allied members or principals, or otherwise individually approved by, another national securities exchange or a national securities association on behalf of the same member organization, shall file a personal data sheet on a form provided by the Exchange. Approved Persons who are not themselves members shall be bound by the Constitution and Rules of the Exchange. No member organization and no Approved Person of a member organization shall be associated with or have any financial interest in any other organization engaged in the securities business unless such association or financial interest has been disclosed to and approved by the Exchange.

A claim of any Approved Person of a member organization against such organization shall be subordinate in right of payment to the claims of customers and other members. No general partner or principal shareholder of a member organization shall, without the prior written consent of the Exchange, sell, assign, transfer or in any way encumber his or its interest in such organization.]

Approval of Documents of Member Organizations

Rule [3.5.] *3.6.* (No change)

Parents of Member Organizations

Rule [3.6.] *3.7.* (No change)

Application Procedures; Approval

Rule [3.7.] *3.8.* Every individual applying to become the owner of a membership, every individual designated as a nominee of a member organization, every organization applying to become the owner of a membership and every organization for which owner of an individual membership is to be registered shall complete an application on the appropriate form prescribed by the Exchange and shall file it with the Secretary of the Exchange. All applications shall be filed together with such application fees and such additional documents and agreements as may be required by the Rules or the applicable form.

Within 15 days following receipt of an application for membership, the Secretary shall mail to all members the name of the applicant and the name of the nominee of an applicant organization. A notice containing the same information shall be posted by the Secretary on the bulletin board on the floor of the Exchange.

Before an application is considered by the Membership Committee, every individual applicant and, in the case of applicant organizations, all persons *associated with the member organization* [subject to approval under Rule 3.4], shall be investigated by the Membership Department and the applicant shall be approved to perform in at least one of the recognized capacities of a member as stated in paragraph (b) of Rule 3.1. Individual applicants may be required to appear in person before the Membership Committee or a subcommittee thereof. After the notice of application has been posted for at least ten days, the Membership Committee shall vote on the approval or disapproval of the application. *The Membership Committee shall approve an application for membership if it finds that the applicant meets all of the conditions of membership. The Membership Committee shall disapprove an application for membership if it does not make such a finding or if it finds that the application were approved, the member would be subject to suspension or expulsion under the provisions of these Rules.*

Approval of an application requires a vote of a majority of the members of the Membership Committee then in office, and any application not receiving such approval shall be deemed disapproved. Written notice of the action of the Membership Committee specifying, in the case of disapproval of an application, the grounds therefore shall be given to the Secretary of the Exchange, who shall so notify the applicant. When an application involves the purchase of a membership, if the approved applicant fails to acquire and pay for a membership in accordance with Rule [3.12] *3.13*, the approval shall be withdrawn.

Disapproval of Membership Application

Rule [3.8.] *3.9*. In the event that an application for membership is disapproved by the Membership Committee, the applicant shall have an opportunity to be heard upon the specific grounds for the disapproval, in accordance with the provisions of Chapter XIX of the Rules. A disapproved applicant desiring to be heard shall so notify the Secretary, in writing, within [five] fifteen days of the applicant's receipt of notice of such disapproval to file with the Secretary a petition for [the Board to] review *of* the action of the Membership Committee. [in accordance with the provisions of Chapter XIX of the Rules] [The petition shall be accompanied by a statement of the applicant indicating why, in its opinion, the action of the Membership Committee is in error.]

Effectiveness of Membership Applications

Rule [3.9.] *3.10*. (No change)

Notice of Membership Effectiveness

Rule [3.10.] *3.11*. With respect to each membership that becomes effective in accordance with Rule [3.9] *3.10*, the Secretary shall promptly mail a notice thereof to all members and shall post a copy of such notice on the bulletin board of the Exchange

Ownership of Membership

Rule [3.11.] *3.12*. (~~No~~ change)

Purchase of Membership

Rule [3.12.] *3.13*. (a) Newly Issued Memberships. Newly issued memberships may be purchased by approved applicants, through the office of the Secretary, when and as made available by the Exchange. Memberships purchased under this Paragraph (a) shall be acquired and paid for within 10 days of the applicant's receipt of the Notice of Approval issued pursuant to Rule [3.7.] *3.8*.

(b) Outstanding Memberships. Outstanding transferable memberships with respect to which notices of sale have been filed under Rule 3.14 may be purchased by approved applicants, through the office of the Secretary, in accordance with the *following procedures*. [terms of the notices.] *All bids from approved applicants must be submitted in writing to the Secretary of the Exchange. The Secretary will file all bids according to the highest price and the earliest submission date. The highest bid with the earliest filing date will be posted on the Exchange bulletin board. All bids remain in effect until written revocation thereof is received by the Secretary. When a bid filed in accordance with the procedures of this Paragraph* (b) *is matched with an offer filed in accordance with the provisions of Rule 3.14*(a), *then a binding sale will occur*. Memberships purchased under this Paragraph (b) shall be acquired and paid for within 60 days of the applicant's receipt of the Notice of Approval issued pursuant to Rule [3.7.] *3.8*.

(c) Confirmation of Purchases; Payment. An applicant purchasing a membership under Paragraph (a) or (b) of this Rule shall sign a written confirmation of the purchase which shall be filed with the Secretary of the Exchange. Not later than the second business day following the date of signing the confirmation of purchase, the applicant shall deliver to the Secretary a certified or cashier's check made payable to the Exchange covering the purchase price of the membership and any fees required to be paid pursuant to the provisions of Rule [3.9.] *3.10*.

Sale and Transfer of Membership —

Rule [3.13.] *3.14*. (a) Sale by Owner. The owner of a transferable membership who desires to sell his membership [shall file a written notice with the Secretary of the Exchange. Such notice shall specify the price at which the membership is to be sold, and,] *shall submit a written offer of sale to the Secretary of the Exchange. The Secretary will file all such offers according to the lowest price and the earliest submission date. The lowest offer with the earliest filing date will be posted on the Exchange bulletin board. All offers remain in effect until written revocation thereof is received by the Secretary. When an offer filed in accordance with this Paragraph* (a) *is matched with a bid filed in accordance with the provisions of Rule 3.13*(b) *then a binding sale will occur*. In the case of a proposed transfer of all of the memberships of a member organization, *the member organization's written offer* shall include a representation that the customer's accounts, if any, held by such member have been transferred to other members. A member who has filed *an offer of sale* [a notice of transfer] shall, so long as he remains in good standing and until a confirmation of the purchase of his membership has been filed with the Secretary, continue to have all of the rights and privileges, and shall remain subject to all of the duties and obligations, of membership.

(b) Sale by Exchange. (No change)

(c) *Transfer by Owner. The owner of a transferable membership may transfer such membership without adhering to the provisions contained in Rule 3.13*(b) *and 3.14*(a) *so long as one of the following qualifying circumstances is applicable to and descriptive of the desired transfer:*

(1) The owner of a transferable membership (whether or not such membership is registered for a member organization) requests the transfer of such membership to his spouse, brother, sister, parent, child, grandparent or grandchild, provided the transferee is approved for membership in accordance with the Rules of the Exchange;

(2) The owner of a transferable membership requests the transfer of such membership to an organization which has succeeded, through statutory merger, exchange of stock or acquisition of assets to the business of the transferor, provided the transferee organization is approved for membership in accordance with the Rules of the Exchange;

(3) The owner of a transferable membership requests the transfer of such membership to an organization in which the transferee will maintain a substantial interest provided the transferee organization has been approved in accordance with the Rules of the Exchange; and

(4) The owner of a transferable membership requests the transfer of such membership to an individual or organization as part or all of a liquidation distribution of the transferor, provided the transferee is approved for membership in accordance with the Rules of the Exchange.

Notwithstanding the foregoing, transfers pursuant to this Paragraph (c) *shall not become final until there has been deposited with the Secretary of the Exchange an amount equal to the weighted average of all membership sales that took place during the ninety days immediately preceding the date on which the transferee is approved for membership* (or *if no sales took place during such ninety day period, then an amount equal to the price at which the last prior sale took place*) *or an acceptable Letter of Guarantee from a clearing member for such amount, which amount shall be applied as though it were proceeds of the sale of a membership for the purposes of Rule 3.15 hereof; provided however that where the owner of a transferable membership is subject to an effective performance obligation agreement with the Exchange, but has received Exchange approval to transfer such membership, the amount to be deposited with the Secretary of the Exchange or represented by an acceptable Letter of Guarantee from a clearing member as the final condition to be met prior to the effectiveness of the transfer shall be the amount of such member's initial purchase price which shall be held for the purposes of Rule 3.15, as described above.*

[(c) Transfer by Owner. The owner of a transferable membership whose membership is registered for a member organization may transfer such membership to another individual who has been approved for membership in accordance with the Rules and whose application to register his membership for such member organization has been approved by the Exchange. The owner of a transferable membership (whether or not such membership is registered for a member organization) may transfer such membership to his spouse or to a parent, child, grandparent, or grand-

child, provided the transferee is approved for membership in accordance with the Rules of the Exchange. Notwithstanding the foregoing, transfers pursuant to this Paragraph (c) shall not become final until there has been deposited with the Secretary of the Exchange an amount equal to the weighted average of all membership sales that took place during the ninety days immediately preceding the date on which the transfree is approved for membership (or if no sales took place during such ninety-day period, then an amount epual to the price at which the past prior sale took place), which amount shall be applied as though it were the proceeds of the sale of such membership for the purposes of Rule 3.14 hereof.]

