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Federal Register

THURSDAY, FEBRUARY 8, 1979

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

For workshops in Washington, D.C., see notice on inside front cover.

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Washington, D.C., Workshops

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RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

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Title 3—
The President

Executive Order 12117 of February 6, 1979

Imports From Uganda

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for the consistent implementation of import restrictions imposed against Uganda by Section 5(c) of the Act of October 10, 1978 (92 Stat. 1051), it is hereby ordered as follows:

1–101. The Secretary of the Treasury shall administer those provisions of Section 5(c) of the Act of October 10, 1978 (Public Law 95–435; 92 Stat. 1051; 22 U.S.C. 2151 note) which prohibit a corporation, institution, group or individual from importing, directly or indirectly, into the United States or its territories or possessions any article grown, produced, or manufactured in Uganda. The Secretary of the Treasury shall issue such regulations that the Secretary deems necessary to implement those import restrictions. Prior to issuing those regulations the Secretary of the Treasury shall consult with the Secretary of State.

1–102. The Secretary of State shall advise the President whenever the Secretary believes that "the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights" within the meaning of Section 5(c) of the Act of October 10, 1978.

1–103. If the President determines that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights, he shall so certify to the Congress. Thereafter, the Secretary of the Treasury shall revoke the regulations issued pursuant to this Order.

Jimmy Carter

THE WHITE HOUSE,
February 6, 1979.

[FR Doc. 79–4580
Filed 2–7–79; 11:44 am]

Billing code 3195–01–M

Executive Order 12118 of February 6, 1979

Administration of Security Assistance Programs

By the authority vested in me as President of the United States of America by Section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381), and Section 301 of Title 3 of the United States Code, in order to delegate certain responsibilities to the Secretary of State and the Secretary of Defense and to reserve others to the President, it is hereby ordered as follows:

1–101. Section 201(a) of Executive Order No. 10973, as amended, relating to the administration of foreign assistance, is further amended by deleting "(except chapter 4 thereof)" and inserting in lieu thereof "(except chapters 4 and 6 thereof)".

1–102. In Section 201 of Executive Order No. 10973, as amended, a new subsection (c) is added as follows:

"(c) Those functions under Section 634A of the Act, to the extent that they relate to notifications to the Congress concerning changes in programs under Part II of the Act (except chapters 4 and 6 thereof), subject to prior consultation with the Secretary of State.".

1–103. Section 201(d) of Executive Order No. 10973, as amended, is revoked.

1–104. Section 203(a) of Executive Order No. 10973, as amended, is further amended to read as follows:

"(a) Those under Section 502B of the Act.".

1–105. Section 401(c) of Executive Order No. 10973, as amended, is further amended by adding "515(f)," immediately after "506(a)," and by deleting "634(c), 663(a), and 669(b)(1)" and inserting in lieu thereof "633A, 663(a), 669(b)(1), and 670(b)(1)".

1–106. Section 401(g) of Executive Order No. 10973, as amended, is revised to read as follows:

"(g) Those under Section 607 of the Foreign Assistance and Related Programs Appropriations Act, 1979 (92 Stat. 1591), with respect to findings.".

1–107. Executive Order No. 11958 of January 18, 1977, entitled "Administration of Arms Export Controls," is amended in Section 1(a) by deleting "(c)(3) and (c)(4)" and inserting in lieu thereof "(c)(3), (c)(4), and (f)".

Jimmy Carter

THE WHITE HOUSE,
February 6, 1979.

[FR Doc. 79–4583
Filed 2–7–79; 11:51 am]

Billing code 3195–01–M

rules and regulations

[3410-02-M]

Title 7—Agriculture

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

[Navel Orange Reg. 452; Navel Orange Reg. 451, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 9-15, 1979, and increases the quantity of such oranges that may be so shipped during the period February 2-8, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective February 9, 1979, and the amendment is effective for the period February 2-8, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on February 5, and 6, 1979 to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges remains good.

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

§ 907.752 Navel Orange Regulation 452.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period February 9, 1979, through February 15, 1979, are established as follows:

(1) District 1: 850,000 cartons;

(2) District 2: 150,000 cartons;

(3) District 3: unlimited movement.

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

§ 907.751 [Amended]

Paragraph (a)(1) in § 907.751 Navel Orange Regulation 451 (44 FR 6350, 6351), is hereby amended to read:

(a) * * *

(1) District 1: 1,000,000 cartons;

* * * * *

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

Dated: February 7, 1979.

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

[FR Doc. 79-4579 Filed 2-7-79; 11:37 am]

[3410-02-M]

[Amdt. 3]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This emergency amendment relieves the Sunday packaging prohibition on February 4, 11, and 18, 1979, to allow the industry additional time to pack its marketable lettuce as poor weather in the production area is expected to interfere with lettuce harvesting. It will promote orderly marketing and benefit consumers by making additional lettuce available.

EFFECTIVE DATE: February 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-4722.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricul-

tural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made on February 1 by the South Texas Lettuce Committee, which was established under the order and is responsible for its local administration. The industry needs additional time to package lettuce before cold weather in the production area adversely affects it. Therefore the committee requested relief on February 4, 11, and 18, 1979, from the Sunday packaging prohibition.

EMERGENCY FINDINGS: It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act. It is further found that due to the emergency it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) this amendment must become effective immediately if producers and consumers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended. In § 971.319 (43 FR 53704, 58355; 44 FR 2165) the last sentence in the introductory paragraph is hereby amended by adding the following to it:

§ 971.319 Handling regulation.

* * *, except that the prohibition against the packing of lettuce on Sundays shall not apply on February 4, 11, and 18, 1979.

* * * * *

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

Effective date. Dated February 2, 1979, to become effective February 4, 1979.

NOTE.—This regulation has not been determined significant under Executive Order 12044.

WILLIAM J. HIGGINS,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-4287 Filed 2-7-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

PART 226—TRUTH IN LENDING

Publication in CFR of Supplements I Through VI to Regulation Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Publication in CFR of Supplements I through VI to Regulation Z.

SUMMARY: The Board is publishing in the CFR Supplements I through VI. These Supplements contain regulatory material concerning the calculation of annual percentage rates and certain State exemptions from the Truth in Lending Act. Publication in the CFR will make these regulations more available to the public, but does not change the substance or effect of the Supplements.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Telephone: (202) 452-3867.

SUPPLEMENTARY INFORMATION: The Board, after consultation with the Office of the Federal Register, has decided to publish in 12 CFR Part 226 (Regulation Z) Supplements I through VI, which were published in the FEDERAL REGISTER as final rules. Set forth in the table below are the dates of original publication and amendment, if any, in the FEDERAL REGISTER. The right hand column contains the section number in Part 226 for each of the Supplements. No substantive changes have been made in these Supplements.

Supplement I (34 FR 2017) February 12, 1969, § 226.40.
Supplement II (34 FR 12330) July 26, 1969, § 226.50; as amended at (35 FR 7550) May 15, 1970; (35 FR 10358) June 25, 1970; (35 FR 11992) July 25, 1970; (37 FR 24105) November 14, 1972, § 226.55.
Supplement IV (36 FR 1041) January 22, 1971, § 226.60.
Supplement V (41 FR 55329) December 20, 1976, § 226.70.
Supplement VI (43 FR 21319) May 17, 1978; as amended at (43 FR 22928) May 30, 1978, § 226.80.

Supplement I contains the general rule and equations for determining the annual percentage rate pursuant to § 226.5(b). Supplement II contains procedures and criteria for State exemption form Chapter 2 of the Truth in Lending Act. Supplement III contains current State exemptions from Chapter 2 of the Truth In Lending Act. Supplement IV contains procedures and criteria for State exemption from §§ 132-135 of the Truth in Lending Act. Supplement V contains procedures and criteria for State exemptions from the Fair Credit Billing Act. Supplement VI contains procedures and criteria for State exemptions from the Consumer Leasing Act.

Board of Governors, February 1, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-4318 Filed 2-7-79; 8:45 am]

[1505-01-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-EA-71]

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

Alteration of Transition Area; Pittstown N.J.

Correction

In FR Doc. 79-2950 appearing on page 5646 in the issue for Monday, January 29, 1979, second column, the EFFECTIVE DATE should read "January 29, 1979".

[1505-01-M]

[Airspace Docket No. 78-EA-76]

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

Alteration and Revocation of Transition Areas: Harrisburg and Annville, Pa.

Correction

In FR Doc. 79-2951 appearing on page 5647, in the issue for Monday, January 29, 1979, third column, the EFFECTIVE DATE should read "January 29, 1979".

[1505-01-M]

[Airspace Docket No. 78-EA-102]

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

Alteration of Transition Area: N. Philadelphia, Pa.

Correction

In FR Doc. 79-2953 appearing on page 5648, in the issue for Monday, January 29, 1979, first column, the EFFECTIVE DATE should read "January 29, 1979".

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2949]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Art Instruction Schools, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Minneapolis, Minn. firm engaged in the formulation and sale of home study courses, its subsidiary, Art Instruction Schools, Inc. (AIS), and its New York City advertising agency to cease misrepresenting the need or demand for AIS graduates; and the employment opportunities, potential earnings, and job placement assistance available to graduates. The companies would be further prohibited from misrepresenting student selectivity; the quality of their courses; and the lack of additional costs and cancellation penalties. The order would also require that prospective enrollees be provided with prescribed information relating to the job success of former students; and informed of cancellation and refund rights. Additionally, the order would require that the companies make proper restitution to former eligible students; maintain particular records; and institute a surveillance program designed to ensure compliance with the terms of the order.

DATES: Complaint and order issued Jan. 10, 1979.[1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, November 2, 1978, there was published in the FEDERAL REGISTER, 43 FR 51031, a proposed consent agreement with analysis In the Matter of Bureau of Engraving, Inc., a corporation, Art Instruction Schools, Inc., a corporation, and Bozell & Jacobs, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10-1 Availability of merchandise and/or facilities; 13.10-5 Knowingly by advertising agent; § 13.15 Business status, advantages, or connections; 13.15-20 Business methods and policies; 13.15-35 Contracts and obligations; 13.15-195 Nature; 13.15-245 Prospects; 13.15-275 Stock, product, or service. § 13.55 Demand, business or other opportunities; § 13.160 Earnings and profits; § 13.90 History of product or offering; § 13.115 Jobs and employment service; § 13.125 Limited offers or supply; § 13.143 Opportunities; § 13.155 Prices; 13.155-5 Additional charges unmentioned; § 13.60 Promotional sales plan; § 13.175 Quality of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.285 Value. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates and/or credits. Subpart—Delaying Or Withholding Corrections, Adjustments Or Action Owed: § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1610 Demand for or business opportunities; § 13.1625 Free goods or services; § 13.1650 History of product; § 13.1670 Jobs and employment; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing; § 13.1760 Terms and conditions; 13.1760-50 Sales contract; § 13.1775 Value; —Prices: § 13.1778 Additional costs unmentioned.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1885 Qualities or properties; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-50 Sales contract. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase Or Deal: § 13.1935 Earnings and profits; § 13.1960 Free service; § 13.1995 Job guarantee and employment; § 13.2000 Limited offers or supply; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-4292 Filed 2-7-79; 8:45 am]

[6750-01-M]

[Docket C-2948]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Kelcor Corp., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Dallas, Texas finance company to cease, in connection with the extension of consumer credit, failing to compute finance charges and provide relevant disclosures in the manner and form required by Federal Reserve System regulations.

DATES: Complaint and order issued January 8, 1979.[1]

FOR FURTHER INFORMATION CONTACT:

Juereta P. Smith, Director, 5R, Dallas Regional Office, Federal

[1] Copies of the Complaint and Decision and Order filed with the original document.

[1] Copies of the Complaint and Decision and Order filed with the original document.

Trade Commission, 2001 Bryan St., Suite 2665, Dallas, Texas 75201, (214) 749-3056.

SUPPLEMENTARY INFORMATION: On Wednesday, October 25, 1978, there was published in the FEDERAL REGISTER, 43 FR 49818, a proposed consent agreement with analysis In the Matter of Kelcor Corporation, a corporation, and C. K. Wingo, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been filed, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly:§ 13.55 Prices; 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures. Subpart-Failing To Provide Foreign Language Translations: § 13.1052 Failing to provide foreign language translations. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623-95 Truth in Lending Act.—Prices: § 13.1823 Terms and conditions; 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-75 Truth in Lending Act; § 13.1905 Terms and conditions; 13.1905-40 Insurance coverage; 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147 (15 U.S.C. 45, 1601, et seq.))

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-4365 Filed 2-7-79; 8:45 am]

[6450-01-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

[Docket No. RM79-3]

Order Granting Rehearing for Purposes of Further Consideration and Denying Stay

JANUARY 29, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order granting rehearing of application for reconsideration of Section 270.203 of the NGPA Interim Regulations and denying stay.

SUMMARY: Consolidated Gas Supply Corporation filed an application on December 29, 1978, for reconsideration and stay of Section 270.203 of the Commission's interim regulations implementing the Natural Gas Policy Act of 1978. This order grants rehearing solely for purposes of further consideration of the regulation. Consolidated's application for stay is denied for lack of showing of good cause.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mark Magnuson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-4286.

SUPPLEMENTARY INFORMATION: On December 29, 1978, Consolidated Gas Supply Corporation (Consolidated) filed an application for reconsideration and stay of Section 270.203 of the Commission's interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). On January 3, 1979, the Commission issued Order No. 21,[1] which prescribed a final regulation providing for a rehearing procedure for rules or orders issued under the NGPA. Inasmuch as there was no specific provision for filing petitions for rehearing of the NGPA rules at the time this application was filed, we will treat Consolidated's application for reconsideration as an application for rehearing under section 286.102 of our Regulations under the NGPA.

Since the regulation in question is an interim regulation and since the Commission wishes to consider public comments on the validity of all its interim regulations, we will grant Consolidated's application for rehearing solely for purposes of further consideration. This action does not constitute a grant or denial of the application on its merits in whole or in part. As provided in Section 1.34(d) of the Commission's Rules of Practice and Procedure, no answers to the applications for rehearing will be entertained by the Commission, since this order does not grant rehearing on any substantive issues.

In support of its motion for stay [2] applicant states that the regulation in question "has the impermissible effect of setting a lower ceiling price than that permitted by the NGPA," and that it would suffer irreparable injury in that it would be permanently deprived of revenues to which it is entitled under the NGPA.

We are unconvinced by Consolidated's allegations of irreparable harm. In the event a court determines that this regulation is unlawful, this Commission could authorize the collection of revenues denied by this provision through surcharges.[3] Accordingly, Consolidated has not shown good cause for a stay of § 270.203 of the Interim Regulations and we shall deny Consolidated's application for stay.

The Commission orders:

(A) Rehearing is granted solely for purposes of further consideration.

(B) Consolidated's application for stay is denied.

By the Commission. Commissioner Holden voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4301 Filed 2-7-79; 8:45 am]

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[1] Docket No. RM79-12.

[2] Order No. 20, issued in Docket No. RM79-9 prescribes a procedure for applying for stay of interim regulations under the NGPA.

[3] See orders issued June 27, 1978, in Docket No. AR61-2 *et al.*, and July 31, 1978, in Docket No. AR69-1.

[6560-01-M]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FRL 1057-4; FAP 6H5147/R46]

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193.85 by establishing a food additive regulation for the insecticide chlorpyrifos in food-handling establishments. The regulation was requested by Herculite Protective Fabrics Corp. This rule establishes a regulation permitting the use of chlorpyrifos in impregnated tape as general treatment in food-handling establishments.

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202-426-9425).

SUPPLEMENTARY INFORMATION: On October 22, 1976, notice was given (41 FR 46645) that Herculite Protective Fabrics Corp., 1107 Broadway, New York, NY 10010, had filed a petition (FAP 6H5147) with the EPA. This petition proposed that 21 CFR 193.85 be amended by establishing a regulation permitting use of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in a controlled/release insect tape as a general treatment in food areas of food-handling establishments including, but not limited to, restaurants, grocery stores, bakeries, bottling plants, canneries, and grain mills. The controlled-release product shall be limited to a maximum of 10% by weight of the active ingredient.

Subsequently, the term "insect tape" was changed to "impregnated tape," and the second sentence was changed to read: "The active ingredient shall be limited to a maximum of 10% by weight of the controlled-release product." No comments were received by the Agency in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed regulation included a two-year rat feeding/oncogenicity study and a dog feeding study with no-observable-effect levels (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw)/day, a three-generation rat reproduction study with no effects to 1 mg/kg bw/day, and an acute delayed neurotoxicity study on hens (negative at up to 100 mg/kg bw).

Based on the two-year rat feeding/oncogenicity study with a 0.1 mg/kg bw/day NOEL and using a 10-fold safety factor, the acceptable daily intake (ADI) for man is 0.01 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the proposed tolerance does not exceed the ADI.

Desirable data that are lacking from the petition are a lifetime oncogenic study and a teratology study. The oncogenic study is expected to be completed by May 1979 and the teratology study is expected to be submitted in early 1979. The petitioner in a letter dated October 4, 1978, agreed to voluntarily delete the use of chlorpyrifos in food areas of food handling establishments from the label should the teratology and lifetime oncogenic study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of chlorpyrifos is adequately understood, and an adequate analytical method (PAM I multiresidue method with a flame photometric detector in a phosphorus mode) is available for enforcement purposes. Tolerances have previously been established (40 CFR 180.342) on a variety of raw agricultural commodities at levels ranging from 1 ppm to 0.01 ppm. A food additive regulation has also been established permitting use of chlorpyrifos for spot and/or crack and crevice treatment in food handling establishments. No actions are currently pending against continued registration of chlorpyrifos, nor are any other relevant considerations involved in establishing the proposed regulation. The pesticide is considered useful for the purpose for which the regulation is sought and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). Therefore the regulation amending 21 CFR 193.85 is being promulgated as changed. Accordingly a food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on February 8, 1979, 21 CFR 193.85 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: February 3, 1979.

JAMES M. CONLON,
Deputy Assistant Administrator for Pesticide Programs.

Part 193, Subpart A, § 193.85 is revised to read as follows:

§ 193.85 Chlorpyrifos.

The food additive chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] may be safely used in accordance with the following prescribed conditions.

(a) Direct application shall be limited solely to spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, or served. Spray concentration shall be limited to a maximum of 0.5% active ingredient. For crack and crevice treatment, equipment capable of delivering a pin-stream of insecticide shall be used. For spot treatments, a coarse, low-pressure spray shall be used to avoid atomization or splashing of the spray. Contamination of food or food-contact surfaces shall be avoided.

(b) Application via adhesive strips shall contain a maximum of 10% by weight of the controlled-release product in food-handling establishments where food and food products are held, processed, prepared, or served. A maximum of 36 strips (or 5.15 grams of chlorpyrifos) is to be used per 100 square feet of floor space. The strips are not to be placed in exposed areas where direct contact with food, utensils, and food-contact surfaces would be likely to occur.

(c) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

[FR Doc. 79-4391 Filed 2-7-79; 8:45 am]

[6560-01-M]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 1057-3; FAP 6H5143/T41]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Butachlor

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule reextends a feed additive regulation permitting residues of the herbicide butachlor in rice bran and rice hulls. The reextension was requested by Monsanto Agricultural Products Co. This rule will permit the marketing of rice bran and rice hulls while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On April 8, 1977, the EPA announced (42 FR 18620) that in response to a petition (FAP 6H5143) submitted by Monsanto Agricultural Products Co., 800 N. Lindbergh Boulevard, St. Louis, MO 63116, 21 CFR 561.55 was being established to permit the use of the herbicide butachlor (*N*-butoxymethyl) - 2 - chloro - 2',6' - diethylacetanilide) in a proposed experimental program involving application of the herbicide to growing rice with tolerance limitations of 1 part per million (ppm) for residues of the herbicide in rice hulls and 0.5 ppm in rice bran in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). This experimental program expired April 1, 1978. Subsequently, the tolerances were extended for one year (43 FR 2629). These tolerances will expire April 1, 1979.

Monsanto Agricultural Products Co. has requested a one-year reextension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodities rice and rice straw.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in rice hulls and rice bran from the agricultural use provided for in the experimental use permit, the feed additive regulation should be reextended along with the tolerance limitations. (A related document concerning the reextension of temporary tolerances for residues of the pesticide in or on rice and rice straw appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, a feed additive regulation is amended as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on February 8, 1979, 21 CFR Part 561 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1).))

Dated: February 2, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 561.55 is amended as follows:

§ 561.55 [Amended]

In § 561.55, the date in the eighth line is changed from "April 1, 1979" to "April 1, 1980."

[FR Doc. 79-4392 Filed 2-7-79; 8:45 am]

[6560-01-M]

[FRL 1056-8; FAP 6H5121/R42]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR Part 561 by establishing feed additive tolerances for residues of the insecticide chlorpyrifos in or on sugar beet pulp and sugar beet molasses. The regulation was requested by Dow Chemical Corp. This rule establishes maximum permissible levels for residues of chlorpyrifos in or on dried sugar beet pulp and sugar beet molasses.

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460 (202-426-9425).

SUPPLEMENTARY INFORMATION: On March 12, 1976, notice was given (41 FR 10709) that Dow Chemical Corp., PO Box 1706, Midland, MI 48640, had filed a petition (FAP 6H5121) with the EPA. This petition proposed that 21 CFR Part 561 be amended by establishing a regulation permitting combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on dried sugar beet pulp intended for livestock feed at 1 part per million (ppm) and the sugar beet product molasses intended for animal feed at 3 ppm resulting from application of the insecticide to growing sugar beets. No comments were received by the Agency in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*).

The toxicological data considered in support of the proposed tolerances included a two-year rat feeding/oncogenicity study and a dog feeding study with a no-observable-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw). Studies on delayed neurotoxicity and reproduction showed negative potentials. Based on the two-year chronic rat feeding study with 0.1 mg/kg bw NOEL on cholinesterase activity and using a safety factor of 10, the acceptable daily intake (ADI) for man is 0.01 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the proposed tolerances and the tolerances which have previously been established for resi-

dues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 1.5 ppm to 0.01 ppm does not exceed the ADI.

Desirable data that are lacking from the petition are a teratology study and a second oncogenicity study. In a letter of February 17, 1978, the petitioner indicated that the teratology study will be completed by November 1978, and the lifetime oncogenicity study is expected to be completed by May 1979. The petitioner also agreed to voluntarily delete use of chlorpyrifos on almonds, apples, pears, plums (fresh prunes), sweet potatoes, and sugar beets from the label should the teratology and lifetime oncogenicity studies be found to exceed the risk criteria for chronic toxicity in 40 CFR 162.11. Although the oncogenicity evaluation of chlorpyrifos is not complete, it is concluded that, based on the available data, the risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding/oncogenicity study.

The metabolism of chlorpyrifos is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No actions are currently pending against continued registration of chlorpyrifos nor are there any other relevant considerations involved in establishing the proposed tolerances. The established tolerances for residues of chlorpyrifos in milk, meat, poultry, and eggs are adequate to cover the proposed uses.

The pesticide is considered useful for the purpose for which tolerances are sought. Therefore the regulation establishing tolerances of 1 ppm in or on sugar beet pulp and 3 ppm in sugar beet molasses by amending 21 CFR Part 561 is being promulgated as proposed. Accordingly a feed additive regulation is established.

Any person adversely affected by this regulation may, on or before March 12, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on February 8, 1979, 21 CFR Part 561 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: February 5, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 561, Subpart A, is amended by establishing the new § 561.98 to read as follows:

§ 561.98 Chlorpyrifos.

Tolerances are established for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in the following processed feeds when present therein as a result of application of this insecticide to growing sugar beets:

Feed:	*Parts per million*
Sugar beet pulp, dried	1
Sugar beet molasses	3

[FR Doc. 79-4394 Filed 2-7-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket R-79-558]

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Payment of Insurance Benefits

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final Rule.

SUMMARY: This rule concerns the payment of insurance benefits for projects financed with tax-exempt obligations of Public Housing Agencies with HUD-insured mortgages. Payments of benefits for those projects are to be made in full. The 1% deduction generally applied to the payment of benefits in connection with the assignment of a mortgage insured under Section 221 will not be applicable.

EFFECTIVE DATE: March 12, 1979.

FOR FURTHER INFORMATION CONTACT:

John McIlwain, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5945.

SUPPLEMENTAL INFORMATION: On July 14, 1978, the Department of Housing and Urban Development published proposed amendments to 24 CFR Parts 221, 811, 880 and 881. These amendments relate to the tax exemption of obligations of public housing agencies under Section 11(b) of the U.S. Housing Act of 1937. This publication makes final the revision to 24 CFR 221.762, which exempts projects financed with Section 11(b) obligations and insured pursuant to Section 221 of the National Housing Act from the 1% deduction from insurance benefits prescribed in 24 CFR 207.259(b)(2)(iv).

The Department received five comments concerning this proposal. Two were unequivocally in favor of the revision. Three expressed their approval of the proposal also, and felt that it should be extended to Section 11(b) projects insured under any provision of the National Housing Act. The sixth approved of the proposal, but felt that it should be extended specifically to Section 11(b) projects insured under Section 23 (elderly).

Since Section 221 is the principal insurance program for Section 8 family projects and it is these projects that have had the greatest difficulty in obtaining good bond ratings, the amendment is not being extended at this time. The question of extending it to other programs will be considered in redrafting the Part 811 regulations.

Findings of Inapplicability with respect to Environmental Impact have been prepared in accordance with HUD Handbook 1390.1. Copies of the Findings are available for inspection in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR 221.762 is amended to add a new paragraph (c):

§ 221.762 Payment of insurance benefits.

* * * * *

(c) Projects financed with section 11(b) obligations. Where the funds for a mortgage loan are provided by obligations that are tax-exempt under section 11(b) of the U.S. Housing Act of 1937 (24 CFR Part 811), the one percent deduction from insurance benefits prescribed in § 207.259(b)(2)(iv) of this chapter shall not be applicable.

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

Issued at Washington, D.C., October 26, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 79-4282 Filed 2-7-79; 8:45 am]

[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[AR 210-10]

SUBCHAPTER D—MILITARY RESERVATIONS AND NATIONAL CEMETERIES

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Post Commander

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This is a complete revision of § 552.18 concerning administration by post commanders. It updates and clarifies pertinent responsibilities of an installation commander. Changes have been made throughout. Specifically, it provides policy for commanders to establish procedures to ensure that when blind persons are authorized to enter military facilities, their accompanying seeing-eye or guide dogs will not be denied entry. In addition, it adds § 552.25 to the table of sections. Section 552.25, "Entry Regulations for Certain Army Training Areas in Hawaii", was published in the October 12, 1978 issue of the FEDERAL REGISTER.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel G. R. Iverson, Director, Community Support, Office of The Adjutant General, Headquarters, Department of the Army, Washington, DC 20314, 202-693-0841.

By authority of the Secretary of the Army:

Dated: February 1, 1979.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

Accordingly, 32 CFR Part 552 is amended as set forth below:

1. The table of sections is amended by new § 552.25, "Entry Regulations for Certain Army Training Areas in Hawaii".

2. § 552.18 is revised to read as follows:

POST COMMANDER

§ 552.18 Administration.

(a) *Purpose.* This section outlines the duties and prescribes the general authority and general responsibilities of an installation commander.

(b) *Applicability.* The regulations in this section are applicable to installations in the United States, and where appropriate, to oversea installations. Oversea commanders should consult with the appropriate judge advocate to determine to what extent the provisions of treaties or agreements, or the provisions of local law may make inapplicable, in whole, or in part, the provisions of these regulations.

(c) *General.* The installation commander is responsible for the efficient and economical operation, administration, service, and supply of all individuals, units, and activities assigned to or under the jurisdiction of the installation unless specifically exempted by higher authority. Activities will be designated as "attached activities" only when specifically designated by higher authority. The installation commander will furnish base operation support to all Army tenant activities except when the Department of the Army has given approval for the tenant to perform base operation functions. Reimbursement for such support will be in accordance with applicable regulations.

(d) *Motor vehicle and traffic regulations.* See AR 190-5, Motor Vehicle Traffic Supervision; AR 190-5-1, Registration of Privately Owned Motor Vehicles; AR 190-29, Minor Offenses and Uniform Violation Notices—Referred to US District Courts; AR 210-4, Carpooling and Parking Controls; AR 230-14, Registration and Licensing of Nonappropriated Fund Owned Vehicles; AR 385-55, Prevention of Motor Vehicle Accidents; and AR 600-55, Motor Vehicle Driver-Selection, Testing, and Licensing. A copy of the above documents may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(e) *Firearms.* The installation commander will publish regulations on the registration of privately owned firearms. See AR 608-4, Control and Registration of War Trophies and War Trophy Firearms. A copy of the above document may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(f) *Entry, exit, and personal search.* The installation commander will establish rules that govern the entry into and exit from the installation and the search of persons and their possessions as listed in paragraphs (f) (1),(2) and (3) of this section.

(1) The installation commander may direct authorized guard personnel, while in the performance of assigned duty, to search persons (including military personnel, employees, and visitors), and their possessions (including vehicles) when entering, during their stay, or when leaving facilities for which the Army has responsibility. These searches are authorized when based on probable cause that an offense has been committed or on military necessity. Instructions of commanders regarding searches should be specific and complete. When the person to be searched is a commissioned officer, or a warrant officer, the search should be conducted in private by or under the supervision of a commissioned officer, unless such is precluded by the exigencies of the situation. When the person to be searched is a noncommissioned officer, the search should be conducted in private by or under the supervision of a person of at least equal grade, unless such is precluded by the exigencies of the situation.. If the situation precludes search by or under the supervision of an officer (or noncommissioned officer, as appropriate), the person conducting the search will notify a responsible commissioned officer (or noncommissioned officer, as appropriate), as soon as possible. Persons who are entering the installation should not be searched over their objection, but they may be denied the right of entry if they refuse to consent to the search. All persons entering facilities should be advised in advance (by a prominently displayed sign, AR 420-70, (Buildings and Structures)), that they are liable to search when entering the installation, while within the confines of the installation, or when leaving (AR 190-22, Search, Seizure and Disposition of Property). A copy of the above documents may be obtained by writing to headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(2) The installation commander may authorize and control hunting and fishing on a military installation under installation rules in accordance with applicable Federal, State, and local laws and Army regulations, and in harmony with cooperative plans with appropriate State and Federal conservation agencies (AR 420-74, Natural Resources—Land, Forest, and Wildlife Management). To detect violations of these rules, special guards may be posted and authorized to search persons (or possessions, including vehicles of individuals), based on military necessity. The installation commander may eject violators of game laws or post regulations and prohibit their reentry under 18 USC 1382. Violations of State laws which apply to military reservations according to the provisions of Section 13, Title 18, USC (Assimilative Crimes Acts), may be referred to the United States Magistrate in accordance with AR 190-29, Minor Offenses and Uniform Violation Notices—Referred to United States District Courts. Reports of violations of game laws will be reported to Feder-

al or State authorities. An installation commander may not require membership in a voluntary sundry fund activity as a prerequisite to hunting and fishing on the installation. Accounting for the collection and spending of fees for hunting and fishing permits is outlined in Chapter 12, AR 37-108, General Accounting and Reporting for Finance and Accounting Offices. A copy of the above documents may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(3) When the installation commander considers that the circumstances warrant its use, DA Form 1818 (Individual Property Pass), will be used to authorize military and civilian personnel to carry Government or personal property onto an installation or to remove it from an installation.

(4) Commanders will establish procedures to ensure than when blind persons are otherwise authorized to enter military facilities, their accompanying seeing-eye or guide dogs will not be denied entry. Such facilities include, but are not limited to: Cafeterias, snack bars, AAFES exchanges, retail food sales stores, medical treatment facilities, and recreational facilities. Seeing-eye or guide dogs will remain in guiding harness or on leash and under control of their blind masters at all times while in the facility. For purposes of safety and to prevent possible agitation of military police working dogs, seeing-eye or guide dogs will not be allowed in or around working dog kennels and facilities.

(g) *Official Personnel Register.* DA Form 647 (Personnel Register), is a source document that will be used at the lowest level of command having responsibility for strength accounting. The official register will be used for registering military personnel on arrival at or on departure from Army installations on permanent change of station, leave, or temporary duty. DA Form 647 may also be used for recording passes, visitors, etc. Registration of visists of less than 12 hours will be at the discretion of the commander except that registrations will be required when visits are at a place where United States troops are on duty in connection with a civil disorder.

(h) *Outside employment of DA Personnel.* See paragraph 2-6, AR 600-50 Standards of Conduct for Department of the Army Personnel. A copy of this document may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(i) *Preference to blind persons in operating vending stands.* As used in paragraphs (i), (1), (2), and (3) below, the term "vending stand" includes shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment necessary for the vending of merchandise. The term "vending machine" means any coin-operated machine that automatically vends or delivers tangible personal property.

(1) The installation commander will give preference to blind persons when granting permission to civilians to operate vending stands on installations where stands may be operated properly and satisfactorily by blind persons licensed by a State agency. Legal authority for such action is contained in the Randolph-Sheppard Vending Stand Act (20 USC 2-107 et seq.). Commanders will cooperate with the appropriate State licensing agency in selecting the type, location, or relocation of vending stands to be operated by licensed blind persons, except that preference may be denied or revoked if the commander determines that—

(i) Existing security measures relative to location of the vending stand or to the clearance of the blind operator cannot be followed.

(ii) Vending stand standards relating to appearance, safety, sanitation, and efficient operation cannot be met.

(iii) For any other reasons which would adversely affect the interests of the United States or would unduly inconvenience the Department of the Army. Issuance of such a permit will not be denied because of loss of revenue caused by granting a rent-free permit for operating a vending stand to a blind person. However, the permit will not be granted if in the opinion of the responsible commander such action would reduce revenue below the point necessary for maintaining an adequate morale and recreation program. The commander should consider the fact that funds derived from certain nonappropriated fund activities such as post exchanges, motion picture theaters, and post restaurants are used to supplement appropriated funds in conducting the morale and recreation program.

(2) The preference established in paragraph (i)(1) of this section will be protected from the unfair or unreasonable competition of vending machines. No vending machine will be located within reasonable proximity of a vending stand that is operated by a licensed blind person if the vending machine vends articles of the same type sold at the stand, unless local needs require the placement of such a machine. If such is the case, the operation of, and income from the machine, will be assumed by the blind vending stand operator.

(3) So far as is practicable, goods sold at vending stands that are operated by the blind will consist of newspapers, periodicals, confections, tobacco products, articles that are dispensed automatically or are in containers or wrappings in which they were placed before they were received by the vending stand, and other suitable articles that may be approved by the installation commander for each vending stand location.

(4) If the commanders and State licensing agencies fail to reach an agreement on the granting of a permit for a vending stand, the revocation or modification of a permit, the suitability of the stand location, the assignment of vending machine proceeds, the methods of operation of the stand, or other terms of the permit (including articles which may be sold), the State licensing agency may appeal the disagreement, through channels, to the Secretary of the Army. Appeals will be filed by State licensing agencies with the installation commander who will conduct a complete investigation and will give the State licensing agency an opportunity to present information. The report of investigation with the appeal will be forwarded through channels to Headquarters, Department of the Army (DAPE-ZA), Washington, DC 20310, as soon as possible. A final decision by the Secretary of the Army will be rendered within 90 days of the filing of the appeal to the installation commander. Notification of the decision on the appeal and the action taken will be reported to the State licensing agency, the Department of Health, Education, and Welfare, and the Department of Defense (Manpower, Reserve Affairs, and Logistics).

(j) *Solicitation on military installations.* (1) Solicitation on installations may be permitted at the discretion of the commander under the provisions of AR 210-7, Commercial Solicitation on Army Installations. A copy of the above documents may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(2) The solicitation by a member as an agent for another person for the sale of any commodity on a military installation is prohibited. This prohibition does not pertain to activities sponsored by or approved by an installation commander, such as thrift shops, notices on bulletin boards, or the sale of personal property on one-time basis.

(3) The solicitation of commercial life insurance will be in accordance with the provisions of Part 276 of this title.

(4) Military personnel on active duty are prohibited from personal commercial solicitation and making sales to military personnel who are junior in grade or rank. This prohibition is applicable to activities on and off an installation, while the individual is in or out or uniform, and is on or off duty, and includes, but is not limited to, the personal solicitation and sale of life

and automobile insurance, stocks mutual as a funds, real estate, or any other commodities, goods, or services. As used in subparagraph (j) of this section, "personal commercial solicitation" refers to those situations in which a military member who is employed as a sales agent on commission or salary contacts prospective purchasers and suggests that they buy the commodity, real or intangible, that he/she is offering for sale. This prohibition is not applicable to the one-time sale by an individual of his/her own personal property or privately owned dwelling. It is not the intent of this regulation to discourage the off-duty employment of military personnel, but it is the intent to eliminate any and all instances that would appear to be coercive or intimidating, or that pressure was used by rank, grade, or position.

(k) *Request from private sector union representatives to enter installations.* (1) When labor representatives request permission to enter military installations on which private contractor employees are engaged in contract work to conduct union business during working hours in connection with the contract between the government and the contractor by whom union members are employed, the installation commander may admit these representatives, provided—

(i) The presence and activities of the labor representatives will not interfere with the progress of the contract work involved; and

(ii) The entry of the representatives to the installation will not violate pertinent safety or security regulations.