Proceeds from Sale of Membership

Rule [3.14.] *3.15.* Upon any sale of a membership pursuant to Rule 3.14, the Secretary shall hold the proceeds of the sale for a period of 20 days from the date of posting the Notice of Effectiveness with respect to the sale, during which period claims against the proceeds may be filed by members for payment in accordance with this Rule. As soon as practicable following such 20 day period, the proceeds shall be applied by the Secretary to the following purposes and in the following order of priority:

(a) The payment of such sums as the Board shall determine are or may become due to the Exchange from the member or *from the member organization on whose behalf the membership was registered.*

(b) (No change)

(c) The Payment of such sums as the Board shall determine are due by such member or *by the member organization on whose behalf the membership was registered* to other members *in payment of claims made by such other members* [as a result of losses] arising directly [from the closing out under the Constitution and Rules of positions resulting] *as a result of* Exchange transactions. [or contracts resulting from the exercise of option contracts.] *Included in claims entitled to priority under this paragraph (c) shall be claims made by members on account of loans to other members made or guaranteed by the claimant where the proceeds of the loan were credited to the market-maker account or combined market-maker account of the borrowing member.* There shall not be allowed as entitled to priority in payment under this paragraph any claim otherwise allowable with respect to which the claimant, in the opinion of the Board, did not take promptly all other proper and reasonable steps under the Constitution and Rules to protect his or its rights and to enforce such claim. No claim asserted under this paragraph shall be considered by the Board nor shall any member asserting such a claim have any rights thereunder, unless a written statement of such claim shall have been filed with the Secretary of the Exchange prior to the expiration of the 20 day period referred to in the first paragraph of this Rule. If the proceeds of the sale of a membership are insufficient to pay in full all claims allowed under this paragraph, payment shall be made pro rata upon all such allowed claims.

(d) (No change)

(e) (No change)

(f) (No change)

(g) No recognition or effect [need] *shall* be given by the Exchange to any agreement or to any instrument entered into or executed by a member or his legal representatives which purports to transfer or assign interest of such member in his or its membership, or in the proceeds or any part thereof, or which purports to create any lien or other right with respect thereto, or which purports in any manner to provide for the disposition of such proceeds to a creditor of such members, nor shall payment of such proceeds be made by the Exchange on the order of such member. [except in its sole discretion, and then only upon receipt of a release or releases satisfactory to the Exchange.]

[* * * Interpretations and Policies:

.01 The priority of paragraph (c) of Rule 3.14 shall apply to claims made by members in connection with loans to other members made or guaranteed by the claimant where the proceeds of the loan were credited to the market-maker account of combined market-maker account of the borrowing member.

Special Provisions Regarding
[Governing Non-Transferable]

Memberships

Rule [3.15.] *3.16.* (a) Surrender of *Non-transferable* Membership. (No change)

(b) Proceeds from Sale of CBT Membership. Upon any sale by the owner of a non-transferable membership of its membership in the Board of Trade of the City of Chicago, the proceeds of such sale remaining after payment of such claims as may be made in accordance with the Rules of said Board of Trade shall be held by the member or its legal representative for application in accordance with the purposes and priorities established pursuant to Rule [3.14.] *3.15.*

(c) *Proceeds from Sale of Memberships Subject To Performance Obligation Agreements. In the event the Exchange repurchases a membership subject to a performance obligation agreement which requires that the Exchange shall have the right to repurchase the membership if the former member ceases to fulfill the terms of such agreement, the amount paid by the Exchange for the repurchase of the membership shall be held by the Exchange for application in accordance with Rule 3.15. The Exchange may then reoffer the membership to an approved applicant at such price and under such conditions as the Exchange may determine. The purchase price paid to the Exchange for a membership so reoffered shall not be subject to Rule 3.15, but shall be retained in the general funds of the Exchange.*

Death, Withdrawal and Resignation

Rule [3.16.] *3.17.* (No change)

Dissolution and Liquidation of Member Organizations

Rule [3.17.] *3.18.* (No change)

Exchange's Statement of Basis and Purpose

The purpose of amending Rule 3.1 was to eliminate the rule's requirement that 80% of a member's securities transactions be in a certain category. Furthermore the proposed amendment would eliminate the definition of "affiliated person" since that term is now replaced by a definition in the Securities Exchange Act of 1934, as amended ("the Act").

The purpose of amending Rule 3.2 and 3.3 is to make such rules conform to the statutory requirement that the rules of the Exchange provide that any registered broker or dealer may become a member unless disqualified for specific reasons as permitted by the Act. With respect to Rule 3.2, additional language has been proposed to specify that the individual member who qualifies a member organization under Rule 3.1(b) be an executive officer or general partner. This proposed provision merely reflects the requirement already contained in Rule 3.3 with regard to member organizations.

The purpose of proposing new Rule 3.4 is to set forth the statutory grounds on which the Exchange may condition or deny an application for membership.

Old Rule 3.4 is proposed to be replaced by new Rule 3.5, which would eliminate the present concept of "approved person" and insert the new statutory concept of "persons associated with members." An additional provision of this revision was the insertion of certain reporting requirements by persons associated with members which are consistent with the Act.

The only purpose for the slight revisions to proposed new Rules 3.6, 3.7, 3.10, 3.11, 3.12, 3.17, and 3.18 was to reflect the renumbering required by the addition of proposed new Rule 3.4, as well as to insert the appropriate cross references to certain rules required by virtue of the herein referenced renumbering of rules.

The purpose behind the proposed revisions to Rule 3.8 was to specify in greater detail the procedures to be followed in approving or disapproving applications for memberships. In addition, it is proposed that as former Rule 3.7 it be renumbered as Rule 3.8.

The purpose of the proposed amendments to former Rule 3.8, renumbered as Rule 3.9, is to reflect the previously implemented amendments to Chapter XIX of the Exchange rules regarding the procedures for petitioning for review of a Membership Committee decision and the length of time within which such a petition may be filed.

The purpose of the amendments proposed to be made to former Rule 3.12, renumbered as Rule 3.13, is to clarify the procedures followed by the Secretary of the Exchange in connection with the purchase of newly issued and outstanding memberships.

The purpose of the proposed revisions to former Rule 3.13 renumbered as Rule 3.14, is to improve the procedures followed by a member who chooses to sell his membership in the open market. Furthermore, it is proposed that greater latitude be given to transfers of memberships between family members and between individuals and entities where a business relationship exists without the necessity of arranging for a sale of the membership to occur in the open market.

The purpose of the proposed amendments to former Rule 3.14, renumbered as Rule 3.15, is to clarify the application of such provisions to the sale of memberships registered on behalf of member firms. In addition the provisions of the interpretation to the old Rule 3.14 have been inserted into the body of the proposed rule. A further proposed change is that which would require that claims by any one other than a member made pursuant to the provisions of paragraph (c) of such rule not be recognized by the Exchange. Such a proposed change reflects the Exchange's desire not to become involved in money disputes between non-members or members against member as a result of circumstances which are unrelated to Exchange transactions.

The proposed amendments to former Rule 3.15, renumbered as Rule 3.16, are intended to revise the title to more accurately describe the provisions of the rule and to establish the procedure to be followed with respect to the disbursement of the proceeds from a membership which the Exchange first repurchases from a member subject to a performance obligation agreement, and thereafter sells in the open market.

In Securities Exchange Act of 1934, Release No. 12055, the Securities and Exchange Commission announced the rescission of Rule 19b–2 which required each national securities exchange to adopt a rule or rules which specified that members must have as the principal purpose of exchange membership the conduct of a public securities business. Furthermore, it was stated that such a purpose test would be met if a certain percentage of the transactions effected on that exchange were of specific types or with specified entities. As part of the Amendments to the Act in 1975, the present provisions of Section 11(a) were enacted. Therefore in view of the rescission of Rule 19b–2 and the enactment of Section 11(a) of the 1975 Amendments to the Act, the Exchange has herewith undertaken to revise its Rule 3.1 accordingly. In addition, since the statutorily defined term "person associated with a member" is viewed as replacing the term "affiliated person" as used in that rule, it is proposed to be deleted from Exchange Rule 3.1.

With respect to the proposed changes to Rule 3.2 and 3.3, Section 6(b)(2) and Section 6(c)(1) of the Act provide the statutory basis for such changes regarding who is eligible for Exchange membership.

The statutory basis for the proposed provisions of Rule 3.4 is found in Section 6(c)(2), 6(c)(3)(A), (B) and (C). Pursuant to such sections, the Exchange has proposed rules which will enable it to fairly and effectively deny or condition access to membership by brokers or dealers and persons associated with brokers or dealers under certain circumstances. During the process of articulating standards of conduct, experience, training, competence, financial responsibility, and operational capability for those brokers, dealers and associated persons, the Exchange took cognizance of the approximately 425 members of the Exchange which are also Chicago Board of Trade members. In that regard, it is the Exchange's position that it should be in a position to weigh into its decision-making process in extending membership on the Exchange those acts regarding an applicant which indicated that such applicant engaged in conduct violative of the Commodities Futures Trading Act of 1974 ("CFTA"), which conduct would be comparable to that defined in Section 3(a)(39) of the Act. In addition, as an indication of a broker's or dealer's operational capability, the Exchange should be able to consider, if the applicant is or was subject to the CFTA, whether such broker or dealer has previously violated or if unable to show its present and future capacity to adhere to the record keeping requirements of the CFTA. The Exchange is of the opinion that since many of its applicants are or were members of various commodities exchanges, the Exchange should be able to review such applicant's experience in complying with the CFTA to determine the gravity of their past offenses, if any, and to determine the reasonable likelihood of such offenses occurring in the future.

The proposed new provisions of Rule 3.5 dealing with persons associated with member organizations are premised upon Sections 6(c)(B) and (C) of the Act. Such sections refer to the types of obligations which an exchange may place upon persons associated with a member in connection with granting such persons membership status.

The statutory basis for the proposed revision in Rule 3.8 dealing with the procedures for membership application approval or disapproval is found in Section 6(b)(2) of the Act.

Section 6(b)(7) of the Act provides the basis for the change proposed to be made in Rule 3.9. The provisions of this rule make reference to the provisions of Chapter XIX of the Exchange's rules which set forth the procedures whereby actions of Exchange committees and departments which adversely affect members of the Exchange may be reviewed. Therefore, any registered broker or dealer whose application for membership is denied by the Membership Committee may seek review of that decision in accordance with the procedures established by Chapter XIX.

Section 6(b)(2) of the Act states the basis for the proposed clarification of the procedure to purchase and sell memberships on the Exchange, as is contained in Rules 3.13 and 3.14. The proposed expansion in the methods by which related individuals and entities may transfer Exchange memberships without requiring that a sale take place in the open market will facilitate access by brokers or dealers to the Exchange. Therefore the statutory section cited above provides the framework upon which the Exchange is seeking to fashion clearer and more equitable membership acquisition and transfer policies.

The portion of Sections 6(c)(3)(A) and 6(d)(3) of the Act regarding the financial responsibility of a broker or dealer provide the basis for the changes proposed to be made in Rule 3.15. Inasmuch as the organization on whose behalf a membership is registered by an individual is able to enter into Exchange transactions only by virtue of that registration, it is the Exchange's position that the proceeds from the sale of that individual membership should be used to offset the member organization's creditor claims which arose as a result of its Exchange transactions. In addition, with respect to the proposed change in paragraph (g), the Exchange believes its rules should provide for the greatest amount of safety to investors, other members, the Exchange, and the Options Clearing Corporation from members' inability to pay their debts, however, the Exchange does not believe it has an obligation to provide a method whereby a member's creditors, whose claims are premised upon some circumstance other than Exchange transactions, should use Rule 3.15 to attempt to satisfy such claims. Therefore, the Exchange proposes to delete the discretionary authority extended to the Board of Directors to entertain claims from persons whose claims arose otherwise than through the execution of Exchange transactions. Such deletion will in no way affect the safeguards which Rule 3.15 affords the public, the Exchange and its membership and the Options Clearing Corporation.

Inasmuch as Rule 3.15 provides for protection for the claims of the Exchange, the Options Clearing Corporation, and certain claims made by members, pursuant to paragraphs (a), (b) and (c) thereof respectively, by allowing such claims to be made against the proceeds of the sale of an Exchange membership sold in the open market, the proposed addition to Rule 3.16 provides the same safeguards where an Exchange membership is repurchased by the Exchange. Consequently, this proposed change has as its statutory basis the portions of Section 6(c)(3)(A) and Section 6(d)(3) of the Act dealing with broker or dealer financial responsibility as well as Section 6(b)(5) referring to the elimination of unfair discrimination between brokers or dealers in the Exchange's

rules. Since the proceeds due a member subject to an Exchange repurchase of his membership will be subject to the same provisions of Rule 3.15 as are the proceeds from the sale of memberships in the open market, the self-regulatory responsibilities reflected in the above sections of the Act will be satisfactorily addressed.

The Exchange has not solicited comments from members on this proposed rule change. The Exchange membership will be notified of this filing with the Securities and Exchange Commission and will thereafter be free to submit comments thereon to the Exchange Secretary.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before August 30, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 16, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Acting Secretary.

JULY 14, 1976.

[FR Doc.76-21542 Filed 7-23-76;8:45 am]

[File No. 81-220]

NATIONAL ALFALFA DEHYDRATING & MILLING CO.

Application; Opportunity for Hearing

JULY 13, 1976.

Notice is hereby given that National Alfalfa Dehydrating and Milling Company ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the provisions of section 15(d) of that Act.

Section 15(d) of the 1934 Act provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents and reports as may be required pursuant to section 13 of the 1934 Act in respect of a security registered pursuant to section 12 of the Act.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the provisions of section 15(d), if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities and nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public intest or the protection of investors.

The Applicant states, in part:

1. Applicant is a Delaware corporation, subject to the reporting provisions of section 15(d) of the 1934 Act.

2. On May 17, 1976 the Applicant became a wholly-owned subsidiary of Bass Brothers Enterprises, Inc. As a result, all of Applicant's outstanding securities are now owned by Bass.

In the absence of an exemption, Applicant would be subject to the periodic reporting requirements of section 15(d) of the 1934 Act through April 30, 1977.

The Applicant contends that there would be no useful purpose served by the filing of continued reports for the fiscal year ending April 30, 1977, in view of the fact it has but one stockholder.

For a more detailed statement of the information presented, all persons are referred to the Application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than August 9, 1976 may submit to the Commission in writing his views or any substantial facts bearing on this Application or the desirability of a hearing thereon. Any such communication or request should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the Application which he desires to controvert. At any time after that date, an order granting the Application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.76-21540 Filed 7-23-76;8:45 am]

PACIFIC STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges; Extension of the Time Period

JULY 15, 1976.

On May 28, 1976, the Pacific Stock Exchange, Inc. filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies set forth below, which securities are registered with the Commission pursuant to section 12 or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of section 12 of the Act.

American Express Company, Common stock, $.60 par value, 7-4834.
Connecticut General Insurance Corporation, Common stock, $2.50 par value, 7-4835.
Anheuser-Busch, Inc., Common stock, $1.00 par value, 7-4836.
Pennzoil Offshore Gas Operators, Class B common stock, $1.00 par value, 7-4837.
Tampax, Inc., Common stock, $.25 par value, 7-4838.

Notice of the application was given by publication in the FEDERAL REGISTER (41 FR 24786 (June 18, 1976)), and July 14, 1976 was designated as the final date for the receipt of any comment on the application or any request for a hearing pursuant to section 12(f)(2) of the Act. This is the first application submitted pursuant to section 12(f)(1)(C) and certain novel questions have been raised with respect to the application. In this regard, interested persons have requested that the Commission extend the foregoing deadline. The Commission believes such an extension is in the public interest and, accordingly, hereby extends the period for comment upon this application until July 26, 1976.

Upon receipt of a request, on or before July 26, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Acting Secretary.

[FR Doc.76-21541 Filed 7-23-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 99]

ASSIGNMENT OF HEARINGS

JULY 22, 1976.

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.