(2) Labor representatives are not authorized to engage in organizing activities, collective bargaining discussions, or other matters not directly connected with the Government contract on military installations. However, the installation commander may authorize labor representatives to enter the installation to distribute organizational literature and authorization cards to employees of private contractors, provided such distribution does not—

(i) Occur in working areas or during working times;

(ii) Interfere with contract performance;

(iii) Interfere with the efficient operation of the installation; or

(iv) Violate pertinent safety or security considerations.

(3) The determination as to who is an appropriate labor representative should be made by the installation commander after consulting with his/her labor counselor or judge advocate. Nothing in this regulation, however, will be construed to prohibit private contractors' employees from distibuting organizational literature or authorization cards on installation property if such activity does not violate the conditions enumerated in paragraph (k)(2) of this section. Business offices or desk space for labor organizations on the installation is not authorized to be provided for solicitation of membership among contractors' employees, collection of dues, or other business of the labor organization not directly connected with the contract work. The providing of office or desk space for a contractor is authorized for routine functions by the working steward whose union duties are incidental to his/her assigned job and connected directly with the contract work.

(4) Only the installation commander or a contracting officer can deny entry to a labor representative who seeks permission to enter the installation in accordance with paragraph (k) of this section. If a labor representative is denied entry for any reason, such denial will be reported to the Labor Advisor, Office of the Assistant Secretary of the Army (IL&FM), Washington, DC 20310. This report will include the reasons for denial, including—

(5) The provisions of paragraphs (k), (1), (2), (3), and (4) of this section on organizations representing private contractors' employees should be distinguished from activities involving organization and representation of Federal civilian employees. See CPR 711 for the functions, duties and obligations of an installation commander regarding Federal civilian employee unions.

(l) *Publication of telephone directories.* See Chapter 5, AR 105-23. A copy of this document may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(m) *Observance of labor laws on military installations.* (1) Installation and activity commanders will ensure that all his/her employers on the installation or activity are apprised of their obligation to comply with Federal, State, and local laws, including those relating to the employment of child labor. When an employer who is operating on the installation or activity is responsible to an authority other than the installation or activity commander, the commander will direct that the authority's representative apprise the employer of his/her obligations regarding labor law. This applies to employers in all activities, including nonappropriated fund activities established as Federal instrumentalities according to AR 230-1, Nonappropriated Fund System, concessionaires of such activities, and other private employers. A copy of the above document may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

(2) Installation commander will cooperate fully with state or other governmental officials who bring to their attention complaints that children are employed on military installations or reservations under conditions that are detrimental to their health, safety, education, and well-being.

(n) *Hitchhiking.* Hitchhiking is prohibited by the Army. This does not preclude acceptance of offers of rides voluntarily made by individuals or properly accredited organizations nor does it preclude the use of properly authorized and established share-the-ride or similar stations which may be sanctioned by local military authorities. For personal safety, personnel should exercise caution at facilities, for example, by accepting rides only from persons they know or by traveling in groups. Similarly, drivers should use discretion when offering rides to personnel at share-the-ride stations. Drivers are prohibited from picking up hitchhikers.

(o) *Employment of civilian food service personnel.* See AR 30-1, The Army Food Service Program. A copy of this document may be obtained by writing to Headquarters, Department of the Army (DAAG-PAP-W), Washington, DC 20314.

[FR Doc. 79-4290 Filed 2-7-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-120]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wappinger Creek, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Consolidated Rail Corporation, the Coast Guard is changing the regulations governing the Conrail drawbridge across Wappinger Creek by requiring that advance notice be given at all times. This change is made because of limited requests for openings of the draw. This action will relieve the bridge owner of the burden of having a person available to open the draw at all times.

EFFECTIVE DATE: This amendment is effective on March 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On September 28, 1978, the Coast Guard published a proposed rule (43 FR 44551) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated October 27, 1978. Interested persons were given until October 30, 1978 and November 27, 1978, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

One comment was received which had no objection to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.190(f)(2) to read as follows:

§ 117.190 Navigable waters in the State of New York and their tributaries; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(2) Wappinger Creek, N.Y.; Conrail railroad bridge at New Hamburg. The draw shall open on signal from May 15 through October 15 if at least eight hours notice is given and from October 16 through May 14 if at least 24 hours notice is given.

* * * * *

(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)).

Dated: January 31, 1979.

R. M. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 79-4397 Filed 2-7-79; 8:45 am]

[4910-14-M]

[CGD 78-181]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Illinois River, Ill.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the Peoria Terminal Company Railroad (C.R.I. & P. Ry.) bridge, mile 153.0, Illinois River, Pekin, Illinois, because the drawbridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: March 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

DRAFTING INFORMATION: The principal persons involved in drafting this revocation of regulations are Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

In consideration of the above facts, Part 117 of Title 33 of the Code of Federal Regulations is amended by:

§ 117.605 [Amended]

1. Deleting from the table in § 117.605(a) the following words: "153.0" "Peoria Terminal Company Railroad (C.R.I. & P. Ry.), Pekin, Ill." "2.4" "21.6".

2. Deleting from § 117.605(b) the following words: "the Peoria Terminal Company Railroad bridge at Pekin, Illinois;".

(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))

Dated: January 31, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 79-4398 Filed 2-7-79; 8:45 am]

[4910-14-M]

[CGD 78-112]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sheboygan River, Wis.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of Donohue and Associates, Inc., on behalf of the city of Sheboygan, Wis., the Coast Guard is changing the regulations governing the Eighth Street bridge across the Sheboygan River. This change is made to accommodate periods of peak vehicular traffic. This action will accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on March 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On September 18, 1978, the Coast Guard published a proposed rule (43 FR 41413) concerning this amendment. The Commander, Ninth Coast Guard District, also published these proposals as a Public Notice dated October 13, 1978. Interested persons were given until October 20, 1978 and November 13, 1978, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

No comments were received.

As published in final form, this regulation has been changed from the proposal to clarify the fact that two hours advance notice is required for bridge openings from May 1 through October 30 from 10 p.m. to 6 a.m. This more clearly reflects the present requirements of § 117.652. It does not represent a change in the regulations, merely a clarification.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.652 (a) and (b) to read as follows:

§ 117.652 Sheboygan River, Wis.; Eighth Street Bridge at Sheboygan, Wis.

(a) From May 1 through October 30, from 6 a.m. to 10 p.m., the draw shall open on signal except that:

(1) From 6 a.m. to 8 a.m., 9 a.m. to 12 noon, 1 p.m. to 4 p.m., and 6 p.m. to 7 p.m., the draw need open to navigation only on the hour, quarter-hour, half-hour, and three-quarters hours.

(2) From 8 a.m. to 9 a.m., 12 noon to 1 p.m. and 4 p.m. to 6 p.m. the draw need open to navigation only on the hour and half-hour.

(3) Public vessels, vessels in distress, and state or local government vessels used for public safety shall be passed through the draw of this bridge as soon as possible at any time even though the closed periods may be in effect. The signal from these vessels is four blasts of whistle, horn, or by shouting.

(b) At all other times the draws shall open on signal if at least two hours notice is given.

* * * * *

(Section 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))

Dated: February 1, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 79-4399 Filed 2-7-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1055-8; PP 4F1429/R181A]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

CIPC; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 52486 in the FEDERAL REGISTER of Monday, November 13, 1978, (FR Doc. 78-31746).

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION, CONTACT:

Mr. Edward Gross, Program Support Division (TS-757), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460 (202/755-4854).

SUPPLEMENTARY INFORMATION: In FR Doc. 78-31746 appearing at page 52486 in the issue of Monday, November 13, 1978, the analytical method was incorrectly given as colorimetry. The correct analytical method is the derivatization of 3-chloroaniline with heptafluorobutyric anhydride and determination by electron-capture gas liquid chromatography. Therefore, in line 15 of the second full paragraph in column 1 of page 52487, "(colorimetry)" is changed to read "derivatization of 3-chloroaniline with heptafluorobutyric anhydride and determination by electron capture gas liquid chromatography" * * *

Dated: February 1, 1979.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-4372 Filed 2-7-79; 8:45 am]

[6560-01-M]

[FRL 1056-7; PP 6F1745, 6F1777, & 6F1786/R186]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos on sugar beet roots and tops; sweet potatoes; and almonds, almond hulls, apples, pears, and plums (fresh prunes). The regulation was requested by Dow Chemical Co. This rule establishes maximum permissible levels for residues of chlorpyrifos on the above raw agricultural commodities.

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/426-9425).

SUPPLEMENTARY INFORMATION: On March 12, 1976, June 3, 1976, and June 14, 1976, notices were given (41 FR 10709, 22409, & 23998, respectively) that Dow Chemical Corp., PO Box 1706, Midland, MI 48640, had filed pesticide petitions (PP 6F1745, 6F1777, & 6F1786, respectively) with the EPA.

These petitions proposed that 40 CFR 180.342 be amended to establish tolerances for combined residues of the insecticide chlorpyrifos (*0,0*-diethyl *0*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities sugar beet roots at 0.2 part per million (ppm) and sugar beet tops at 0.05 ppm (PP 6F1745); almonds, apples, pears, and plums (fresh prunes) at 0.05 ppm (PP 6F1777); and sweet potatoes at 0.1 ppm. (A related document establishing a feed additive regulation from residues of chlorpyrifos in or on dried sugar beet pulp and sugar beet molasses appears elsewhere in today's FEDERAL REGISTER.) No comments were received in response to this notice of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat feeding/oncogenicity study and a dog feeding study with a no-observable-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw). Studies on delayed neurotoxicity and reproduction showed negative potentials. Based on the two-year chronic rat feeding study with a 0.1 mg/kg bw NOEL on cholinesterase activity and using a safety factor of 10, the acceptable daily intake (ADI) for man is 0.01 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the proposed tolerances and tolerances which have previously been established for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 1.5 ppm to 0.01 ppm does not exceed the ADI.

Desirable data that are lacking from the petition are a teratology study and a lifetime oncogenicity study. In a letter of February 17, 1978, the petitioner indicated that the teratology study will be completed by November 1978 and the lifetime oncogenicity study is expected to be completed by May 1979. The petitioner also agreed to voluntarily delete the use of chlorpyrifos on almonds, apples, pears, plums (fresh prunes), sweet potatoes, and sugar beets from the label should the teratology and lifetime oncogenicity studies be found to exceed the risk criteria for chronic toxicity in 40 CFR 162.11. Although the oncogenicity evaluation of chlorpyrifos is not complete, it is concluded that based on the available data, the risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding/oncogenicity study.

The metabolism of chlorpyrifos is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No actions are currently pending against continued registration of chlorpyrifos nor are there any other relevant considerations involved in establishing the proposed tolerances. The established tolerances for residues of chlorpyrifos in milk, meat, poultry, and eggs are adequate to cover the proposed uses.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances established by amending 40 CFR 180.342 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1978, file written objections with the Hearing Clerk, EPA, Rm. M-3708, 401 M St., SW, Washington DC 20460. Such objections should be submitted in quintuplicate and specify

the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on February 8, 1979, Part 180 is amended as set forth below.

Dated: February 5, 1979.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2))).

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Section 180.342 is amended by alphabetically inserting almonds, almond hulls, apples, pears, plums (fresh prunes) and sugar beet tops at 0.05 ppm; sugar beet roots at 0.2 ppm; and sweet potatoes at 0.1 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
Almonds	0.05
Almonds, hulls	0.05
Apples	0.05
* * * * *	
Beets, sugar, roots	0.2
Beets, sugar, tops	0.05
* * * * *	
Pears	0.05
Plums (fresh prunes)	0.05
* * * * *	
Sweet potatoes	0.1

* * * * *

[FR Doc. 79-4393 Filed 2-7-79; 8:45 am]

[6560-01-M]

[FRL 1057-1; OPP-300017A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemption from Requirement of a Tolerance for an Inert Ingredient in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the inert ingredient 1,2-benzisothiazolin-3-one. The proposal was submitted by ICI United States. This regulation permits the use of the exempted ingredient in pesticide products.

EFFECTIVE DATE: Effective on February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC (202-426-2680).

SUPPLEMENTARY INFORMATION: On October 19, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 48658) to amend 40 CFR 180 by exempting from tolerance requirements the inert ingredient 1,2-benzisothiazolin-3-one in pesticide formulations of *O,O*-diethyl *O*-(2-diethylamino-6-methyl-4-pyrimidinyl) phosphorothioate when applied to the raw agricultural commodity melons at no more than 0.1 percent of the formulation under provisions of Section 4(e) of the Federal Food, Drug, and Cosmetic Act. No requests for referral to an advisory committee were received by the Agency with regard to this notice.

Two comments were received in response to the notice. One comment corrected the formulation "*O,O*-diethyl *O*-(2-diethylamino-6-methyl-4-pyrimidinyl" to read "5-butyl-2-(ethylamino)-6-methyl-4(3*H*)pyrimidinone" and "1,3-Benzisothiazolin-3-one" in the proposed regulation to read "1,2-Benzisothiazolin-3-one." The other comment requested that the restrictions limiting 1,2-Benzisothiazolin-3-one to use in 5-butyl-2-(ethylamino)-6-methyl-4(3*H*)pyrimidinone when applied to melons at no more than 0.1 percent of the formulation be removed.

After consideration of the comments and evaluation of the data, the Agency has determined that the corrections should be made as indicated but that the restrictions should not be removed because a broader use of 1,2-benzisothiazolin-3-one will require additional information not available at this time, Therefore, until such time as the additional information has been received and evaluated, it is concluded that the exemption from the requirement of a tolerance should be established as proposed in the FEDERAL REGISTER of October 19, 1978, with corrections and that the amendment to the regulations will protect the public health.

Any person adversely affected by this regulation may, on or before March 12, 1979, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street, SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on February 8, 1979, Part 180, Subpart D, is amended as set forth below.

Dated: February 5, 1979.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart D, is amended by adding the new section 180.1044 to read as follows:

§ 180.1044 1,2-Benzisothiazolin-3-one; exemption from the requirement of a tolerance.

1,2-Benzisothiazolin-3-one is exempt from the requirement of a tolerance when used as a preservative-stabilizer in formulations of 5-butyl-2-(ethylamino)-6-methyl-4 (3*H*) pyrimidinone when applied to the raw agricultural commodity melons at no more than 0.1 percent of the formulation.

[FR Doc. 79-4395 Filed 2-7-79; 8:45 am]

[6560-01-M]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 1040-7]

PART 440—ORE MINING AND DRESSING POINT SOURCE CATEGORY

Clarification of Regulations

AGENCY: Environmental Protection Agency.

ACTION: Clarification of effluent guideline limitations.

SUMMARY: This notice is to clarify the scope and intent of the provisions governing storm water which were promulgated as part of the effluent guideline limitations for the Ore Mining and Dressing Point Source Category on July 11, 1978 (43 FR 29771). Its purpose is to make it clear that those provisions do not apply to diffuse storm water and runoff, but apply only to point source discharges. The agency believes this clarification to be necessary because, after promulgation of the regulations, it was brought to EPA's attention that the provisions are capable of being inter-

preted in a manner not consistent with their intent.

DATE: The regulations in this part were effective on July 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Barry S. Neuman, Office of General Counsel, Water and Solid Waste Division (A-131), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0753.

On July 11, 1978, effluent guideline limitations were promulgated for the Ore Mining and Dressing Point Source Category. 43 FR 29771 (1978). With respect to the Base and Precious Metals Subcategory established thereunder, these regulations provide, in part:

"There shall be no discharge of process waste water from mines and mills which employ dump, heap, in situ or vat-leach processes for the extraction of copper from ores or ore waste materials [in net evaporation areas]." 43 FR at 29775, § 440.22(a)(3) (1978).

The regulations also contain a provision of general applicability that:

"Any excess water, resulting from rainfall or snowmelt, discharged from facilities designed, constructed and maintained to contain or treat the volume of water which would result from a 10-year 24 hour precipitation event shall not be subject to the limitations set forth in 40 CFR 440." 43 FR at 29777-78, § 440.81(c) (1978).

The term "ten-year 24-hour precipitation event" is defined, in turn, as:

"the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, 'Rainfall Frequency Atlas of the U.S.,' May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom." 43 FR at 29778, § 440.82(d).

After the promulgation of the regulations, it was suggested that the above provisions are ambiguous in several respects, and that, when the provisions are read together, they may be interpreted in a manner not consistent with their intent. This clarification is intended to remove such ambiguity.

The regulations are not intended to require the operator to collect and contain diffuse storm runoff which would not otherwise be collected in or does not otherwise drain into a point source. Rather, the regulations are concerned with water that has been collected. For example, the regulations would apply to process water, impregnated with metal values, that the operator has collected in holding facilities after application to the leach dump. The regulations require that water containing such contaminated leach solutions not be discharged.

The regulations also are meant to apply to storm precipitation and runoff which may, on occasion, drain into or be channeled to the holding facility, and commingle with the leach solution. The regulations govern storm precipitation and runoff which enters such a holding facility, and it is in this context that the 10-year 24-hour storm provision applies.

Taken together, then, the regulations are intended to require that, if a holding facility in which contaminated leach solution is held is designed, constructed and maintained to hold a volume of water equal to (1) all process water applied by the operator to an active leach area plus (2) a volume of storm water which, during a 10-year 24-hour storm event, falls on the area which drains into such holding facility and precipitates directly on such facility, then any excess water discharged from the holding facility as a result of the rainfall or snowmelt is not subject to the no-discharge requirement and may be discharged.

A question has also been raised with respect to the interrelationship of the 10-year 24-hour storm provision and effluent limitations governing mine drainage set forth at 43 FR at 29775, § 440.22(a)(1).

The term "mine drainage" is defined as "any water drained, pumped or siphoned from a mine." 43 FR at 29778, § 440. 82(c) (1978). The term "mine" is defined as:

"an active mining area, including all land and property placed upon, under or above the surface of such land, used in or resulting from the work of extracting metal ore from its natural deposits by any means or method * * *" *Id;* § 440.82(b).

"Active mining area", in turn, is deifned as:

"A place where work or other activity related to the extraction, removal or recovery of metal ore is being conducted * * *" *Id.*, § 440.82(a).

Thus, the regulations distinguish between active mining areas and areas where leaching activities are carried on.

Under the regulations, mine drainage is intended to include all water which contacts an "active mining area * * *" and which naturally flows into a "point source"—that is, a discernible, confined and discrete conveyance—or is collected in, or channeled or diverted to, a point source as a result of acts of the mine operator. All water which contacts an "active mining area * * *" and either does not flow, or is not channeled by the operator, to a point source, is considered runoff, and it is not the regulations' intent to require the mine operator to collect and treat such runoff.

This requirement, however, must also be read in conjunction with the 10-year 24-hour storm provision set forth at § 440.81(c). If an impoundment, holding or treatment facility is designed, constructed and maintained to contain or treat the volume of mine drainage which would result from a 10-year 24-hour precipitation event, excess water discharged from such facility as a result of rainfall or snowmelt is not subject to the regulations. Again, "mine drainage" as used in the preceding sentence means water which contacts an "active mining area * * *" and either flows, or is diverted or channeled by the operator to, a point source.

Thus, the regulations were and are not intended to require the mine operator to collect and treat diffuse runoff which contacts an "active mining area * * *" and is not presently discharged from or collected in a point source.

The foregoing explanation applies to the requirements of the promulgated effluent limitations; the appropriate permitting authority, of course, retains the authority, under various provisions of the Clean Water Act, to impose more stringent requirements. In addition, storm runoff not covered by these regulations may be subject to the provisions of Section 304(e) of the Clean Water Act.

For further information contact: Barry S. Neuman, Office of General Counsel, Water and Solid Waste Division (A-131), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0753.

Dated: February 2, 1979.

BARBARA BLUM,
Acting Administrator.

[FR Doc. 79-4431 Filed 2-7-79; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-229]

PART 101-25—GENERAL

Subpart 101-25.3—Use Standards

ACQUISITION AND USE OF ELECTRIC TYPEWRITERS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation requires agencies to establish definitive policies, procedures, and limitations for the acquisition and use of electric typewriters to ensure that agencies procure only the lowest priced electric

typewriters necessary to meet their needs. A review of agency procurement practices indicated that the changes in this regulation were necessary.

EFFECTIVE DATE: February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, DC 20406 (703-557-1914).

SUPPLEMENTARY INFORMATION: Notice of a proposal to amend the Federal Property Management Regulations to require agencies to establish specific standards for the acquisition and use of electric typewriters was published in the FEDERAL REGISTER on September 7, 1977 (42 FR 44823). Suggestions received pursuant to that notice were evaluated and, where feasible, are reflected in this final rule.

Each agency shall forward a copy of its implementing regulation required by § 101-25.302-3(a) to the General Services Administration, Office of Acquisition Policy (mailing address: General Services Administration (AP), Washington, DC 20405), by May 9, 1979.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Section 101-25.302-3 is revised as follows:

§ 101-25.302-3 Electric typewriters.

(a) Each executive agency shall establish definitive policies, procedures, and standards for the acquisition and use of electric typewriters in consonance with the requirement to provide each typing station with the lowest cost electric typewriter that will meet minimum needs. Procurement of all electric typewriters shall be in accordance with the provisions of §§ 101-26.408-2 through 101-26.408-4 concerning acquisition of the lowest delivered price item from multiple-award Federal Supply Schedule contracts. Typewriters with specialized, elaborate, or sophisticated features shall be acquired only if they are the lowest priced available typewriters with or without those features, or if those features are indispensable to perform the required work. Approval for acquiring typewriters in the latter category shall be granted only as provided in paragraph (b) of this section.

(b) When establishing standards for determining the typewriter to be acquired, the following criteria shall be used:

(1) Generally, the acquisition of typewriters shall be limited to standard-type-bar, single-pitch machines or single-element machines. Agencies should establish minimum daily usage factors for acquisition of each special feature exceeding this description.

(2) Acquisition of typewriters with special features required for unique functions shall be justified in writing by the head of the agency or an authorized representative of the head of the agency, and that justification shall be made a part of the purchase file. Special features on typewriters include but are not limited to the following:

(i) Decimal tab keys or statistical keyboard;

(ii) Multiple-pitch capability; and

(iii) Proportional spacing.

(3) The acquisition of typewriters must reflect the work requirements of the office. For example, if 20 percent of the typing workload requires the use of typewriters with multiple pitch, then 100 percent of the typewriters need not have that particular feature.

(4) Typewriters with self-correcting features should not be considered economical unless a high percentage of the work necessitates first-time original copies.

(5) Whenever practicable, typewriters with specialized features should be pooled within an activity and made available if the features are used only occasionally.

(6) Typewriters with internal memory that do not record on movable magnetic media shall be acquired under the provisions of Subpart 101-11.9.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: January 23, 1979.

JAY SOLOMON,
Administrator
of General Services.

[FR Doc. 79-4293 Filed 2-7-79;8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19528; Docket No. 20774; Docket No. 21182; RM-2829; FCC 79-38]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS); Specifying Standard Plugs and Jacks for the Connection of Telephone Equipment to the Nationwide Telephone Network; Specifying Standards for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems

AGENCY: Federal Communications Commission.

ACTION: Reconsideration of Rule Making; Adoption of Final Rules.

SUMMARY: The Commission resolved all outstanding petitions seeking reconsideration of decisions involving interconnection of telephone terminal equipment and systems to the telephone network, in Dockets Nos. 19528, 20774 and 21182. Briefly, this unified order affirms the basic policies of the telephone equipment registration program and its Part 68 (of the FCC's rules) rules, while increasing manufacturers' and consumers' flexibility in such areas as: allowing the use of extension cords; allowing licensed professional engineers to supervise wiring installation (in addition to supervisors who have authority from equipment manufacturers); removing equipment-room wiring from certain limitations; and adopting a new procedure for using "standard" plug/jack configurations.

EFFECTIVE DATE: March 9, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau (202-632-9342).

SUMMARY MEMORANDUM OPINION AND ORDER [1]

In the matters of Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone

[1] Because of the length of the Memorandum Opinion and Order, it has not been published in the FEDERAL REGISTER, though it is on file. Copies of the original can be obtained from FCC's Public Information Office, Room No. 202, 1919 M St., N.W., Washington, D.C. 20554 (202) 632-7260.

Service (WATS); Docket No. 19528, 43 FR 16480, April 19, 1978; Revision of Part 68 of the Commission's Rules to Specify Standard Plugs and Jacks for the Connection of Telephone Equipment to the Nationwide Telephone Network; Docket No. 20774, 42 FR 12056, March 2, 1977; and Amendment of Part 68 of the Commission's Rules (Telephone Equipment Registration) to Specify Standards for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems, Docket No. 21182, 43 FR 16519, April 19, 1978, RM-2829.

The Commission has resolved all outstanding petitions for reconsideration in its three telephone equipment registration proceedings and adopted changes to increase consumer flexibility and the options available to equipment manufacturers and suppliers.

It said that over the past several years it had established a telephone equipment registration program that allowed consumers to use a broad variety of telephone equipment while providing appropriate protection of the nationwide telephone network from harm.

The Commission noted that Docket 19528 was the primary vehicle for adoption of this program and the program was implemented in three basic orders.

In the 1975 First Report, the program was initially made applicable to extension telephones, data equipment and ancillary equipment. In the 1976 Second Report, the program was extended to encompass main telephones, Private Branch Exchange (PBX) and key telephone systems, although because of outstanding issues related to protecting the network from premises wiring aberrations, only interim procedures were adopted in that order. In the 1978 Third Report, more comprehensive procedures were adopted for PBX and key telephone system registration and for their related premises wiring.

Because appellate litigation was pending on the Docket 19528 decisions, the Commission said, several allied proceedings addressing related matters were established. Thus, it said, while Docket 19528 adopted a policy of requiring FCC-registered equipment to be connected using standard plugs and jacks, the actual plugs and jacks were adopted in another proceeding, Docket 20774.

Similarly, the Commission said, while Docket 19528 adopted a policy of limiting the registration program to connections to the telephone network, another proceeding, Docket 21182, addressed whether the program should be extended in scope to encompass connections to other equipment.

The Commission said while the three proceedings had been treated as procedurally distinct, they did to some extent address common issues.

The Commission noted it had four goals in mind in the registration program:

—Assurance of adequate protection of the telephone network;
—Minimization of governmental intrusion into the equipment design, innovation and installation process;
—Promotion of the use of informal, industry-wide processes, where feasible to resolve technical issues; and
—Maximization of consumer flexibility and choice.

With these concepts in mind, the Commission said it would not expand the scope of the registration program in the Docket 21182 decision to directly encompass equipment-to-equipment connections, although it would make a very limited class of "components"—extension cords, adapters and patching panels—directly encompassed by the registration program to promote consumer flexibility.

It also adopted a new tariff mechanism as an alternative to the present approach of specifying "standard" plug/jack configurations in the rules. It said although the present approach worked, every time a new configuration was desired by the industry, a lengthy rulemaking process had to be initiated. The FCC said the new method would permit a new configuration to be used in a matter of weeks, if there was no controversy over it.

The Commission said the petitions and comments indicated that the Third Report's technical standards for premises wiring were practical and reasonable. It pointed out no party had claimed they were in any way burdensome and only minor perfecting changes were proposed. The Commission said it would adopt only those changes that would promote flexibility and innovation. Therefore, it specified that wiring used in equipment rooms, to which the general public has no access, would be exempted from some of the limitations of the rules.

The FCC said the only issue over which there was controversy concerned the institutional incentives that were adopted in the Third Report to assure that individual installations of premises wiring in fact conformed to the Commission's rules. It noted the Third Report adopted several complementary approaches to premises wiring. Basically, it said, an equipment manufacturer may choose to design equipment so that the wiring cannot affect the telephone network, or it may choose not to do so. If the manufacturer makes the latter choice and thereby exposes the telephone network electrically to the wiring itself, certain controls over the wiring are warranted. One such set of controls was a definition of acceptable technical standards, specified in Part 68 of the rules. Another such set of controls was procedures that assure that the wiring in fact would conform to the stated technical standards.

The FCC said the Third Report adopted an approach of establishing institutional incentives toward proper wiring. The equipment's manufacturer is required, in effect, to license installation supervisors by granting authority to assure that the wiring will conform to Commission rules.

The Commission said that rather than using government controls over the adequacy of installation personnel, it created an environment where registrants would select appropriately-trained personnel who are competent to assure installation consistent with the technical standards in the FCC's rules, to assure adequate network protection with minimal government interference with efficient equipment design and installation techniques.

The Commission said comments filed indicated that in the time period shortly after the Third Report was released, several equipment manufacturers appeared to be unwilling to extend the authority required in the rules of assuring proper wiring if their equipments were not inherently protective. Because of this, the FCC said, the comments requested that this element of the Third Report's program of controls over wiring be deleted.

The Commission pointed out, however, that:

—Proponents of deletion of that section of the rules offered no alternative proposal that would adequately create the desired incentives toward proper wiring;
—The potential for network harm from wiring that is performed improperly is high because of the wiring's physical exposure to commercial power wiring and grounded surfaces;
—Equipment manufacturers are now apparently entering the rule-required relationships, which indicates that the requirement is not unworkable; and
—If, as proponents of deleting that section of the rules are claiming, wiring poses no real danger to the telephone network, they should not be at all reluctant to indirectly accept limited responsibility for premises wiring.

The Commission said it would adopt an alternative to the existing supervisor/manufacturer relationship which will create a similar incentive toward proper wiring, and allow consumers an alternative method of dispensing with unnecessary protective apparatus if a particular manufacturer is no longer

in business, or if it chooses not to enter the required relationship with an installation supervisor. The new alternative allows a professional engineer licensed in the state where the wiring is performed to supervise and certify the wiring's adequacy.

It noted that this new alternative would meet all the registration program's objectives because a licensed professional engineer would have ample technical ability to use and interpret the FCC's wiring technical requirements, and the possibility of professional liability or loss of the professional license would create the desired incentives towards proper wiring. Moreover, engineer licensing by the states is already in place and does not require establishment of new bureaucracies or expansion of government intrusion in this field.

In sum, the Commission said the amendments it was adopting would result in no material changes in its policies concerning terminal equipment and system registration. It said that the changes adopted would increase consumer flexibility and the options available to equipment manufacturers and suppliers. It said it would be promoting industry-wide cooperation and installation efficiency by establishing the new mechanism whereby "standard" plug/jack configurations could be adopted and used expeditiously, rather than after months of formal rulemaking.

Finally, the Commission extended the transition period during which nonregistered "grandfathered" communications systems such as PBX and key telephone systems could continue to be installed, in recognition that the present period was too short. Also, the Commission changed the date for eligibility for transition period procedures to coincide with the effective date of the Third Report. The transition period will now end on January 11, 1980. PBX and key telephone systems are now eligible if of a type similar to designs connected to the telephone network as of June 1, 1978.

This action, which amends Part 68 of the rules becomes effective March 9, 1979.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201-205, 208, 215, 213, 313, 314, 403, 404, 410, 602.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO.
Secretary.

Part 68 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 68.2, paragraph (c) is amended as follows:

§ 68.2 Scope.

* * * * *

(c) *Grandfathered systems (including, but not limited to, PBX and key telephone systems).* (1) Entire systems, including their equipment, premises wiring, and protective apparatus (if any) directly connected to the telephone network on June 1, 1978, may remain connected to the telephone network for life without registration, unless subsequently modified, except for modifications allowed under § 68.2(c)(3).

(2) New installations of equipments may be performed (including additions to existing systems) up to January 1, 1980 without registration of any equipments involved. *Provided,* That these equipments are of a type directly connected to the telephone network as of June 1, 1978. These equipments may remain connected to the telephone network for life without registration, unless subsequently modified, except for modifications allowed under § 68.2(c)(3).

(3) Modifications to systems and installations involving unregistered equipment:

(i) Use of other than fully-protected premises wiring is a modification under § 68.2. As an exception to the general requirement that no modification is permitted to unregistered equipment whose use is permitted under § 68.2 certain modifications are authorized herein.

(ii) Other than fully-protected premises wiring may be used if it is qualified in accordance with the procedures and requirements of 68.215. Since there is no "registrant" of unregistered equipment, the training and authority required by § 68.215(c) will have to be received from the equipment's manufacturer.

(iii) Existing separate, identifiable and discrete protective apparatus may be removed, or replaced with apparatus of lesser protective function, provided that any premises wiring to which the telephone network is thereby exposed conforms to § 68.2(c)(ii) above. Minor modifications to existing unregistered equipments are authorized to facilitate installation or premises wiring, so long as they are performed under the responsible supervision and control of a person who complies with § 68.215(c). Since there is no "registrant" of unregistered equipment, the training and authority required by § 68.215(c) will have to be received from the manufacturer of the equipment so modified.

2. In § 68.3 (Definitions), paragraph (1), sub-section (1) is amended as follows:

§ 68.3 Definitions.

* * * * *

(1) *Premises Wiring.* * * *

(1) *Fully-Protected Premises Wiring.* Premises wiring which is either:

(i) No greater than 25 feet in length (measured linearly between the points where it leaves equipment or connector housings) and registered as a component of and supplied to the user with the registered terminal equipment or protective circuitry with which it is to be used. Such wiring shall either be pre-connected to the equipment or circuitry, or may be so connected by the user (or others) if it is demonstrated in the registration application that such connection by the untrained will not result in harm, using relatively fail-safe means.

(ii) A cord which complies with the previous sub-section and which is extended *once* by a connectorized FCC-registered extension cord which itself complies with the previous sub-section. Extension cords may not be used as a substitute for wiring which for safety reasons should be affixed to or embedded in a building's structure.

(iii) Wiring located in an equipment room with restricted access, provided that this wiring remains exposed for inspection and is not concealed or embedded in the building's structure, and that it conforms to § 68.215(d).

(iv) Electrically behind registered (or grandfathered) equipment, system components or protective circuitry which assure that electrical contact between the wiring and commercial power wiring or earth ground will not result in hazardous voltages or excessive longitudinal imbalance at the telephone network interface.

3. Section 68.104(c), previously reserved, is hereby adopted as follows:

§ 68.104 Means of connection.

* * * * *

(c) *Tariff Description.* As an alternative to description in Subpart F of these rules, connections to the telephone network may be made through standard plugs, and standard telephone company-provided jacks or equivalent described in nationwide telephone tariffs: *Provided,* That these means of connection otherwise comply with paragraphs (a) and (b) of this section.

4. Section 68.200 is amended by adding a new paragraph (h), as follows:

§ 68.200 Application for equipment registration.

* * * * *

(h) Abbreviated registration requirements for extension cords, cross-connect panels, and adapters:

(1) An extension cord consists of a male connector, a female connector, and wiring between them which is no longer than 25 feet in length. A cross-connect panel consists of a male connector, a female connector (or multiples thereof) and relatively fail-safe means for achieving cross connections of tip/ring and other pairs carried on the connectors; such means shall be switches, pluggable devices, or patch cords (or equivalent), and shall be so insulated as to not expose telephone network connections (or points having a conducting path thereto) excessively. An adapter consists of a male connector (non-standard) and a female connector (standard) housed in one mechanical assembly.

(2) Devices which are eligible for registration under this sub-section must be passive, contain no sources of power, and through internal switching or internal conductive paths create only open-circuited or short-circuited states.

(3) These devices need only be evaluated for compliance with §§ 68.304 and 68.130, under the stresses specified in § 68.302. Extension cords shall be considered "hand-held items normally used at head height." Electrical stresses and longitudinal imbalance testing should be applied with the following terminations substituted for the equipment with which these devices are used:

(i) Longitudinal surges, longitudinal imbalance. Open circuit; and 600 ohms metallic resistance with 150 ohms longitudinal resistance.

(ii) Metallic surges. Open circuit; and 600 ohms metallic resistance.

(4) These devices need not be labelled as specified in § 68.300 if they are identified as follows. They may be identified either on an outside surface, or on a tag which is permanently affixed to an outside surface, with the following information: "FCC Registration Number ———." (The proper number should be included.)

5. In § 68.215, paragraph (c) is amended by adding a new subparagraph (4), and paragraphs (d) and (e) are amended to read as follows:

§ 68.215 Installation of other than "fully protected" premises wiring.

* * * * *

(c) * * *

(4) Or, in lieu of paragraph (c)(1)-(3) of this section, is a licensed professional engineer in the jurisdiction in which the installation is performed.

(d) *Workmanship and material requirements*—(1) *General.* Wiring shall be installed so as to assure that there is adequate insulation of telephone wiring from commercial power wiring and grounded surfaces. Wiring is required to be sheathed in an insulating jacket in addition to the insulation enclosing individual conductors (see below) unless located in an equipment enclosure or in an equipment room with restricted access; it shall be assured that this physical and electrical protection is not damaged or abraded during placement of the wiring. Any intentional removal of wiring insulation (or a sheath) for connections or splices shall be accomplished by removing the *minimum* amount of insulation necessary to make the connection or splice, and insulation equivalent to that provided by the wire and its sheath shall be suitably restored, either by placement of the splices or connections in an appropriate enclosure, or equipment rooms with restricted access, or by using adequately insulated connectors or splicing means.