No. 36312, U.S. Energy Research and Development Administration v. The Akron, Canton & Youngstown Railroad Company, et al., No. 36313, Allied-General Nuclear Services, et al., v. The Akron, Canton & Youngstown Railroad Company, et al., No. 36330, GPU Service Corporation, et al. v. The Akron, Canton & Youngstown Railroad Company, et al., No. 36335 Commonwealth Edison Company et al. v. The Akron, Canton & Youngstown Railroad Company, et al., and No. 36336, General Electric Company v. The Akron, Canton & Youngstown Railroad Company, et al., now being assigned for October 19, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–C 9083, Burwell Ray Gallop, dba Gallop Bus Company, Twin City Coach Company, Inc., Superior Bus Service, Inc., dba Travelines United, and Stewart Tours, Inc., dba Stewart Tours—Investigation and Revocation of Certificate and License now being assigned October 5, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 125708 Sub 139, Thunderbird Motor Freight Lines, Inc., now being assigned November 1, 1976, at the Offices of the Interstate Commerce Commission, at Washington, D.C.

MC 140615 (Sub 6), Dairyland Transport, Inc. now being assigned September 27, 1976 (1 week) at St. Paul, Minnesota in a hearing room to be later designated.

AB 1 (Sub 19), Chicago and Northwestern Transportation Company Abandonment Between Stewartville, Olmstead County, Minnesota, and McIntire, Mitchell County, Iowa, all in Olmstead, Mower and Fillmore Counties, Minnesota and Howard and Mitchell Counties, Iowa now being assigned October 4, 1976 (3 das.) at Rochester, Minnesota in a hearing room to be later designated.

MC 119774 (Sub-No. 88), Eagle Trucking Co., now assigned July 26, 1976, at Dallas, Tex is canceled and application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–21583 Filed 7–23–76;8:45 am]

CONSOLIDATED RAIL CORP.

Petition

JULY 15, 1976.

Modification of outstanding order sought by ConRail so as to depart from prior prescribed divisional basis on pig lead over newly established route from Herculeneum, Mo., to Muncie, Ind.

Notice is hereby given that on May 27, 1976, a petition for authority to depart from the basis of revenue divisions prescribed in docket No. 29886, was filed by Consolidated Rail Corporation (ConRail).

The Missouri-Illinois Railroad Company (MI), Missouri Pacific Railroad Company (MP) ConRail have agreed to establish a new route for pig lead traffic originating at Herculeneum, Mo., and terminating in Muncie, Ind. Presently, that traffic moves from Herculeneum through St. Louis, Mo., to Salem, Ill., via MI, then to St. Elmo, Ill., via the Chicago & Eastern Illinois Railroad Company and finally to Muncie by ConRail. Under the new route the traffic would move to Riverside, Mo., via MI, then to East St. Louis via MP and finally to Muncie via ConRail.

An agreement has been reached among the involved carriers as to the division of revenues on the new route. However, this decision represents a departure from the proceedings in docket No. 29886, as prescribed by orders at 287 I.C.C. 553, 289 I.C.C. 11, 289 I.C.C. 231 and 292 I.C.C. 447. ConRail, therefore, petitions for authority to depart from such orders in establishing special divisions for the new route. Because of existing internal routing practice of the involved carriers, the current route results in an extremely circuitous and wasteful movement and resulting poor service.

The petition may be inspected at the office of the Secretary of the Commission, Washington, D.C. General public notification of the filing of this petition will be given by publication of the instant notice in the FEDERAL REGISTER.

Any persons interested in the matters involved in this petition may, on or before August 16, 1976, file replies to the petition supporting or opposing the relief sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies upon Mr. John A. Daly, Consolidated Rail Corporation, 1138 Six Penn Center Plaza, Philadelphia, PA 19104. Thereafter, the Commission will proceed to dispose of the matter, including the observance of any additional requirements that appear warranted to assure due process of law. It is not contemplated that there will be any further general public notification published in the FEDERAL REGISTER of the succeeding procedural handling of this proceeding. Subsequent orders entered herein will be served solely on persons responding to this notice and on petitioner.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–21585 Filed 7–23–78;8:45 am]

[Ex Parte No. MC–43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

At a session of the INTERSTATE COMMERCE COMMISSION, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 21st day of July, 1976.

It appearing that a petition has been filed by Ligon Specialized Hauler, Inc., (MC–119777 and numerous subs) and Cherokee Hauling & Rigging, Inc., (MC–127834 and numerous subs), under temporary common control, and Virginia Hauling Company, (MC–13806 and various subs) and Horne Heavy Hauling, Inc., (MC–35045 and subs 1, 9, 11 and 19), under permanent and temporary common control respectively, by Cherokee Hauling & Rigging Inc., for waiver of paragraphs (a)(3) and (c) of Section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased and interchanged by petitioners.

It further appearing, that petitioners have not advanced sufficient justification upon which to base a grant of relief from the requirements of paragraphs (a)(3) and (c) of § 1057.4;

It further appearing, that the Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation recommends that the petition be held in abeyance for at least six months so that petitioners may have the opportunity to eliminate current inspection and maintenance deficiencies;

It is ordered, That the petition be, and, it is hereby denied.

By the Commission, Motor Carrier Leasing Boards, Board Members, Teeple and Sibbald.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–21582 Filed 7–23–76;8:45 am]

[Notice No. 90]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 19, 1976.

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 day 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 I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50069 (Sub-No. 516 TA), filed July 9, 1976. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal oil*, in bulk, in tank vehicles, from Dubuque, Iowa, to Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Ironsides Company, 270 West Mound St., Columbus, Ohio. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 95540 (Sub-No. 958 TA), filed July 12, 1976. Applicant: WATKINS MOTOR LINES, INC., 1144 East Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles* distributed by meat packing plants *and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in Alabama, Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina and Tennessee, restricted to traffic originating at named origin and destined to named states; and (2) Meat, meat products, meat by-products, articles distributed by meat packing plants, *foodstuffs, packing plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Alabama, Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina and Tennessee, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, restricted to traffic originating at the named states and destined to named destination, for 180 days. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Joseph B. Teichert, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 N. W. 53rd Terrace, Miami, Fla. 33166.

No. MC 95920 (Sub-No. 44 TA), filed July 12, 1976. Applicant: SANTRY TRUCKING CO., 11552 S. W. Pacific Highway, Portland, Oreg. 97223. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial chemicals*, consisting of magnesium oxide and calcined magnesite in containers, from Gabbs, Nev., to the United States-Canada Port of Entry at Blaine, Wash., under a continuing contract with Van Waters & Rogers, Ltd., for 180 days. Supporting shipper: Van Waters & Rogers, Ltd., 980 Van Horne Way, Richmond, B.C. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, Oreg. 97204.

No. MC 107515 (Sub-No. 1016 TA), filed July 9, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC. P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, 3379 Peachtree Road, NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sensitized blueprint or reproductive paper*, in vehicles equipped with mechanical refrigeration, from Atlanta, Ga., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, Minn. 55101. 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 114604 (Sub-No. 44 TA), filed July 9, 1976. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market Bldg. 33, P.O. Box 1, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, 3379 Peachtree Rd., NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Tennessee Doughnut Company, in Davidson County, Tenn., to points in Alabama, Georgia, Florida and South Carolina, for 180 days. Supporting Shipper: Tennessee Doughnut Co., 1201 Gallatin Road, Nashville, Tenn. 37206. 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 115092 (Sub-No. 44 TA), filed July 8, 1976. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756. Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Orange, Calif., to Albuquerque, N. Mex., and Amarillo, Houston and Hurst, Tex., and to points in Dallas and Ft. Worth, Tex., commercial zones, for 180 days. Supporting shipper: South Bay Redwood Co., P.O. Box 6125, 2200 N. Glassell Ave., Orange, Calif. 92667. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 125 South State St., Salt Lake City, Utah 84138.

No. MC 120737 (Sub-No. 41 TA), filed July 8, 1976. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Fourth Ave., Canton, Ill. 61520. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic and iron fittings and connections, valves, hydrants, and gaskets and related commodities* used in the installation of plastic pipe and plastic conduit (except commodities described in Mercer Ext. Oilfield Commodities, 74 M.C.C. 459); from the plantsites and storage facilities of the Clow Corporation, located at or near Columbia, Mo., to points in Minnesota, North Dakota and South Dakota, for 180 days. Supporting shipper: Clow Corporation, Michael G. Jozwiak, Assistant Mgr., Rates and Services, 1211 W. 22nd St., Oak Brook, Ill. 60521. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 123407 (Sub-No. 317 TA), filed July 12, 1976. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. 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: (1) *Scrap brass*, from points in the United States (except Alaska and Hawaii), to East Alton, Ill.; Bellefonte, Pa.; Paramount, Calif.; Belding, Detroit and Adrian, Mich.; Indianapolis, Ind.; Ansonia, Conn.; and Omaha, Nebr., and (2) Scrap aluminum, from points in the United States to Fort Scott, Kans.; Adrian and Cableton, Mich.; Beckemeyer, Ill.; Bettendorf, Iowa and Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Aaron Ferer & Sons Co., 909 Abbott Drive, Omaha, Nebr. 68102. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 123980 (Sub-No. 3 TA), filed July 8, 1976. Applicant: MANDUS R. OLSON, 12589 Hanson Blvd., NW., Anoka, Minn. 55303. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Automobile and truck parts, materials, equipment, supplies and advertising materials,* from Chicago and Bedford Park, Ill., to Albert Lea, Bloomington, Columbia Heights, Coon Rapids, Crystal, Duluth, Eden Prairie, Fridley, Hopkins, Minneapolis, Minnetonka, Northfield, Red Wing, Robbinsdale, Rochester, St. Cloud, St. Paul, Sauk Rapids, Spring Valley and West St. Paul, Minn.; and Antigo, Appleton, Berlin, Delavan, Eau Claire, Fort Atkinson, Green Bay, Greenfield, Hales Corners, Hartford, Janesville, Kenosha, La-Crosse, Madison, Mayville, Menomonee Falls, Milwaukee, Racine, Rhinelander, Richland Center, River Falls, Schofield, Waukesha, Wausau, Wausaukee, West Allis and Wisconsin Rapids, Wis. Restriction: Restricted to the transportation of traffic originating at the facilities used by Midas-International Corporation and International Parts Corporation, at or near Chicago and Bedford Park, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 12 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: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414 Federal Bldg., & U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

No. MC 124813 (Sub-No. 151 TA), filed July 9, 1976. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. 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: *Dry feed ingredients,* from Terre Haute, Ind., to points in Iowa and Missouri, for 180 days. Supporting shipper: IMC Chemical Group, Inc., P. O. Box 207, Terre Haute, Ind. 47808. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 129633 (Sub-No. 3 TA), filed July 12, 1976. Applicant: KARL B. HERTZ, doing business as KARL B. HERTZ TRANSPORTATION, 2460 North Carey Ave., Pomona, Calif. 91767. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, Beverly Hills, Calif. 90210. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Shredded or cut up metal,* in bulk, in dump vehicles, from points in California, to points in Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MacLeod Metal Co., 731 West 182nd St., Gardena, Calif. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 134648 (Sub-No. 3 TA), filed July 8, 1976. Applicant: MORGAN COUNTY TRUCKING, INC., 1010 East Nutter St., Martinsville, Ind. 46151. Applicant's representative: Warren C. Moberly, 320 N. Meridian St., 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Malt beverages,* from Columbus, Ohio; Detroit, Mich.; Peoria and Belleville, Ill.; Louisville and Newport, Ky.; St. Paul Minn.; and Pabst, Ga., to Martinsville, Greencastle, Plainfield, and Bloomington, Ind., with empty bottles and kegs returned to points of origin; and (2) *Structural brick and floor tile products,* from Brazil, Ind., to points in Illinois, Iowa, Kentucky, Missouri and Ohio, under a continuing contract with A–1 Beverage Co., Inc.; Arketex Ceramic Corp.; Morgan County Beverage, Inc.; Putnam Beverages, Inc., and Rhoades Beverage Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: A–1 Beverage Co., Inc., 633 North Morton, Bloomington, Ind. 47401. Arketex Ceramic Corp., North Meridian St., P.O. Box 347, Brazil, Ind. Morgan County Beverage, Inc., 189 West Walnut St., Martinsville, Ind. 46151. Putnam Beverages, Inc., 500 N. Jackson St., Greencastle, Ind. 46135. Rhoades Beverage Co., Inc., 706 West Main St., Plainfield, Ind. 46168. Send protests to: Patrick G. Collins, Transportation Specialist, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 135231 (Sub-No. 21 TA), filed July 9, 1976. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59, Thief River Falls, Minn. 56701. 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: *Lumber and lumber products, plywood and particleboard,* from points in Idaho, to points in North Dakota, South Dakota, Minnesota and Wisconsin, for 180 days. Supporting shipper: Emmer Brothers Company, 6800 France Ave., South, Suite 520, Minneapolis, Minn. 55435. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 135797 (Sub-No. 57 TA), filed July 12, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: Ralph B. Harlan, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Petroleum sorbents, padding and cushioning materials;* (b) *wallboard, insulation and insulating materials;* (c) *mulch;* and (d) *equipment, materials and accessories* used in installation or application of commodities named in (b) and (c), from the plantsite and warehouse facilities of or used by Conwed Corporation, Cloquet, Minn., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia; (2) *Machinery, materials, equipment and supplies* used in or in connection with the manufacture, distribution, application or use of the commodities named in (1), from points in Connecticut, Kentucky, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and Virginia, to the plantsite and warehouse facilities of or used by Conwed Corporation, Cloquet, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Conwed Corporation, Cloquet, Minn. 55720. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140869 (Sub-No. 5 TA), filed July 12, 1976. Applicant: KERRI TRUCKING, INC., 162 Closter Rock Road, Closter, N.J. 07624. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Synthetic yarns,* from Dayton, Tenn., to Philadelphia, Pa.; and (2) *Rugs, carpets and carpet padding,* from Philadelphia, Pa., and Trenton, N.J., to points in Madison County, Ala.; Whitfield County, Ga.; Barren County, Ky.; Haywood County, N.C.; and Rhea County, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Felt Industries, Park 80 West One, Saddlebrook, N.J. 07662. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 140902 (Sub-No. 2TA), filed July 12, 1976. Applicant: DPD, INC., 3600 N.W. 82nd Ave., Miami, Fla. 33166. Applicant's representative: Albert W. Stout, (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *New furniture, furniture parts, and plastic shutters and equipment, materials, and supplies* used in or in connection with the manufacture and distribution of these commodities; (2) *Light fixtures, lamps and shades, electric heaters, wall decors, and fireplace accessories, and equipment, materials and supplies* used in or in connection with manufacture and distribution of these commodities and (3) *Cleaning compounds, paint and paint material, furniture polish, wax and wax remover, and sealants* moving in mixed shipments with cleaning componds and/or paint and paint material; and equipment materials and supplies used in or in connec-

tion with the manufacture and distribution of these commodities, between points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming, under a continuing contract with DeSoto, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DeSoto, Inc., 1700 S. Mt. Prospect Road, Des Plaines, Ill. 60018. Send protests to: Joseph B. Teichert, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Monterey Bldg., Suite 101; 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 142112 (Sub-No. 1 TA), filed July 9, 1976. Applicant: JOHN HULSEBUS JR., R.R. 1, Box 123, Garretson, S. Dak. 57030. Applicant's representative: Mark Menard, 5301 North Cliff Ave., P.O. Box 480, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat*, from the plantsite of Sol's Packing Plant, Bridgewater, S. Dak., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 142230 TA, filed July 9, 1976. Applicant: BALTZ & SON COMPANY, 9817 E. Burnside St., Portland, Oreg. 97216. Applicant's representative: Jeffrey T. Baltz (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Turf and mowing equipment, utility vehicles, and trenching and tree equipment*, from points in Wisconsin, Illinois, Kansas, Nebraska and Iowa, to points in Oregon, Washington and Utah, under a continuing contract with Audubon Sales, Inc.; Sunset Northwest, Lucky JT Distributing Company, and Northwest Mowers, Inc., for 180 days. Supporting shippers: Audubon Sales, Inc., 1329 N. Ash St., Spokane, Wash. 99201. Sunset Northwest, 1919 120th Ave., NE., Bellevue, Wash. 98005. Lucky JT Distributing Company, 4445 NE. Glisan, Portland, Oreg. 97213. Northwest Mowers, Inc., 926 N. 165th St., Seattle, Wash. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 142231 TA, filed July 9, 1976. Applicant: TRI-L CONTRACT CARRIER, INC., 2400 Tower Place, 3340 Peachtree Road, NE., Atlanta, Ga. 30326. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire impregnated iron or steel pipe, and iron or steel articles*, and (2) *such commodities* as are used by or are useful in the manufacture, distribution or sale of wire impregnated iron or steel pipe and iron and steel articles (except commodities in bulk and commodities which because of size or weight, require the use of special equipment) between the plantsite and facilities utilized by the Oxylance Corporation in Cobb County, Ga., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Oxylance Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oxylance Corporation, 2400 Tower Place, 3340 Peachtree Rd., NE., Atlanta, Ga. 30326. 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 142238 TA, filed July 12, 1976. Applicant: ROLLCARRIER INC., 4075 East 15th Place, East Gary, Ind. 46405. Applicant's representative: Gregory S. Reising, 650 South Lake St., Gary, Ind. 46403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel* on specially designed equipment, from Kingsbury and Greenfield, Ind., to points in Indiana, Illinois, Ohio, Michigan, Wisconsin and Kentucky and return trips, from points in said states to Kingsbury and Greenfield, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roll Coater Inc., Arvin Industries, Inc., Roll Coater, Inc., P.O. Box 787, Greenfield, Ind. 46140. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21587 Filed 7-23-76;8:45 am]

[Notice No. 91]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 20, 1976.