(2) *Wire.* Insulated conductors shall have a jacket or sheath with a 1500 volt rms minimum breakdown rating, except when located in an equipment enclosure or an equipment room with restricted access. This rating shall be established by covering the jacket or sheath with at least six inches (measured linearly on the cable) of conductive foil, and establishing a potential difference between the foil and all of the individual conductors connected together, such potential difference gradually increased over a 30 second time period to 1500 volts rms, 60 Hertz, then applied continuously for one minute. At no time during this 90 second time interval shall the current between these points exceed 10 milliamperes peak.

NOTE.—This requirement is patterned after § 68.304.

(3) *Places where the jacket or sheath has been removed.* Any point where the jacket or sheath has been removed (or is not required) shall be accessible for inspection. If such points are concealed, they shall be accessible without disturbing permanent building finish (e.g. by removing a cover).

(4) * * *

(5) * * *

NOTE.—The total current in all conductors of multiple conductor cables may not exceed 20% of the sum of the individual ratings of all such conductors.

(6) * * *

(e) *Documentation requirements.* A notarized affidavit and one copy thereof shall be prepared by the installation supervisor in advance of each operation associated with the installation, connection, reconfiguration and removal of other than fully-protected premises wiring (except when accomplished functionally using a cross-connect panel), except when involved with removal of the entire premises communications system using such wiring. This affidavit and its copy shall contain the following information:

(1) * * *

(2) The name of the registrant(s) (or manufacturer(s), if grandfathered equipment is involved) of any equipment to be used electrically between the wiring and the telephone network interface, which does not contain inherent protection against hazardous voltages and longitudinal imbalance.

(3) A statement as to whether the supervisor complies with § 68.215(c). Training and authority under § 68.215(c)(2)-(3) is required from the registrant (or manufacturer, if grandfathered equipment is involved) of the first piece of equipment electrically connected to the telephone network interface, other than passive equipments such as extensions, cross-connect panels, or adapters. In general, this would be the registrant (or manufacturer) of a system's common equipment.

(4) * * *

(5) * * *

(6) * * *

(7) The manufacturer(s); a brief description of the wire which will be used (model number or type); its conformance with recognized standards for wire if any (*e.g.,* Underwriters Laboratories listing, Rural Electrification Administration listing, "KS-" specification, etc.); and a general description of the attachment of the wiring to the structure (*e.g.,* run in conduit or ducts exclusively devoted to telephone wiring, "fished" through walls, surface attachment, etc.).

(8) * * *

(9) * * *

* * * * *

6. Section 68.304 is amended by revising note (a) thereto, and by adding a new note (e), as follows:

§ 68.304 Leakage current limitations.

NOTES

(a) If, in any operational state, one of the telephone connections or auxiliary leads has an intentional conducting path to earth ground, that lead may be excluded from the leakage current test in that operational state. Connections excluded for this reason must comply with the requirements of § 68.306(c) in addition to other applicable rules. However, leakage current tests between telephone connections and auxiliary leads are required unless both points have intentional conducting paths to earth ground.

* * * * *

(e) For multiple-unit equipment interconnected by cables, which is evaluated and registered as an interconnected combination or assembly, the specified 10 milliamperes peak maximum leakage current limitation,

other than between power connection points and other points, may be increased as described here to accomodate cable capacitance. The leakage current limitation may be increased to (10N+0.04L) milliamperes peak, where L is the length of interconnecting cable in the leakage path in feet, and N is the number of equipment units which the combination or assembly will place in parallel across a telephone connection. However, all combinations of electrical connections requiring this increased leakage current limitation and involving point (3) surfaces (exposed conductive surfaces) must comply with the requirements of § 68.306(c) in addition to other applicable rules.

7. Section 68.306(a) is amended by adding additional language, as follows:

§ 68.306 Hazardous voltage limitations.

(a) *General.* Under no condition of failure of registered terminal equipment or registered protective circuitry, or of equipment connected thereto, which can be conceived to occur in the handling, operation or repair of such equipment or circuitry, shall the open circuit voltage on telephone connections or auxiliary leads exceed 70 volts peak for more than one second, except for voltages for network control signaling and supervision, which in any case, should be consistent with standards employed by the telephone companies.

* * * * *

8. Section 68.502 is amended to delete several sub-sub sections, as follows:

§ 68.502 Configurations.

(b) *Series configurations.* * * *
(6) [Deleted]
(e) *Data configurations.* * * *
(7) [Deleted]
(8) [Deleted]

[FR Doc. 79-4413 Filed 2-7-79; 8:45 am]

[6712-01-M]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and TV Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction—Final Rules.

SUMMARY: This erratum is issued to correct Section 73.99, to delete incorrect text which reads "See § 73.1735", and to insert paragraphs (a) through (i)—the entire text of the rule—which was inadvertently omitted, as adopted on September 22, 1978, and published in the FEDERAL REGISTER on October 4, 1978, at 43 FR 43852.

EFFECTIVE DATE: November 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Steve Crane, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of reregulation of radio and TV broadcasting. Erratum.

Released: February 1, 1979.

In the above-captioned *Order,* FCC 78-681, adopted September 22, 1978, and published in the FEDERAL REGISTER on October 4, 1978, at 43 FR 45842, the text of Section 73.99 in paragraph 24 of Appendix A is incorrectly stated as "See § 73.1735." It should be corrected to read:

§ 73.99 Presunrise service authorizations (PSA).

(a) In order to afford the maximum uniformity in early morning operations compatible with interference considerations, the following classes of AM broadcast permittees and licensees are eligible to request presunrise service authority (PSA):

(1) Class II stations operating on clear channels, except those operating on Canadian I-A clear channels and those located east of cochannel U.S. Class I-A stations.

(2) Class III stations.

(b) When issued, a PSA will permit:

(1) Class II stations operating on Mexican and Bahamian I-A clear channels to commence operation with their daytime antenna systems at 6 a.m. local time, and to continue such operation until the sunrise times specified in their basic instruments of authorization; and other Class II stations, where eligible under paragraph (a)(1) of this section, to commence operation with their daytime or critical hours antenna systems either at 6 a.m. local time, or at the time of sunrise at the westernmost Class I station located east of the Class II station (whichever is later), and to continue such operation until the sunrise times specified in their basic instruments of authorization: *Provided,* That the permissible power to be specified in the PSA shall not exceed 500 watts (or the authorized daytime or critical hours power, if less than 500 watts), or such lesser power as may be determined by computations made pursuant to paragraph (c) of this section.

(2) Class III stations to commence operation with their daytime antenna systems at 6 a.m. local time, and to continue such operation until local sunrise: *Provided,* That the permissible power, to be specified in the PSA, shall not exceed 500 watts or such lesser power as may be determined on the basis of calculations made pursuant to paragraph (c) of this Section.

(c) Notwithstanding the provisions of §§ 1.571 and 1.580 of this chapter, requests for PSA's shall be treated as proposals for minor changes in existing facilities and, as such, are not subject to the procedural requirements or remedies applicable to applications for new facilities and major changes therein. PSA requests shall be submitted by letter, signed in the manner specified in § 1.513 of this chapter, with the following information:

(1) Name, call letters, and station location.

(2) For Class II stations operating on clear channels other than Class I-A clear channels, a showing that objectionable interference as determined by the Standard Broadcast Technical Standards (§§ 73.182 to 73.190), or by the engineering standards of the NARBA (whichever is controlling), will not be caused within the 0.5 mV/m 50 percent skywave contour of any domestic Class I-B stations, or of a Class I-B station in any country signatory to the NARBA, where the Class II stations are located east of the Class I-B station; for Class II stations operating on Mexican Class I-A clear channels, and for Class II stations located east of co-channel Mexican Class I-B stations, a showing under the engineering standards of the United States/Mexican Agreement that the Class II station does not produce a signal in excess of 25 uV/m 10 percent skywave at any point on the co-channel Mexican Class I station's 0.5 mV/m 50 percent skywave contour which falls on Mexican territory, or more than 50 uV/m 10 percent skywave at any point on the Mexican border or boundary where the signal of the Mexican Class I station exceeds 0.5 mV/m 50 percent skywave in strength. In addition, the applicant must show that foreign Class II stations (if any) assigned to the same channel as the U.S. Class II station will receive full protection under the standards for nighttime operation set forth in the applicable agreement. If the foregoing protections cannot be achieved by the Class II station while operating with 500 watts, a showing may be submitted to establish the level to which power must be limited to preclude objectionable interference: *Provided,* That, in relation to Canadian Class II stations, the permissible power level may be established in the manner described in paragraph (c)(3) of this section by the use of Figure 12 of § 73.190.

NOTE: PSA applicants for the Bahamian I-A clear channel (1540 kHz) need not submit the nighttime interference study required of other PSA applicants under this subparagraph. Instead, the FCC will assign a power and time of commencement of presunrise operation consistent with the provisions of the U.S.-Bahamian presun-

rise agreement (1974) and the protection requirements of U.S. I-B and foreign Class II full-time station assignments on this frequency.

(3) For Class III stations, a showing that co-channel stations in foreign countries will receive full treaty protection. If such protection cannot be achieved on the basis of 500-watt operation, calculations may be submitted to establish the level to which power must be reduce to preclude objectionable interference: *Provided*, That, with respect to Canadian Class III stations, such power level may be established by a showing that the radiation at the pertinent vertical angle toward co-channel Canadian stations does not exceed that defined in Figure 12 of § 73.190. If the latter showing cannot be made on the basis of 500-watt operation, calculations may be submitted to establish the level to which power must be reduced in order to limit radiation at the pertinent vertical angle to the values specified in Figure 12 of § 73.190.

(4) A description of the method whereby any proposed power reduction will be achieved.

(d) Calculations made under paragraph (c) of this section shall not take outstanding PSA's into account, nor shall the grant of a PSA confer any degree of interference protection on the holder thereof.

(e) Operation under a PSA is not mandatory, and will not be included in determining compliance with the requirements of § 73.71. To the extent actually undertaken, however, presunrise operation will be considered by the FCC in determining overall compliance with past programming representations and station policy concerning commercial matter.

(f) The PSA is secondary to the basic instrument of authorization and may be suspended, modified, or withdrawn by the FCC without prior notice or right to hearing, if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action.

(g) The PSA will be issued for a term coinciding with the current basic instrument of authorization and, unless surrendered by the holder or suspended, modified or withdrawn by the FCC will have continuing or renewed effect under succeeding instruments.

(h) The issuance of a PSA is intended to indicate the waiver of §§ 73.45, 73.182, and 73.188 where the operation might otherwise be considered as technically substandard. Further, the requirements of paragraphs (a)(5), (b)(2), (c)(2), and (d)(2) of § 73.1215 concerning the scale ranges of transmission system indicating instruments are waived for PSA operation except for the radio frequency ammeters used in determining antenna input power. A station having an antenna monitor incapable of functioning at the authorized PSA power when using a directional antenna shall take the monitor reading using unmodulated carrier at the authorized daytime power immediately prior to commencing PSA operations. Special conditions as the FCC may deem appropriate may be included in the PSA to insure operation of the transmitter and associated equipment in accordance with all phases of good engineering practice.

(i) In the event of permanent discountinuance of presunrise operation, the PSA shall be forwarded to the FCC's Washington office for cancellation, and the Engineer in Charge of the radio district in which the station is located shall be notified accordingly.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-4263 Filed 2-7-79; 8:45 am]

[6712-01-M]

[BC Docket No. 78-271; RM-3044]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Station in DeKalb, Ill; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein substitutes noncommercial television Channel *33 for *48 at DeKalb, Illinois, at the request of the Northern Illinois Public Telecommunications Corporation. The station would provide for a noncommercial educational television service to the northern region of Illinois which is not now receiving such service

EFFECTIVE DATE: March 19, 1979.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (DeKalb, Illinois). Report and order (proceeding terminated).

Adopted: February 1, 1979.

Released: February 2, 1979.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted August 24, 1978, 43 FR 39593, in response to a petition filed by Northern Illinois Public Telecommunications Corporation ("NIPTC"). The *Notice* proposed substituting reserved TV Channel *33 for existing reserved Channel *48 at DeKalb, Illinois. Channel *48 is unoccupied and no applications are pending for its use. Supporting comments were filed by NIPTC.[1]

2. DeKalb (pop. 32,949), in DeKalb County (pop. 71,654),[2] is located in north central Illinois, approximately 90 kilometers (55 miles) west of Chicago. Channel *48 is the only television channel assigned to DeKalb.

3. NIPTC states that its purpose is to enable northwestern counties of Illinois to participate in the state educational television network. It notes that the northwestern region of Illinois is the largest area in the state not covered by educational television service. NIPTC claims that in order to provide the maximum educational television service to this vast region, the best possible signal should be used. It believes that use of Channel *33 could achieve this purpose.

4. As long as an appropriate transmitter site is sclected, Channel *33 can be assigned in compliance with the Commission's distance separation requirements and other technical criteria. NIPTC has reaffirmed its intention to file for the use of this channel as a noncommercial educational assignment, if assigned. NIPTC notes that a transmitter site for the proposed station may be chosen in a large area west of DeKalb which provides adequate flexibility to avoid a short-spacing.[3]

5. We have carefully considered the proposal and conclude that it would be in the public interest to assign Channel *33 to DeKalb, Illinois, and to delete the present Channel *48 assignment. The proposed assignment would confer a substantial benefit upon the public by enabling petitioner to provide a noncommercial educational television service to the northwestern region of Illinois which is not presently receiving such service. In addition, we note that less preclusion would result from the assignment of Channel *33 than exists with the present Channel *48 assignment.

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[1] NIPTC filed a Motion to Accept late-filed comments in support of its proposal. Since there has been no objection to our acceptance of these comments, and no other parties would be affected thereby, we are granting NIPTC's Motion and will accept its comments.

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

[3] Therefore, any application for use of the channel should specify a site meeting the spacing requirements of Section 73.610 of the rules.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, That, effective March 19, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the city listed below, to read as follows:

City	Channel No.
DeKalb, Illinois	*33

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

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

[FR Doc. 79-4412 Filed 2-7-79; 8:45 am]

[6712-01-M]

PART 87—AVIATION SERVICES

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: We are deleting a provision in our rules that established the bandwidth permitted in the band 10550-10680 MHz. Since we have no other rules in the Aviation Services regarding operations in this band this provision is unnecessary and should be deleted. This action will delete this section of our rules.

EFFECTIVE DATE: February 9, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: In the Matter of Editorial amendment of § 87.67 of the Commission's rules.

Adopted: January 25, 1979.

Released: January 26, 1979.

1. Section 87.67(b)(2) of our rules has a provision relating to the maximum bandwidth for stations operating in the 10550 to 10680 MHz band. Since the Aviation Services have no authorizations or other rules regarding operations in this band the provision in this section of our rules is unnecessary.

2. We are deleting this section from our rules. Therefore, under the authority of Section 4(i) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, we are amending § 87.67(b)(2) as shown below. Since this amendment is editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

3. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

4. In view of the above: *it is ordered,* That the rule amendment set forth below is adopted effective February 9, 1979.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 87—Aviation Services.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

§ 87.67 [Amended]

In § 87.67, paragraph (b)(2) is revoked, and paragraph (b)(1) is renumbered as paragraph (b).

[FR Doc. 79-4411 Filed 2-7-79; 8:45 am]

[4910-59]

Title 49—Transportation

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

[Docket No. 75-03; Notice 6]

PART 571—MOTOR VEHICLE SAFETY STANDARDS

Bus Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Interim final rule and request for comments.

SUMMARY: This notice adopts as an interim final rule and proposes the amendment of Standard No. 217-76, *Bus Window Retention and Release,* to modify several of the requirements applicable to rear emergency doors in school buses with gross vehicle weight ratings (GVWR) less than 10,000 pounds. The notice responds to a petition from the Ford Motor Company requesting changes in the location of the emergency release mechanism, modification of the size of the parallelepiped testing device, and changes in the location of the emergency exit identification. The agency by this notice makes final on an interim basis some of the changes which are reasonable and which would not result in any lessening of the safety of school buses. The agency also solicits comments on these interim changes.

DATES: Comments must be received on or before March 25, 1979. Since this requirement will relieve some restrictions currently imposed by the standard, the NHTSA has determined that it is in the public interest to make the changes effective immediately on an interim basis. The final rule, which will respond to the comments received on this notice, will be effective upon publication in the FEDERAL REGISTER.

ADDRESS: Comments should refer to the docket number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: This notice makes final on an interim basis some minor changes to Standard No. 217-76, *Bus Window Retention and Release,* as the standard applies to small van-type school buses. The notice also solicits comments on these changes. Ford Motor Company petitioned the agency to amend some of the requirements pertaining to rear emergency doors of school buses with gross vehicle weight ratings less than 10,000 pounds. Ford argued that some of the rear exit requirements of the standard were more appropriate for larger school buses (10,000 pound GVWR and above) than they were for smaller school vehicles. The agency tentatively agrees with Ford and adopts the changes outlined below.

Ford first asked that the parallelepiped measuring device be reduced in width from 24 inches to 22 inches. The purpose of the parallelepiped measuring device is to test the size of the opening of an emergency door. Standard No. 217 requires the use of a rear emergency door in small school vehicles that is sufficiently wide to permit the easy exit of the school bus passengers. Ford argued that the existing requirement provides for an unnecessarily wide exit in van-type vehicles. Ford pointed out that the shoulder width for a 50th percentile dummy (Part 572 of the agency's regulations) is 18.4 inches. A 50th percentile dummy approximates the average size of an adult male. Accordingly, Ford suggested that since the average size of an

adult male is almost 6 inches narrower than the required rear emergency exit and that school buses usually transport children that are even smaller than the average adult male, the current 24-inch requirement is unnecessarily stringent. For the reasons discussed below, the agency tentatively agrees.

The existing requirement was designed to provide adequate room in large school buses for two children to exit abreast. The purpose was to ensure that the occupants of such buses could exit them quickly. Van-type school buses carry substantially fewer occupants and thus do not need the same size opening to permit quick exit. Further, the NHTSA is concerned that its existing requirement is somewhat design restrictive as it applies to van-type school buses. It discourages, for example, the use of double rear emergency doors in favor of a single rear emergency door even though double rear emergency doors may be as safe as or even safer than single ones. Since the agency seeks to create safety standards that are not more design restrictive than necessary and since the agency can see no diminution of safety resulting from this change, the NHTSA tentatively amends the standard to require rear exits in small school vehicles accommodate a 22-inch parallelepiped device instead of the 24-inch parallelepiped currently specified.

In connection with the parallelepiped device, Ford indicated that their vehicle would not comply with the requirements even if reduced to 22 inches if the agency requires the device to remain flat on the floor as it is being removed from the vehicle. The NHTSA has indicated by interpretation that it is permissible to lift the device slightly (1 inch) to overcome small protusions near the floor of the vehicle. The agency permits this testing procedure, because the purpose of the test is to provide an adequate escape area in an exit. Small protrusions near the floor of an emergency door particularly those near the sides of the door would not hinder the escape of passengers from a vehicle in an emergency.

Regarding the rear door emergency exit, Ford suggested that the agency alter the emergency release mechanism location requirements of paragraph S5.3.3 of the standard for van-type vehicles. The existing requirements specify the location of the rear interior and exterior release mechanisms. The release mechanism requirements were adopted to provide release handles that are easily accessible in the event of an accident. However, it appears that the current requirements are more appropriate for larger school vehicles where the release mechanism could easily be located beyond the reach of smaller students attempting to open the door in an emergency. Location does not appear to be a safety problem with respect to smaller school vehicles, however, since they are of a size such that the location of release mechanisms would not fall in an inaccessible area. Accordingly, the NHTSA tentatively amends the standard to remove the requirements for rear emergency exit release mechanism location on buses with GVWRs less than 10,000 pounds.

The NHTSA cautions manufacturers that the removal of exit release mechanism location requirements for small buses does not permit the placement of release mechanisms in inaccessible areas. The intent of Standard No. 217 is to provide sufficient emergency exits that are easily accessible. Placement of an exit release mechanism in a location that would be difficult to reach, such as behind a seat, would violate the standard's intent and might be considered a safety-related defect.

Ford also suggested that the NHTSA modify another interior rear emergency release mechanism requirement. Currently, the regulation requires that the interior release mechanism employ an upward motion for release. The purpose of this requirement is to make it more difficult for emergency exit doors to be opened accidently while a vehicle is in operation. Ford recommended an alternative to the upward motion release mechanism. It suggested that the agency permit a manufacturer, at its option, to use the upward motion or to use a push or pull type release mechanism.

The NHTSA considers it necessary to require the installation of release mechanisms that are not susceptible to accidental opening. The agency concludes that devices that release emergency doors simply by pushing on a release mechanism are subject to accidental release if, for example, someone were to fall against them. Accordingly, the NHTSA denies that portion of Ford's recommendation that would allow this alternative. However, the agency tentatively considers release mechanisms that are operated by a pulling motion to be an option that can be as safe as release mechanisms operated by an upward motion. This is particularly true if the release mechanism is recessed in the door surface. Accordingly, for smaller school vehicles, the agency tentatively modifies the standard to permit release mechanisms that operate by pulling when such mechanisms are recessed.

In a final recommendation, Ford suggested that the agency modify the emergency identification requirement of the standard. It suggested that the label be located centrally on the exit. Currently, the identification requirement mandates the location of the emergency exit sign at the top of or directly above the emergency exit. The agency has interpreted this requirement to allow the labeling of exits on the top half of the exit or immediately above the exit. This interpretation allows a label to be located near the center of an exit. Accordingly, the NHTSA does not see any reason to modify the language of the requirement at this time and denies this aspect of the petition. The agency notes for clarity, however, that although the identification sign may be located on the top half of the exit, it cannot be placed in such a manner that it is not easily visible. For example, the exit identification sign cannot be placed behind a seat.

Since these amendments relieve some restrictions in the safety standard and may reduce school bus costs without lessening vehicle safety, the NHTSA finds for good cause that an immediate amendment of the requirement is in the public interest.

In accordance with the discussion above, the agency amends Standard No. 217-76, *Bus Window Retention and Release,* of Volume 49 of the Code of Federal Regulations, Part 571 as set forth below.

1. Section S5.3.3 has the first sentence revised to read:

S5.3.3 When tested under the conditions of S6, both before and after the window retention test required by S5.1, each school bus emergency door shall allow manual release of the door by a single person, from both inside and outside the bus passenger compartment, using a force application that conforms to paragraphs (a) through (c) except a school bus with a GVWR less than 10,000 pounds does not have to conform to paragraph (a).

2. Section S5.3.3 paragraph (b) is amended by the addition of the following at the end of the paragraph:

Buses with a GVWR less than 10,000 pounds shall provide interior release mechanisms that operate by either an upward or pull-type motion. The pull-type motion shall be used only when the release mechanism is recessed in such a manner that the handle, lever, or other activating device does not protrude beyond the rim of the recessed receptacle.

3. Section S5.4.2.2 is revised by changing the phrase "24 inches wide" to read "22 inches wide".

Interested persons are invited to submit comments on the interim final rule. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but

not required that 10 copies be submitted.

All comments must be limited to not more than 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. The limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated will be considered, and will be available for examination in the public docket at the address above both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this notice are Robert Williams of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 202, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegations of authority at 49 CFR 1.50.)

Issued on February 5, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-4402 Filed 2-6-79; 8:58 am]

[4910-59-M]

[Docket No. 70-12; Notice 23]

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

Amendment of Rule

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Amendment of rule.

SUMMARY: Congress has recently amended the National Traffic and Motor Vehicle Safety Act of 1966 (the Safety Act) to exempt manufacturers of retreaded tires from the registration requirements of the Act. This notice makes conforming amendments to the regulations implementing the tire registration requirments of the Act. The amendment is being published as a final rule without notice and opportunity for comment and is effective immediately, rather than 180 days after issuance, since the agency lacks discretion on the manner of implementing this Congressional mandate.

EFFECTIVE DATE: February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: Congress has recently enacted the Surface Transportation Assistance Act of 1978, Pub. L. 95-599. Section 317 of that Act amends the Safety Act by exempting manufacturers of retreaded tires from the registration requirements of section 158(b) of the Safety Act.

This amendment modifies the requirements of Part 574 to specify that manufacturers of retreaded tires are not subject to the mandatory registration requirements set forth in that Part. Manufacturers of retreaded tires are free to continue voluntarily registering the tires, and the agency encourage these manufacturers to provide some means for notifying purchasers in the event of a recall of tires that do not comply with Federal safety standards or contain a safety-related defect. However, this choice will be left to the individual retreaders.

The remaining obligations of retreaders under Part 574 are set forth in §§ 574.5 and 574.6, which provisions are not affected by this amendment. Those sections require that the retreader label contain certain information on its tires. These provisions allow a retreader who determines that some of its tires do not comply with a Federal safety standard or contain a safety-related defect to warn the public of that fact, and indicate the label number of the affected tires.

Since Congress has amended the Safety Act to exempt the manufacturers of retreaded tires from the registration requirements, this amendment of Part 574 is published without notice and opportunity for comment. The Administrator finds good cause for forgoing these procedures in this instance, because Congress has specifically mandated this action, and the agency has no authority to disregard a legislative mandate. For the same reason, this amendment is effective immediately, rather than 180 days after issuance.

The agency has reviewed the impacts of this amendment and determined that they will reduce costs to the manufacturers. Further, the agency has determined that the amendment is not a significant regulation within the meaning of Executive Order 12044

The program official and attorney principally responsible for the development of this amendment are Arturo Casanova and Stephen Kratzke, respectively.

In consideration of the foregoing, 49 CFR Part 574, Tire Identification and Recordkeeping, is amended to read as set forth below.

AUTHORITY: Sections 103, 108, 112, 119, 201, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1407, 1421); secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1411-1420); Stat. 2689 (15 U.S.C. 1418); delegation of authority at 49 CFR 1.51.

Issued on January 31, 1979.

JOAN CLAYBROOK,
National Highway Traffic Safety Administrator.

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

1. Section 574.1 is revised to read as follows:

§ 574.1 Scope.

This part sets forth the method by which new tire manufacturers and new tire brand name owners shall identify tires for use on motor vehicles and maintain records of tire purchasers, and the method by which distributors and dealers of new tires shall record and report the names of tire purchasers to the new tire manufacturers and new tire brand name owners. This part also sets forth th method by which retreaders and re-

treaded brand name owners shall identify retreaded tires for use on motor vehicles.

2. Section 574.3 is amended by deleting § 574.3(c)(2) and (3) and adding a new § 574.3(c)(2), (3), and (4), to read as follows:

§ 574.3 Definitions.

* * * * *

(c)(1) * * *

(2) "New tire brand name owner" means a person, other than a new tire manufacturer, who owns or has the right to control the brand name of a new tire or a person who licenses another to purchase new tires from a new tire manufacturer bearing the licensor's brand name.

(3) "Retreaded tire brand name owner" means a person, other than a retreader, who owns or has the right to control the brand name of a retreaded tire or a person who licenses another to purchase retreaded tires from a retreader bearing the licensor's brand name.

(4) "Tire purchaser" means a person who buys or leases a new tire, or who buys or leases for 60 days or more a motor vehicle containing a new tire for purposes other than resale.

3. Section 574.7 is revised to read as follows:

§ 574.7 Information requirements—new tire manufacturers, new tire brand name owners.

(a) Each new tire manufacturer and new tire brand name owner (hereinafter referred to in this section and § 574.8 as "tire manufacturer" unless specified otherwise), or his designee, shall provide forms to every distributor and dealer of his tires who offers these tires for sale or lease to tire purchasers, by which the distributor and dealer may record the information appearing in paragraphs (a)(1), (a)(2), and (a)(3) of this section. Forms conforming in size and similar in format to Figure 3 shall be provided to those dealers who request them, or if a dealer prefers, he may supply his own form as long as it contains the required information, conforms in size, and is similar in format to Figure 3.

* * * * *

4. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) * * *

(b) Each tire distributor and each dealer selling tires to tire purchasers shall forward the information specified in § 574.7(a) to the tire manufacturer, or person maintaining the information, not less than every 30 days. However, a distributor or dealer who sells less than 40 new tires, of all makes, types, and sizes during a 30-day period may wait until he sells a total of 40 new tires, but in no event longer than 6 months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors and dealers shall supply to the tire distributor or dealer to whom he sells new tires a means to record the information specified in § 574.7(a), unless such a means has been provided to that distributor or dealer by another person or by a manufacturer.

* * * * *

5. Section 574.9 is revised as follows:

§ 574.9 Requirements for motor vehicle dealers.

(a) Each motor vehicle dealer who sells a used motor vehicle for purposes other than resale, who leases a motor vehicle for more than 60 days, that is equipped with new tires is considered, for purposes of this part, to be a tire dealer and shall meet the requirements specified in § 574.8.

(b) Each person selling a motor vehicle to first purchasers for purposes other than resale, that is equipped with new tires that were not on the motor vehicle when shipped by the vehicle manufacturer is considered a tire dealer for purposes of this part and shall meet the requirements specified in § 574.8.

6. Section 574.10 is revised to read as follows:

§ 574.10 Requirements for motor vehicle manufacturers.

Each motor vehicle manufacturer, or his designee, shall maintain a record of the new tires on or in each vehicle shipped by him to a motor vehicle distributor or dealer, and shall maintain a record of the name and address of the first purchaser for purposes other than resale of each vehicle equipped with such tires. These records shall be maintained for a periods of not less than 3 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

[FR Doc. 79-4147 Filed 2-7-79; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Third Rev. Service Order No. 1315-A]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Third Revised Service Order No. 1315-A.

SUMMARY: Third Revised Service Order No. 1315 provides demurrage charges for covered hopper cars. This order also sets forth free-time and other requirements in connection with demurrage. A supplement to Freight Tariff 4-K became effective February 1, 1979, providing higher charges for demurrage than under the service order. Third Revised Service Order No. 1315 is vacated effective 11:59 p.m., February 2, 1979.

DATES: Effective 11:59 p.m., February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

J. K. Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: February 2, 1979.

Upon further consideration of Third Revised Service Order No. 1315 (44 FR 4951), and good cause appearing therefor:

It is ordered. § *1033.1315 Third Revised Service Order No. 1315* (Demurrage and free time on freight cars) is vacated effective 11:59 p.m., February 2, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

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

By the Commission, Railroad Service Board, members Robert S. Turk-

ington, Leonard J. Schloer and William F. Sibbald.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-4400 Filed 2-7-79; 8:45]

[7035-01-M]

[Ex Parte No. MC-105]

PART 1062—REGULATIONS GOVERNING SPECIAL APPLICATION PROCEEDINGS FOR FOR-HIRE MOTOR CARRIERS

Ex-Water Traffic [1]

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The rules adopted in this document establish a simplified certification procedure for all motor common carriers of property who wish to provide motor carrier service within the commercial zone of a port city for a shipment having a prior or subsequent movement by maritime carrier. This rule should improve intermodal (ocean-land) operations.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Metrinko, (202) 275-7885.

SUPPLEMENTARY INFORMATION: The purpose of the regulations adopted in this case is to provide a simplified certification process for motor common carriers seeking authority to transport shipments of property within the commercial zone of port cities where the shipments have a prior or subsequent movement by maritime carrier.

THE STATUTORY SITUATION

Commission regulations and our general statutory framework demonstrate the relative unimportance of regulating incidental or short haul transportation of property. Section 10526(b)(1) (formerly section 203(b)(8)) exempts the transporation of property wholly within a municipality, between contiguous municipalities, or within a zone (the "commercial zone") adjacent to and commercially part of these municipalities, except when the transportation is under common control, management, or arrangement for continuous carriage to outside points. Section 10523 (formerly section 202(c)) exempts the transportation of freight in the performance of transfer, collection, and delivery services within the defined terminal areas of railroads and express companies, motor carriers, inland water carriers, and freight forwarders subject to our jurisdiction. Furthermore, section 1052 (a)(8) (formerly section 203(b)(7a)) provides an exemption for the transportation of persons or property when incidental to transportation by aircraft.

However, no regulatory exemption is provided for local pickup and delivery services performed entirely within a commercial zone of a port city where the local service is provided as part of a through movement with a maritime carrier not subject to the Interstate Commerce Act. See *Consolidated Freightways, Inc., Ext.—Seattle, Wash.*, 74 M.C.C. 593 (1958). Thus, water carriers subject to the jurisdiction of the Federal Maritime Commission are not accorded the benefit of a statutorily created exempt terminal area in which motor carriers may conduct local collection and delivery services without regulatory restraints.

In *Consolidated Freightways, supra*, at 597, the Commission noted that Congress probably intended to exempt from economic regulation all purely local operations in enacting the terminal area and commercial zone exemptions in the Act, 49 U.S.C. 10523 and 49 U.S.C. 10526(b)(1). But the common arrangement between maritime carriers and local motor carriers for continuous carriage renders the commercial zone exemption of the Act unavailable. A regulated motor carrier may perform some local service under current rules under the commercial zone exemption. Where the shipper or receiver, or a private ocean carrier makes arrangements with the local motor carrier, no authority from this Commission is necessary for the intraport movement. See *Service Transp. Co. Contracts and Agreements*, 44 M.C.C. 419 (1945). However, the practical problem is that often local transporation is arranged by the FMC regulated ocean carrier.

No economic justification has been advanced for this anomalous situation and it appears that the lack of an exemption for this type of intraport movement is the result of oversight. The adopted regulations would rectify the current situation where an FMC authorized carrier is obligated to employ the service of motor carriers having specific authority to serve points within the commercial zone of a port city, but where Commission regulated and private water carriers are not.

While there is no specific exemption for this type of traffic, the general provisions of the Act makes it clear that we have the power and the duty to correct this competitively discriminatory situation. The transportation policy of the Commission, 49 U.S.C. 10101, is to ensure coordinated transportation and provide for the impartial regulation of the modes of transportation, preserving the inherent advantage of each mode. The continued regulation of this intraport, ex-water traffic runs counter to this transportation policy, and to the entire exempt versus non-exempt economic regulatory structure of the Act.

BACKGROUND OF THIS PROCEEDING

The notice instituting this proceeding presented three approaches for dealing with the inequitable situation described. The first option would have exempted from our regulations a certain class of motor carriers lawfully engaged in operations solely within a single State. The proposed exemption would have applied to the transportation of shipments having prior or subsequent movement by maritime carrier and moving by motor carrier within the commercial zone of a port city, or any portion of the zone not extending beyond the boundaries of the State in which the port city is located.

In that previous notice we realized that there might be legal and practical problems using the single State exemption portion of the Act, 49 U.S.C. 10525 (formerly 204(a)(4a)). There are important instances where the commercial zone of a port city extends beyond the boundaries of a single State. The Commission suggested as a second option that, for purposes of bringing our proposal under the single State exemption, the multiple State commercial zone of these port cities be viewed as a single entity. Many parties had reservations about this method, and upon further legal analysis, we decline this approach.

The third option was to implement a simplified certification procedure for carriers wishing to operate within these port, multi-State commercial zones. This would require a prospective general finding that the public convenience and necessity require simplified certification for the incidental transportation of shipments having a prior or subsequent movement by maritime carriers and moving by motor vehicle only within the commercial zone of a port city. This last approach has proven to be the best one. The problems with using the single State exemption section of the Act are discussed below.

Our review of the public comments persuades us that all motor common carriers should be able to take advantage of a simplified certification procedure. We see no reason to adopt separate approaches for single State and multi-State carriers by use of both the single State exemption and simplified certification procedure. The policy reasons which dictated this proceeding apply to all motor common carriers.

[1] Formerly entitled *Single State Exemption—Ex-Water traffic.*

SINGLE STATE EXEMPTION—IMPRACTICAL

There are two general reasons why we did not pursue the single State exemption.[2] It is too narrow in scope, and uniform regulation of transportation requires that we allow multi-State motor carriers to participate in any certification procedure.

The basic intent in adopting these rules is to correct an anomaly in the regulatory structure and simplify the entry process in an area where no significant contribution is made by employing economic analysis in individual application proceedings.

A critical problem with using the single State exemption approach is that the carrier must be operating solely within a single State. Several parties questioned, quite correctly, why multi-State carriers should be treated differently in reaching a solution.

A second major problem with use of this exemption is that in the event the required finding is made, the Commission is directed to issue a certificate of exemption to the motor carrier which shall exempt it from compliance with the Act's motor carrier provisions. The historic interpretation of the exemption is that the motor carrier is a single unit and the exemption connotes all the operations of that carrier. See *Grubbs Exemption Application*, 30 M.C.C. 561, 563 (1941). When combined with the single State operational requirement, the end result would be that a carrier wishing to take advantage of the exemption would be precluded from expanding its operations. In sum, the exemption approach would merely carve an exception into the anomaly and would be of little use to the great majority of carriers.

THE PUBLIC CONVENIENCE AND NECESSITY

The public convenience and necessity require the adoption of the rules set forth at 49 CFR 1062.3, see *Chemical Leaman Tank Lines, Inc.* v. *United States*, 368 F. Supp. 925 (D. Del. 1973). The test for analyzing public convenience and necessity is found in *Pan-American Bus Lines Operation*, 1 M.C.C. 190 (1936). That test asks whether there is a public need for the proposal, whether that need can be met by existing carriers, and whether the proposal will impair the operations of existing carriers in a manner contrary to the public interest.

The test is one of balance. A major consideration is whether the advantages to the public outweigh the disadvantages, real or potential, to existing carriers. *All American Bus Lines, Inc., Common Carrier Application*, 18 M.C.C. 755, 776-777 (1939). This balancing of benefits to the public against harm to existing motor carriers' service was deemed to embody the concept of public convenience and necessity in the Supreme Court decision in *Bowman Transp.* v. *Arkansas-Best Freight System*, 419 U.S. 281, 293, 298 (1974). It is not sufficient to determine only if existing service is adequate. See *United States* v. *Dixie Express*, 389 U.S. 408 (1967). Finally, we cannot ignore the possible benefits to the public from increased competition which grants of new authorities likely will foster, *P. C. White Truck Line, Inc.*, v. *United States*, 551 F. 2d 1326 (D.C. Cir. 1977).

These legal requirements are only part of the picture. Overall Commission policies must be considered. Present main concerns of the Commission include promoting administrative efficiency, competition, and intermodalism. *Cf. Entry Control of Brokers*, 126 M.C.C. 476, 496 (1977). With all these factors in mind, we can proceed to an examination of the evidence of record.

Comments were received from diverse interests, including 40 motor carriers, 9 associations, 4 shippers, 3 governmental bodies (including the Federal Maritime Commission), 4 water carriers, and 4 miscellaneous interests. Also of special interest were the comments of 9 port commissions.

Certificated motor carriers generally opposed any opportunities for expansion of service. Only two motor carriers, D. D. Jones Transfer and Warehouse Co., Inc., and Overoad Containers Service, Inc., provided any specific information as to adverse effects that might be suffered.

There was a large amount of support for entry relaxation from users of the services and port commissions. For example, the Port Authority of New York and New Jersey believes there should be a general commercial zone exemption available. This would foster intermodal development. Similar statements of approval came from the ports of Lake Charles, LA, Milwaukee, WI, Pascagoula, MS, Baton Rouge, LA, Houston, TX, Mobile, AL, and the Indiana Port Commission. Only the Delaware River Port Authority opposed relaxation, stating that it appeared there was a sufficient supply of carriers serving that port.

The U.S. Departments of Justice and Transportation supported entry relaxation. The Federal Maritime Commission agreed that there should be equal treatment of motor carriers performing collection and delivery services for all water carriers.

A number of parties, including the Port of Lake Charles, detailed instances where it was difficult to find enough carriers to serve the port. Meehan Seaway Service, Ltd., pointed out that import and export traffic moves in large quantities, so that there are sudden and large needs for equipment. Totem Ocean Trailer Express, Inc. (TOTE) repeated this, pointing out its own special problems in maintaining a scheduled Alaskan run while trying to find sufficient carriers to load its ships. Its own shipping customers have been constant complainers about the lack of motor equipment and TOTE lists examples of the numbers of trailers that could not be shipped on schedule owing to a lack of equipment.

Several parties mentioned business operational features that would be improved by entry relaxation. Outboard Marine Corp., a manufacturer of marine and lawn care equipment, noted that carriers of smaller size are faced with a heavier burden in attempting to obtain certificates and it believes that simplified licensing would be a boon to small carriers. Valley Transfer & Storage, Inc., a Washington intrastate motor carrier, noted its frustration in having equipment in a port city that must often be deadheaded.

Based on the review of the overall record, we believe that there is a need for the proposal, which will benefit the public. As pointed out, regulation in this area is an anomaly. Similar areas of transportation have long since been exempt because the transportation is incidental or local in nature. Relaxation of entry through a simplified certification process will mean equal treatment for all water carriers. A Commission regulated water carrier should not have a larger pool of equipment to draw from based solely on the fact that one Federal agency regulates its activities rather than another.[3] The decision here will aid in standardizing treatment of water carriers.

We expect that many local noncertificated carriers will apply for authority under the simplified entry procedures described in the rules. A larger pool of equipment in the ports will mean that carriers like TOTE will be more assured of having adequate supplies of equipment available, so that its ships can travel fully loaded. Our decision is consistent with our general policy to foster advances in intermodal service. See *CTI-Container Transport International, Inc., Freight Forwarder Application*, 341 I.C.C. 169, 199 (1972); *Emery Air Freight Corp. Freight Forwarder Application*, 339 I.C.C. 17, 37 (1971); *Marine Stevedoring Corporation Common Carrier Ap-*

[2] General discussions of the exemption can be found in *Knickerbocker Warehousing Corp. Exemption Application*, 99 M.C.C. 293 (1965), and *Motor Carrier Operation in the State of Hawaii*, 84 M.C.C. 5 (1960).

[3] Under existing rules, if a shipper or private carrier makes the arrangements for the local transportation, it can use any motor carrier. However, it is common for the FMC carrier to make the arrangements, simply because it is in a better position to do so.

plication, 119 M.C.C. 514, 521 (1974); *Service Transfer, Inc., Contract Carrier Application*, 117 M.C.C. 506, 514 (1972); *Investigation of Piggyback Service Regulations*, 355 I.C.C. 841 (1977); and *Entry Control of Brokers, supra*, at 504.

The public will also be aided by increased administrative efficiency. The Commission is in the midst of a comprehensive program to make its procedures more efficient. In specific areas, such as broker entry control and the transportation of waste products, the Commission has specifically examined whether the entire scope of the existing application procedure was necessary. Where a part was unnecessary, it was deleted. These type actions have many beneficial effects. Case processing is faster, requiring less time and money spent by all parties concerned. Applicants for authority only have to meet standards of proof which in a real sense affect service and public needs.

The simplified certification process retains important protections for the shipping public. Atlantic Container Line, while opposing the general proposal, stated that, as an FMC carrier, it has come to rely on the dependability of I.C.C. carriers. It argues that the certification process insures that the motor carrier is operationally fit, maintains insurance, and has adequate capitalization. ACL points out that ocean carriers have high investments in equipment (containers and chassis), and it must use carriers that will protect its investment.

We agree with ACL's basic position about the need to assure that fit, properly insured carriers perform these operations. Our simplified procedures here only forgo the necessity of examining local market conditions in each application. In every instance under the adopted rules, operations may begin only following the service of a certificate which will be issued if the applicant demonstrates its fitness, financial and otherwise, and complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR Part 1043), designation of process agent (49 CFR Part 1044), and tariffs (49 CFR Part 1307).

But, as detailed immediately below, there is no significant evidence that entry into these local markets to provide incidental, short haul service requires that an applicant should have to go through every facet of the application process, i.e., to present evidence about local markets and competitive needs. While there may be a few instances where existing carriers lose revenues because of added competition, this does not strike a balance with the overall needs of the transportation industry and the shipping public.

There was little evidence, except in isolated instances, as to whether or not the transportation service needs involved in this area can be met by existing carriers. Several parties, as recited, did experience difficulties in finding equipment and the port commissions (with one exception) believed that additional supplies of equipment were necessary for the continued viability of the maritime industry.

Stability of the transportation industry is an important aspect of our regulation. It is not the function of the Commission to insulate carriers from competition, but to insure the greatest level of competition possible in an atmosphere of stability.

Rulemaking proceedings have as a partial function the solicitation of evidence from the affected existing carriers as to whether or not they will be adversely affected by a change in our regulations. Existing carriers are in a unique position to present this information. The Commission cannot base decisions on theories or supposed adverse effects, *Cf. Passenger Brokers Affiliated with Motor Carriers*, 128 M.C.C. 354, 357-358 (1977). We have not received hard evidence that adverse effects would occur, *Cf. Investigation of Piggyback Service Regulations, supra*, at 852. Only two carriers offered any specific evidence on this issue and only one of those offered any past correlations between the addition of new services and its own corresponding competitive difficulties. This is a meager amount of weight to balance against the positive effects adoption of the rules will bring. It is clear that the benefits to the public far outweigh the adverse effects that might occur.

The General Accounting Office's Report to the Congress, "ICC's Expansion of Unregulated Motor Carrier Commercial Zones Has Had Little or No Effect on Carriers and Shippers", is consistent with our findings that there will be little, if any, adverse effects on existing carriers. That report commented on our recent expansion of commercial zones in *Commercial Zones and Terminal Areas*, 128 M.C.C. 422 (1976). It found that the expansion had little or no effect on most carriers' volume of shipments, rates, revenue, interlining, and other aspects of operations. Those findings are helpful here, for the situation is analogous.

In sum, we believe our adopted rules will benefit the public. These benefits include elimination of unnecessary regulatory constraints, greater administrative efficiency, and promotion of intermodalism. There was no substantial evidence that the adopted rules will adversely affect the ability of existing carriers to perform service.

ENVIRONMENTAL CONSIDERATIONS

We do not believe that the adopted rules will have a significant effect on the quality of the environment. Initially, it should be noted that individual OP-OR-9 applications will still be filed, which will result in continued reporting requirements on the possibility of there being major environmental impacts and on the feasibility of the proposed operation. The adopted regulations merely make the certification process simpler, since it is no longer necessary to prove a need for the service and to discuss local economic and competitive effects. The probable result of this proceeding will be a marginal increase in the amount of equipment available for the ex-water shipments. The Commission ruling requiring certification for this transportation has been in effect for many years. In that time many carriers have received specific authority to serve ports in the manner described.

There is the possibility that long distance carriers who transport traffic to a distant port city, instead of deadheading to another point for a return load, might find it profitable to transport temporarily this ex-water traffic if there is a need for equipment at the port. Multi-State carriers, with this consideration in mind, might seek certification at a number of port cities they presently serve in point-to-point service (but which port cities they are unable to serve in transporting this local, ex-water traffic, compare *Consolidated, supra*).

Some representations were made that local surpluses of motor vehicle equipment might result. In the long run, the supply of this equipment will adjust to service demands and resultant fuel use will remain relatively constant. It should be recalled that we are dealing with local transportation, unlike typical line haul movements where surpluses of equipment might lead to extensive deadheading.

Water carriers' loading practices might be advantaged by having a larger source of equipment where previous shortages existed, but any savings here would be in the form of labor costs.

In sum, the amount of fuel used or the efficiency of operations will not be significantly altered under these rules.

DEFINITION OF MARITIME CARRIER

The scope of the initial proposal covered vessel operating water common carriers regulated by the Federal Maritime Commission, as well as nonvessel operating common carriers (NVOCC). This has been extended to the adopted rules. However, a word of caution is necessary. These rules do not affect the responsibility of NVOCC's to obtain freight forwarder authority from this Commission where

it is necessary. Where these NVOCC's arrange for the motor transportation of the shipper's cargo, they require appropriate ICC authority, see *Compass, Nippon, and Transmarine—Investigation,* 344 I.C.C. 246 (1973), and *IML Sea Transit, Ltd.* v. *United States,* 343 F. Supp. 32, 42 (N.D. Calif. 1972), aff'd 409 U.S. 1002 (1972), rehearing denied, 409 U.S. 1118 (1973).

SPECIAL APPLICATION PROCEDURES

Recently the Commission adopted rules in Ex Parte No. 55 (Sub-No. 25), published in the FEDERAL REGISTER on December 13, 1977, which revised the OP-OR-9 application forms for permanent motor common carrier authority and 49 CFR 247(f)(2) which pertains to unopposed application proceedings. The special rules adopted here will entail only minor modifications in the way operating rights are normally processed and reviewed under these expedited procedures.

Applicants will use the OP-OR-9 application form. At the top of the form applicants shall label the application EX-WATER, which will indicate to our staff that special handling is necessary.

The sole issue upon which an application under these rules can be protested is the applicant's fitness to perform the proposed service. This encompasses safety and financial ability to perform the operation.

However, we shall require each applicant to provide a certification of support from a supporting party for each port city it wishes to serve (in appropriate circumstances, one party may support service to multiple port cities, but this should be clearly explained in the certification of support). The purpose of this minimal support requirement is to ensure that applicants have legitimate plans to serve port cities named. We do not want carriers making blanket applications, which will only require needless energy spent in processing applications. Existing carriers must be given a fair opportunity to offer evidence on a carrier's operational fitness, and their task will be unfairly and unnecessarily complicated if local carriers intending only to serve one or two ports make laundry list applications. We should point out that this tendency should be arrested by the fact that compliance for larger applications is more complex. Please note that applicants *may* request authority to serve more than one port city in a single application.

Protests will be allowed only on the issue of fitness. They will be due within 30 days of the FEDERAL REGISTER publication of an applicant's proposal. Fitness protests must contain specific facts, and a statement relying solely on unsupported allegations or generalized statements may be rejected. Protests must be served upon the applicant or applicant's representative.

Applicant will be allowed to file a reply statement. This must be filed within 20 days from the last due date for the filing of statements in opposition.

If protests are filed and the case is not assigned for oral hearings, the case will immediately be submitted to a review board for consideration under the modified procedure. If an application is unopposed and is not assigned for oral hearing, it will be processed in accordance with the expedited procedures used in unopposed cases.

If the application is granted, the applicant, upon compliance with the pertinent sections of the Act, will receive a certificate of public convenience and necessity.

FINDINGS

We find that the present and future public convenience and necessity require service by motor carriers of property in the transportation of shipments within the commercial zone of a port city, where the shipments have a prior or subsequent movement by maritime carrier.

THE NEW RULES

Accordingly, we add § 1062.3 to Part 1062 of Title 49 of the Code of Federal Regulations, as follows:

§ 1062.3 Special procedures governing applications to transport property in which applicants seek motor common carrier operating authority to perform service within the commercial zone of a port city, where a shipment has a prior or subsequent movement by maritime carrier.

(a) *Scope.* These special rules govern the filing and handling of applications in which an applicant is seeking a certificate of public convenience and necessity authorizing it to perform service within the commercial zone of a port city for a shipment having a prior or subsequent movement by maritime carrier. A maritime carrier is a water common carrier subject to the jurisdiction of the Federal Maritime Commission (FMC) as defined in the Shipping Act, 1916. The term includes nonvessel operating common carriers (NVOCC).

(b) *Applications.* Except as otherwise provided in these special rules, applicants shall file applications which are in the format of, and contain the information called for, in the form of application and in instructions prescribed by the Commission for applications for certificates of motor common carrier authority. Applicants may file for authority to serve more than one port city commercial zone in a single application; but the application must include shipper support, as required in subsection (c) of these special rules, for each port to be served.

(c) *Shipper support.* An applicant shall file a certification of support (the Appendix to the application) for each port city for which authority is sought. It is permissible for a single shipper to support service at more than one port, but the circumstances under which this is possible must be included in the Appendix.

(d) *Special instructions.* Applicants shall comply with the following special instructions in filling out their applications: (1) Authority must be sought as a common carrier. (2) The commodity authorization sought must be for general commodities (but not to include Classes A and B explosives). (3) The points to be served shall be described in this way: "Between points in the commercial zone of (name of city and State), restricted to traffic having a prior or subsequent movement by water." (4) The top of the first page of each application form shall be labeled "EX-WATER" by the applicant. It is not necessary to fill out paragraph IV and VII(a) of the application. The answer to VII(b) in the application must be "no", since only local operations are contemplated under these special rules.

(e) *Caption summary and notice.* Applicants shall submit a caption summary of the authority sought with each application and shall use the following format for each summary:

MC (Sub-). Applicant: Name, address. Representative: Name, address. To operate as a *common carrier,* by motor vehicle, between points in the commercial zone of (name of city and state), restricted to traffic having a prior or subsequent movement by water.

Every caption summary will be published by this Commission in the FEDERAL REGISTER to give notice of application filed under these special rules.

(f) *Protests and requests for hearings.* (1) Protests will be accepted only upon the issue of applicant's fitness to perform the proposed operations, and protests containing only unsupported or generalized allegations may be rejected. Protests must be filed within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Every protest must contain a certification that it has been served upon the applicant or applicant's representative. The original and one copy of the protest must be filed with the Commission. (2) Any request for an oral hearing shall be supported by a specific explanation why the evidence to be presented cannot reasonably be submitted in the form of affidavits.

(g) *Replies.* Applicant may reply to the protest. Replies are due within 20 days from the date the protest is due.

The original and one copy of the reply must be filed with the Commission. The reply shall certify that it has been served upon the protestant or protestant's representative.

(h) *Processing.* (1) After all statements are received in a protested case which is not assigned for oral hearing, the file will be referred to a review board for processing under the Commission's modified procedure (Rules 43-52 of the Rules of Practice). However, only the original and one copy of any statement made pursuant to rule 49 must be filed with the Commission. (2) In an unprotested case which is not assigned for oral hearing, the application will be determined based upon the information submitted with the application form.

(49 U.S.C. 10321, 10921 and 10922, and 5 U.S.C. 553 and 559.)

Dated: January 22, 1979.

By the Commission, Chairman O'Neal, Vice-Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-4401 Filed 2-7-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

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

PART 33—SPORT FISHING

Opening of Certain National Wildlife Refuges in North Carolina, South Carolina, and Tennessee, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain national wildlife refuges in North Carolina, South Carolina, and Tennessee is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public, The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704-258-2850 Ext. 321.

Steven W. Frick, Refuge Manager, Mattamuskeet National Wildlife Refuge, Rt. 1, Box N-2, Swanquarter, N.C. 27885. Telephone: 919-926-4021.

Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, N.C. 28710. Telephone: 704-694-4424.

Marvin T. Hurdle, Refuge Manager, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, South Carolina 29101. Telephone: 803-335-8401.

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429. Telephone: 803-928-3368.

Paul Ferguson, Refuge Manager, Santee National Wildlife Refuge, Box 158, Summerton, S.C. 29148. Telephone: 803-478-2217.

Samuel W. Barton, Refuge Manager, Cross Creeks National Wildlife Refuge, Route 1, Box 229, Dover, Tennessee 37058. Telephone: 615-232-7477.

James C. Bryant, Refuge Manager, Hatchie National Wildlife Refuge, Box 187, Brownsville, Tennessee 38012. Telephone: 901-772-0501.

Wendell C. Crews, Refuge Manager, Reelfoot (and Lake Isom) National Wildlife Refuge, P.O. Box 98, Samburg, Tennessee 38254. Telephone: 901-538-2481.

SUPPLEMENTARY INFORMATION:

GENERAL

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Sport fishing on the Mattamuskeet National Wildlife Refuge, N.C., is permitted on approximately 40,000 acres. Sport fishing and bow fishing seasons extend from March 1, 1979 through November 1, 1979, except the following areas are open to bank fishing during the entire year: (a) State Highway 94 Causeway; (b) in the immediate vicinity of the Lake Landing Water Control Structure; and (c) in the immediate vicinity of the Outfall Canal Water Control Structure at Mattamuskeet Lodge.

(1) Herring (alewife) dipping will be permitted from March 1 through May 15 from the canal banks and water control structures in the immediate vicinity of the following locations: (a) Waupoppin Canal control structure—from ½ hour before sunrise to ½ hour after sunset. (b) Outfall Canal and Lake Landing control structures—from ½ hour before sunrise to 10 p.m., local time.

(2) Boats and outboard motors permitted except in areas posted closed to motorboat use. Airboats are prohibited.

PEE DEE NATIONAL WILDLIFE REFUGE

Sport fishing on the Pee Dee National Wildlife Refuge, North Carolina, is permitted on approximately 20 acres. The sport fishing season is year-round on Brown Creek within 100 yards of Brown Creek Bridge on U.S. Highway 52; from April 1, 1979, through September 30, 1979 on Brown Creek within 100 yards of both Bennett Bridge on SR-1627 and lower Brown Creek Bridge on SR-1634; and from April 1, 1979 through September 30, 1979 on Sullivan Pond (Anson County), Little Pond (Anson County), Andrews Pond (Richmond County), and on the Pee Dee River (Anson and

Richmond Counties) in areas designated by public fishing area signs.

Fishing is permitted from sunrise to sunset. Only bank fishing is permitted, except in Andrews Pond. Jon boats, up to 14 feet, and canoes will be permitted in Andrews Pond. All motors are prohibited.

Only cane poles and rods and reels are permitted. Trotlines, set hooks, and nets are prohibited in Refuge ponds.

Parking is permitted only in those areas designated as being reserved for parking. Vehicles are not permitted on dams and levees.

No special refuge permit is required. State license must be carried on the person and exhibited to Federal or State officers upon request.

Firearms, camping, open fires and night use are prohibited.

South Carolina

Cape Romain National Wildlife Refuge

Sport fishing on the Cape Romain National Wildlife Refuge, South Carolina, is permitted on approximately 610 acres. The sport fishing season on the refuge extends from March 15, 1979 through September 30, 1979.

Fishing is permitted during daylight hours only. Boats with electric motors are permitted. Other motors are prohibited. Boats must be removed from the refuge at the close of each day. Moore's Landing will be open daily from 5:00 a.m. until 8:00 p.m. EST, for launching and loading boats, at the high tide ramp only. Camping, littering, dogs, and weapons are prohibited.

Carolina Sandhills National Wildlife Refuge

Sport fishing on the Carolina Sandhills National Wildlife Refuge, South Carolina, is permitted on approximately 150 acres. The fishing season is year-round on the Black Creek Bridge areas on State Road 33, State Road 145, and U.S. Highway 1; from March 12, 1979, through October 6, 1979, on Martins Lake, and Pools A, B, C, D, G and H; and from March 12, 1979 through September 8, 1979, on Lake 17, and Pools J and L; and from July 23, 1979, through December 31, 1979 on Lake Bee.

Fishing is permitted from official local sunrise until ½ hour after official sunset. Unpowered boats and boats with electric motors are permitted only in Martins Lake, Lake 17, and Lake Bee. Other type motors are prohibited. All other areas are open only for bank fishing within posted areas. Fish baskets, nets, set hooks, and trotlines are prohibited.

Santee National Wildlife Refuge

Sport fishing on the Santee National Wildlife Refuge, South Carolina, is permitted on approximately 12,000 acres. Sport fishing is permitted year-round except that Cantey Bay, Black Bottom and Savannah Branch are closed from November 1, 1979 to February 28, 1980. Waters within all land units (Cuddo, Pine Island, Bluff and Dingle Pond) are closed to fishing. The overnight mooring of boats on the refuge is prohibited.

Tennessee

Cross Creeks National Wildlife Refuge

Sport fishing on the Cross Creeks National Wildlife Refuge, Tennessee, is permitted on approximately 3,260 acres. The open season for Elk and South Cross Creek Reservoirs and the 15 smaller refuge ponds extends from April 1, 1979, through September 15, 1979. Sport fishing on Barkley Lake is open year-round.

Fishing is permitted in designated areas from 30 minutes before sunrise to 30 minutes after sunset, except on Barkley Lake, which is open 24 hours per day. Outboard motor size is limited to 6 horsepower or less in Elk and South Cross Creek Reservoirs and the smaller impoundments. Motor size is not restricted in Barkley Lake. Methods of fishing the two reservoirs and impoundments are limited to rod and reel and/or pole and line.

Overnight camping and/or overnight mooring of boats are prohibited on the refuge. For their safety, fishermen must follow designated routes of travel while on the refuge, and use the parking areas as provided.

All State regulations must be obeyed while fishing on refuge reservoirs as well as that portion of Barkley Lake within the refuge. Fishing license must be carried on the person, to be exhibited to Federal or State officers upon request. No special refuge permit is required.

Hatchie National Wildlife Refuge

Sport fishing on the Hatchie National Wildlife Refuge, Tennessee, is permitted on approximately 150 acres. The sport fishing season extends from April 1, 1979, through October 31, 1979.

Fishing is permitted during daylight hours only. Overnight camping is prohibited. The refuge is closed to all use from 30 minutes past sunset until 30 minutes before sunrise.

Boats powered with electric outboard motors are permitted. Gasoline motors are prohibited. Boats must be removed from refuge no later than November 7, 1979.

Methods of fishing are limited to pole and line, or rod and reel, using natural or artificial baits. Setlines, jugs, etc. are not permitted. Vehicles may be used on refuge roads and trails to reach fishing areas, except those indicated by signs as closed. Footpaths may be used to reach all lakes from Hatchie River. Firearms are prohibited.

Lake Isom National Wildlife Refuge

Sport fishing on the Lake Isom National Wildlife Refuge, Tennessee, is permitted on approximately 750 acres. The sport fishing season on the refuge extends from March 16, 1979, through September 30, 1979.

Fishing with bows and arrows is prohibited at all times. Boats with motors of not more than 6 horsepower may be used. Public use of the refuge is limited to the hours between sunrise and sunset unless otherwise allowed by a refuge permit.

Reelfoot National Wildlife Refuge

Sport fishing on the Reelfoot National Wildlife Refuge, Tennessee, is permitted on approximately 9,092 acres. The fishing season on that portion of the refuge located north of Upper Blue Basin extends from February 15, 1979, through October 23, 1979. The fishing season on that portion of the refuge located south of Upper Blue Basin extends from January 21, 1979, until the day preceding opening of the 1979 waterfowl season. Fishing with bows as arrows is prohibited at all times. Boats with motors of not more than 10 horsepower may be used. Public use of the refuge is limited to the hours between sunrise and sunset unless otherwise allowed by a refuge permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: February 2, 1979.

Charles K. Baxter,
Acting Area Manager.

[FR Doc. 79-4294 Filed 2-7-79; 8:45 am]

proposed rules

[3410-07-M]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1933]

Self-Help Technical Assistance Meeting

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration gives notice to all interested parties that it has scheduled a meeting to discuss alternatives, consider public comments and in general provide for material input from interested persons and organizations concerning the Self-Help Technical Assistance Grant Regulations.

TIME & DATE: From 8:30 A.M. to 12:30 P.M. on March 1, 1979. (Meeting will be extended, if necessary.)

PLACE: Jefferson Auditorium, U.S. Department of Agriculture, South Building, 14th & Independence Avenue, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas F. Gerlitz, Phone: 202-447-7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is considering amending FmHA Instruction 1933-I (Part 1933, Subpart I) concerning Self-Help Technical Assistance Grants. The Agency provides the following information concerning Technical Assistance Grants:

I. BACKGROUND

1. Several proposals have been received for Self-Help TA Grants to repair or rehabilitate existing homes. These proposals are inconsistent with existing procedures in the following areas:

a. Development work involved less than 700 hours of labor input.

b. "Mutual" self-help where families work on each other's homes may not be feasible.

c. Some families cannot provide the labor needed.

d. Use of Section 504 funds is proposed.

2. We also receive Self-Help TA Grant requests proposing new construction using sectional homes or prefabricated components. Less than 700 hours or participation would be needed to complete these homes resulting in the grantee possibly developing more projects per year.

3. Proposals are being considered for development of a contract training program for Self-Help T.A. Grantees. Possible approaches might include:

a. A national or regional training contract.

b. Contracts for the development of management system models for use by umbrella-type or franchise organizations in assisting local Self-Help Groups.

4. FmHA updated its Self-Help Technical Assistance Grant Regulations in 1978. Those attending the public meeting might wish to propose further improvements to the T.A. Program.

II. ISSUES

1. Section 523 permits Self-Help TA Grants to develop new housing and repair and rehabilitate existing housing. How should the repair and rehabilitation aspect of the program be implemented?

2. Procedure requires Self-Help participants to contribute at least 700 hours of labor for each house. Should a change be made to accommodate a greater variety of projects?

3. Procedure permits mutual Self-Help Projects. Is this a correct interpretation of the law?

4. Should persons be permitted to participate in a Self-Help Housing Project if they are unable to contribute their own labor?

5. Can Self-Help TA repair and Rehabilitation Program participants use Section 504 loan and grant funds instead of Section 502 funds?

6. Can CETA employees substitute any of the labor input of the families who are elderly or disabled?

7. Another option to consider involves using mutual Self-Help concepts for major construction work and permitting individual self-help for the balance of the work.

8. What kind of training is needed by Self-Help Grantees, especially in light of program eligibility requirements?

9. If an umbrella or franchise approach is utilized, how should these regional groups be trained?

10. Should FmHA adopt uniform or flexible management and training guidelines?

Dated: February 2, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-4283 Filed 2-7-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 271]

[Docket No. RM79-19]

FIRST SALE OF NATURAL GAS PRODUCED FROM PRUDHOE BAY UNIT OF ALASKA FOR TRANSPORTATION THROUGH THE ANGTS

Proposed Rulemaking and Statement of Policy

Issued February 2, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed Rulemaking and Statement of Policy.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) hereby gives notice of a proposal to amend Part 271, Subchapter H of its interim regulations promulgated under the Natural Gas Policy Act of 1978 (NGPA). The proposed amendment would permit those involved in the first sale of natural gas produced from Prudhoe Bay, Alaska for transportation through the Alaska Natural Gas Transportation System (ANGTS) to apply for adjustments pursuant to section 502(c) of the NGPA in the event of special hardship, inequity, or an unfair distribution of burdens. This amendment is made with respect to the Commission's declining to exercise its discretion under section 110 of the NGPA to permit applications for additions to the maximum lawful price for costs born by the seller of such gas. The Commission also gives notice of a proposal to promulgate a statement of policy under the Natural Gas Act that, absent a showing that the public convenience and necessity would otherwise be served, the purchase of natural gas from Prudhoe Bay, Alaska for transportation through the ANGTS should be of processed gas capable of immediate entry into the transportation system. Therefore, the Commission will approve only those applica-

tions for certificates of public convenience and necessity to construct the ANGTS or for the transportation or sale of gas transported through the ANGTS, which do not require the assumption by the applicant or subsequent purchaser of processing or other related costs save to the extent such costs are allowed pursuant to Commission action taken under its regulations permitting adjustments made under section 502(c) of the NGPA.

DATES: Notice of intent of participate, by February 15, 1979. Written comments filed and served, by March 5, 1979. Reply comments filed and served, by March 19, 1979.

ADDRESSES: All filings should reference Docket No. RM79-19 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments and reply comments to be served pursuant to address supplied on the service list.

FOR FURTHER INFORMATION CONTACT:

John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-3827.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) is considering an amendment to its interim regulations implementing the Natural Gas Policy Act (NGPA), 43 FR 56448, December 1, 1978 and the establishment of a policy concerning the recovery of certain "production-related" costs as defined in the NGPA. The amendment to the regulations deals exclusively with first sales of natural gas produced from the Prudhoe Bay Unit of Alaska for transportation through the Alaska Natural Gas Transportation System (ANGTS).[1] The policy statement reflects the public's interest in the matter of establishing responsibility for bearing production-related costs for that gas.

The policy sets forth the general proposition that the recovery of any "production-related" costs by those making applications for certificates of public convenience and necessity under the Natural Gas Act are restricted to those costs permitted by the Commission pursuant to an adjustment granted under section 502(c) of the NGPA in the event of special hardship, inequity, or an unfair distribution of burdens. The policy which is proposed would apply only to certificates involving the purchase or transport of natural gas produced from Prudhoe Bay for transportation through the ANGTS applied for pursuant to the Natural Gas Act.

The proposal is within the Commission's discretion under section 110 of the NGPA. Our decision is also based upon the Natural Gas Act (NGA) 15 U.S.C. 717 *et seq*; the Alaska Natural Gas Transportation Act of 1976 (ANGTA) (15 U.S.C.A. 719 *et seq.*) (Supp. 1978) and the *Decision and Report to Congress on the Alaska Natural Gas Transportation System* submitted to the Congress by the President.[2]

The Commission solicits opinions, data, and views from interested parties and the general public on the Commission's assessment of the public interest in the matter of assigning responsibility for conditioning the Prudhoe Bay gas pipeline entry. The Commission also solicits comments on the mechanisms proposed to implement that assessment.

A. Background

The ANGTA represents a legislative substitution of a Presidential decision with Congressional approval in lieu of the ongoing Federal Power Commission procedure regarding construction of the ANGTS. The ANGTA also contained specific requirements for the contents of that decision. The *Decision*, forwarded to and approved by the Congress in late 1977, was the product of the process set out in the ANGTA.

The facilities comprising the ANGTS were identifed specifically in the *Decision*.[3] However, certain questions important to the implementation of the selected system remained for future resolution. Paramount was the question of a field price for the gas. As noted in the *Decision*:

> Final financing for an Alaska natural gas transportation project cannot be arranged until the producer-owners of the Prudhoe Bay gas execute sales contracts. Without such contracts, no gas can be transported, and financing consequently would be unobtainable. Producers cannot be expected to negotiate sales contracts until a price has been established with a reasonable degree of certainty. If this project is to proceed expeditiously, the field price of the gas should be established as soon as possible. (*Decision* at 44)

The maximum lawful price for Prudhoe Bay gas was established by section 109 of the NGPA, thereby overcoming the disability referred to and providing the opportunity for the negotiation of sale contracts for the Prudhoe Bay gas.

Other concerns are also important, including the assignment of responsibility for processing the gas prior to injection into the ANGTS. The Commission's amendments and statement of policy herein proposed are designed to implement the NGPA, the ANGTA, and the *Decision*, and thereby to resolve some residual issues and provide a climate for the rapid conclusion of contract negotiations.

B. Issues for Commission Consideration

One of the remaining issues affecting the contracting process relates to conditioning the gas for entry into the ANGTS. There are two questions: (1) Who is to bear the responsibility for the construction and operation of the necessary conditioning facilities; and, (2) what costs, if any, for conditioning should be permitted to be passed through to the consumer?

1. Responsibility for the conditioning facilities.

The responsibility for preparing the Prudhoe Bay gas for entry into the ANGTS has been an issue throughout the consideration of the system. It has been obvious that processing and conditioning facilities would be required in order to condition the gas for transportation.[4] None of the three gas pipeline proposals which were presented to the Federal Power Commission provided for the construction and operation of such facilities: all three assumed that the facilities were the responsibility of the producers. Prudhoe Bay producers, on the other hand, argued that the required "* * * conditioning steps—lowering carbon dioxide content, providing high pipeline inlet pressure, chilling, providing extremely thorough water removal, and maintaining close control of condensable hydrocarbon content—are all designed to minimize the investment and operating cost of the pipeline" and should therefore be part of the gas pipeline system.[5]

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[1] Pursuant to the Department of Energy Organization Act, 42 U.S.C.A. 7101 *et seq.* (Supp. 1977), most of the powers formerly exercised by the FPC were transferred to the Commission. By delegation order dated December 5, 1977, the Secretary of Energy transferred to the Commission all necessary powers respecting the ANGTS. 42 FR 61491 (December 5, 1977).

[2] Executive Office of the President, Energy Policy and Planning, *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (September 1977) [hereinafter cited as *Decision*]. Issued pursuant to section 7 of the ANGTA, 15 U.S.C. 719c (1976), and approved by Joint Resolution of Congress, H.R. J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268 (1977), the *Decision* has the full force of law.

[3] For example, section 3 of the *Decision* states at page 13, "The facilities which are to be covered are those in the U.S. which are adequate for a throughput of up to 2.4 bcfd and are included in the revised Alcan filing submitted to the Federal Power Commission (FPC) on March 8, 1977."

[4] Federal Energy Regulatory Commission, *Comments on the "Decision and Report to Congress on the Alaska Natural Gas Transportation System"*; 19-34 (October 1977) [hereinafter cited as *Comments*].

[5] *See, e.g., Natural Gas Pipeline from Alaska: Joint Hearings Before the Commerce*

Footnotes continued on next page

The question of whether the processing facility is included in the ANGTS was answered in the *Decision* in the negative. The *Decision* in Section 2 ("Description of the Nature and Route of the Approved System") stated: "The proposed Alcan pipeline will commence on the discharge side of the gas conditioning plant facilities in the Prudhoe Bay Field." (*Decision* at 6) Additionally, the system description in Section 3 states that the first compressor station for the ANGTS will be located 75 miles after the point of commencement of the system. (*Decision* at 17) The necessary conclusion is that the gas will enter the ANGTS compressed to its maximum allowable operating pressure. As chilling to prevent degradation of the permafrost is to be done at compressor stations (*Decision* at 17), there is also the inference (given the location of the first compressor station) that the gas is to leave the conditioning plant sufficiently chilled to be transported over the first 75 miles of permafrost without warming to a temperature above the freezing point of water. Finally, there is the explicit reference that "[t]he facilities which are to be covered are those in the U.S. which * * * are included in the revised Alcan filing submitted to the Federal Power Commission (FPC) in March 8, 1977." (*Decision* at 13) The facilities provided in that filing assume that the gas entering the system will have been conditioned to a certain quality, and compressed and chilled prior to entry.[6]

2. ALLOWANCES FOR CONDITIONING COSTS

Having established that the processing facility would not be part of the ANGTS, that does not determine whether the producers or the pipeline should build the plant or who should pay for its operation. Therefore, the second principal issue which the Commission must consider is whether gas consumers should bear any portion of the costs of preparing the gas for pipeline entry. The Commission must address this issue in deciding whether to allow producers to include in the price of the gas costs over and above the maximum lawful price; or whether any of such charges, if paid by purchasers of the gas, could be passed through to consumers.

The Decision, in relevant part (Section 6—Pricing of Alaska Gas), took note of the difficulty in determining a cost-based price for the Prudhoe Bay gas because of its association with oil in the reservoir. It also observed that the Administration's proposed National Energy Act (NEA), then before Congress, would obviate that difficulty by shifting from cost-based pricing to a series of price ceilings determined by statute. The *Decision* then called "for enactment of a gas pricing approach similar to that contained in the National Energy Plan." (Decision at 46)

An amended version of the National Energy Act had passed the House of Representatives and was being considered by the Senate at the time of the *Decision*. That version allowed for possible increases, if allowed by the Commission, in the ceiling prices established by the statute to cover costs of gathering, conditioning, and compressing the gas for pipeline entry.