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 I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 33970 (Sub-No. 15TA), filed July 12, 1976. Applicant: GEORGE HILDEBRANDT, INC., R.F.D. 2, Hudson, N.Y. 12534. Applicant's representative: Neil D. Breslin, 99 Washington Ave., Suite 1111, Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Soil, soil conditioners and horticultural accessories*, from the Town of Claverack, N.Y., to points in New Jersey, Pennsylvania, Ohio, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Marvland, Virginia, West Virginia and the District of Columbia; and (b) *Materials* used in the preparation and packaging of soil, soil conditioners and horticultural accessories, from points in New Jersey, Rhode Island, Massachusetts, Ohio, Illinois, and Connecticut, to the Town of Claverack, N.Y., for 180 days. Supporting shipper: Swiss Farms, Philmont, N.Y. 12565. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., P.O. Box 1167, Albany, N.Y. 12201.

No. MC 58035 (Sub-No. 9TA), filed July 8, 1976. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Ave., Denver, Colo. 80216. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric household appliances and equipment; kitchen and bathroom appliances and equipment; oral hygiene appliances and equipment; hydro therapy equipment; sink and shower fixtures; smoke alarms; food processing machines; and filters;* (A) between the plantsites and storage facilities of Teledyne Water Pik, located

in Larimer County, Colo., and at Los Angeles, Calif.; (B) from the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., and at Los Angeles, Calif., to points in the following named cities and their commercial zones: Denver, Colorado Springs, Pueblo and Grand Junction, Colo.; Albuquerque, Santa Fe and Gallup, N. Mex.; Phoenix, Tucson and Flagstaff, Ariz.; Salt Lake City and Provo, Utah; Las Vegas, Sparks and Reno, Nev.; and points in California, and (2) *Materials, equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above; (A) between the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., and at Los Angeles, Calif.; and (B) from Alhambra, El Monte, Berkeley, Newbury Park, Monrovia, Los Angeles, Gardena, and Oxnard, Calif., to the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teledyne Water Pik, 1730 East Prospect St., Fort Collins, Colo. 80521. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 64932 (Sub-No. 563TA), filed July 13, 1976. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Ave., Oak Law, Ill. 60453. Applicant's representative: William F. Farrell (same address as applicant). Authority sought to operate a sa *common carrier*, by motor vehicle, over irregular routes, transporting: *Lube oil*, in bulk, in tank vehicles, from St. Louis, Mo., to Baton Rouge, La., and Hodge, La., for 180 days. Supporting shipper: Mobil Oil Corporation, John W. McCullough, Jr., Suvp.-Truck Analysis, 8350 N. Central Expressway, Suite 522, Dallas, Tex. 75206. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Cnicago, Ill. 60604.

No. MC 105682 (Sub-No. 19TA), filed July 12, 1976. Applicant: ELMER G. FILOMEO AND BRUNO P. NARDI, doing business as DIABLO TRANSPORTATION CO., 551 North Buchanan Circle, Pacheco, Calif. 94553. Applicant's representative: Daniel B. Johnson, 1123 Munsey Bldg., 1329 E. St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities which because of size or weight require the use of special equipment, commodities in bulk and household goods), between Travis Air Force Base, Fairfield, Calif.; U.S. Naval Air Station, Alameda, Calif.; U.S. Naval Air Station, Lemore, Calif.; U.S. Naval Base, Long Beach, Calif.; U.S. Naval Air Station, North Island; Miramar Naval Air Station, San Diego, Calif.; U.S. Naval Station, Point Mugo, Calif.; McClelland Air Force Base, Sacramento, Calif.; Castle Air Force Base, Merced, Calif.; Mather Air Force Base, Sacramento, Calif.; and Norton Air Force Base, San Bernadino, Calif., on the one hand, and, on the other, points in California, restricted to the transportation of traffic having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Department of Defense, Regulatory Law Office, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 111375 (Sub-No. 79TA), filed July 13, 1976. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, restricted to traffic originating at named origin and destined to named states; and (2) *Meat, meat products, meat by-products, articles distributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (except hides and commodities in bulk), from points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, restricted to traffic originating at the named states and destined to named destination, for 180 days. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 111729 (Sub-No. 669TA), filed July 12, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hanoch (same address as applicant). Authority sought to operate as a *common carier*, by motor vehicle, over irregular routes, transporting: *Aircraft and radio parts, and related business papers*, restricted against the transportation of packages or articles weighing in excess of 100 pounds in the aggregate from one consignor to one consignee on any one day, between Montgomery, Ala., on the one hand, and, on the other, Atlanta, Chamblee, and Columbus, Ga.; Baton Rouge, New Orleans and Shreveport, La.; and Crestview, Ft. Lauderdale, Miami, Panama City, Pensacola, St. Petersburg and Vero Beach, Fla., for 180 days. Supporting shipper: Montgomery Piper Sales, Inc. P.O. Box 92, Montgomery, Ala. 36101. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 670TA), filed July 12, 1976. Applicant: PUROLATOR COURIER CORP, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hanoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut Flowers, decorative greens, and green plants*, when moving at the same time and in the same vehicle with commodities the transportation of which is subject to economic regulation, (a) between points in Arizona; and (b) between points in Louisiana, on traffic having an immediately prior or subsequent movement by air or motor vehicle, for 180 days. Supporting shipper: Associated Florida Gladiola Growers, Inc., P.O. Box 6067, Fort Myers, Fla. 33901. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114457 (Sub-No. 265TA), filed July 9, 1976. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends*, (1) from Piscataway, N.J., to Milwaukee, Wis.; Peoria, Ill., and Frankenmuth, Mich.; (2) from Danbury, Conn., to Sharonville, Ohio; LaCrosse and Milwaukee, Wis., and Frankenmuth, Mich.; and (3) from Millis, Mass., to St. Paul, Minn.; LaCross, Wis., and Frankenmuth, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corporation, P.O. Box 7, Piscataway, N.J. 08854. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114569 (Sub-No. 141TA), filed July 9, 1976. 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: *Canned goods* (unfrozen), from Belledeau and St. Francisville, La., to points in New York, New Jersey, Pennsylvania, Ohio, Maryland, Delaware and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seek-

ing up to 90 days of operating authority. Supporting shipper: Joan of Arc Company, 2231 West Altorfer Dr., Peoria, Ill. 61614. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115162 (Sub-No. 331TA), filed July 13, 1976. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preservatively treated and untreated lumber, posts, poles, and pilings*, from Urania, La., to points in Louisiana, Arkansas, Minnesota, Nebraska, Texas, Oklahoma, Missouri, Kansas and Indiana, for 180 days. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, La. 70427. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 332TA), filed July 13, 1976. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, in containers*, from the plantsite and warehouse sites of Oil-Dri Corporation of America, located in Thomas County, Ga., to points in Iowa, Illinois, Indiana, Ohio, Kentucky, Michigan, Minnesota, Louisiana, Missouri, Kansas, Nebraska, Texas, Wisconsin, Oklahoma and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oil-Dri Corporation of America, 520 North Michigan Ave., Chicago, Il. 60611. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 115730 (Sub-No. 16TA), filed July 13, 1976. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and fittings, and accessories* necessary for the installation thereof, from the facilities of Certain-Teed Corporation, at McPherson, Kans., to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certain-Teed Corporation, Pipe & Plastic Group, Valley Forge, Pa. 19482. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 116763 (Sub-No. 347TA), filed July 9, 1976. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrapping paper, printing paper, and pulpboard*, from the plantsite, warehouse and storage facilities of the Union Camp Corporation, located at or near Franklin, Va., to points in the District of Columbia, points in West Virginia, Maryland, Delaware, Pennsylvania, New York, New Hampshire, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont and Maine, for 180 days. Supporting shipper: William F. Worrell, Supervisor, Traffic Analysis, Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. 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 121739 (Sub-No. 2TA) (Correction), filed May 13, 1976, published in the FEDERAL REGISTER issue of June 2, 1976, and republished as corrected this issue. Applicant: BURK MOTOR FREIGHT, INC., 512 Magnolia St., Burkburnett, Tex. 76354. 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 regular routes, transporting: *General commodities* (except Class A & B explosives, articles of unusual value, those requiring special equipment, and commodities in bulk), between Wichita Falls, Tex. and Frederick, Okla.; from Wichita Falls, Tex. over U.S. Highway 277 to junction U.S. Highway 79, thence over U.S. Highway 79 to junction U.S. Highway 183, thence over U.S. Highway 183 to Frederick, Okla., and return over the same route serving all intermediate points, for 180 days. Applicant intends to interline with other carriers at Wichita Falls, Texas and Frederick, Oklahoma. Supporting shippers: There are approximately 17 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Dist. Supv. H. C. Morrison, Sr. Rm 9A27 Federal Bldg. 819 Taylor St., Forth Worth, Tex. 76102. The purpose of this republication is to state that applicant intends to interline.