The Report which accompanied the *Decision* contained a discussion of the economic viability of the ANGTS.[7] Because of the possibility that the Commission might provide some allowance for costs of gathering, conditioning, and compression, that discussion used a range of 0 to 30 cents per MMBtu (1975 dollars) for a potential add-on in estimating the "city gate" or wholesale price of the gas.[8] However, the *Decision* clearly left determination of the appropriate amount of any such allowance to the discretion of the Commission.[9]

In its comments on the *Decision*, the Commission addressed the question of possible allowances for costs of gathering and conditioning.[10] The Commission recognized that a field price would have to be established either through legislation or through ratemaking proceedings before any determination could be made with regard to possible allowances for gathering and conditioning. As the Congress had not completed its deliberation on the National Energy Act, at the time of the Commission's comments on the *Decision*, the Commission could only discuss the factors it might consider if called upon to reach a determination regarding possible allowances. (*Comments* at 34-35)

The comments noted that although there will be a variety of costs associated with producing, gathering, and conditioning the gas for pipeline entry, there will also be substantial revenues available from these activities to offset those costs. Since the Prudhoe Bay gas is produced in association with oil, the Commission's comments contemplated that costs could be allocated among sales of gas, oil and natural gas liquids (NGL's), and looked to the gas sales contracts for the initial division of revenues and costs between producers and transporters. The Commission could then determine if an allowance for costs of processing and conditioning was warranted.

The NGPA, as finally passed by Congress, provided both a maximum lawful price for the first sale of Prudhoe Bay gas (section 109) and Commission discretion regarding treatment of "certain production-related costs" (section 110). The legislative history of section 110 makes it clear that, while the Commission's authority to permit producers or other first sellers to charge an amount in excess of the maximum lawful price is discretionary, this authority should, when possible, be exercised in light of "prevailing industry practice."[11]

"[P]revailing industry practice" as to functions usually performed by the producer can be determined by reference to existing contracts and sales for those areas having a history of natural gas production and sales. It was on this basis that the Commission's interim regulations were structured. (43 FR

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Subcomm. on Energy and Power of the House Comm. on Interstate and Foreign Commerce and the Interior Subcomm. on Indian Affairs and Public Lands of the House Comm. on Interior and Insular Affairs, 95th Cong., 1st Sess., Ser. No. 95-79, at 446 (1977) (statement of L. G. Rawl, Executive Vice-President, Exxon, U.S.A.) [hereinafter House Hearings].

[6] Alcan Pipeline Project 48" Alternative Proposal, Docket No. RM77-6. The revised Alcan filing describes a system which would transport natural gas processed to the following standards: (1) 1% carbon dioxide by volume; (2) 0.6% nitrogen by volume; (3) 1138 Btu/cuft gross heating value; and (4) a hydrocarbon dew point of −10° F at 1000 psi, (Alcan Pipeline Project 48" Alternative Proposal at § 3, p. 3; Docket No. RM77-6). This revised filing referenced an initial filing in which the following additional specifications were enumerated: (1) a maximum water content of 0.2 pounds per million cubic feet; (2) a sulphide content of no more than 0.25 grains per 100 cubic feet; and (3) a total sulphur content of 10 grains per 100 cubic feet. Alcan Pipeline Co., FPC Gas Tariff, Original Vol. 1, Exhibit No. AP-16, at Original Sheet No. 112 (Docket No. CP75-96, *et al.*).

[7] *See Report* accompanying the President's *Decision*, at 93-98. While not adopted by the Congress in its joint resolution on the *Decision*, the *Report* was submitted to them with the *Decision*. It may thus be considered as relevant legislative history. *See Midwestern Gas Transmission Co.* v. *FERC*, No. 78-1753, slip op. at 11-12, n. 23 (D.C. Cir., Nov. 2, 1978)

[8] The actual costs of gathering and conditioning were estimated to be about 30 cents per MMBtu (1975 dollars). The range presented was intended to cover the spectrum of possibilities between a Commission determination that no add-on be provided and a determination that all these costs should be passed on to gas consumers.

[9] *See, e.g., Decision* at 95: "When the cost of service price of the Alcan project is added to a wellhead price of $1.45 to $1.75 per mmbtu (*depending on the amount the FPC will allow producers for their processing costs*), the wholesale or "city gate" price of the gas should be about $2.50 to $2.80 per mmbtu in constant 1975 dollars." (emphasis added). *See also* the statements of DOE Secretary Schlesinger in discussing the Decision before the House, House Hearings, supra note 5, at 219, 224-26, 234, 280-81.

[10] *Comments* at 19-34.

[11] 124 Cong. Rec. H13118 (Daily ed. Oct. 14, 1978). (Statement of the Hon. John D. Dingell.)

56490) There is, however, no such history for Prudhoe Bay, since the production from that area has never come under contract. For this reason, the Commission's discretion to consider the add-on of production-related costs for this producing area is not bound by considerations which prevailed for conventional producing areas.

C. Commission Assessment of the Public Interest

The Commission believes that there is adequate information in the *Decision*, the Report accompanying it, and the legislative history to draw some preliminary conclusions regarding responsibility for the gas conditioning facilities at Prudhoe Bay and the need for any special allowances to the producers for the costs of construction and operation of those facilities. The Commission in this section outlines these conclusions and puts forward specific proposals to achieve the distribution of costs and benefits which conform to these conclusions.

1. Responsibility for the Conditioning Plant

It is the Commission's view that the Prudhoe Bay producers should be responsible for the construction and operation of the required conditioning facility. Providing the ANGTS with pipeline quality gas is the responsibility of the producers.[12] Therefore, the public interest will best be served if the producers bear these costs.[13] This conclusion is based on the premise that the producers will contract with purchasers for the sale of Prudhoe Bay gas at not less than the maximum lawful price set by section 109 of the NGPA. If the parties agreed to a sales price lower than the section 109 (NGPA) ceiling with the pipeline paying for some processing costs, the Commission would not necessarily oppose such and outcome provided the total price paid for pipeline quality gas did not exceed the section 109 (NGPA) price.[14] In any event, the financial responsibility for the construction and operation of the plant facilities rests with the producers.

An additional consideration in this determination is the risk of reduced gas deliverability and the potential for reducing this risk. Producer responsibility for the processing facilities is one answer. The ANGTS was designated for a throughput of up to 2.4 billion cubic feet per day. (*Decision* at 13) That these facilities will be efficiently used, and that natural gas will be available to ensure that efficient use, is a proper concern of the Commission. There has been a question as to whether the producers might be able to provide some type of throughput guarantee to reduce the pipeline's and the consumer's exposure to the risk of reduced deliverability.[15] The Commission believes that producer responsibility for the gas conditioning facility would provide some deliverability protection. Should underutilization of a producer-owned facility result from reduced deliverability from the Prudhoe Bay field, the producers, who have the ability to explore for new sources of gas, will have an additional incentive to find and produce such gas as is necessary to maximize the use of the plant. If this result occurs, greater volumes available for transportation will make for a more efficient operation of the ANGTS.

The Commission believes that the specific language of the *Decision* in its description of the ANGTS and the potential for ensuring the system some form of deliverability protection forms the basis for a definitive Commission finding that the conditioning facilities should be the responsibility of the producers. If the producers should engage some third party to perform the conditioning function, the Commission must be satisfied that deliverability protection similar to direct producer responsibility is provided to gas consumers.

2. Costs of Gathering and Conditioning

In issuing proposed regulations to implement section 110 of the NGPA for lower-48 producing areas, the Commission included quality standards which would have to be exceeded in order for the Commission to consider an allowance for production-related costs above the NGPA maximum lawful price (43 FR 56574-77 (Dec. 1, 1978)). These standards were based upon experience in the lower-48 producing areas. For gas sales made from Prudhoe Bay there is no such experience. In lieu thereof, we have the *Decision*, its description of the system, and its references to the filings containing appropriate quality standards to rely on. (*See* note 6 above.) For this reason, the Commission believes that the quality standards used for the lower-48 are inapplicable for gas delivered to the ANGTS.

As with the Commission's interim regulations for the lower-48 producing area, the Commission believes that costs of delivering "pipeline quality gas" to the ANGTS should be covered by the first sale price ceilings which are provided by the NGPA. With respect to Prudhoe Bay, it is the *Decision* and not prevailing industry practice that determines the quality standards. (*Supra*, note 6) Therefore, the Commission declines to exercise its discretion under section 110 of the NGPA to permit an adjustment for production-related costs of the Prudhoe Bay gas.

We do not believe on the basis of available information, that a refusal to allow production-related costs in excess of the ceiling price established in section 109 of the NGPA will work no hardship on the producers. Such information as is available suggests that the NGPA's section 109 price is adequate to compensate the producers for the costs of producing, gathering and conditioning the gas for sale to the ANGTS at the prescribed standards. The Department of the Interior, as part of a study of alternative transportation systems completed in December of 1975, evaluated the incremental costs of producing and conditioning the gas for sale.[16] That study estimated those costs, including an appropriate return on equity investment, to be 47 cents/MMBtu (1975 dollars). Additionally, the Federal Power Commission, in its *Recommendation to the President*, estimated the costs of gathering and conditioning at about 50 cents/MMBtu (1975 dollars).[17] If these estimates of costs are close to being correct, then the $1.45 per MMBtu (1977 dollars) provided by section 109 of the NGPA would appear more than adequate to cover the incremental costs associated with gas sales, plus a reasonable profit.[18] The Commission

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[12] *See* statement of Secretary Schlesinger testifying on the *Decision* in *Alaska Natural Gas Transportation System: Hearings before the Senate Comm. on Energy and Natural Resources*, 95th Cong., 1st Sess., No. 95-73, at 12-13. Similar treatment to that proposed here was afforded in the Commission's interim regulations implementing section 110 of the NGPA, 43 FR 56489-92 (Dec. 1, 1978).

[13] To the extent the pipeline were called upon to finance the plant, pay for its operation, or expend funds above the section 109 (NGPA) price to obtain pipeline quality gas, there might be an adverse effect on the financability of the project or the marketability of the gas to the consumer. Even the possibility of such an impact would be detrimental and alien to the public good.

[14] The only consideration to be added is with respect to the incremental pricing provisions of section 203(a)(8) of the NGPA. The Commission welcomes the submission of comments on this point.

[15] *See, e.g.*, Federal Power Commission, *Recommendation* to the President, at I-57, XII-7, 8 (May 1, 1977) [Hereinafter FPC Recommendation]. For field performance, the producers' response to this issue has been that any deliverability guarantee on their part would be essentially useless because the rate of production is controlled by the Alaska state conservation authority. The producers reiterate their assertion that any performance guarantee for the facility, like the facility itself, is not their responsibility.

[16] U.S. Dept. of the Interior, *Alaska Natural Gas Transportation Systems, A Report to the Congress Pursuant to Public Law* 93-153 (Dec. 1975).

[17] FPC Recommendations at XII-33, 34 n. 52.

[18] In this regard, the Commission notes that the $1.45 maximum level price applicable for the first sale of this gas, adjusted for inflation to April of 1979, is $1.672 per MMBtu.

solicits opinions, data and views regarding the costs of producing and conditioning this gas and the adequacy of the section 109 (NGPA) price to cover the incremental costs of gas production and conditioning for transportation in the ANGTS without inflicting hardship, creating inequity, or unfairly distributing to producers a burden.

D. SPECIFIC PROPOSALS.

In this section, specific mechanisms are proposed in order to implement the policy expressed herein for the purpose of protecting the public interest in the assignment of responsibility for the construction and operation of the processing facilities. These mechanisms are: (1) An amendment to the presently effective interim regulations to make section 502(c) of the NGPA applicable to Prudhoe Bay gas to provide an opportunity for relief if the Commission's perceptions of the distributions of production-related costs and benefits associated with producing and conditioning the Prudhoe Bay gas are not borne out; and (2) a policy statement under the NGA to govern certain aspects of future pipeline certification proceedings. The latter is required in order to make clear the Commission's interpretation that the facilities, and their associated costs, required to bring the gas to pipeline quality are the responsibility of the producers and not the pipeline company purchasers and transporters of the gas. The rationale for this interpretation and its public interest basis has been discussed above. We look to the submissions of opinions, data and views in response to this notice.

The proposed amendment would amend the Commission's current interim regulations to make the section 502(c) adjustment procedures available to those engaged in the sale and purchase of natural gas produced from Prudhoe Bay for transportation through ANGTS. The regulations would then provide for an adjustment if a special hardship, inequity, or an unfair distribution of burdens resulted.

Section 110 grants the Commission discretion to allow a price in excess of the maximum lawful price for permissible production-related costs borne by the seller. The scope of this statutory discretion does not reach the case of a sale at the maxumum lawful price where there are production-related costs but they are not borne by the seller. This raises the possibility that untreated Prudhoe Bay gas may be sold at the maximum lawful price.[19] Such a sale of untreated Prudhoe Bay gas would have several undesirable consequences. It would shift gas processing costs from producers to consumers, thereby increasing the city-gate price of the gas and adversely affecting its marketability. In addition, certain production-related costs required for oil production, attendant to the production of the Prudhoe Bay gas but not related to gas sales, could be improperly shifted to the gas purchaser. (See *Comments* at 19-34.)

It is the Commisson's opinion that such a shift to the consumer of production-related costs would not be in the public interest because it would materially increase the cost of this gas to the consumer. For these reasons, the Commission declines to exercise its discretionary authority under section 110 to permit a first seller to charge a price in excess of the maximum lawful price permitted under section 109 for production-related costs.

Although the Commission's "conditional" certificate for the building of the ANGTS was issued pursuant to sections (5)(A)(2) and 9 (a) and (b) of the ANGTA, a final certificate authorizing construction and operation must be issued pursuant to section 7 of the Natural Gas Act (NGA), 15 U.S.C. 717f(c).[20] In assessing the certification of the project which the statute requires, the Commission must consider the public convenience and necessity. A necessary part of this consideration is the assessment of the financeability of the ANGTS and the marketability and availability of the gas to be transported through it. The proper distribution of the processing costs impacts these considerations.

Mindful of the considerations inherent in the President's *Decision* on its approval of the ANGTS, and pursuant to the Commission's statutory authority,[21] the Commission intends to implement a policy that in its consideration of certificates for the construction of the ANGTS, or for the purchase or transportation of gas through the ANGTS, no cost of construction, purchase, or transportation which includes costs of processing the Prudhoe Bay gas will be certificated absent a determination made under section 502(c) of the NGPA that the cost is one properly allocable to the price of the gas. Such a policy will allocate production-related costs in a manner consistent with the Commission's view of the public interest, and will enhance the financeability of the ANGTS, assist marketability of the gas involved, avoid the complications of incremental pricing, and comply with congressional dictates which touch upon this gas and its transportation through the ANGTS.[22]

The policy which the Commission proposes would apply only to certificates which involve the purchase or transportation of natural gas produced from the Prudhoe Bay Field for transportation through the ANGTS. The issuance of the certificates will proceed according to the prescriptions of the NGA.

E. WRITTEN COMMENT PROCEDURES

The Commission invites interested persons to submit written data, views, and other information concerning the matters set forth in this notice. An original and 14 copies should be filed by March 5, 1979. Comments should be submitted to the Federal Energy Regulatory Commission, Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM79-19. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C., during regular business hours.

Because of the complexity and importance of the issues presented in this notice, the Commission intends that those participating in this proceeding should serve their comments on other participants, and have an opportunity to respond to the initial comments made in response to this notice. In order for this to take place, any participant intending to file initial comments to this notice shall notify the Secretary of the Commission in writing on or before February 16, 1979 of the intent to participate. A service list will then be prepared and mailed to those who have stated an intention

[19] *See, e.g.*, 124 Cong. Rec. S16257 (daily ed. Sept. 27, 1978) (exchange between Senators Gravel and Jackson).

[20] Order Vacating Prior Proceedings and Issuring Conditional Certificates of Public Convenience and Necessity, issued December 15, 1975, in Docket Nos. CP78-123, *et al.*

[21] Section 9 of the ANGTA provides that when any agency action is "necessary or related to the construction and initial operation of the approved transportation system," and that action "requires a certificate, right-of-way, permit, lease, or other authorization," the Commission must act at the earliest practicable date. The availability of an adequately processed gas supply for transportation through the system is obviously directly necessary and related to the construction and initial operation of the ANGTS. The processing facilities of Prudhoe Bay will not be part of the transportation system itself, but the building and operation of these facilities, and indeed the executing of related gas sales contracts, require the Commission to take the action proposed herein. *See Decision* at 44.

[22] Section 601(c) of the NGPA, in its treatment of the limitations placed upon the NGA certification authority of this Commisson is not germane. That section speaks only to the denial of a certificate based on the maximum lawful price paid for the gas, inclusive of that permitted under section 110. It does not address the issue posed here: the assumption by a pipeline of processing costs attendant to a purchase and sale of natural gas of less than pipeline quality.

to participate. The initial comments shall be filed with the Office of the Secretary as stated above. In addition, each party shall serve their initial comments by March 5, 1979 to those of the service list. Reply comments are to be filed with the Office of the Secretary in accordance with the above procedures by March 19, 1979, and shall be served upon parties listed on the service list by the same date.

In providing proper service of the initial comments and any reply comments, attention is directed to the regulations of the Commission found at 18 CFR 1.17(b) [1977] which permits service by mail. In addition, those who provide comments are directed to the subscription and verification provisions found at 18 CFR 1.16 [1977].

In order that all interested parties may be apprised of this matter, the Commission orders that the Secretary, in addition to publishing this notice in the FEDERAL REGISTER, shall serve copies of the same to all parties of record in Docket Nos. CP78-123, CP78-124, CP78-125, and RM78-12, said service to be accomplished pursuant to 18 CFR 1.17 [1977].

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350 (1978); Department of Energy Organization Act, Pub. L. No. 95-91; Executive Order No. 12009, 42 FR 46267; DOE Delegation Order No. 0204-8, 42 FR 61491; Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, *et seq.*; President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, approved by joint resolution, Pub. L. No. 95-158, 91 Stat. 1268 (1977); Administrative Procedure Act, 5 U.S.C. 553.)

In consideration of the foregoing, the Commission proposes to amend Part 2, Subchapter A and Subpart K, Part 271, Subchapter H of Chapter I, Code of Federal Regulations as set forth below.

By the Commission. Commissioner Sheldon voted present.

KENNETH F. PLUMB,
Secretary.

(1) Part 2, Subchapter A of Chapter I, Title 18 Code of Federal Regulations is amended by adding new § 2.101 to read as follows:

§ 2.101 Policy respecting consideration of certain certificates applied for pursuant to the Natural Gas Act and involving gas to be transported through the Alaska Natural Gas Transportation System.

In any proceeding involving the approval of applications for certificates of public convenience and necessity, whether for the construction of the Alaska Natural Gas Transportation System or for the purchase or transport of gas through that system, it will be the general policy of the Commission, absent a showing that the public convenience and necessity would otherwise be served, that the purchase of natural gas from Prudhoe Bay, Alaska for transportation through the Alaska Natural Gas Transportation System should be of processed gas which is capable of immediate entry into the transportation system; and therefore, the Commission will approve only those applications for certificates of public convenience and necessity which do not require the assumption by the applicant or subsequent purchaser of processing or other related costs save to the extent such costs are allowed pursuant to Commission action taken under § 271.1106 of its regulations.

(2) Section 271.1100 of Subpart K, Part 271 of Subchapter H of Chapter I, Title 18 Code of Federal Regulations is amended in paragraph (b) to read as follows:

§ 271.1100 Applicability.

* * * * *

(b) *Exclusions.* Sections 271.1104 and 271.1105 shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

(3) Section 271.1106 of Subpart K, Part 271 of Subchapter H of Chapter I, Title 18 Code of Federal Regulations is amended to read as follows:

§ 271.1106 Adjustments.

Pursuant to section 502(c) of the NGPA, any person may apply to the commission for an adjustment on the grounds that the operation of §§ 271.1100)b) or 271.1105 results in special hardship, inequity, or an unfair distribution of burdens to such person.

[FR Doc. 79-4463 Filed 2-7-79; 8:45 am]

[6450-01-M]

[18 CFR Part 284]

[Docket No. RM79-20]

CERTAIN SALES OF NATURAL GAS BY INTRASTATE PIPELINES

Further Notice of Proposed Rulemaking and Public Hearing

Issued February 5, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is seeking further written comments on its revised proposed regulations implementing section 311(b) of the Natural Gas Policy Act of 1978. Section 311(b) provides that the Commission may, by rule or order, authorize sales of natural gas by intrastate pipelines to interstate pipelines or local distribution companies served by interstate pipelines.

DATES: Written comments to be filed by February 21, 1979; public hearing to be held February 20, 1979.

ADDRESSES: Comments and requests to participate in the public hearing should be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr., Deputy Assistant General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-1790, or Howard Kilchrist, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4539.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Section 311(b) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621, November 9, 1978, provides that the Federal Energy Regulatory Commission (Commission) may, by rule or order, authorize any intrastate pipeline to sell natural gas to any interstate pipeline and any local distribution company served by an interstate pipeline. Section 311(b) also sets forth certain requirements relating to rates and charges, duration and other matters in connection with the sales, and states that sales authorized under section 311(b) are subject to terms and conditions prescribed by the Commission.

On November 13, 1978, the Commission adopted a notice of proposed rulemaking (43 FR 53270, November 15, 1978) in Docket No. RM79-3, proposing interim regulations to implement the NGPA. In that document, the Commission requested comments on proposed regulations implementing section 311(b). Although most of the regulations in that proposal were to become effective on December 1, 1978, the Commission proposed not to make the new Subpart C of Part 284, implementing section 311(b), effective until after the current winter heating season. The purpose of delaying the effectiveness of the section 311(b) rule was to permit a smooth transition between the Commission's emergency exemption program under section 7(c) of the Natural Gas Act, and the implementation of the NGPA provisions

permitting sales by intrastate pipelines to interstate pipelines and local distribution companies.

In this notice of proposed rulemaking, the Commission requests further data, views and comments with respect to the implementation of section 311(b) and also invites participation in a public hearing on the proposal. Comment procedures and information concerning the hearing are set forth below.

II. Summary of the Proposed Regulation

As proposed, Subpart C of Part 284 would generally permit intrastate pipelines to sell natural gas to interstate pipelines and to local distribution companies served by interstate pipelines, in accordance with the provisions of the subpart. These sales would take place without prior Commission approval, but as required by section 311(b)(4) of the NGPA and § 284.145(b) of the proposed regulations, would be subject to interruption to the extent that natural gas subject to the sale is required by selling pipeline to provide adequate service to the pipeline's customers at the time of the sale.

Sales would be limited to two years' duration under proposed § 284.145(a) and could be extended for periods of up to two years each if not disapproved by the Commission after opportunity for oral and written comments. The Commission could also modify the terms of a proposed extension and impose upon sales or extensions terms and conditions it deemed appropriate and in the public interest. Upon complaint or its own motion, the Commission could also terminate a sale after making certain findings enumerated in section 311(b)(6) of the NGPA.

Section 284.145(c) of the reguations states that no sales under Subpart C may involve natural gas acquired by the intrastate pipeline solely or primrily for the purpose of resale under section 311(b).

Section 311(b)(2) sets forth the statutory requirements relating to rates and charges by intrastate pipelines for sales to which these rules apply. Rates and charges must be "fair and equitable" and may not exceed the sum of (1) the pipeline's weighted average acquisition cost of natural gas; (2) an amount determined by Commission rule to be necessary to provide reasonable compensation for services and a reasonable opportunity for profit; and (3) an adjustment for current costs incurred under certain circumstances due to the sale. The Statement of Managers accompanying the Conference Report states that the conferees did not intend that the selling pipeline make a profit on the purchase and sale aspects of the transaction (H.R. Rep. No. 95-1752, p. 108).

In the November 13 proposal, the Commission proposed a definition of "weighted average acquisition cost of natural gas" which would have used volumes of gas acquired during a 12-month period (ending no more than 90 days prior to commencement of deliveries pursuant to the sale) and the prices paid for those volumes on the last day of the 12-month period. Under that formula, the weighted average acquisition cost of natural gas would have been fixed for the duration of a Subpart C sale as of a time up to 90 days prior to the commencement of deliveries.

The Commission received a number of comments which argued that the regulations should provide a formula that would permit a pipeline to charge a price determined on the basis of a constantly updated acquisition cost. In addition, the conferees stated that the determination of the weighted average acquisition cost was meant to be a contemporaneous determination involving the cost of gas at the time it is acquired and resold and that the customers of the selling pipeline shall be in no worse position as to price or supply. (H.R. Rep. No. 95-1752, p. 108). In view of these comments and the statements of the conferees, the Commission has revised its proposal. The new proposed § 284.143 would provide for a monthly determination of the weighted average acquisition cost of natural gas. For any calendar month in which deliveries pursuant to Subpart C occurred, the weighted average cost would be computed by (1) determining the quantities (in MMbtu's) of gas acquired from each source of supply during a 12-month period ending no more than 90 days before the beginning of the month; (2) multiplying the MMbtu's attributable to each source of supply by the most recent price actually paid with respect to each source; and (3) dividing the sum of the products computed in (2) by the sum of the MMbtu's determined in (1). Thus, the calculation of the weighted average cost would be revised monthly on the basis of the most recent prices paid. This moving average approach would enable the intrastate pipeline to reflect the latest prices paid while at the same time avoiding the substantial fluctuations that would occur under monthly computations.

The intrastate pipeline's weighted average acquisition cost of natural gas is one of the three components of the permissible rates and charges for a sale under Subpart C. The pipeline may add to that cost, as provided in § 284.144(a)(2), an amount to recover the costs of gathering, treating, processing, transporting and delivering the gas as provided in § 284.123 of Subpart B of Part 284 (Interim Regulations, 43 FR 56628-56629, December 1, 1978). Under § 284.123(b), an intrastate pipeline may base its rates upon the methodology and cost used (1) in designing its rates to recover the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage) included in its firm sales rate schedules for city-gate service on file with a state regulatory agency; or (2) in determining the allowance permitted by an appropriate state regulatory agency for city-gate service by the intrastate pipeline. The pipeline may elect to use the rates contained in a transportation rate schedule for intrastate service on file with the state regulatory agency which the pipeline determines covers service comparable to service under Subpart B. Instead of any of these methods, an intrastate pipeline may file proposed rates with the Commission, with information showing the rates to be fair and equitable, and may commence service using those rates, subject to refund. The Commission received comments stating that if intrastate pipelines were not permitted to make a profit on sales under section 311(b), they would have no incentive to enter into these transactions. As noted above, however, the conferees stated that they did not intend that the purchase and sale aspects of the transaction produce a profit for the selling pipeline. By incorporating the Subpart B computation of charges for services in connection with a Subpart C sale, however, the Commission intends to afford intrastate pipelines the same compensation and opportunity for reasonable profit as would be afforded in a wholly intrastate transportation transaction and to satisfy the requirements of section 311(b)(2)(B) of the NGPA.

The third component of the rates and charges permissible in Subpart C sales is the adjustment described in section 311(b)(2)(C) of the NGPA and § 284.144(b) of the proposed regulations. The adjustment is intended to offset any contemporaneous increase in the weighted average acquisition cost of gas that a pipeline would incur to acquire gas under existing contracts as a result of entering into sales under Subpart C. The adjustment may be included in the sales price with respect to gas which (1) is acquired under an existing contract; (2) is in excess of quantities the pipeline would otherwise have acquired; and (3) the price of which exceeds the pipeline's weighted average acquisition cost of gas. If natural gas meeting these criteria is sold pursuant to Subpart C, the pipeline may add to the basic rate an amount sufficient to offset the increase in its weighted average acquisition cost.

The reporting requirements proposed in § 284.148 include an initial report, to be filed within 60 days after commencing deliveries under a Subpart C sale and "subsequent reports" whenever a significant change occurs in the information submitted with the initial report. If an extension of the sale is sought, an extension report must be filed not less than 90 days prior to the expiration of the sale. The extension report would consist of a current statement of the information required in the initial report and the terms of the proposed extension. Finally, within 60 days after termination of any sale or extension, a final report would be required of the purchases stating quantities purchased, amount paid and delivery points. All reports would be required to be under oath, signed by a senior official of the company.

As announced in the November 13 proposal, the Commission proposes to make rules implementing section 311(b) effective on March 1, 1979. For this reason, the period for the filing of comments on these proposed rules will end on February 21. In addition, a public hearing will be held. The Commission intends to take final action on the proposed regulations prior to March 1.

III. Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to 4:30 p.m., E.S.T., February 21, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C., during regular business hours. Comments should by submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM79-*20*.

IV. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on February 20, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a prcsentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., on February 15, 1979.

Request to participate in the hearing should include a reference to Docket No. RM79-*20*, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on February 16, 1979. The presiding officer is authorizcd to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 100 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621)

In consideration of the foregoing, the Commission proposes to amend Subchapter I, Part 234, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the direction of the Commission.

Kenneth F. Plumb,
Secretary.

1. Part 284 is amended in the table of sections by adding a new Subpart C in the appropriate numerical order new sections and titles to read as follows:

Subpart C—Certain Sales by Intrastate Pipelines

Sec.
284.141 Applicability.
284.142 Sales by intrastate pipelines.
284.143 Definition.
284.144 Rates and charge.
284.145 Terms and conditions.
284.146 Extensions.
284.147 Terminations.
284.148 Reporting requirements.

Authority: Natural Gas Policy Act of 1978, Pub. L. 95-621.

2. Part 284 is amended by adding a new Subpart C to read as follows:

Subpart C—Certain Sales by Intrastate Pipelines

§284.141 Applicability.

This subpart implements section 311(b) of the NGPA and applies to certain sales of natural gas by intrastate pipelines to:

(a) Interstate pipelines; and

(b) Local distribution companies served by interstate pipelincs.

§284.142 Sales by intrastate pipelines.

Any intrastate pipeline may, without prior Commission approval, sell natural gas to any interstate pipeline or any local distribution company served by an interstate piepine, in accordance with the provisions of this subpart.

§ 284.143 Definition.

"Weighted average acquisition cost of natural gas" mcans the cost of natural gas to an intrastate pipeline for any calendar month in which deliveries pursuant to this subpart occur, computed by:

(a) Determining the actual quantities of natural gas (expressed in terms of MMbtu's) purchased by the intrastate pipeline from each source of supply, excluding any quantities for which the instrastate pipeline makes an adjustment under § 284.144(b), during a 12-month period ending no more than 90 days prior to the first day of any calendar month in which deliveries pursuant to the sale occur;

(b) Multiplying thc MMbtu's attributable to each source of supply by the most recent price per MMbtu actually paid with respect to each source of supply; and

(c) Dividing the sum of the products computed under paragraph (b) of this section by the sum of the MMbtu's determined under paragraph (a) of this section.

§ 284.144 Rates and charges.

(a) *Basic rate.* The rates and charges by an intrastate pipeline pursuant to this subpart may not exceed:

(1) Its weighted average acquisition cost of natural gas; plus

(2) An amount to recover the costs of gathering, treating, processing, transporting, and delivering the natural gas as determined in accordance with § 284.123; plus

(3) An adjustment as determined under paragraph (b) of this section.

(b) *Adjustment.* With respect to natural gas sold pursuant to this subpart which:

(1) Is acquired under an existing contract;

(2) Is in excess of quantities which the intrastate pipeline would otherwise have acquired; and

(3) The price of which exceeds the intrastate pipeline's weighted average acquisition cost of natural gas, the intrastate pipeline may add to the basic rate under paragraph (a) of this section an amount sufficient to offset the increase in its weighted average acquisition cost of natural gas.

§ 284.145 Terms and conditions.

(a) No sale pursuant to this subpart or extension thereof may be for a period exceeding two years.

(b) Any sale pursuant to this subpart shall be subject to interruption to the extent that natural gas subject to the sale is required by the intrastate pipeline to provide adequate service to the pipeline's customers at the time of the sale.

(c) No sale pursuant to this subpart may involve natural gas acquired by the intrastate pipeline solely or primarily for the purpose of resale pursuant to this subpart.

(d) The Commission may by rule or order impose other terms and conditions as it deems appropriate and in the public interest.

(e) The Commission presumes that the cost of gathering, treating, processing, transporting, and delivery recovered under § 284.144 will be considered by the state regulatory authority in arriving at sales and transportation rates to enable the intrastate pipeline company to recover such costs and earn its allowed rate of return.

§ 284.146 Extensions.

(a) An intrastate pipeline seeking to extend a sale pursuant to this subpart shall file an extension report as provided by § 284.148(c).

(b) If an extension report as required in § 284.148(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, after opportunity for the oral presentation of data, views and arguments and for written comments, determines by order that the proposed extension is not approved. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

§ 284.147 Terminations.

(a) Upon complaint of any interested person or upon the Commission's own motion, the Commission may by order terminate a sale pursuant to this subpart.

(b) Prior to issuing an order under paragraph (a) of this section, the Commission shall afford an opportunity for the oral presentation of data, views and arguments, and for written comments.

(c) A sale under this subpart may be terminated if the Commission determines that:

(1) The termination is required to enable the intrastate pipeline to provide adequate service to its customers at the time of the sale;

(2) The sale involves natural gas acquired by the intrastate pipeline solely or primarily for the purpose of resale pursuant to this subpart;

(3) The sale violates any provision of this subpart or any term or condition established by rule or order of the Commission applicable to the sale; or

(4) The sale circumvents or violates any provision of the NGPA.

(d) Upon complaint of any interested person or upon its own motion, the Commission may, prior to a hearing as provided in paragraph (b) of this section, suspend a sale pursuant to this subpart pending the hearing if it determines that any of the findings under paragraph (c) of this section is likely to be made following the hearing.

§ 284.148 Reporting requirements.

(a) *Initial report.* Within 60 days after commencing deliveries under a sale pursuant to this subpart, an intrastate pipeline shall file with the appropriate state regulatory agency and with the Commission an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) The exact legal name of the intrastate pipeline and the name, title and mailing address of the person or persons to whom communications regarding the sale pursuant to this subpart should be addressed;

(2) A description of the sale, including:

(i) The identity of the parties;

(ii) The dates of commencement and anticipated termination of the sale;

(iii) The estimated total and daily quantities (in MMbtu's) of natural gas; and

(iv) The rate to be charged;

(3) A computation showing the methodology for determining the weighted average acquisition cost of natural gas under this subpart;

(4) A computation showing the methodology to be employed for arriving at the rate charged to recover the cost of gathering, treating, processing, transporting and delivering the natural gas associated with the sale;

(5) Computation of an adjustment, if any, under § 284.165(b), including:

(i) The basis for attributing certain additional acquisitions of natural gas to a sale pursuant to this subpart;

(ii) The identity of the existing contract under which the additional acquisitions are made and the price (per MMbtu) of natural gas purchased under the contract; and

(iii) Each point of delivery of additional acquisitions of natural gas to the intrastate pipeline; and

(6) An affidavit that service pursuant to the sale is subject to interruption to the extent that natural gas subject to the sale under this subpart is required to enable the intrastate pipeline involved to provide adequate service to its customers at the time of the sale.

(b) *Subsequent report.* If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission and the appropriate state regulatory agency, under oath, appropriate amendments to its initial report, signed by a senior official of the company.

(c) *Extension report.* Not less than 90 days prior to the expiration of a contract for the sale of natural gas pursuant to this subpart, an intrastate pipeline seeking to extend the sale beyond the initial two-year period or any period of extension shall file with the Commission and the appropriate state regulatory agency an extension report signed by a senior official of the company, under oath, stating:

(1) Current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) The proposed terms of the extension.

(d) *Final report.* Within 60 days after the termination of any sale or extension under this subpart, the interstate pipeline or local distribution company served by an interstate pipeline which purchased natural gas pursuant to this subpart shall file with the Commission and the appropriate state regulatory agency, under oath, a final report signed by a senior official of the company, stating:

(1) The actual quantities of natural gas purchased, on a monthly and total basis;

(2) The actual rate paid (per MMbtu for each month and the total amount paid; and

(13) The points of delivery.

[FR Doc. 79-4464 Filed 2-7-79; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Parts 652 and 663]

[FHWA Docket No. 79-3]

DESIGN AND CONSTRUCTION STANDARDS FOR BIKEWAY CONSTRUCTION PROJECTS

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to request comments on the development of design and construction standards for bikeway construction projects. This action is taken under section 141(b) of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599, 92 Stat. 2689).

DATES: Comments must be received on or before April 9, 1979.

ADDRESS: Comments should be sent (preferably in triplicate) to FHWA Docket No. 79-3, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Thomas Jennings, Highway Design Division, Office of Engineering (202-426-0314) or Reid Alsop, Office of the Chief Counsel (202-426-0800); Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to Section 141(b) of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689, the Federal Highway Administration (FHWA) is updating its existing standards for the design and construction of bikeway projects. The object of this revision is to develop standards that will provide guidance and requirements for State and local governments wishing to design and construct bikeways with Federal funding.

Accordingly, FHWA requests comments that could be of assistance in developing these standards. FWHA is particularly interested in comments relating to the criteria that should be included in bikeway design and construction standards; and in comments relating to FHWA's existing standards that reference the American Association of State Highway and Transportation Official's (AASHTO) "Guide for Bicyle Routes." A limited number of AASHTO's "Guide for Bicycle Routes" are available from FHWA by contacting either individual identified above.