No. MC 124078 (Sub-No. 693TA), filed July 13, 1976. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28 St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural latex*, in bulk, in tank vehicles, from Charleston, S.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, for 180 days. Supporting shipper: Guthrie Industries, Inc., One Woodbridge Center, Woodbridge, N.J. 07095. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 125146 (Sub-No. 3TA), filed July 13, 1976. Applicant: BOB WHITAKER, doing business as BOB WHITAKER & SON, P.O. Box 65, Roswell, N. Mex. 88201. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles* distributed by meat packing houses, from the facilities of Glover Packing Co., at or near Roswell, N. Mex., to points in Arizona, California and Texas (except El Paso County), for the account of Glover Packing Co., Roswell, N. Mex., under a continuing contract with Glover Packing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Glover Packing Co., Roswell, N. Mex. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Bldg., 517 Gold Ave., S.W., Albuquerque, N. Mex. 87101.

No. MC 136315 (Sub-No. 8TA), filed July 13, 1976. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber products*, from the plantsite of Crown Zellerbach Corporation, at or near Joyce, La., to points in Alabama, Arkansas, Florida, Illinois, Indiana, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee and Texas; and (2) *Posts, poles and piling*, from the plantsite of Crown Zellerbach Corporation, Urania, La., to points in Alabama, Arkansas, Colorado, Iowa, Kansas, Minnesota, Nebraska, Illinois, Indiana, Oklahoma, Texas and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, La. 70427. Send protests to: Alan C. Tarrant, District Supervisor, Room 212, 145 East Amite Bldg., Jackson, Miss 39201.

No. MC 136511 (Sub-No. 6TA), filed July 13, 1976. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, Va. 24502. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va.

22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209; (1) from Chocowinity, Lenoir and Sanford, N.C., and Roanoke, Va., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah and Washington; (2) from South Boston, Va., to points in California; and (3) from Robbinsville and Waynesville, N.C., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Montana, Oregon, Utah, Washington and Wyoming, for 180 days. Supporting shippers: Lea Industries, Inc., P.O. Box 25476, Richmond, Va. 23260. Singer Furniture Company, P.O. Box 5337, Roanoke, Va. 24101. Burlington House Furniture, P.O. Box 907, Lexington, N.C. 27292. Daystrom Furniture, Inc., Sinai Road, South Boston, Va. 24592. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 139009 (Sub-No. 2TA), filed July 12, 1976. Applicant: W. O. MOORE & SONS DIVISION OF CEDAR ROCK RANCH, INC., 6877 Main St., Lithonia, Ga. 30058. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atalnta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Covington, Ga., on the one hand, and, on the other, points in Morgan County, Ga., restricted to the transportation of traffic having a prior or subsequent movement by rail in trailer-on-flat-car service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morgan Machine Mfg. Co., P.O. Box 509, Madison, Ga. 30650. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Altanta, Ga. 30309.

No. MC 140330 (Sub-No. 2TA), filed July 13, 1976. Applicant: R. C. VAN LINES, INC., 1044 Northside Drive, NW., Atlanta, Ga. 30318. Applicant's representative: Harry A. Sneed, 2171 Old Concord Road, Smyrna, Ga. 30080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Raw materials*, used in the manufacture of Phenolic resin, phenol, formaldehyde, caustic soda, urea resin and ethylene glycol, for the account of Chembond Corporation, in bulk, in tank vehicles, from points in Alabama, Arkansas, Florida, Georgia, Louisiana and Mississippi, to the plantsite of Chembond Corporation, located in Covington County, Ala., under a continuing contract with Chembond Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chembond Corporation, P.O. Box 1377, Andalusia, Ala. 36420. 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 140178 (Sub-No. 3TA) filed July 12, 1976. Applicant: BRAY DELIVERY, INC., 6856 Knoll Ave., St. Louis, Mo. 13134. Applicant's representative: B. W. La Tourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ladies clothing*, between St. Louis, Mo., and Fairview Heights, Ill., under a continuing contract with Thomas W. Garland, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thomas W. Garland, Inc., 410 N. 6th St., St. Louis, Mo. 63101. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 141197 (Sub-No. 5TA), filed July 13, 1976. Applicant: FLEMING-BABCOCK, INC., P.O. Box 107, 3rd & Branch Streets, Platte City, Mo. 64079. Applicant's representative: Lucy Kennard Bell, 101 West Eleventh, Suite 910, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mine sites of Custom Coal Company, in Craig County, Okla., to the James River Power Plant, at or near Springfield, Mo., for 180 days. Supporting shippers: Custom Coal Company, Columbia Union National Bank Bldg., Ninth and Walnut Streets, Kansas City, Mo. 64106. Associated Producers Company, 5009 North Pennsylvania, Oklahoma City, Okla. 73116. Send protests to: Vernon V. Coblé, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141916 (Sub-No. 1TA), filed July 14, 1976. Applicant: HIGGINS TRUCKING, INC., P.O. Box 710, Main St., Waverly, Va. 23890. Applicant's representative: Calvin F. Major, 200 West Grace St., Richmond, Va. 23200. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood shavings, bark and wood residuals*, from points in North Carolina, to Waverly (Sussex County), Va., under a continuing contract with Masonite Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corporation, W. E. Smith, Purchasing Manager, P.O. Box 378, Waverly, Va. 23890. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

No. MC 142152 TA (Correction), filed June 14, 1976, published in the FEDERAL REGISTER issue of June 30, 1976, and republished as corrected this issue. Applicant: N.A.T. TRANSPORTATION, INC., 229 North Main St., Bradner, Ohio 43406. Applicant's representative: Robert J. Gill, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a)(1) *Machinery and equipment* for installation in industrial, residential, commercial and marine construction projects used for heating, cooling, air conditioning, ventilating, humidifying, dehumidifying, pollution control, and movement of aid and other gases; (2) *Parts, materials, equipment and supplies* used in the manufacture, distribution, installation, or operation of the items named in (1) above; (3) Refused, rejected, obsolete, and returned commodities as described in (1) and (2) above; between Waldron, Mich., and Bradner, Ohio, on the one hand, and, on the other, points in the United States; and (2) commodities as described in (2) above; between Waldron, Mich., Bradner and Toledo, Ohio, under a continuing contract with American Warming and Ventilating, Inc., for 180 days. Supporting shipper: American Warming and Ventilating, Inc., 1017 Summit St., Toledo, Ohio 43603. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604. The purpose of this republication is to delete "in (2) of Exhibit 1".

No. MC 142226 (Sub-No. 1TA), filed July 12, 1976. Applicant: DIRECT DELIVERY SERVICE CO., 5240 W. 83rd St., Los Angeles, Calif. 90045. Applicant's representative: Jim Cain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior or subsequent movement by air, between the Los Angeles, Long Beach and Burbank Airports on the one hand, and points in San Diego County, Calif., on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies threreof which may be examined at the field office named below. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142227 (Sub-No. 1TA), filed July 12, 1976. Applicant: W. EARL HUMPHRIES, doing business as BUS-PAK, 212 East Daniel Morgan Ave., Spartanburg, S.C. 29301. Applicant's representative: W. Earl Humphries (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, packages, up to two hundred (200)

pounds, limited in size so that the extreme measurements of length, width and height combined do not exceed one hundred and forty one (141) inches per package, with the longest measurement being sixty (60) inches or less per package, between points in Spartanburg County, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Continental Southeastern Lines, Inc., P.O. Box 2387, Charlotte, N.C. 28234. C. V. McMillin, D.D.S., 4 Bishop St., Inman, S.C. 29349. American E-Z Type, Inc., 1415 Howell Mill Road, NW., Atlanta, Ga. 30318. Vesco, Inc., Rt. 7, Bond Industrial Park, Spartanburg, S.C. 29303. Plastic Injectors, Inc., P.O. Box 188, Spartanburg, S.C. 29304. Batchelder-Blasius, Inc., P.O. Box 5503, Spartanburg, S.C. 29304. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

PASSENGER APPLICATION

No. MC 1515 (Sub-No. 216TA), filed July 13, 1976. Applicant: GREYHOUND LINES, INC., Greyground Tower, Suite 1602, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, beginning and ending at Toledo, Ohio and extending to the Detroit Race Course at Livonia, Mich., in round-trip special operations, during the racing season, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 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: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21586 Filed 7-23-76;8:45 am]

[Notice No. 92]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 21, 1976.