NOTE: The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on: January 31, 1979.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 79-4403 Filed 2-7-79; 8:45 am]

[4310-31-M]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Ch. II]

OIL AND GAS OPERATIONS ON THE OUTER CONTINENTAL SHELF

Invitation for Public Comments

AGENCY: U.S. Geological Survey, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Geological Survey (USGS) proposes to develop regulations pertaining to oil and gas operations on the Outer Continental Shelf (OCS) in response to enactment of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372). Public comments are being sought concerning the content of regulations to be promulgated to implement Section 21, paragraph (b), of the Outer Continental Shelf Lands Act, as amended.

DATES: Written comments must be received on or before April 9, 1979.

ADDRESSES: Written comments should be addressed to Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Krahl, U.S. Geological Survey, Telephone: (703) 860-7531.

AUTHORS: Thomas G. McCloskey, Special Assistant of Assistant Secretary for Energy and Minerals (202-343-4457), and Gerald Rhodes, U.S. Geological Survey (703-860-7531.).

SUPPLEMENTARY INFORMATION: The Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), enacted on September 18, 1978, added to the Outer Continental Shelf Lands Act Section 21(b), which provides:

In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

Based upon this language, there are four standards created which must be dealt with in a regulatory program. They are:

1. "The Best Available and Safest Technology (BAST)" standard;
2. The "economically feasible" standard;
3. The "significant effect" standard; and
4. The "incremental benefits" versus "incremental cost" standard.

The House Conference Report, No. 95-1474, that accompanied the bill which subsequently became Pub. L. 95-372, provides insight into the congressional intent of Section 21(b). The major points made in the Conference Report are that:

1. More than one technology may be applicable as the best way to achieve a particular objective or do a particular job;
2. It is the responsibility of an operator on an existing operation to demonstrate why application of a new, better technology would not be "practicable";
3. A determination as to what are the best available and safest technologies economically feasible is to be made by the regulating Agency on an industrywide basis or with respect to classes or categories of operations rather than on an installation-by-installation, company-by-company, or lessee-by-lessee basis; and
4. Considerations of costs and benefits should also be done on an industrywide basis or with respect to classes or categories of operations (House Conference Report, No. 95-1474, p. 109).

Furthermore, it is the intent of the Act that the Secretary's regulations and their implementation have a technology-forcing effect. That is, when new and improved devices are developed, there must exist a system for evaluating them and for requiring their use when and where appropriate.

The USGS' present policies, programs, and procedures are designed to insure that oil and gas operations on the OCS are conducted in a manner which takes into consideration safety, health, and environmental concerns. The USGS' OCS Operating Orders, which are designed to implement the regulations contained in 30 CFR Parts 250 and 251, establish minimum requirements in the form of performance standards for technology, equipment, and procedures used or applied to operations on the OCS. In addition, the USGS is initiating a Platform Verification Program and a Failure Inventory and Reporting System. The Platform Verfication Program will allow the Survey to insure that the BAST

requirement is applied in the design, construction, and installation of platforms of unique design, in deepwater and in frontier areas. The Failure Inventory and Reporting System will provide the USGS with information on equipment failures. Analysis of this information will be used to identify those instances where current technology needs improvement.

In fulfilling its obligations under Section 21(b) of the Act, the USGS intends to maintain existing programs and follow existing procedures and to consider them as the foundation upon which the BAST program will be developed. The USGS recognizes that changes may be needed. It intends to fully evaluate existing programs and procedures to insure their adequacy in meeting the requirements of Section 21 (b) of the Act. In this regard, the USGS will use the information provided under the Failure Inventory and Reporting System and the information it gains from the study into the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the OCS called for in Section 21(a) of the Act. This study is a joint effort by the USGS and the U.S. Coast Guard.

An important first step in implementing the BAST standard is defining it. The House Conference Report makes it clear that "more than one technology may be applicable as the best way to achieve a particular objective or do a particular job." The USGS intends to establish performance requirements based upon a determination that the technology, equipment, and procedures covered by the requirements provide the level of protection required to assure safe operations on the OCS. By definition, any technology, equipment, or procedure which results in a level of performance which meets or exceeds the requirements shall qualifiy as a "best available and safest technology" (BAST).

The USGS considers the BAST requirement to be evolutionary in nature. That is, when inadequacies or new developments in any technology, equipment, or procedure that would have a significant effect on safety, health, or the environment demonstrate a need, existing performance requirements will be modified or new requirements will be established. In such instances, the new performance requirements may force the development of new technology, equipment, or procedures.

To assist in the development of its BAST program, the USGS requests comments and recommendations on the nature, scope, and content of the program and implementing regulations. Particular attention should be paid to the following questions:

1. Should the USGS use performance requirements as a method of identifying the "best available and safest technologies"? Are there other approaches to defining BAST which should be considered?

2. Are the USGS' existing policies, programs, and procedures an adequate foundation upon which to build a BAST program? If not, are they wholly or partially inadequate? If the conclusion is that they are inadequate, the reasons for that conclusion should be set forth.

3. In establishing performance requirements, should specific items of equipment be identified and standards established? If so, please identify items of equipment for which standards should be established.

4. What criteria should be used by the USGS in determining the economic feasibility of BAST?

5. What factors should the USGS consider in determining "significant effect"?

6. What procedure should be used by the USGS to assess incremental costs and benefits when more stringent performance requirements are established or alternative technologies, equipment, or procedures are required? How should benefits such as reduced number of accidents or reduced health risks be measured against dollar costs?

Dated: February 2, 1979.

JOAN M. DAVENPORT,
Assistant Secretary,
Energy and Minerals.

[FR Doc. 79-4255 Filed 2-7-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 78-172]

DRAWBRIDGE OPERATION REGULATIONS

Halifax River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Public Affairs Council of the Daytona Beach Area Chamber of Commerce, the Coast Guard is considering revising the regulations for the Seabreeze and Memorial bridges across the Halifax River (AIWW), miles 829.1 and 830.6 respectively, to allow periods during peak vehicular traffic when the draws need not open. The draws of both bridges presently open on signal. This action should relieve vehicular traffic during the morning and evening rush hours while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before March 12, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Seventh Coast Guard District, 51 S.W. First Anvenue Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr. Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

These additional restrictions are being considered in an effort to relieve increased vehicular traffic during the morning and evening peak periods on the Seabreeze and Memorial bridges. The Coast Guard, therefore, is presenting this proposal for comment from affected and interested parties.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.433 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.433 Halifax River, AIWW, Volusia County, Fl.

(a) *Ormond Beach bridge,* Halifax River, AIWW, mile 824.9, Granada

Avenue, Ormond Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8 a.m. and 5 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(b) *Seabreeze bridge,* Halifax River, AIWW, mile 829.1, Seabreeze Boulevard, Daytona Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8 a.m. and 5 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(c) *Memorial Bridge,* Halifax River, AIWW, mile 830.6, Orange Avenue to Silver Beach Street, Daytona Beach, FL. From 7:45 a.m. to 8:45 a.m. and from 4:45 p.m. to 5:45 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:15 a.m. and 5:15 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(d) *Port Orange bridge,* Halifax River, AIWW, mile 835.5, State Road A-I-A (Dunlawton Avenue), Port Orange, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. The draw shall open at 8 a.m. and 5 p.m. to allow any accumulated vessels to pass. The draw shall open on signal on Federal and Florida State holidays.

(e) Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time. The opening signal from these vessels is four blasts of a whistle, horn, or other sound-producing device, or shouting.

(f) During periods when storm signals are displayed in the Daytona Beach area, the draws shall open on signal. Storm signals are displayed when the National Weather Service predicts winds of 33 knots or more or sea conditions considered dangerous to small craft or both. The opening signal is three blasts of a whistle, horn, or other sound-producing device or by shouting.

(g) The owners of or agencies controlling these bridges shall post notices containing the substance of these regulations on both the upstream and downstream sides of the bridges or adjacent to the bridges, in such manner that they can be easily read at any time from an approaching vessel.

(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).)

Dated: January 31, 1979.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 79-4396 Filed 2-7-79; 8:45 am]

[4910-14-M]

[33 CFR Parts 127 and 165]

[CGD 17-78-1R2]

PORT VALDEZ, VALDEZ, ALASKA

Proposed Establishment of a Safety Zone; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule appearing in the December 28, 1978 issue of the FEDERAL REGISTER by changing the reference to a citation in the Discussion of the Proposed Regulation Change and by adding a clause to the rule which was accidentally omitted from the proposed rule. It also extends the comment period to March 1, 1979.

DATE: Comments must be received on or before March 1, 1979.

ADDRESS: Comments should be submitted to, and are available for examination at, the office of the Commander (m), Seventeenth Coast Guard District, P.O.B. 3-5000, Federal Building, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT:

LT David G. Dickman, Office of Marine Environment and Systems, Port Safety and Law Enforcement Division (G-WLE), U.S. Coast Guard, Room 7319, Department of Transportation, Nassif Building, 400 7th Street SW., Washington, D.C. 20590, 202-426-1927.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-36136 appearing at page 60614 in the FEDERAL REGISTER of December 28, 1978, the proposed rule is amended to read as follows:

1. DATE: Comments must be received on or before March 1, 1979.

2. The last sentence in the paragraph under the Discussion of the Proposed Regulation Change is corrected to read: As provided in the General Safety Zone Regulations (33 CFR 165.20) no person or vessel may enter a safety zone unless authorized by the Captain of the Port or the District Commander.

3. 33 CFR 165.1701 is corrected to read as follows:

§ 165.1701 Port Valdez, Valdez, Alaska.

The waters within the following boundaries are a safety zone: The area within 200 yards of any waterfront facility at the Alyeska Marine Terminal complex or vessels moored or anchored at the Alyeska Marine Terminal complex and the area within 200 yards of any tank vessel maneuvering to approach, moor, unmoor or depart the Alyeska Marine Terminal complex.

Dated: January 29, 1979.

F. P. SCHUBERT,
Captain, U.S. Coast Guard,
Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-4264 Filed 2-7-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

[39 CFR Parts 310 and 320]

RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

Proposed Revisions In Comprehensive Standards for Permissible Private Carriage of Letters; Extension of Comment Period

AGENCY: U.S. Postal Service.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for filing comments on proposed revised regulations relating to the restrictions on the private carriage of letters.

DATE: Comments must be received on or before March 12, 1979.

ADDRESS: Written comments should be addressed to: Jerry Belenker, Law Department, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocoping between 9 a.m. and 4 p.m., outside room 9120, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Jerry Belenker, Law Department, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260; (202) 245-4616.

SUPPLEMENTARY INFORMATION: On December 28, 1978, a document was published in the FEDERAL REGISTER (43 FR 60615) proposing revisions of Postal Service regulations pertaining to the Private Express Statutes. The date for the submission of comments, February 12, 1979, was inadvertently omitted, but was published in the issue of January 3, 1979 (44 FR 915).

In response to a number of requests for an extension of time within which to submit comments, and in order to facilitate maximum public participation in the rulemaking process, the Postal Service will accept written com-

ments which are received on or before March 12, 1979.

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-4364 Filed 2-7-79; 8:45 am]

[4310-10-M]

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[43 CFR Part 4]

ALASKA NATIVE CLAIMS APPEAL BOARD

Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking amends existing regulations. The purpose of the amendments is to clarify procedures and simplify language in the existing regulations, and to carry out Secretarial policy decisions on: (1) Alaska Native Claims Appeal Board jurisdiction over appeals by persons claiming rights under section 14(c) of the Alaska Native Claims Settlement Act; (2) requirements for standing to appeal; (3) standard of review and burden of proof; and (4) procedure for hearings on questions of fact.

COMMENT DATE: Written comments must be received on or before 30 days from date of publication.

ADDRESS: Send comments to: Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203. Comments are available for public review in Room 1111 of the above address on weekdays from 8:30 to 9:00.

FOR FURTHER INFORMATION CONTACT:

David Graham, Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, Telephone: (703) 557-1500.

Beaumont McClure, Alaska Native Claims Coordinator, Division of Lands & Realty, (320 Bureau of Land Management), United States Department of the Interior, 18th & C Streets NW., Washington, DC 20240, Telephone: (202) 343-3066.

Judith M. Brady, Chairperson, Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, Telephone: (907) 265-5356.

SUPPLEMENTARY INFORMATION: ANCSA POLICY REVIEW. In order to improve the Department's administration of the Settlement Act and achieve the goal of prompt land conveyance, the Department in August 1977 began a comprehensive review of ANCSA implementation and policies. The review was organized to cover twenty-four issues, each requiring a decision on Departmental policy. Extensive discussions were held on these issues with representatives of Departmental agencies, the State of Alaska, Native Corporations, and the Joint State-Federal Land Use Planning Commission. The Secretary by memorandum of March 3, 1978, announced the policy decisions on each issue reached through this process.

ANCSA Issue 16 addressed the following questions:

A. Should the review process for all ANSCA related actions be standardized?

B. If yes, what should that review process be?

C. If not, what review process should be developed for discretionary actions, e.g., easement reservations, section 14(h) withdrawals and conveyances, etc.?

The Secretary decided that:

(1) The review process should be standardized and that the Alaska Native Claims Appeal Board was the appropriate board to hear ANCSA-related actions, including easement appeals. (Exceptions to this policy decision, however, are those cases in which alternative appeal procedures are provided by easement agreements between the Department and Native corporations. Such agreements continue to govern appeals in easement disputes, but are binding only on the parties to the agreements.)

(2) Procedures should be clarified between ANCSA and the Interior Board of Land Appeals for cases involving both ANCSA and other public land issues.

(3) Hearings before ANCAB which involve (a) issues of fact or mixed questions of fact and law, or (b) issues subject to the Administrative Procedure Act, will be conducted by Administrative Law Judges.

(4) In order to have standing to appeal, a person must claim a property interest in lands affected by the decision being appealed.

(5) While land areas affected by an appeal usually cannot be conveyed before decision of the appeal, methods must be provided to allow prompt conveyance of areas in land selections which are unaffected by the appeal, so that conveyance of unaffected land areas is not delayed during the appeal.

(6) Factual determinations in a decision shall not be reversed unless an appellant proves by a preponderance of the evidence that the determination was incorrect; and discretionary actions shall not be reversed unless arbitrary and capricious.

(7) Regulations should be published as necessary to carry out these policy decisions.

ANCSA Issue 21 addressed the question of what role the Department should take in reconveyances under section 14(c). The Secretary decided that the Department should continue a policy of nonintervention.

These regulations are published for comment in response to the above decisions. Other changes are to clarify and simplify language of present regulations.

DISCUSSION OF CHANGES

43 CFR 4.1(b) is amended by the addition of a provision that the Board shall not consider appeals on rights granted and protected by section 14(c) of ANCSA.

43 CFR 4.901(a) is also amended to clarify the Board's lack of jurisdiction over appeals on section 14(c) claims.

43 CFR 4.901(c) is redesignated (d) and a new subsection (c) is added to clarify the jurisdiction of the Alaska Native Claims Appeal Board (ANCAB) and the Interior Board of Land Appeals (IBLA). The Interior Board of Land Appeals has jurisdiction over appeals from decisions involving the validity of an interest or pending interest applied for under the public land laws. The Alaska Native Claims Appeal Board has jurisdiction over appeals from decisions in matters relating to land selection under the Alaska Native Claims Settlement Act, as amended, and appeals arising under other statutes dealing with Alaska Native claims, except for the Alaska Native Allotment Act. Confusion occurred when the issue on appeal involved the effect of the Settlement Act on an interest or pending interest applied for under the public land laws. The proposed regulation establishes that jurisdiction over an appeal involving the effect of the Settlement Act, as amended, or other statute concerned with Alaska Native claims on an interest or pending application under public land laws shall be with the Alaska Native Claims Appeal Board. Jurisdiction over questions as to whether or not such interests or pending interests are valid under the public land laws shall be with the Interior Board of Land Appeals.

43 CFR 4.901(c) is redesignated (d) and amended to shorten and simplify language in present regulations on certification of an appeal from ANCAB to IBLA or vice versa.

43 CFR 4.903 is revised to define requirements for appellant's statement of reasons and standing in greater detail than the present regulations. The appellant is requested to provide a legal description of the land in which he claims a property interest so the Board may segregate this land from land unaffected by the appeal, in order that the unaffected land can be conveyed.

43 CFR 4.904 is amended by adding a new subsection (c) to [the existing

§ 4.904 Answers] to define requirements for contents of answer in more detail.

43 CFR 4.904 is revised to limit pleadings to the appellant's statement of reasons and standing and the appellee's answer, with further briefs at the discretion of the Board. A procedure is provided for motions.

43 CFR 4.905 is renumbered § 4.908 and a new section 4.905 is added which defines burden of proof and standard of review.

43 CFR 4.906 is renumbered § 4.909 and a new section 4.906 is added to clarify the date pleadings will be considered to have been filed and the filing deadlines for certain pleadings.

43 CFR 4.907 [Pleadings] is deleted and existing section 4.908 is renumbered § 4.907.

43 CFR 4.906 is renumbered § 4.909.

43 CFR 4.909 is renumbered § 4.910.

43 CFR 4.910 is renumbered § 4.911.

43 CFR 4.911 is renumbered § 4.912 and changed to simplify language authorizing the Board to hold conferences.

43 CFR 4.912(c) [existing § 4.911(c)], is amended to require all hearings on issues of fact, or mixed issues of fact and law, and hearings required by the APA, to be conducted by an Administrative Law Judge appointed under 5 U.S.C. 3105. The amendment provides that the Administrative Law Judge will render a recommended decision to the Board with service on all parties and the Board. Parties shall have 30 days in which to file exceptions and briefs from the recommended decision, at which time the Board shall render a final decision. Argument on issues of law shall be heard by the Board.

43 CFR 4.912 (existing § 4.911) is amended by redesignating subsections (d) and (e), subsections (f) and (g) respectively, and adding new subsections (d) and (e). Section 4.912(d) provides for oral argument and § 4.912(e) authorizes the Board to segregate lands unaffected by the appeal or take other action or allow conveyance or further processing of lands unaffected by the appeal.

43 CFR 4.912 is renumbered § 4.913.

43 CFR 4.913 is renumbered § 4.914 and amended to clarify the Board's role in settlement approval. The amended regulation requires approval by the Board or the Secretary of any settlement agreement which resolves matters on appeal and requires future action on forbearance by the Department. The existing regulation appears to esatblish alternative requirement for settlement and has caused confusion.

43 CFR 4.915, a new section, is added to establish procedure for reconsideration of a decision by the Board, including a time limit within which any request for reconsideration must be filed.

It is hereby determined that publication of this proposed rulemaking does not require a detailed statement pursuant ot section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), and that this document does not contain a significant regulatory proposal requiring preparation of a regulatory analysis under Executive Order 12044.

The principal author of this proposed rulemaking is Judith M. Brady, Chairperson, Alaska Native Claims Appeal Board, assisted by other members and staff counsel of the Board and by personnel from the Office of Hearings and Appeals.

Under the authority of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*) it is proposed to amend Subparts A and J, Part 4, Subtitle A, Title 43 of the Code of Federal Regulations as explained above and set forth below.

Subpart A—General; Office of Hearings and Appeals

§ 4.1 Scope of authority; applicable regulations.

* * * * *

(5) *Alaska Native Claims Appeal Board.* The Board considers and decides finally for the Department appeals to the head of the Department from findings of fact or decisions rendered by Departmental officials in matters relating to land selection arising under the Alaska native Claims Settlement Act (85 Stat. 688), as amended, and any other statute dealing with Alaska Native claims except the Alask Native Allotment Act, Act of May 17, 1906, 34 Stat. 197, as amended. The Board orders hearings as necessary, *except:* The Board shall not consider appeals relating to enrollment of Alaska Natives; the Board shall not consider appeals on rights granted and protected by section 14(c) of the Act; the Board shall not consider appeals on easements brought by parties to agreements with the Department which set forth alternative procedures for easement appeals; and with respct to appeals from Departmental decisions on village eligibility under section 11(b) of the Act, decisions of the Board shall be submitted to the Secretary for his personal approval before becoming final. Special regulations applicable to proceedings before the Board are contained in Subpart J of this part.

* * * * *

Subpart J—Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals

Sec.

4.900 References.
4.901 Appeals; general.
4.902 Who may appeal.
4.903 Appeals; how taken.
4.904 Pleadings, additional briefs, and motions.
4.905 Standard of review and burden of proof.
4.906 Filing and extensions.
4.907 Service.
4.908 Summary dismissal.
4.909 Transmittal of administrative record.
4.910 Amicus curiae; intervenors; joinder.
4.911 Appearances; practice.
4.912 Proceedings.
4.913 Witnesses.
4.914 Settlement approval.
4.915 Reconsideration.

AUTHORITY. Alaska Native Claims Settlement Act (43 U.S.C. 1601, et. seq.)

Subpart J—Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals

§ 4.900 References.

General appeals procedures are contained in Subparts A and B of this part.

§ 4.901 Appeals; general.

(a) Unless otherwise provided, appeals to the Secretary under ANCSA and related statutes referenced in § 4.1(5) relating to land selection shall be to the Alaska Native Claims Appeal Board. The Alaska Native Claims Appeal Board members shall be personally appointed by the Secretary. At least one member of the Board shall be familiar with the Native village life. Among those otherwise qualified to serve on the Board, perference will be given to those familiar with Native village life. The Board is authorized to decide finally for the Secretary appeals under ANCSA, as amended, and any other statute dealing with Alaska Native Claims, except;

(1) The Board shall not consider appeals relating to enrollment of Alaska Natives;

(2) The Board shall not consider appeals arising under the Alaska Native Allotment Act; Act of May 17, 1906, 34 Stat. 197, as amended;

(3) Appeals from decisions on village eligibility shall be personally approved by the Secretary;

(4) The Board shall not consider appeals on rights granted and protected by section 14(c) of the Act. The fact that the Board lacks jurisdiction over such appeals shall not prejudice such rights; and

(5) The Board shall not consider appeals on easements brought by parties to agreements with the Department which set forth alternative procedures for easement appeals.

(b) All hearings held in connection with appeals to the Alaska Native Claims Appeal Board shall be conducted within the State of Alaska. The Alaska Native Claims Appeal Board has its headquarters within the State of Alaska. The mailing address of the Board is: U.S. Department of the Interior, Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510.

(c) An appeal from a decision by the Bureau of Land Management which involves the effect of the Alaska Native Claims Settlement Act, and related statutes as referenced in § 4.1(5), upon an interest, or pending application for an interest, derived under the public land laws, shall be to the Alaska Native Claims Appeal Board (ANCAB). An appeal from a decision by the Bureau of Land Management which involves the effect of the public land laws upon the validity of an interest, or pending application for an interest, shall be to the Interior Board of Land Appeals (IBLA).

(d) When there is a determination that a single appeal raises issues within the jurisdiction of both ANCAB and another Appeals Board of the Department, one Board may refer the appeal to another. The record shall be certified to the appropriate Board, and an appeal timely filed with any Appeals Board of the Department shall be considered timely filed with the Board determined to have jurisdiction. Where issues on appeal have been severed and referred to a second Board of the Department, each Board may proceed with its appeal and issue separate decision, or upon completion of the questions referred from the Board in which the appeal was first filed, the record and determination of such other Board may be certified to the Board in which the appeal was first filed.

§ 4.902 Who may appeal.

Any party may appeal who claims a property interest in land affected by a determination which is appealable to the Alaska Native Claims Appeal Board. An agency of the Federal Government or a regional corporation shall have the right of appeal in any case involving land selections.

§ 4.903 Appeals; how taken.

(a) *Filing of notice of appeal.* Appellant shall file a notice of appeal, signed by the appellant or the appellant's representative, with the Board within the following time limits:

(1) A party receiving actual notice of the decision shall have 30 days from the receipt of actual notice to file an appeal;

(2) Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have 30 days from the date of publication of the decision in the FEDERAL REGISTER in which to file an appeal.

(b) *Contents of notice of appeal.* The notice of appeal shall:

(1) Indicate an appeal is intended.

(2) Identify the decision being appealed. Identification should include the serial number or date of the decision.

(The notice of appeal shall be served on all parties, see §4.907 of this title.)

(c) *Statement of reasons and standing.* If not filed with the notice of appeal, the appellant's statement of reasons and standing must be filed by the appellant within 30 days after filing of the notice of appeal and should include the following:

(1) A statment of facts and law upon which the appellant relies in claiming a property interest for standing under § 4.902 of this title, including a specific reference to federal or state law, if any, under which appellant claims a property interest.

(2) A clear statement of all issues being reaised by appellant on appeal supported by facts and law.

(3) A legal description of the land in which the appellant claims a property interest.

(The statement of reasons and standing shall be served on all parties; see § 4.907 of this title.)

(d) *Answers.* Any party served with a copy of appellant's statement of reasons and standing who desires to participate in the proceedings on appeal must file an answer within 30 days of service of the appellant's statement of reasons and standing. The answer must include the following:

(1) Opposition, if any, to appellant's allegations of standing under § 4.902 of this title supported by facts and law.

(2) A reply to all issues raised by the appellant supported by facts and law.

(3) Objection, if any, to the legal description furnished by the appellant of the lands in which the appellant claims a property interest.

(The answer shall be served on all parties; see § 4.907 of this title.)

§ 4.904 Pleadings, additional briefs and motions.

(a) *Pleadings.* There shall be an appellant's statement of reasons and standing, an answer as described in § 4.903 and only such other pleadings as the Board may order.

(b) *Additional briefs.* The Board may allow the submission of additional briefs on its own motion or if requested by the parties. A party shall make such a request by motion filed with the Board within 15 days of service of the pleadings or brief for which the response is sought.

(c) *Motions.* An application to the Board for an order shall be by motion which, unless made during a hearing, shall be made in writing, shall state with particularity the grounds for the motion, and shall set forth the relief or order sought. Opposition to motion must be filed with the Board within 10 days after service of the motion unless otherwise ordered by the Board or unless stipulated to by the parties with Board approval.

§ 4.905 Standard of review and burden of proof.

(a) When decisions regarding factual determinations are on appeal before the Board, the appellant has the burden of proof by a preponderance of the evidence.

(b) When decisions regarding discretionary actions are on appeal before the Board, the decision appealed from shall be affirmed unless it is proved to have been arbitrary, capricious, or contrary to law or policy.

§ 4.906 Filing and extensions.

(a) The filing of all pleadings shall be considered to have been made on the date of postmark. In the event there is no postmark or the postmark is illegible it shall be the date of receipt by the Board.

(b) The Board may, upon request and for good cause shown, grant extensions of time for filing all pleadings and responses except the notice of appeal.

§ 4.907 Service.

(a) Copies of all briefs, statements of reason for appeal and interest affected, and other documents filed with the Board shall be served upon all parties to the proceeding, and such other persons as the Board may order.

(b) The notice of appeal, all pleadings, briefs and other documents filed with the Board shall contain a certificate stating the names and addresses of all persons served with copies.

(c) Whenever the regulations in this subpart require that a document be served upon a person, service may be made by personal delivery or by mailing the document first-class or by registered or certified mail, return receipt requested, to the person's address of record.

(d) Service may be proved by an acknowledgment of the person served, or by a certificate of service, stating the time and manner of service, signed by the person making service. No default will be entered without proof of actual service, or satisfactory proof of inability to serve.

(e) When an attorney has entered an appearance for a party in a case involving an appeal before the Board,

such attorney will be recognized as responsible for the case on behalf of his client and service of all briefs and other documents filed with the Board shall be made upon the attorney. The requirement of service of any document relating to the proceeding on such party may be fully satisfied by making service upon such attorney, unless otherwise specifically required by law, rule, order, or regulation of the Board. When more than one attorney has entered an appearance for a party, service upon one of the attorneys shall be sufficient.

(f) Whenever a time period commences after service is made, for purposes of computing the time period, service shall be deemed to have been made on the date personal service was made, or, if service was made by mail, on the date of posting.

§ 4.908 Summary dismissal.

An appeal may, in the discretion of the Board, be dismissed for failure to file or serve, upon all persons required to be served, a notice of appeal, statement of reasons or of standing as required by § 4.903.

§ 4.909 Transmittal of administrative record.

Within 10 days after service of a copy of the notice of appeal, the officer whose decision is appealed shall transmit a certified copy of the administrative record to the Board. Such record will be available for inspection and copying in the Board's office.

§ 4.910 Amicus curiae; intervenors; joinder.

(a) A brief of an amicus curiae may be filed with the Board. Copies of amicus curiae briefs shall be served upon all parties to the proceeding and a certificate of service must be filed in accordance with § 4.907. Any person filing an amicus brief shall not be considered a party to the proceeding for purposes of this subpart.

(b) Any person may petition the Board to intervene in an appeal. Upon a proper showing of interest under § 4.902, such person may be recognized as an intervenor in the appeal.

(c) The Board may require the joinder of any person whose participation is deemed essential to the final determination of an appeal.

(d) Any motion seeking intervention or joinder shall be served on all parties to the proceeding, and a certification of service must be filed in accordance with § 4.907.

§ 4.911 Appearances; practice.

(a) *Representation; generally.* Appearance and representation before the Board shall be governed generally by the applicable provisions in Part 1 of Subtitle A of this title, which regulates practice before the Department of the Interior.

(b) *Practice and procedure.* When not in conflict with this subpart, the provisions in Subparts A and B of this part shall be applicable.

§ 4.912 Proceedings.

(a) *Consolidation and separation.* Under appropriate circumstances, the Board may consolidate several appeals, or separate a single appeal into component parts, each of which may be processed as a separate appeal.

(b) *Conferences.* The Board may hold conferences with the parties when appropriate.

(c) *Hearings.* A party may request a hearing to present evidence on an issue of fact. Such request shall be made in writing, shall be filed with the Board, and shall be served in accordance with § 4.907. The allowance of a hearing is within the discretion of the Board. The Board may, on its own motion, order a hearing on one or more issues. All hearings required under the Administrative Procedure Act and all hearings involving issues of fact or mixed issues of fact and law shall be conducted by an Administrative Law Judge appointed under 5 U.S.C 3105, in accordance with §§ 4.430–4.439. Argument on issues of law shall be heard by the Board. In the event of a hearing conducted by an Administrative Law Judge, the Administrative Law Judge will make a recommended decision to the Board. Such decision shall be served on all parties who shall have 30 days from date of receipt to file exceptions and briefs with the Board. At the end of the briefing period the Board shall render a final decision.

(d) *Oral argument.* The Board may grant an opportunity for oral argument.

(e) *Segregation.* The Board may segregate those lands unaffected by the appeal or take such other action necessary to permit the conveyance or further processing of those lands unaffected by the appeal.

(f) *Copy requirements.* Unless otherwise provided in this subpart or by order of the Board, an original and one copy of all documents should be filed with the Board. All documents must be legible.

(g) *Official file.* The Board shall maintain one official file constituting the entire record of each appeal before the Board. No document shall be removed from the official file. The official file shall be available in the Board's office for inspection and copying.

§ 4.913 Witnesses.

(a) It is the responsibility of the parties to produce those persons whose testimony will support their respective positions at the times and places established for evidentiary hearings, and to keep such witnesses available so long as may be necessary for the reception of their testimony. All employees of the Department of the Interior requested by the Board or any Administrative Law Judge to testify before or furnish relevant information to the Board or the Administrative Law Judge shall comply with such requests.

(b) If a witness fails to appear in spite of every reasonable effort to assure his appearance, the Board may allow secondary evidence to be submitted in lieu of the testimony of such witness; the weight to be attributed to such secondary evidence shall be within the discretion of the Board.

§ 4.914 Settlement approval.

No settlement agreement between the parties which resolves matters in issue on appeal before the Board and requires future action or forbearance from action by the Department of the Interior shall bind the Department unless such agreement is approved by the Board, or the Secretary.

§ 4.915 Reconsideration.

Reconsideration of a decision may be granted, in the discretion of the Board, only in extraordinary circumstances. Request for reconsideration must be filed within 60 days of issuance of a decision and must state with particularity the error or errors claimed. Except in the case of newly discovered evidence, matters not in the record may not be raised for the first time in connection with a request for reconsideration. The filing and pendency of a request for reconsideration shall not operate to stay the effectiveness of the decision involved unless so ordered by the Board. A request for reconsideration need not be filed to exhaust administrative remedies.

Dated: January 30, 1979.

DAVID B. GRAHAM,
Director,
Office of Hearings and Appeals.

[FR Doc. 79-4295 Filed 2-7-79; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91 and 93]

[Docket No. 20846; FCC 79-18]

INTERCONNECTION OF PRIVATE LAND MOBILE RADIO SYSTEMS WITH THE PUBLIC, SWITCHED, TELEPHONE NETWORK IN THE BANDS 806-821 MHz and 851-866 MHz

Prescribing Policies and Regulations

AGENCY: Federal Communications Commission.

ACTION: Rule proposals.

SUMMARY: Proposal looking toward adopting rules to govern the interconnection of private land mobile radio systems licensed in the 806-821 MHz and 851-866 MHz bands with the facilities of wire line telephone companies. The regulations would extend to radio systems operated in the Part 90 Public Safety, Industrial, and Land Transportation Radio Services.

DATES: Comments are to be filed by March 12, 1979, and reply comments by March 27, 1979.

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

FOR FURTHER INFORMATION CONTACT:

John B. Letterman, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, (202-632-6497).

In the matter of amendment of parts 89, 91, and 93 of the Commission's rules to prescribe policies and regulations to govern interconnection of private land mobile radio systems with the public, switched, telephone network in the bands 806-821 MHz and 851-866 MHz. Docket No. 20846. Further notice of proposed rulemaking (44 FR 4492).

Adopted: January 17, 1979.

Released: January 31, 1979.

By the Commission: Commissioner Washburn issuing a Separate Statement.

1. We initiated this proceeding through our *Notice of Inquiry and Notice of Proposed Rule Making*, released in July 1976, (41 F.R. 28540 (July 12, 1976)). On August 17, 1978, we adopted our *First Report and Order* (FCC 78-622), 43 F.R. 38396 (August 28, 1978). In that decision, we reached conclusions to permit the interconnection of private land mobile radio systems in the bands below 512 MHz in accordance with new rules and regulations developed for that purpose; but we postponed decision on interconnection of radio systems licensed in the 806-821 MHz and 851-866 MHz bands, those allocated in the proceeding in Docket No. 18262 for use in the Part 89, Public Safety, Part 91, Industrial, and Part 93, Land Transportation Radio Services.

2. In this connection, we want to emphasize that our decision in Docket No. 18262 did not deprive licensees in the private services of their right to interconnect their facilities. Specific provision for interconnected services was made at Section 89.653 of the Rules.[1] But the new interconnection rules adopted in this proceeding for the bands below 512 MHz are significantly different from those adopted for 800-MHz systems in Docket No. 18262. To illustrate, at 800 MHz, interconnection must be accomplished at a control point or a control station. This is not necessarily the case below 512 MHz. There, interconnection may be accomplished manually at a control point or control station, but it may also be accomplished automatically at other points in the licensee's system of communication, provided this is done under the "supervision of the licensee's control operator." Sections 89.954 (b) and (c).[2] Further, at 800 MHz, system control from mobile units by mobile operators of the licensee is not permitted (Section 89.653), but under certain conditions this is allowed in interconnected systems licensed below 512 MHz. Section 89.954(e).[3] Additionally, "interconnection at a common location," such as a "telephone answering service," is barred at 800 MHz. This is not necessarily so below 512 MHz (See Section 89.902(b));[4] however, in these lower bands we have prohibited interconnected usage in certain major urban areas in the Automobile Emergency, Business, Special Emergency, Special Industrial, and Taxicab Radio Services. Section 89.951(c).[5] As these differences indicate, the arrangements that may be made for interconnected service at 800 MHz are, in many respects, more restricted than those permitted under our new rules in the bands below 512 MHz.

3. Further, our allocation and assignment plan for 800-MHz facilities differs from that followed in the bands below 512 MHz. At 800 MHz, much emphasis was placed on a "systems" approach through which we sought to attain maximum efficiency in the use of the spectrum allocated to the land mobile services. In the private services, stress was put on operations of a "dispatch" nature (See Section 89.655(a)(4));[6] and while interconnection of private systems with the facilities of telephone companies was allowed, as we have mentioned, the rule structure was designed to assure that interconnection would be an ancillary function, incidental to a licensee's primary use of authorized 800-MHz channels in "dispatch" mode. Further, to meet the requirements of the public for interconnection and limited "dispatch" service, 40 MHz of spectrum was allocated for the development and implementation of "cellular" systems, through which common carriers could offer mobile radiotelephone capabilities to the public on a compatible, nationwide basis. Again, stress was put on the design characteristics of "cellular" systems which were thought best to accomplish the overall goal of spectrum efficiency in providing these types of communication capabilities.

4. In the above circumstances, then, we want to consider further whether the interconnection provisions adopted for 800-MHz operations should be modified to allign them more closely with those applying to the lower bands, particularly in the light of the overall regulatory goals we sought to attain at 800 MHz. Therefore, we ask for comments on the following issues:

(a) The needs and requirements of eligibles and licensees in the Public Safety, Industrial, and Land Transportation Radio Services for interconnected systems licensed in the 806-821 MHz and 851-866 MHz bands, including conventional and trunked systems.[7]

(b) The impact, if any, of this proposal on the Commission's overall regulatory program for the 806-947 MHz band. We are particluarly interested in comments on the potential impact of interconnection as now allowed in the bands below 800-MHz on the Commission's spectrum efficiency and service objectives which formed the bases for our decision in Docket No. 18262,

(c) Whether the geographic limitations on interconnection we have adopted for the Automobile Emergency, Business Special Emergency, Special Industrial, and Taxicab Radio Services for the lower bands should also be made to apply at 800-MHz, since the frequency shortage constraints above 800-MHz are not as severe as in the bands below 800-MHz.

As we announced in our *First Report and Order*, we will decide separately

[1] Section 89.653 governs interconnection of all 800-MHz systems. This rule provision becomes Section 90.389 in new Part 90, adopted November 14, 1978, effective January 2, 1979. *Report and Order*, Docket No. 21348, 43 F.R. 54788 (November 22, 1978).

[2] Sections 89.954 (b) and (c) become Sections 90.483 (b) and (c) in Part 90.

[3] Section 89.954(c) becomes Section 90.483(c) in new Part 90.

[4] Section 89.902(b) becomes Section 90.463(a) in new Part 90.

[5] Section 89.951(c) becomes Section 90.477(c) in new Part 90.

[6] Section 89.655(a)(4) becomes Section 90.385(a)(4) in new Part 90.

[7] We do not include within this issue matters pertaining to interconnection of shared or community repeater systems interconnected at a common point. As pointed out in the text below, we will decide those matters separately as indicated at paragraph 47 of the *First Report and Order* in this Docket. See *fn.* 8, below.

the matter concerning interconnection at a common location of certain types of "shared" and "community repeater" systems. See *First Report and Order*, Docket No. 20846, *supra*, at para. 47.[8] However, we want to be clear that we are looking towards settling these matters with respect to other systems in this phase of the proceeding; and that one alternative would be to adopt rules to permit interconnection under one or several of the options set forth in Subpart T of Part 89, subject, of course, to the limitations on interconnection at common locations mentioned above.[9]

5. Authority for the proposed amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested parties may file comments on or before March 12, 1979, and reply comments on or before March 27, 1979, Relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

6. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. 20554.

7. For further information concerning this rule making, contact John B. Letterman, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-6497.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

JANUARY 17, 1979.

[8] In paragraph 47 of the *First Report and Order*, we stated that "• • • we will defer adoption of new rules directed to interconnection which is accomplished at the location of the shared radio equipment pending resolution of the proper regulatory status of a number of • • • third party arrangements." This limitation would apply to any rules adopted to govern interconnection arrangements for private radio systems operating in the 800-MHz bands.

[9] See Sections 90.477 through 90.484 in new Part 90.

SEPARATE STATEMENT OF COMMISSIONER ABBOTT WASHBURN—RE: DOCKET 20846

The decision in Docket 18262 was the product of a variety of interactive compromises. It represents a delicate balancing of opposing views and interests. A significant change in one of the elements of that decision, therefore, e.g. the proposed change of limitations on "interconnection," could affect the viability of the entire decision. Rather than singling out this element for separate treatment, such a change might better be addressed in a comperhensive proceeding dealing with a range of issues surrounding the allocation of frequencies above 800 MHz.

[FR Doc. 79-4265 Filed 2-7-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 661]

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON AND CALIFORNIA

Draft Supplemental Environmental Impact Statement/Fishery Management Plan: Hearings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: The Pacific Fishery Management Council will conduct additional hearings on proposed amendments for 1979 to the Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California Commencing in 1978.

SUMMARY: Data recently received by the Pacific Fishery Management Council concerning anticipated low runs of chinook and coho salmon in 1979 suggest that additional restrictions on the sport and commerical harvest of salmon may be required. These data and proposed management options will be presented to the Council at its February 7-9 meeting by the Salmon Plan Development Team. Because the public did not have an opportunity to comment on this new information during the regularly scheduled comment period and public hearings in early January, the Council has extended the comment period from January 22 to February 28, 1979, and scheduled additional hearings on this subject. The final decision on recommendations for amendments to the salmon FMP for 1979 will be made by the Council at its March 8-9 meeting in Eureka, California.

DATES: Public hearings will be held on February 27 and 28. Submit written comments to either of the contact persons listed below by February 28, 1979, to receive full consideration in the implementation process.

ADDRESSES:

February 27, Chinook Room, Thunderbird Motor Inn, 400 Industry, Astoria, OR 97103, 7:00 p.m. Hearing Officer: John A. Martinis.

February 28, Redwood Ballroom, Red Lion Motor Inn, 1929 4th Street, Eureka, CA 95501, 7:00 p.m. Hearing Officer: Vernon J. Smith.

February 28, Olympic Bowl, Olympic Hotel, 416 Seneca, Seattle, WA 98101, 7:00 p.m. Hearing Officer: Charles F. Mechals.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, 503-221-6352.

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, WA 98109, 206-442-7575.

Copies of the supplemental environmental impact statement and fishery management plan are available from the addresses shown above.

Dated: February 5, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-4361 Filed 2-7-79; 8:45 am]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, 174, 175, 176 and 177]

[Docket No. HM-145A; Notice No. 78-6]

TRANSPORTATION OF HAZARDOUS WASTE MATERIALS

Notice of Public Hearings and Closing Date for Comment

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Public Hearings; Closing Date for Comments on Notice of Proposed Rulemaking.

SUMMARY: On May 25, 1978, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking under Docket HM-145A (43 FR 22626) pertaining to the transportation of hazardous waste materials. It was stated in the Notice that the closing date for comments would be announced at a later time. On December 18, 1978, the Environmental Protec-

tion Agency (EPA) published a Notice of Proposed Rulemaking (43 FR 58946) Pertaining to hazardous wastes guidelines and regulations. The EPA also announced that public hearings would be held jointly with the Department of Transportation.

DATES: Public hearings pertaining to the transportation of hazardous wastes will be held on Febrary 15 and 21, and March 8 and 13, 1979. See SUPPLEMENTARY INFORMATION for further details. Unfortunately, this publication is too late to announce the joint hearing in New York City on February 8, as was announced in the EPA publication. The closing date for public comment on Docket HM-145A; Notice No. 78-6, is June 1, 1979.

ADDRESSES: Submit 5 copies of comments on Docket HM-145A; Notice No. 78-6 to Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590 through June 1, 1979. For public hearings being held by EPA see SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street, SW., Washington, D.C. 20590, (202) 426-0656.

SUPPLEMENTARY INFORMATION: The EPA is holding public hearings on proposed regulations to be issued under Sections 3001-3004 of the Resource Conservation and Recovery Act of 1976. Section 3003 pertains to transportation. The hearings pertaining to proposed transportation regulations will be held jointly by the EPA and MTB. The schedule and location for each hearing is as follows:

February 15, 1979; 2:00 to 5:00 p.m.—Breckenridge Pavillion Hotel, One Broadway, St. Louis, Missouri 63102 (314) 421-1776.

February 21, 1979; 2:00 to 5:00 p.m.—Department of Commerce, Main Auditorium, 14th Street entrance, Washington, D.C.

March 8, 1979; 2.00 to 5:00 p.m.—Holiday Inn-Airport, P.O. Box 38218, 4040 Quebec Street, Denver, Colorado 80216 (303) 321-6666.

March 13, 1979; 2:00 to 5:00 p.m.—EPA Regional Office, Sixth Floor Conference Room, 215 Fremont Street, San Francisco, California. Anyone wishing to make an oral statement at one of the scheduled hearings should notify in writing: Mrs. Geraldine Wyer, Public Participation Office, Office of Solid Waste (WH-562), U.S. E.P.A., 401 M Street, SW., Washington, D.C. 20460.

Oral or written comments may be submitted at the public hearings. Persons who wish to make oral presentations must restrict their presentations to ten minutes, and are encouraged to have written copies of their complete comments for inclusion in the official record.

It was stated in MTB's Notice No. 78-6 that the closing date for comment on the Notice of Proposed Rulemaking would be at least 60 days after the last notice of proposed rulemaking published by EPA pertaining to regulations that will be issued under Subtitle C of the Resource Conservation and Recovery Act. Since all of the EPA Subtitle C proposals that affect transportation have been published as of December 18, 1978, the closing date for comments on Notice No. 78-6 under docket HM-145A is June 1, 1979.

Authority: 49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53 and paragraph (a)(4) of Appendix A to Part 106.

Issued in Washington, D.C. on January 31, 1979.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-4578 Filed 2-7-79; 11:32 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

SHEYENNE NATIONAL GRASSLAND LAND MANAGEMENT PLAN; CUSTER NATIONAL FOREST, RANSOM AND RICHLAND COUNTIES, N. DAK.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement in conjunction with the Sheyenne National Grassland Land Management Plan.

The Sheyenne Planning Unit includes 70,340 acres under federal ownership in Ransom and Richland Counties of southeastern North Dakota. These are public lands that were purchased in the 1930's under the Bankhead-Jones Farm Tenant Act.

Major land use practices have historically centered around agriculture and for the past 40 years, grassland management and livestock use have dominated the activity.

This planning effort is an updating and revision of previous land management plans. It will provide the land manager with long-range guidance for the Sheyenne National Grasslands by correlating capabilities and limitations of the land and will reflect the expressed concerns of the public.

Robert H. Torheim, Regional Forester, is the responsible official. The Custer National Forest will develop the plan.

It is anticipated the environmental assessment will require about 1 year to complete. The Draft Environmental Statement is scheduled for completion by August 1979, with a 3-month review period. The Final Environmental Statement is scheduled for filing in February 1980.

Comments on the Notice of Intent or management of the Sheyenne National Grassland should be sent to Daniel C. MacIntyre, Forest Supervisor, 2602 First Avenue North, Billings, MT 59103.

Dated: February 2, 1979.

JAMES E. REID,
Director, Planning, Programming, and Budgeting.

[FR Doc. 79-4302 Filed 2-7-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 32660; Agreement C.A.B. 27767 R-1 through R-23; Order 79-1-183]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North Atlantic-Africa Passenger Fares

Issued under delegated authority January 31, 1979.

An agreement has been filed with the Board pursuant to section 412(a) of Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic regulations between various U.S. and foreign member air carriers of the International Air Transport Association (IATA). The agreement was adopted at a meeting of the Composite Passenger Traffic Conference held in Miami in October, 1978, and was filed with the Board on January 8, 1979.

The agreement, which involves fares between the United States and Africa, establishes a new North Atlantic-Africa fare structure effective April 1, 1979 through March 31, 1980. Specifically, for transportation to and from West Africa, normal economy and excursion fares are increased by three percent, winter group inclusive-tour (GIT) fares by five percent, and New York-Abidjan/Accra APEX fares by 1.4 to 5.5 percent. All other U.S.-West Africa fares remain at existing levels as do most fares for the remainder of Africa, except for excursion fares which also take a 3 percent increase. Finally, additional APEX or GIT fares are specified at several more points in West and East Africa, and a new 5/14 day incentive fare for groups of at least 10 persons is proposed for U.S.-Johannesburg travel.[1]

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carrier's justification for the agreement should assign costs attributable to scheduled combination passenger service, treating cargo both on the "space method", utilizing the load factor adjustment and density and priority weightings as adopted by the Board in the *Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation*, Docket 26487 (Order 78-12-159, December 21, 1978), and the "revenue-offset method" adopted April 2, 1971, in Phase 7 of the *Domestic Passenger Fare Investigation*, Docket 21866-7 (Orders 71-4-59 and 71-4-60).[2] The data should be set out in the tabular format suggested in Order 75-7-88, July 17, 1975, starting with historical data as reported to the Board in Form 41 Reports by functional account for total transatlantic services for the year ended December 1978. These data should be adjusted to exclude those market areas not covered by the agreement,[3] as well as any scheduled all-cargo and charter services in the U.S.-Africa market. The remainder, pertaining to U.S.-Africa scheduled combination services, should show the present economic status of scheduled passenger services in the market area covered by the agreement. Similarly, using the above two methods for the treatment of cargo, the carrier is expected to submit forecast results for the year ending March 1980, both including and excluding implementation of the agreement.

In addition, the carrier will be expected to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information, for the historical period and for the forecast period, including and excluding implementation of the agreement.

Accordingly,

1. Pan American World Airways, Inc., the only United States air carrier member of the International Air Transport Association providing service within the area covered by the agreement, shall file within 20 calendar days after the date of service of this order full documentation and economic justification for the fares and related conditions embodied in the subject agreements;

2. Interested persons and parties shall submit their comments and objections within 20 calendar days after the date of service of this order;

[1] A comparison of present and proposed fares in selected U.S.-Africa markets is shown in the Appendix.

[2] In furnishing the data requested, the carrier should attach complete explanatory data describing the methods used in allocating the various cost items and entity investments.

[3] United States-Europe and United States-Middle East. These two areas are defined in IATA Resolutions 012 and 012b. Africa is defined in IATA Resolution 012e.

3. All interested persons and parties shall submit any replies to submissions received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above within 30 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, no carrier shall file tariffs implementing the subject agreement in advance of Board approval of the agreement.

We shall publish this order in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

NORTH ATLANTIC-AFRICA
PRESENT AND PROPOSED FARES IN SELECTED MARKETS

		New York-Abidjan			New York-Dakar			New York-Johannesburg			New York-Lagos			New York-Nairobi		
		Present	Proposed	% Change	Present	Proposed	% Change	Present	Proposed	% Change	Present	Proposed	% Change	Present	Proposed	% Change
First Class		$ 2,008	$ 2,008	0	$ 1,730	$ 1,730	0	$ 2,522	$ 2,522	0	$ 2,030	$ 2,030	0	$ 2,522	$ 2,522	0
Economy	Basic	1,192	1,228	3.0%	1,022	1,052	2.9%	1,626	1,626	0	1,208	1,244	3.0%	1,626	1,626	0
	Peak	1,316	1,356	3.0	1,144	1,178	3.0	1,626	1,626	0	1,328	1,368	3.0	1,626	1,626	0
Excursion	Basic	849	875	3.1	720	741	2.9	1,202	1,238	3.0%	858	883	2.9	1,202	1,238	3.0%
	Peak	978	1,008	3.1	848	873	3.0	1,202	1,238	3.0	986	1,015	2.9	1,202	1,238	3.0
14/45 Day APEX		-	-	-	-	-	-	875	875	0	-	-	-	-	-	-
13/45 Day APEX	Basic	678[1/]	716[1/]	5.5	583	583	0	-	-	-	726	726	0	-	-	-
	Peak	742[1/]	779[1/]	5.0	647	647	0	-	-	-	790	790	0	-	-	-
5/14 Day Incentive Group (New)		-	-	-	-	-	-	-	700	-	-	-	-	-	-	-
13/30 Day GIT (4 persons)	Basic	638	638	0	534	534	0	1,021	1,021	0	644	644	0	948	948	0
	Peak	708	708	0	607	607	0	1,021	1,021	0	717	717	0	948	948	0
14/30 Day GIT (15 persons)		-	-	-	-	-	-	-	-	-	-	-	-	795	795	0
6/16 Day Winter GIT		596	625	4.9	511	536	5.0	-	-	-	-	-	-	-	-	-

1/ Available only for Eastbound originations.

[FR Doc. 79-4191 Filed 2-7-79; 8:45 am]

[6335-01-M]

CIVIL RIGHTS COMMISSION

LOUISIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Louisiana Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 1:00 p.m. on March 3, 1979 in the Capitol House (Room 921) 201 Lafayette Street Baton Rouge, Louisiana 70801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, 1st Floor, San Antonio, Texas 78204.

The purpose of this meeting is to select a subcommittee for the upcoming Community Development Block Grant Funds hearing and to plan what needs to be done to prepare for it.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washintington, D.C., February 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-4387 Filed 2-7-79; 8:45 am]

[6335-01-M]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m. on March 1, 1979, the Federal Building, 601 12th Street, Room 114, Kansas City, Missouri, 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of this meeting is to review regional conference program planning recommendations for Fiscal Year 1979 and 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-4388 Filed 2-7-79; 8:45 am]

[6335-01-M]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:00 p.m. on March 1, 1979, at 915 Second Avenue, Room 2854, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Seattle, Washington 98174.

The purpose of this meeting is to plan for Washington Advisory Committee hearing on March 2 and 3, 1979.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-4385 Filed 2-7-79; 8:45 am]

[6335-01-M]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Factfinding meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m. on March 2 and 3, 1979, at 915 Second Avenue, New Federal Building, South Auditorium (4th Floor), Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Seattle, Washington 98174.

The purpose of this meeting is to discuss Equitable Administration of Justice for Minorities and Women in Seattle, Washington.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 5, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-4386 Filed 2-7-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE OF THE AMERICAN STATISTICAL ASSOCIATION

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on March 1 and 2, 1979, at 9:00 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the March 1 meeting, which will adjourn at 5:30 p.m., is: (1) Topics of current interest at the Bureau of the Census, including staff changes and Bureau organization, and major budget and program developments; (2) interviewer recruitment and training; (3) measurement of Hispanic undercount; (4) weekly retail sales series; (5) benchmarking techniques; and (6) development of Committee recommendations.

The agenda for the March 2 meeting, which will adjourn at 12:30 p.m. is: (1) Update on the Bureau Electronic Data Processing Requirements Study; (2) Committee discussion or recommendations; (3) report of the National Commission on Employment and Unemployment Statistics; (4) Census Conference on Undercount—methodology and adjustment; (5) discussion on (a) Bureau responses to prior Committee recommendations, (b) status of specific Bureau activities, and (c) Bureau activities described at earlier Committee meetings; and (6) recom-

mendations, plans, and agenda items for the next meeting.

The meeting will be open to the public, and a brief period will be set aside on March 2 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. James, L. O'Brien, Acting Chief, Statistical Research Division, Bureau of the Census, Room 3573, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-5350.

Dated: February 5, 1979.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 79-4286 Filed 2-7-79; 8:45 am]

[3510-04-M]

National Technical Information Service

TECHNICAL INFORMATION PRODUCTS AND SERVICES IN FEDERAL REPUBLIC OF GERMANY

The National Technical Information Service of the U.S. Department of Commerce requests that parties interested in managing the sales of its technical information products and services in the Federal Republic of Germany make their interest known to the NTIS Assistant Director, Office of Marketing, NTIS, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated: January 26, 1979.

DEAN SMITH,
Assistant Director, National Technical Information Service, Department of Commerce.

[FR Doc. 79-4303 Filed 2-7-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

FOREIGN FISHING "JOINT VENTURE" PERMIT APPLICATIONS

AGENCY: National Oceanic and Atmospheric Administration/National Marine Fisheries Service.

ACTION: Notice of determinations of consistency of 1978 foreign fishing vessel permits for "joint ventures" with the Fishery Conservation and Management Act of 1976, as amended by Public Law 95-354.

FOR FURTHER INFORMATION CONTACT:

Mr. Alfred J. Bilik, Permits and Regulations Division, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, 202-634-7265.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 9 and August 16, 1978, the National Marine Fisheries Service (NMFS) issued fishing permits which authorized foreign vessels to receive, from vessels of the United States in the fishery conservation zone, fish harvested by vessels of the United States ("joint ventures"). The permits complied with the then-existing requirements of the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801, *et seq.*) ("the Act").

On August 28, 1978, Pub. L. 95-354 further amended the Act to provide a preference for U.S. fish processors to process U.S. harvested fish. Specifically, Pub. L. 95-354 provides that an application for a foreign vessel to receive at sea U.S. harvested fish from vessels of the U.S. may be approved unless it is determined that U.S. fish processors have adequate capacity, and will utilize such capacity, to process all U.S. harvested fish from the fishery. Pub. L. 95-354 further provides that the amount of U.S. harvested fish which may be received at sea during any year by foreign vessels may not exceed that portion of the optimum yield which will not be utilized by U.S. fish processors.

On October 20, 1978, NMFS published preliminary determinations of the consistency of the 1978 "joint venture" permits with the provisions of Pub. L. 95-354 and sought public comments (43 FR 49032). To make these determinations, NMFS assessed: (1) The anticipated U.S. harvest in 1978 of Pacific hake off Washington, Oregon and California and of Alaska pollock in the Gulf of Alaska, and (2) the capacity, and utilization of such capacity, of U.S. fish processors to process in 1978 Pacific hake and Alaska pollock. NMFS found that U.S. fish processors would not process all U.S. harvested fish from these fisheries. NMFS then computed the maximum amounts of U.S. harvested Pacific hake and Alaska pollock which could be received at sea during 1978 by foreign vessels as follows:

	Pacific hake (m.t.)	Alaska pollock (m.t.)
Optimum yield	130,000	168,800
To be utilized by U.S. fish processors	−4,000	−500
Total receiveable by foreign vessels	126,000	168,300

The amounts of U.S. harvested hake and pollock which could be received at sea by foreign vessels were limited by permit restrictions to 10,000 m.t. and 51,460 m.t., respectively. Thus, the NMFS preliminary determinations were that the 1978 "joint venture" permits were consistent with the Act as amended by Pub. L. 95-354.

COMMENTS AND RESPONSE: No comments received addressed the NMFS assessments of anticipated U.S. harvest or anticipated U.S. processing in the fisheries concerned, and no objections were made to the preliminary determination that approval of the "joint venture" permit applications was consistent with the Act as amended by Pub. L. 95-354. Objections were expressed, however, to the method used by NMFS in computing the maximum amounts of fish which could be received at sea by foreign vessels. Reviewers pointed out that the intent of Pub. L. 95-354 in this regard was to allow foreign receipts of U.S. harvested fish only to the extent that U.S processors are not expected to process that U.S. harvested fish. Specifically, commenters urged that the language "may not exceed that portion of the optimum yield of the fishery concerned" in section 204(b)(6)(B)(ii) of the Act (as amended by Pub. L. 95-354) refers to the portion of the optimum yield caught by U.S. vessels. After re-examining the legislative history of Pub. L. 95-354, NMFS agrees with that interpretation.

DETERMINATIONS OF CONSISTENCY: NMFS finds that the approvals of the "joint venture" applications were consistent with the Act, as amended by Pub. L. 95-354. However, the permit limitations on the amount of fish which could be received at sea in 1978 were not consistent with Pub. L. 95-354. The limitations should have been computed as follows:

	Pacific hake (m.t.)	Alaska pollock (m.t.)
U.S. harvested portion of optimum yield	10,000	32,700
To be utilized by U.S. fish processors	−4,000	−500
Total receiveable by foreign vessels	6,000	32,200

The 10,000 m.t. limitation on Pacific hake and the 51,460 m.t. limitation of Alaska pollock exceeded the revised computations. Because the actual receipts by foreign vessels of U.S. harvested Pacific hake and Alaska pollock during 1978 did not exceed 1,000 m.t. of either species, the inconsistency had no adverse effect on the conservation of the fish stocks.

Signed at Washington, D.C., this the 2nd day of February, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

AUTHORITY: 16 U.S.C. 1801 *et seq.*

[FR Doc. 79-4247 Filed 2-7-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON HIGH ENERGY LASERS

Advisory Committee Meeting

The Defense Science Board Task Force on High Energy Lasers will meet in closed session on 2-3 March 1979 in Albuquerque, New Mexico.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on High Energy Lasers has been scheduled for 2-3 March 1979 to review specific aspects of laser devices, pointing and tracking, and optics technology. The Task Force will focus on major technical issues that may limit the performance characteristics and potential utility of high energy lasers to missions of interest to the Department of Defense.

In accordance with 5 U.S.C. App. I § 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

FEBRUARY 2, 1979.

[FR Doc. 79-4367 Filed 2-7-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

ECONOMIC REGULATORY ADMINISTRATION

[ERA DOCKET NO. 78-015-NG; FERC DOCKET NO. G-104]

EL PASO NATURAL GAS CO.

Petition To Amend Order Authorizing the Continued Exportation of Gas to the Republic of Mexico

AGENCY: department of Energy, Economic Regulatory Administration.

ACTION: Notice of Receipt of petition and application for a temporary certificate and invitation to submit petitions to intervene in the proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the Petition of El Paso Natural Gas Company (El Paso) to Amend Order and Application for a Temporary Certificate in ERA Docket No. 78-015-NG, requesting amendment to the order issued by the Federal Power Commission (FPC), as further amended, more fully described hereinafter, pursuant to Section 3 of the Natural Gas Act. The requested amendment would permit the continued exportation of natural gas from the United States of America to the Republic of Mexico. Petitions to intervene are invited.

DATES: Petition to intervene: To be filed on or before the 15th day after the date of publication of this notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone: 202-254-9730.

Martin S, Kaufman, Office of General Counsel, U.S. Department of Energy, Room 5115, 12th & Pa. Avenue, N.W., Washington, D.C. 20461, telephone: 202-633-9380.

SUPPLEMENTARY INFORMATION:

BACKGROUND

By a presidential permit issued September 5, 1940, El Paso was authorized to operate and maintain an 8⅝" O.D. natural gas pipeline, with appurtenances, at the International Border near Naco, Arizona, and to make a physical connection between such facilities and the facilities of Compania Occidental de Gas, S.A. de C.V. (Occidental) for the exportation of natural gas to Cananea Consolidated Copper Company, S.A. predecessor in interest of Compania Minera de Cananea, S.A. de C.V. (Compania Minera).

By FPC orders issued September 10, 1940, November 12, 1947, June 7, 1962, and July 21, 1967, in Docket No. G-104, El Paso was authorized to export natural gas from the United States of America to the Republic of Mexico for a period extending through December 31, 1978. The order issued July 21, 1967, authorized El Paso to increase the quantities of natural gas exports from 10,000 Mcf/d to 14,300 Mcf/d as well as to export such additional quantities in excess of 14,300 Mcf/d on a best efforts basis through December 31, 1978, as may be requested by Compania Minera.

Natural gas exported pursuant to the foregoing authorizations is sold by El Paso to Compania Minera and delivered by El Paso to Occidental, a wholly-owned subsidiary of El Paso, for the account of Compania Minera at a point near Monument 90 of the International Border located near Naco, Arizona, for transportation and delivery to Compania Minera at a point near Sonara, Mexico. Natural gas delivered to Compania Minera is used by it as fuel in its mining and smelting activities conducted near Cananea, Sonora, Mexico, and a portion of such natural gas is resold for distribution in the community of Cananea.

El Paso's Petition

El Paso has been requested by Compania Minera to continue sales of natural gas in further satisfaction of Compania Minera's requirements for a primary term extending through and including December 31, 1979, and thereafter from month to month. Accordingly, El Paso and Compania Minera have agreed to extend the term of the existing contract at the presently authorized quantities of 14,300 Mcf per day on a firm basis, and on a best efforts basis, to export for sale such additional quantities of gas in excess of 14,300 Mcf/d as Compania Minera shall request. El Paso and Compania Minera have executed an Amendment of Gas Sales contract dated as of December 14, 1978 (Sales Contract), which Sales Contract further amends the Gas Sales Contract between the parties dated as of June 9, 1962. Compania Minera will continue to receive natural gas at the present delivery point.

El Paso seeks an amended authorization, pursuant to Section 3 of the Natural Gas Act, to continue the exportation of natural gas from the United States of America to the Republic of Mexico for an extended primary term through and including December 31, 1979, and month to month thereafter, all in accordance with the Gas Sales Contract dated as of June 9, 1962, as amended, between El Paso and Compania Minera.

The rate to be charged Compania Minera for each Mcf of gas purchased from El Paso is the rate specified to be charged for natural gas delivered under El Paso's Rate Schedule B-1 or superseding rate schedule of El Paso's FERC Gas Tariff, Original Volume No. 1, or superseding tariff. The currently effective rate under Rate Schedule B-1 is 148.30 cents per Mcf.

The facilities which are being utilized for the exportation of natural gas and which will continue to be utilized upon issuance of the requested authorization consist of a portion of El Paso's interstate transmission system located in the State of Arizona, extending to the delivery point near

Monument 90 on the International Border.

El Paso has delivered natural gas since June 8, 1931, continuously to Compania Minera. For the twelve (12) month period ending October 31, 1978, the peak day delivery to Compania Minera was 3,838 Mcf and total volumes of natural gas delivered aggregated 653,363 Mcf.

OTHER INFORMATION

The ERA invites petitions for intervention in the proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m. on February 23, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition and application for temporary certificate should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of El Paso's petition is available for public inspection and copying in Room B-120, 2000 M Street, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 31, 1979.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-4261 Filed 2-7-79; 8:45 am]

[6450-01-M]

GEOTHERMAL DEMONSTRATION PROGRAM, BACA RANCH, SANDOVAL AND RIO ARRIBA COUNTIES, N. MEX.

Intent To Prepare Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Department of Energy (DOE) has commenced preparation of an environmental impact statement (EIS) to assess the environmental implications of a proposed DOE action to cost-share the construction and operation of a 50 megawatt (MWe) geothermal powerplant with Union Oil Company and Public Service of New Mexico (PNM) within the Valles Caldera, on the Baca Ranch, in Sandoval and Rio Arriba Counties, New Mexico.

The applicants, Union Oil and Public Service of New Mexico, jointly responding to a DOE Request for Proposal, propose to construct and operate a 50 MWe single flash geothermal powerplant. DOE support, through sharing of capital costs, is sought to complete well-field development and construct a 50 MWe powerplant and necessary transmission lines. The proposed project would be located within the Valles Caldera, on the Baca Ranch (private land) in Sandoval and Rio Arriba Counties, New Mexico. The project site is approximately 30 kilometers (km) west of Los Alamos and 96 km north of Albuquerque. The proposed well-field and plant site are located within Redondo Creek Canyon in an area of approximately 775 hectates (ha). The proposed project would require construction of at least 30 km of 115 kilovolt (kv) transmission lines crossing lands of the Santa Fe National Forest, the Bandelier National Monument, and the Los Alamos Scientific Laboratory Site.

To date, Union Oil has drilled eighteen wells at the site. Thirteen to sixteen additional wells will have to be drilled and flow-tested to complete field development for the resource required for the proposed 50 MWe capacity plant.

A number of environmental and local issues have been identified. These issues include a potential for contamination of surface and groundwater, possible non-compliance with the state ambient air quality standard for hydrogen sulfide, the presence onsite of a state endangered species, potential impacts on a federally endangered species, proximity of Native American lands and sacred sites, a potential for drawdown of surface springs, potential impact on water rights, possible induced seismicity as a result of injection under pressure, presence of sites of archeological significance, the potential impacts of transmission corridors and towers through the Santa Fe National Forest, the Bandelier National Monument, and private recreation lands.

This EIS will address the potential impact of the DOE cost-shared funding of the construction and operation of a 50 MWe plant and its associated well-field and transmission lines. In addition, the potential long-range and cumulative impacts of possible future expansion of the resource to support a 400 MWe complex (based on current estimates of the capabilities of the leasehold) will be discussed.

Alternatives currently planned to be assessed in the EIS include the no action alternative, funding a plant at other geothermal leaseholds, and alternative funding options. Also, alternative plant and cooling systems, design transmission corridors, tower designs and nonelectric utilization of the resource options will be assessed.

All interested agencies, organizations, or persons are invited to submit comments or suggestions for consideration in the preparation of the draft EIS. Upon completion of the draft EIS, its availability will be announced in the FEDERAL REGISTER at which time public comments will again be solicited. Those desiring to submit comments or suggestions should submit them to Mr. F. A. Leone, Division of NEPA Affairs, Mail Station E-201, GTN, U.S. Department of Energy, Washington, D.C. 20545, (telephone 301-353-4241) on or before March 9, 1979.

Those desiring not to submit comments or suggestions now but would like to receive a copy of the draft EIS for review and comment when it is issued should also notify Mr. Leone.

Copies of the documents currently planned to be used in the preparation of the draft EIS are available for public inspection at:

Santa Fe National Forest Office, Federal Post Office Building, Paseo De Peralta, Santa Fe, New Mexico.

In addition, a copy of the bibliography of these documents are available for inspection at the following DOE locations:

Public Reading Room, FOI, Room GA-152, 1000 Independence Ave., SW., Washington, D.C.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

Energy Information Center, 215 Fremont Street, San Francisco, California.

Savanna River Operations Office, Savannah River Plant, Aiken, South Carolina.

And also at the:

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado.

Dated at Washington, D.C. this 2nd day of February.

For the United States Department of Energy.

JAMES L. LIVERMAN,
Deputy Assistant Secretary for Environment.

[FR Doc. 79-4260 Filed 2-7-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[Release No. 8]

MANDATORY OIL INPORT PROGRAM

Oil Import Allocations and Licensing January 1-31, 1979

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period January 1-31, 1979, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of January 1979.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978, through December 31, 1978. The releases will continue to be issued on a monthly basis.