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 I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 14107 (Sub-No. 2TA) (amendment), filed May 18, 1976, published in the FEDERAL REGISTER issue of June 10, 1976, and republished as amended this issue. Applicant: W. M. GIRVAN, INC., 65 Railroad Ave., Albany, N.Y. 12205. Applicant's representative: Neil D. Breslin, Twin Towers, 99 Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between East Hartford, Conn., on the one hand, and, on the other, Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, Washington and Sullivan Counties, N.Y.; Berkshire and Franklin Counties, Mass.; Bennington, Rutland, Addison, Chittendon, Franklin, Orleans, Lamoille, Washington, Orange, Windstor, Windham and Caldonia Counties, Vt., under a continuing contract with The Great Atlantic & Pacific Tea Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, N.J. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., P.O. Box 1167, Albany, N.Y. 12201. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 108053 (Sub-No. 132TA), filed July 14, 1976. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 129, 1520 W. 23rd St., Fremont, Nebr. 68025. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, articles distributed by meat packing plants, and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in California, Idaho, Nevada, Oregon, Utah, and Washington; and (2) *Meat, meat products, meat by-products, articles distributed by meat packing plants, foodstuffs, packing plant materials, equipment and supplies* (except hides and commodities in bulk), from points in California, Idaho, Nevada, Oregon, Utah, and Washington, to the plantsite and/or warehouse facilities utilized by Geo. A. Hormel & Co., at or near Ottumwa, Iowa. Restriction: Restricted to traffic originating at named states and destined to named destination, for 180 days. Supporting shipper: James A. Barber, Manager, Distribution Services, Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 111729 (Sub-No. 671TA), filed July 12, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch, same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* moving in courier service (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment; and commercial papers, documents, and written instruments as are used in the business of banks and banking institutions), between points in Wisconsin, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, and Minnesota. Restrictions: (1) No service shall be provided for the transportation of packages weighing more than 50 pounds, and each package or article shall be considered a separate and distinct shipment; (2) no service shall be provided for the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day; and (3) no transportation of shipments shall be provided to or from the premises of any shipper for whom applicant or any of its subsidiaries perform contract carrier service, for 180 days. Supporting shippers: There are approximately 29 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: Maria

B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113855 (Sub-No. 353TA), filed July 14, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cast stone*, from the plantsite of Stucco Stone Products, Inc., in Napa County, Calif., to points in Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Kansas, Missouri, New Mexico, Oklahoma, Texas, Wisconsin, Illinois, Indiana, Michigan, Ohio, Kentucky, Pennsylvania, West Virginia, Maryland, Delaware, New Jersey and New York, for 180 days. Supporting shipper: Stucco Stone Products, Inc., P.O. Box 237, Napa, Calif. 94558. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114896 (Sub-No. 39TA), filed July 12, 1976. Applicant: PUROLATOR SECURITY, INC., 1111 W. Mockingbird Lane, Suite 1401, Dallas, Tex. 75247. Applicant's representative: John M. Delany, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency*, between Washington, D.C.; Richmond, Va.; Charlotte, N.C., and Baltimore, Md., under a continuing contract with Dept. of the Treasury, Bureau of Govt. Financial Operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dept of the Treasury, Bureau of Govt. Financial Operations, Madison Place & Penna, Ave. NW., Washington, D.C. 20226. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 118989 (Sub-No. 137TA), filed July 14, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite and warehouse facilities of National Can Corporation, located at Millis, Mass., to St. Paul, Minn.; La Crosse, Wis., and Frankenmuth, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corporation, Route 287 & S. Randolphville Rd., Piscataway, N.J. 08854. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 118989 (Sub-No. 138TA), filed July 14, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite and storage facilities of National Can Corporation, located at Danbury, Conn., to Sharonville, Ohio, La Crosse and Milwaukee, Wis., and Frankenmuth, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corporation, Route 287 & S. Randolphville Rd., Piscataway, N.J. 08854. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 118989 (Sub-No. 139TA), filed July 14, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite and warehouse facilities of National Can Corporation, located at Piscataway, N.J., to Milwaukee, Wis., Peoria, Ill., and Frankenmuth, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corporation, Route 278 & S. Randolphville Rd., Piscataway, N.J. 08854. send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124027 (Sub-No. 13TA), filed July 14, 1976. Applicant: MIDWEST BULK, INC., 901 Lyndale Ave., PO Box 726, Neenah, Wis. 54956. Applicant's representative: Frank M. Coyne, 25 West Main St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap battery lead*, in bulk, in dump vehicles, from Davenport, Iowa, to East Chicago, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del-Rich Battery and Metal Company, 510 Schmidt Road, Davenport, Iowa 52808. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 133666 (Sub-No. 14TA), filed July 14, 1976. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Ave. South, P.O. Box 368, Wheaton, Minn. 56296. Applicant's Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the storage facilities of Farmland Industries, Inc., at or near Barnesville and Benson, Minn., to points in Minnesota, Montana, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, Mo. 64116. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142241TA, filed July 13, 1976. Applicant: KENNETH HOLBROOK & J. R. HOLBROOK, doing business as J & R TRUCKING COMPANY, Route 40, Davis Branch Road, Paintsville, Ky. 41240. Applicant's representative: Kenneth Holbrook (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies*, between Paintsville, Ky., and points in Boyd, Breathitt, Carter, Elliott, Floyd, Greenup, Johnson, Knott, Lawrence, Letcher, Lewis, Martin, Morgan, Magoffin, Perry, and Pike Counties, Ky., under a continuing contract with Western Electric Company, Inc., for 180 days. Supporting shipper: J. F. Ballard, Western Electric Company, Inc., 6701 Roswell Road NE., Atlanta, Ga. 30328. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 142242TA, Filed July 14, 1976. Applicant: JAMES W. SCOTT, Route 1, Box 73C, Gladys, Va. 24554. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets*, from the plantsite of Scott Pallets, Inc., at or near Amelia, Va., to points in North Carolina, Pennsylvania, Connecticut, New York, Ohio, West Virginia, Delaware, New Jersey, Michigan, Maryland, Illinois, and Indiana, under a continuing contract with Scott Pallets, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Scott Pallets, Inc., Amelia, Va. 23002. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 142243TA, filed July 12, 1976. Applicant: JACK L. SOWARDS, doing business as GLOBE GUARD SERVICE, P.O. Box 1095, Southgate, Mich. 48195. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Train crews*, together with their personal effects and baggage, between points in Ohio and Michigan, restricted to movements between the terminals and railroad right-of-way of the Detroit, Toledo & Ironton Railroad Com-

pany, under a contiuing contract with Detroit, Toledo & Ironton Railroad Company, for 180 days. Supporting shipper: Detroit, Toledo & Ironton Railroad Company, Superintendent J. E. Schlosser, 1 Parklane Blvd., Dearborn, Mich. 48126. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21588 Filed 7-23-76;8:45 am]

[Notice No. 297]

MOTOR CARRIER TRANSFER PROCEEDINGS

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76664. By application filed July 14, 1976, C. M. BURNS, an individual, d/b/a WESTERN TRUCKING, 521 Lincoln, Baker, MT 59313, seeks authority to lease a portion of the operating rights of CHARLES E. WOLFE, an individual, d/b/a EVERGREEN EXPRESS, 505 East Main, Laurel, MT 59044, under section 210a(b). The transfer to C. M. BURNS, an individual, d/b/a WESTERN TRUCKING, of a portion of the operating rights of CHARLES E. WOLFE, an individual, d/b/a EVERGREEN EXPRESS is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21589 Filed 7-23-76;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P–2–76 (Special certificate—Waste products), filed July 12, 1976. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: C. O. Gillogly (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling and reuse*, between points in the United States (except Alaska and Hawaii), in furtherance of a recognized pollution control program sponsored by: Brockway Glass Company, Inc., Brockway, Pa.; Olen Miller & Sons, Durant, Okla.; Federal Paper Stock Co., St. Louis, Mo.; Consolidated Fibres, Inc., New Orleans, La.; Control Metals Co., Fulton County, Ga.; Pacific Junk Company, Santa Monica, Calif.; Omer Carrothers Industries Incorporated, Joplin, Mo.; and Metropolitan Recycling Center, St. Paul, Minn., for the purpose of recycling various types of litter.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-21584 Filed 7-23-76;8:45 am]