Dated: February 2, 1979.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

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Table and Title

1—Allocations of Residual Fuel Oil—District I—10 CFR 213.15
2—Fee-exempt allocation for imports of Canadian oil based upon exchange for domestic oil—10 CFR 213.28(b)
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4—Fee-paid licenses issued—10 CFR 213.35
5—Fee-exempt licenses issued as a result of decision and orders from the Office of Hearings and Appeals

U.S. DEPARTMENT OF ENERGY, OFFICE OF OIL IMPORTS

[Allocation January 1-31, 1979]

TABLE 1.—*Residual Fuel Oil Imports Sec. 213.15—District I*

Company	Address	Allocation Barrels
Apex Oil Company	St. Louis, MO	500,000
Northville Industries	Huntington, Sta., NY	147,682
Northeast Petroleum	Chelsea, Mass	500,000
New England Power Co	Westborough, Mass	500,000
Florida Power & Light	Miami, Fla	500,000
Petraco-Valley Oil & Refining Co	Houston, TX	500,000
Laura Lee International Corp	Drexel Hill, PA	500,000
Consolidated Edison Co. of NY	New York, NY	500,000
International Petroleum Refining	New York, NY	500,000
Tesoro Petroleum Corp	San Antonio, TX	500,000
Trammo Petroleum Corp	New York, NY	261,678

TABLE 2.—*Canadian Crude Oil—Exchange of Material Not Allocated Under Pt. 214, Sec. 213.28(b)*

Company	Address	Exchange volume licensed total barrels
Continental Oil Co	Houston, Texas	1,825,000
Exxon Corporation	Houston, Texas	2,920,000
Exxon Corporation	Houston, Texas	2,190,000

TABLE 3.—*Oil Import Licenses Sold Pursuant to Sec. 213.22(d)*

Seller	Buyer	Date	Commodity	Barrels sold
	DISTRICT I-IV			
El Paso/Dart Industries	Texaco Inc.	12/29/78	Crude	114,427
El Paso Products	Texaco Inc.	12/29/78	Crude	45,077
ARCO Chemical Co.	Borg-Warners	1/5/79	Crude	13,140
ARCO Chemical Co.	Celanese Corp.	1/5/79	Crude	86,084
ARCO Chemical Co.	Ethyl Corp.	1/5/79	Crude	104,030

TABLE 3.—*Oil Import Licenses Sold Pursuant to Sec. 213.22(d)*—Continued

Seller	Buyer	Date	Commodity	Barrels sold
DISTRICT I-IV—Continued				
ARCO Chemical Co.	Monsanto Co.	1/5/79	Crude	31,951
ARCO Chemical Co.	Oxirane Chemical	1/5/79	Crude	116,664
Celanese Corp.	Amoco Oil Co.	1/4/79	Crude	148,920
Celanese Corp.	Amoco Oil Co.	1/4/79	Crude	1,055,575
E-Z Serve, Inc.	Union Oil CA	1/12/79	Crude	559,910
Cross Oil & Refining Co.	Amoco Oil Co.	1/12/79	Crude	220,000
Cross Oil & Refining Co.	Amoco Oil Co.	1/12/79	Crude	99,740
American Petrofina, Inc.	Ashland Oil	1/16/79	Crude	992,311
Southwestern Refining Co.	Texaco Inc.	1/16/79	Crude	1,928,130
Southwestern Refining Co.	Texaco Inc.	1/16/79	Crude	2,000,000
Southwestern Refining Co.	Texaco Inc.	1/16/79	Crude	814,455
Southwestern Refining Co.	Texaco Inc.	1/16/79	Crude	2,000,000
Marion Corporation	Exxon Corp.	1/16/79	Crude	258,325
Marion Corporation	Exxon Corp.	1/16/79	Crude	510,000
Marion Corporation	Exxon Corp.	1/16/79	Crude	1,364,005
Novamont Corporation	Ashland Oil	1/16/79	Crude	395,110
Novamont Corporation	Ashland Oil	1/16/79	Crude	9,672
Novamont Corporation	Ashland Oil	1/16/79	Crude	9,673
ATC Petroleum Inc.	Sun Oil of PA	1/19/79	Crude	96,360
ATC Petroleum Inc.	Sun Oil of PA	1/19/79	Crude	112,785
ATC Petroleum Inc.	Sun Oil of PA	1/19/79	Crude	243,820
Delta Refining Co.	Koch Industries	1/19/79	Crude	377,585
ARCO Chemical	E.I. du Pont	1/23/79	Unfinished	64,000
Tenneco Oil Co.	Amoco Oil Co.	1/24/79	Crude	2,000,000
Champlin Petroleum Co.	Amoco Oil Co.	1/29/79	Crude	5,000,000
Champlin Petroleum Co.	Amoco Oil Co.	1/29/79	Crude	5,000,000
Little America Refining	Texaco Inc.	1/30/79	Crude	1,984,340
Little America Refining	Texaco Inc.	1/30/79	Crude	1,190,000
Little America Refining	Texaco Inc.	1/30/79	Crude	568,205
Union Carbide Corp.	Amoco Oil Co.	1/30/79	Crude	640,575
Union Carbide Corp	Amoco Oil Co.	1/30/79	Crude	288,193
Kentucky Oil & Refining	Ashland Oil	1/30/79	Crude	28,835
DISTRICT V				
Tesoro Petroleum Corp.	Texaco Inc.	1/4/79	Crude	1,000,000
San Joaquin Refining	Mobil Oil	1/19/79	Crude	600,000
San Joaquin Refining	Mobil Oil	1/19/79	Crude	440,310
Exxon Corporation	Gulf Oil	1/24/79	Crude	926,955
Exxon Corporation	Texaco Inc	1/25/79	Crude	550,000
Exxon Corporation	Texaco Inc	1/25/79	Crude	1,650,000
Kalama Chemical	Golden Eagle	1/30/79	Crude	500,000

TABLE 4.—*Fee-Paid Licenses Issued Pursuant to Sec. 213.35*

CRUDE OIL—BOND POSTED

Company	Date	Quantity total barrels
Koch Industries	12/29/78	500,000
Shell Oil Company	12/29/78	5,000,000
Shell Oil Company	12/29/78	5,000,000
Sohio Natural Resources	12/29/78	10,000,000
National Coop. Refining	1/5/79	1,000,000
Marathon Oil Company	1/5/79	5,000,000
Coastal States Gas	1/8/79	5,000,000
Koch Industries, Inc.	1/8/79	750,000
Amoco Oil Company	1/8/79	5,000,000
Amoco Oil Company	1/8/79	5,000,000
Gulf Oil Company	1/8/79	10,000,000
Ashland Oil, Inc.	1/11/79	5,000,000
Southwestern Refining Co	1/12/79	2,000,000
Texaco Inc	1/16/79	7,000,000
Sun Oil Co. of PA	1/16/79	6,000,000
Good Hope Refineries	1/17/79	4,764,800
Chevron U.S.A. Inc	1/18/79	5,000,000
Mobil Oil Corporation	1/22/79	10,000,000
Shell Oil Company	1/23/79	5,000,000
Koch Industries Inc.	1/23/79	7,500,000
Amoco Oil Company	1/23/79	10,000,000
Amoco Oil Company	1/23/79	5,000,000
Delta Refining Co	1/23/79	1,250,000

		License quantity total barrels
Southwestern Refining Co	1/25/79	2,000,000
Southwestern Refining Co	1/25/79	2,000,000
Mobile Bay Refining	1/25/79	160,000

TABLE 4.—*Fee-Paid Licenses Issued Pursuant to Sec. 213.35*

CRUDE OIL—BOND POSTED—Continued

Company	Date	Quantity total barrels / License quantity total barrels
Metropolitan Petroleum Co.	1/25/79	1,780,952
Exxon Corporation	1/30/79	18,000,000
Murphy Oil Corporation	1/30/79	2,000,000
United Refining Co	1/30/79	570,057
Vickers Petroleum Corp	1/30/79	3,000,000
Ashland Oil, Inc	1/31/79	5,000,000

FINISHED PRODUCTS—PREPAID

NFO Int'l Ltd	1/4/79	126
Laurence-David, Inc	1/4/79	166
Moore & Munger Inc	1/9/79	23,105
Dow Chemical Co	1/16/79	2,100
Dow Chemical Co	1/16/79	14,300
Enterprise Oil & Gas Co	1/16/79	2,064
Mattiace Petrochemical Co	1/16/79	10,000
Bucher Petrochemical Co	1/16/79	5,000
Keyser International Inc	1/22/79	1,100
Apco Industries Co. Ltd	1/23/79	3,000
Garlyn Shelton	1/23/79	6,500
Asiatic Petroleum Co	1/25/79	79
Finachem Canada Inc	1/29/79	40,000
Laurence-David, Inc	1/29/79	480
Pressol Mfg	1/30/79	38
Firestone Wire & Cable	1/30/79	262
Ashland Chemical Co	1/30/79	2,000
Asiatic Petroleum	1/29/79	40

FINISHED PRODUCTS—BOND POSTED

		Quantity total barrels
Farstad Oil Inc	1/3/79	75,000
Texas-U.S. Chemical	1/3/79	100,000
Gulf Oil Corp	1/5/79	170,000
Apex Oil Company	1/15/79	1,000,000
Van Waters & Rogers	1/16/79	25,000
Esso Std. Oil Co. (P.R.)	1/16/79	400,000
Chevron U.S.A. Inc	1/16/79	1,500,000
Mobil Oil Corporation	1/22/79	500,000
Metropolitan Petroleum Co	1/25/79	200,000
Atlantic Richfield Co	1/25/79	52,500
Exxon Corporation	1/30/79	1,500,000

TABLE 5.—*Fee-Exempt Licenses Issued as a Result of Decisions and Order From the Office of Hearing and Appeals*

Company	Date	Commodity	Barrels
Phillips Puerto Rico Core	1/26/79	Unfinished	16,750,000

[FR Doc. 79-4319 Filed 2-7-79; 8:45 am]

[6450-01-M]

NORTHERN ILLINOIS GAS CO.

Proposed Allocation of Synthetic Naturol Gas (SNG) Feedstocks

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Availability of Environmental Assessment and Negative Determination.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of its environmental assessment (EA) of a proposed assignment of supplier and a base period use of synthetic natural gas (SNG) feedstocks for the Northern Illinois Gas Company's (NI-Gas) Aux Sable, Illinois, SNG plant. DOE has determined, based on the EA, that an assignment approximating historical operating levels does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102 (2)(C) of the National Environmental Policy Act (NEPA). Comments regarding the EA and DOE's determination that an environmental impact statement is not required are invited. Additionally, interested parties are invited to comment on NI-Gas' petition for SNG feedstock.

DATE: Written comments to be submitted no later than 4:30 p.m., February 28, 1979.

ADDRESS: Comments should be submitted to Box WR, Economic Regulatory Administration, Office of Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson, Economic Regulatory Administration, Office of Fuel Supply and Allocation, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3330.

Carol Borgstrom, Office of Environment, Room 6229, 20 Massachusetts Ave., N.W., Washington, D.C. 20461, (202) 376-5999.

Janine Landow-Esser, Office of the General Counsel, Room 8217, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-4266.

Verlette Gatlin, Department of Energy, Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., S.W., Room GA-152, Washington, D.C. 20461, (202) 252-5969.

SUPPLEMENTAL INFORMATION

I. BACKGROUND

On February 5, 1976 the Federal Energy Administration (FEA), a predecessor of DOE, issued a Decision and Order (February 5 Order) to Northern Illinois Gas Company (NI-Gas) assigning NI-Gas a base period use of 4,064,875 barrels of propane, butane, natural gasoline, and naphtha for synthetic natural gas (SNG) plant feedstock use in each of the second, third, and fourth calendar quarters of 1976, and the first calendar quarter of 1977 for its Aux Sable, Illinois, SNG plant. Subsequent orders were issued to NI-Gas extending the period of allocation and assignment of SNG feedstock volumes.

The EA is based upon NI-Gas' August 5, 1977 petition which requested an increased allocation of approximately 19 %. However, on August 18, 1978, NI-Gas requested withdrawal of its August 5, 1977 petition thereby reverting to its August 1, 1976 petition. NI-Gas' current allocation is for 4,386,875 barrels per quarter of mixed feedstock and Btu enrichment material as set forth in the most recent Decision and Order issued September 30, 1978. the August 1, 1976 petition requests the continuation of this allocation level. The EA addresses the environmental consequences due to plant operation and fuel substitution in the service area at various feedstock allocation levels including the increased allocation originally requested, and a level which approximates the current allocation.

The analyses in the EA indicate that the allocation of SNG feedstock at a level approximating the requested amount (continuation of the status quo) would not be a "major Federal action significantly affecting the quality of the human environment," within the meaning of NEPA. This conclusion is warranted because approval of the requested allocation would not result in any significant fuel switching in the service area nor would it cause increases in the levels of SNG plant pollutant emissions. Therefore, a negative determination, pursuant to 10 CFR 208.4(c), is appropriate and no EIS is required.

ERA is continuing to evaluate NI-Gas' need for the SNG produced at its Aux Sable plant. If it is determined that an allocation less than 100 percent of currently assigned base period volumes is required, DOE will consider the need for further environmental review.

II. COMMENT PROCEDURE

Single copies of the NI-Gas EA may be obtained from the Fuel Supply and Allocation Office, Room 6318, 2000 M Street, NW., Washington, D.C. 20461, 254-3330. Copies of the EA are also available for public review in the DOE Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., SW., Room GA-152, Washington, D.C. 20461, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. A file containing all pertinent information and data filed in conjunction with NI-Gas' petition, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 U.S.C. 522, is also available for public inspection and copying at the DOE Freedom of Information Reading Room.

Interested parties may submit written comments with respect to the EA, negative determination and the petition to Box WR, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Northern Illinois Gas Company Feedstock Assignment". All comments should be received by DOE by 4:30 p.m. February 28, 1979, in order to insure consideration.

Any person submitting written comments should forward 15 copies to ERA and should comply with the requirements of the ERA procedural regulations set forth in 10 CFR 205.9 *et seq.*

Any information or data submitted in response to this notice considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Economic Regulatory Administration reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., February 2, 1979.

DORIS J. DEWTON,
Acting Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-4317 Filed 2-7-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. ER79-158]

ALABAMA POWER CO.

Filing of Rate Schedule

FEBRUARY 2, 1979.

Take notice that Alabama Power Company on January 23, 1979, tendered for filing an Agreement with Craig Field Airport and Industrial Authority, intended as an initial rate schedule. The filing is for the proposed Craig Field Substation delivery point of the Craig Field Airport and Industrial Authority. According to Alabama Power the delivery point will be served at the Company's applicable revision to Rate Schedule MUN-1 incorporated in FERC Electric Tariff, Original Volume No. 1 of Alabama Power Company as allowed to become effective, subject to refund, by Commission order in FERC Docket ER78-77.

Alabama Power Company has requested that the proposed rate schedule take effect as of January 2, 1979, as provided in the Agreement, and has requested a waiver of the sixty-day statutory notice requirement.

Copies of the filing were served upon the Craig Field Airport and Industrial Authority, according to Alabama Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1979. 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. 79-4345 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-157]

BOSTON EDISON CO.

Tariff Filing

FEBRUARY 2, 1979.

Take notice that on January 19, 1979 Boston Edison Company (Edison) tendered for filing a tariff non-firm transmission service designated FERC Electric Tariff, Original Volume No. 1. Edison also tendered unexecuted service agreements with the two customers which have required such service, the Towns of Reading and Braintree, Massachusetts, together with supplements to those service agreements describing specific amounts and periods of purchase.

Edison requests that the tariff, the service agreements and supplements be made effective as of May 1, 1978. Edison requests waiver of the 60-day notice requirement for this purpose.

Edison states that it has served the filing on the affected customers and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 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 February 13, 1979. 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. 79-4346 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-90]

Central Kansas Power Co., Inc.

Order Accepting for Filing and Suspending Proposed Rate Increase, Providing for Hearing Instituting Section 206 Investigation, Denying Petition, To Reject Base Rate, Granting Summary Disposition, Rejecting Proposed Purchased Power Adjustment Clause, Establishing Procedures and Granting Intervention

JANUARY 31, 1979.

On December 1, 1978, Central Kansas Power Company (CKP) tendered from filing a proposed increase in its rates to Sunflower Electric Cooperative (Sunflower). Sunflower is a nonprofit rural electric association whose members are nonprofit rural electric cooperatives operating electric distribution systems. CKP's filing included two separate rate schedules for service to Sunflower—the SEC-1-Base rate for sales up to 22,000 kW and the SEC-1-Excess rate for sales in excess of 22,000 kW.[1] CKP states in its transmittal letter that the proposed revisions to its base and excess rates constitute a rate change under Section 205 of the Federal Power Act and requests that the increased rates be made effective as of February 1, 1979. Based on the twelve month test period ending December 31, 1979, the proposed rates would increase revenues by approximately $612,293.

Under the proposed rates, both the base and excess rate will have a one step demand and energy charge. The proposed rates also contain a 100 percent 12-month billing demand ratchet. The proposed excess rate includes a Purchased Demand Adjustment Clause whereby the billing demand charge would be increased or decreased for variations in CKP's weighted average purchased demand cost above or below $3.70/kW per month.

The proposed base rate is intended to increase the base rate submitted by CKP for filing in compliance with the Commission's Order Affirming Initial Decision issued June 30, 1978, in Docket No. E-8755, which became effective on September 16, 1978, pursuant to the Commission's letter of compliance dated November 13, 1978. The presently effective base rate had been the subject of an investigation under Section 206 of the Federal Power Act.[2] On December 28, 1978, in Docket No. ER76-588, the Commission issued an Order Affirming Initial Decision requiring that CKP file revised base rates with 60 days. The base rate to be submitted in compliance with that order will, when accepted, supersede the presently effective base rate. The base rate proposed by CKP in Docket No. ER76-588 was subject to investigation under Section 206. The excess rate proposed by CKP in the present docket is intended to supersede the currently effective excess rate that, after being suspended for three months, became effective August 1, 1976, subject to refund pursuant to the Commission's Order in Docket No. ER76-588, issued April 30, 1976.

Public notice of CKP's filing was issued on December 12, 1978, with responses due on or before December 29, 1978. On December 29, 1978, Sunflower filed a "Protest and Petition to Intervene and for Rejection of Certain Proposed Changes in Tariff Tendered for Filing." On January 22, 1978, CKP filed a Reply to Sunflower's Protest and Petition to Intervene.

Sunflower requests in its protest and petition that CKP's filing of an increased base rate be rejected on the grounds that the wholesale power contract between CKP and Sunflower relating to the sale of the first 22,000 kW is a fixed rate contract and cannot be modified unilaterally by CKP. Sunflower also asserts that the proposed increase in the base rate can only become effective prospectively following a final Commission determination that the proposed base rate satisfies the standards of the *Sierra* case.[3] With regard to the proposed increase in the excess rate, Sunflower requests that the rate be suspended for five months.

Sunflower protests the proposed rates as being excessive and also sets forth a number of specific objections to the methodologies followed by CKP in preparing its cost of service study. Sunflower points out that CKP has included certain accumulated deferred investment tax credits (ADITC) only in the common equity component of its capital structure even though the Commission has held several times that the return allowed on ADITC must be measured by the overall rate of return rather than just on the higher common equity return. Sunflower requests that the Commission grant summary disposition of this issue. Sunflower states that CKP's use of a 48 percent Federal income tax rate in computing its tax expense for Period II, calendar year 1979, is inappropriate because a 46 percent rate will be applicable for the entire period. Sunflower also states that CKP has allocated administrative and general expense (A&G) on the basis of operation and maintenance expense exclusive of A&G and exclusive of fuel, purchased power and rents. Sunflower maintains that A&G expense should be allowed on the basis of labor. Sunflower objects further to CKP's proposed 100 percent demand ratchet and to CKP's proposed allocation of fuel stocks on the basis of demand rather than energy.

Our review of CKP's filings in the present case indicates the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. We have also reviewed the power contract between CKP and Sunflower and have concluded that it contemplates only prospective changes upon final regulatory action based on an investigation

[1] See Attachment A for rate schedule designations.

[2] See Commission Orders in Docket No. E-8755 dated July 2, 1974; July 29, 1974; August 28, 1974; October 3, 1974; and October 16, 1974.

[3] *F.P.C. v. Sierra Pacific Power Company*, 350 U.S. 348 (1956).

under Section 206 of the Federal Power Act.[4] Therefore, we shall accept for filing CKP's proposed change in the base rate, but shall not permit the increased rate to become effective except upon final order of the Commission following investigation and hearing pursuant to Section 206 of the Federal Power Act. However, the test of the *Sierra* case shall not be applicable in the determination of the justness and reasonableness of the base rate proposed by CKP in the Section 206 investigation and hearing which we shall require in this case.[5] We shall, however, accept CKP's proposed excess rate for filing and suspend the proposed rate for five months to become effective July 1, 1979, subject to refund.[6]

With regard to the issue of ADITC, summary disposition is granted, as requested by Sunflower, so that the return allowed on ADITC shall be measured by the overall rate of return rather than the higher common equity return.[7] Similarly, we shall grant summary disposition with regard to Federal taxes and shall require that CKP compute its Period II tax expense on the basis of the 46 percent tax rate. We shall also grant summary disposition with regard to the proposed 100 percent demand ratchet. In our Order issued December 28, 1978, Affirming Initial Decision, in docket No. ER76-588, we approved an 80 percent demand ratchet. CKP has indicated in its Reply dated January 22, 1979, that it will use the 80 percent demand ratchet. Summary disposition is also granted with regard to the allocation of fuel stocks. CKP indicated in its Reply that it will allocate such costs on the basis of energy in the manner indicated by our December 28, 1978, order in Docket No. ER76-588. Furthermore, we shall order CKP to refile its capital structure and rates to reflect the summary disposition of these issues. CKP shall include all costs of refiling in its Account Number 426.5 (18 C.F.R. Part 101) so that the expense will not be borne by the ratepayers. The 46 percent tax rate should have been reflected in CKP's December 1, 1978, filing because CKP could have and should have known prior to that date that the tax rate had been previously reduced from 48 percent to become effective January 1, 1979 (prior to CKP's requested effective dates). Because the cost of reflecting our summary disposition of the ADITC, fuel stock and demand ratchet issues will add little, if any, to the cost of incorporating the proper Federal income tax rate in the refiling, the entire cost of refiling shall be included in CKP's Account No. 426.5.

With regard to the functionalization of General Plant, we shall require CKP to meet the burden of showing that use of labor ratios is unreasonable as applied to the company, not merely that its alternative method might be reasonable. This requirement is consistent with prior Commission action.[8] Sunflower had objected to CKP's method of allocating A&G expense but we are not granting summary disposition of this issue for we have not as yet reached any definite conclusion on the matter. We shall also reject CKP's proposed purchased power adjustment clause. Although the proposed clause permits upward and downward adjustments to this portion of CKP's rates, it would nevertheless be inequitable to permit CKP to automatically flow through to its wholesale customers increases for this one item while not automatically flowing through reductions due to other items that could be decreasing in cost. Automatic adjustments for the cost of fuel are allowed only as permitted by our Regulations. Similarly, automatic adjustments which reflect changes in all costs may also be allowed. *See*, Order Reversing Initial Decision, *Nantahala Power and Light Company*, Docket No. E-9181, issued February 7, 1977.

The Commission orders:

(A) The Revised Rate Schedule designated SEC-1-Excess filed by Central Kansas on December 1, 1978, is accepted for filing, suspended for a period of five months and permitted to become effective thereafter on July 1, 1979, subject to refund.

(B) The Revised Rate Schedule designated SEC-1-Base also filed by Central Kansas on December 1, 1978, is accepted for filing, but shall not become effective except upon final order of the Commission and only to the extent thereby authorized.

(C) Pursuant to the provisions of the Federal Power Act, particularly Sections 205, 206 and 308 thereof, and the Commission Rules and Regulations, a public hearing shall be held for the purpose of determining the justness and reasonableness of proposed revised Rate Schedule SEC-1-Excess.

(D) Pursuant to the provisions of the Federal Power Act, particularly Sections 206 and 308 thereof, and the Commission Rules and Regulations, an investigation and public hearing is hereby initiated to determine the justness and reasonableness of proposed revised Rate Schedule SEC-1-Base.

(E) The hearings provided for in paragraphs C and D above shall be consolidated for purposes of hearing and decision.

(F) On or before April 24, 1979, the Commission Staff shall prepare and serve top sheets summarizing the Staff investigations and recommendations.

(G) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(H) For good cause shown, Sunflower Electric Cooperative (Sunflower) is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(I) Sunflower's petition to reject the proposed Rate Schedule SEC-1-Base is rejected.

(J) CKP's proposed purchased power adjustment clause is rejected.

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[4] See Order Amending Prior Order and Denying Rehearing, Docket No. E-8755, issued August 28, 1974; Order Denying Petition for Reconsideration, Docket No. E-8755, issued October 16, 1974; Order Affirming Initial Decision Docket No. E-8755, issued June 30, 1978; Order Accepting For Filing and Suspending Proposed Rate Increase, Providing for Hearing, Instituting Section 206 Investigation, etc., Docket No. ER76-588, issued April 30, 1976; Order Affirming Initial Decision, Docket No. ER76-588, issued December 28, 1978.

[5] See Order Amending Prior Order and Denying Rehearing, Docket No. E-8755, issued August 28, 1974; Order Denying Petition for Reconsideration, Docket No. E-8755, issued October 16, 1974; Initial Decision in Docket No. ER76-588, issued December 27, 1977; and Order Affirming Initial Decision in Docket No. ER76-588, issued December 28, 1978.

[6] We note that in its filing dated July 27, 1978, in compliance with the Order Affirming Initial Decision in Docket No. E-8755, issued June 30, 1978, CKP included unilateral rate change language with regard to its base rate. Such a unilateral change of its contract with Sunflower is not permitted by the contract. We shall therefore require CKP to remove this language from its presently effective and proposed base rate schedules.

[7] See, *Caroline Power & Light Company*, Opinion No. 19, issue August 2, 1979; *Virginia Electric & Power* company, Docket No. ER78-522, issue August 30, 1978 (suspending proposed rates).

[8] See Order dated August 25, 1978 in *Public Service Company of Indiana*, Docket No. ER78-513; Order of October 12, 1978, *Arkansas-Missouri Power Company*, Docket No. ER78-489; and Order issued October 12, 1978, in *Public Service Company of Oklahoma*, Docket No. ER78-511.

(K) Summary disposition of the ADITC, Federal income tax rate, fuel stock, and demand ratchet issues is granted. CKP is ordered to refile its capital structure and rates to reflect the summary disposition of these issues.

(L) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

CENTRAL KANSAS POWER COMPANY

Dated: (1) & (2) December 1, 1978.
Filed: (1) & (2) December 1, 1978.
Effective: (1) Upon final Commission order in Section 206 proceeding; (2) July 1, 1979, subject to refund.

Designations	Description	Supersedes
(1) Supp. No. 7 to Rate Schedule FERC No. 1.	SEC-1-Base ...	—
(2) Supp. No. 8 to Rate Schedule FERC No. 1.	SEC-1-Excess	Supp. No. 4 to Rate Schedule FERC No. 1.

[FR Doc. 79-4347 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-174]

CONSUMERS POWER CO.

Proposed Tariff Change

FEBRUARY 2, 1979.

Take notice that Consumers Power Company (Consumers Power) on January 24, 1979 tendered for filing a Letter Agreement dated December 8, 1978 between Consumers Power and Commonwealth Edison Company (Commonwealth) which constitutes a redetermination of the fixed charge factor applicable to transactions under the "Agreement for Sale of Portion of Generating Capability of Ludington Pumped Storage Plant by Consumers Power Company to Commonwealth Edison Company," dated June 1, 1971, as amended by an agreement dated August 15, 1971 (hereinafter termed "Agreement as amended"). The Agreement as amended has been denoted Consumers Power Company Rate Schedule FPC (now FERC) No. 28. Consumers Power states that the redetermination of the fixed charge factor was made pursuant to the of the Agreement as amended and does not constitute an amendment to the agreement.

Consumers Power states that the Letter Agreement reduces the fixed charge factor from 14.86 percent to 14.582 percent on and after January 1, 1979. Consumers Power states that the Revenue Act of 1979, effective January 1, 1979 reduces the effective corporate income tax rate from 48 percent to 46 percent the effect of this was a reduction of .285 percent in the fixed rate factor.

Consumers Power states the fixed charge factor is subject to further revisions during the term of the Agreement as amended in accordance with Section 4.2 thereof.

Consumers Power states that copies of the filing were served on Commonwealth, the Detroit Edison Company and on the Michigan Public Service Commission.

Consumers Power requests waiver of the notice requirements to permit an effective date of January 1, 1979 for the 14.582 percent fixed charge rate.

Any person desiring to be heard or to protest said letter agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 February 16, 1979. 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 the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4348 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-172]

FLORIDA POWER & LIGHT CO.

Proposed Amendment to Agreement To Provide Specified Transmission Service

FEBRUARY 2, 1979.

Take notice that Florida Power & Light Company (FPL), on January 23, 1979, tendered for filing an amendment, executed by both parties, to an agreement entitled "Amendment Number Two To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Fort Pierce Utilities Authority." Under the Amendment, FPL will transmit power and energy for Fort Pierce Utilities Authority (Ft. Pierce) as is required by Ft. Pierce in the implementation of Schedule A of its interchange agreement with the City of Homestead, according to FPL.

FPL requests an effective date for the Agreement of no later than 60 days after the date of filing. FPL states that a copy of the filing was served on the Director of Utilities of Ft. Pierce.

Any person desiring to be heard or to protest said filing should file a petition to intervene, or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before February 16, 1979. Protest 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 desiring 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. 79-4349 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-161]

GULF STATES UTILITIES CO.

Filing of Agreement

FEBRUARY 2, 1979.

Take notice that on January 22, 1979, Gulf States Utilities Company (Gulf States) tendered for filing an agreement for wholesale service between it and Brazos Electric Power Cooperative, Inc. Gulf States indicates that the agreement provides for Gulf States to furnish firm power service to Brazos Electric at Gulf States' standard rates for such service.

Gulf States requests an effective date of December 1, 1978.

According to Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1979. 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. 79-4350 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-165]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Changes in Rates and Charges

FEBRUARY 2, 1979.

Take notice that American Electric Power Service Corporation (AEP) on January 22, 1979, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (Indiana Company), Modification No. 13 dated December 1, 1978 to the Interconnection Agreement dated November 1, 1961 between Northern Indiana Public Service Company and Indiana & Michigan Electric Company, I&M's Rate Schedule FPC No. 22.

According to AEP, Section 1 of Modification No. 13 provides for an increase in the demand charge for Short Term Power from $0.60 to $0.70 per kilowatt per week and Section 2 provides for an increase in the Short Term Power transmission charge from $0.15 to $0.175 per kilowatt per week. This schedule is proposed to become effective December 11, 1978.

Applicant states that since the use of Short Term Power cannot be accurately estimated, for the twelve months period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this modification for such period. Applicant Exhibit I which was included with the filing of this Modification, demonstrates that the increase in revenues which would have resulted had the modification been in effect during the twelve-month period ending December 1978, would have been $180,505.97 (i.e., from $6,521,636.56 to $6,702,142.53), according to AEP.

Copies of the filing were served upon Northern Indiana Public Service Company, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. 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. 79-4351 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER76-5]

INDIANA & MICHIGAN POWER CO.

Compliance Filing

FEBRUARY 1, 1979.

Take notice that Indiana & Michigan Power Company (I&M Power) on November 29, 1978, tendered for filing in compliance with Opinion No. 27, issued September 15, 1978, and the Order Denying Rehearing, issued November 13, 1978, the following:

1. Supplement No. 1 to FERC Rate Schedule No. 1 of I&M Power; and

2. Statement, dated November 28, 1978, rendered by I&M Power to Indiana & Michigan Electric Company for electric services rendered by the former to the latter during the month of October, 1978, together with a schedule and supporting data indicating as an example, the types of change which I&M Power contemplates would be made in statements which are rendered after Supplement No. 1 is made effective for electric service rendered after such effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 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 February 9, 1979. 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. 79-4352 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ES79-24]

IOWA PUBLIC SERVICE CO.

Application

FEBRUARY 2, 1979.

Take notice that on January 22, 1979, Iowa Public Service Company (Applicant) a corporation organized under the laws of the State of Iowa and qualified to transact business in the States of Iowa and South Dakota, wth its principal business office in Sioux City, Iowa, filed an application pursuant to Section 204 of the Federal Power act seeking authority to issue $50 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1980, and will bear final maturity dates not later than March 31, 1981.

Applicant proposes to use the funds for construction or acquisition of permanent improvements, extensions and additions to Applicant's property and/or to pay off maturing short-term loans. Its estimated construction expenditures for the year 1979 are $85,878,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4353 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. RA79-11]

JACK HALBERT

Filing of Petition for Review Under 42 U.S.C. 7194

FEBRUARY 2, 1979.

Take notice that Jack Halbert (Halbert) on January 26, 1979, filed a Petition for Review under 42 U.S.C. section 719(b) (1977 Supp.) from an order of the Secretary of Energy, issued on December 4, 1978, denying Halbert's application for exception on relief.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or

before February 21, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4354 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-153]

KANSAS GAS AND ELECTRIC CO.

Proposed Tariff Change

FEBRUARY 2, 1979.

Take notice that Kansas Gas and Electric Company on January 18, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 127. The proposed Amendment establishes a new delivery point for the Coffey County Rural Electric Cooperative Association, Inc.

The Amendment is necessary because the Cooperative has requested an additional delivery point, according to Kansas Gas and Electric Company.

Copies of this filing were served upon the Coffey County Rural Electric Cooperative Association, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 13, 1979. 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. 79-4355 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-89]

MISSOURI PUBLIC SERVICE CO.

Order Accepting in Part and Rejecting in Part Proposed Rate Changes

JANUARY 31, 1979.

On December 1, 1978, Missouri Public Service Company (MPS or Company) tendered for filing revised schedules for Rates and Charges for Wholesale Firm Power Service to supersede and replace the rate schedules presently in effect for its eight municipal customers.[1] MPS' case-in-chief is based on a test period consisting of the 12 months ending August 31, 1978. The proposed rates would increase revenue for this period by approximately $754,332 (38.2 percent). MPS requests an effective date of February 1, 1979.

MPS relies on a Commission order[2] issued September 30, 1976, in Docket No. ER76-585, MPS' prior rate application, in support for its claim that the present rate schedules applicable to the Cities of Liberal, El Dorado Springs, Pleasant Hill, and Rich Hill contain language permitting MPS to unilaterally file for changes in rates and service under 205 of the Federal Power Act (The Act). In addition, MPS has tendered for filing superseding contracts with the City of Harrisonville, executed on October 5, 1977 and the City of Galt, executed on August 22, 1978, incorporating rates currently in effect for the Cities of Liberal, El Dorado Springs, Pleasant Hill, and Rich Hill. MPS claims that the new contracts with the Cities of Harrisonville and Galt provide for unilateral change in rates and service under Section 205 of the Act. Based on its interpretation of the newly filed contracts, MPS has simultaneously tendered superseding rate schedules for service to the Cities of Harrisonville and Galt. The superseding rate schedules contain the same rates as the superseding schedules for the remaining municipal customers of MPS in the instant application.

Contrary to the Commission's finding in Docket No. ER76-585 that MPS' contracts with the Cities of Odessa and Gilman City are fixed rate over fixed term, MPS seeks to increase the rates for service to these Cities. MPS requests waiver of § 35.3(a) of the Commission Regulation with respect to the City of Odessa requesting an effective date of April 1, 1979, to coincide with Article II of the Odessa contract. Article II provides for a review of rates every five years on the anniversary date of the contract. The five year anniversary date will be April 1, 1979. MPS states that it is presently negotiating for a new contract with the City of Gilman which will provide for a unilateral change in rates and service. MPS "assumes" a new contract will be filed as a late filing for the City of Gilman. MPS' present and proposed rates contain a Tax and License Rider which adjusts the customers' bills for gross receipts, franchise, occupational, and license taxes. However, MPS states that there are no such taxes or fees currently in effect.

Notice of this filing was issued on December 7, 1978, with protests or petitions to intervene due on or before December 29, 1978. On December 14, 1978, the City of Galt, filed a protest and attached documents objecting to the superseding rate schedule simultaneously filed with the August 22, 1978 contract Also, City of Galt claims that it is experiencing difficulty coordinating additional load requirements with MPS under the new contract. On December 27, 1978, the Board of Alderman and the Mayor of Galt, Missouri, filed and "informal protest" to the instant application. On December 29, 1978, the Citizens of Liberal and the Mayor of the City of Liberal, Missouri filed a protest stating that its senior citizens will be unable to pay the proposed rates.

Our review indicates that the existing contract for the Cities of Odessa and Gilman provide for fixed rates over fixed terms with no reservation of power to unilaterally change the existing rates. Our review of the City of Odessa and Gilman City contract is consistent with the Federal Power Commission's (FPC) interpretation as set forth by the Commission's order of September 30, 1976, in Docket No. ER76-585. Accordingly. pursuant to the *Sierra-Mobile* doctrine[3] we must reject MPS' filing as it applies to the City of Odessa and Gilman City. Since MPS' filing as to the City of Odessa is rejected, MPS' request for waiver of § 35.3(a) of the Commission's Regulations seeking an effective date of April 1, 1979 is moot.

As to the newly filed contract with the City of Galt, executed on August 22, 1978, MPS claims that the Billing and Rate provision contained in Article II of the contract reserves the power to make unilateral changes. We agree. Although the Billing and Rate

[1] Cities of Liberal, Odessa, Pleasant Hill, Rich Hill, Gilman City, El Dorado Springs, Cities of Galt and Harrisonville. See also, Attachment A for designations.

[2] Proceedings in Docket No. ER76-585 were commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission," when used in the context of action taken prior to October 1, 1977, refers to the FPC; when otherwise, the reference is to the FERC.

[3] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 248 (1956).

provision states that the customer shall pay the contract rates or any superseding rate schedules approved by the Commission, the provision goes on to state in unequivocal terms that "Nothing contained herein shall be construed as affecting in any way the right of the Company to unilaterally make application to the Federal Energy regulatory Commission for a change in rates, changes, classification, or service, or any rule, regulation, or contract relating thereto, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder." Therefore, pursuant to § 35.1(d)(2) of the Commission's Rules and Regulations we find that the City of Galt contract maintains the right of the Company to unilaterally apply for change in rates pursuant to Section 205 of the Act.[4] As to the newly filed contract with the City of Harrisonville, executed on October 5, 1977, we find that the contract provides in unambiguous terms, for unilateral changes in rates pursuant to Section 205 of the Act. Accordingly, as hereinafter ordered. we shall accept for filing, MPS' revised rate schedule for the City of Harrisonville.

While we question certain costing methodologies employed by MPS, our review of the application as a whole indicates the rates to be just and reasonable. Therefore, we find that good cause exists to accept for filing the proposed rates for the Cities except Odessa and Gilman City.

The Commission orders:

(A) With respect to the City of Odessa and Gilman City, MPS' filing is hereby rejected.

(B) With respect to the Cities of Liberal, Rich Hill, El Dorado Springs, Pleasant Hill, Galt, and Harrisonville, the proposed rate schedules are hereby accepted for filing and shall become effective February 1, 1979. This acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against your company.

(C) Invocation of the tax and License Rider constitutes a change in the rate and MPS is hereby ordered to file a timely application together with underlying computations in the event of such change.

(D) Missouri Public Service Company and City of Galt are hereby ordered to file, whithin 30 days documents necessary to clarify the discrepancy in the contracts as filed by Missouri Public Service Company on December 1, 1978 and by the City of Galt on December 14, 1978.

(E) The Secretary shall cause the prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[4]We note that attached to the City of Galt's protest, filed on December 14, 1978, is what appears to be a copy of the August 22, 1978 contract with MPS. However, the terms of Article II of the contract are different than the terms contained in Article II of the contract filed by MPS in the instant application. Although the different contract language has no effect on our action today, we shall allow the parties 30 days to clarify this discrepancy. Also, in the interim the Commission will entertain supplementary pleadings from MPS and the City of Galt clarifying the question of MPS' alleged obligation to upgrade certain transmission facilities.

ATTACHMENT A.—*Missouri Public Service Company*

[Docket No. ER79-89]

Instrument: November 28, 1978.
Effective: As noted.
Filed: December 1, 1978.

Designation	Description	Effective Date
CITY OF EL DORADO SPRINGS		
Supplement No. 3 to Rate Schedule FPC No. 35 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 35).	(Rates)	February 1, 1979.
Supplement No. 4 to Rate Schedule FPC No. 35 (Redesignation of fuel adjustment rider in Supplement No. 1).	(Fuel adjustment clause)	October 1, 1976.
Supplement No. 5 to Rate Schedule FPC No. 35 (Redesignation of tax & license rider in Supplement No. 1).	(Tax and license rider)	October 1, 1976.
CITY OF GALT		
Rate Schedule FERC No. 38 (Supersedes Rate Schedule FPC No. 28, as amended).	(Executed contract, dated August 22, 1978.	February 1, 1979.
Supplement No. 1 to Rate Schedule FERC No. 38	(Rates)	February 1, 1979.
Supplement No. 2 to Rate Schedule FERC No. 38	(Fuel adjustment clause)	February 1, 1979.
Supplement No. 3 to Rate Schedule FERC No. 38	(Tax and License rider)	February 1, 1979.
Supplement No. 4 to Rate Schedule FERC No. 38 (Supersedes Supplement No. 1 to Rate Schedule FERC No. 38).	(Rates)	February 1, 1979.
Supplement No. 5 to Rate Schedule FERC No. 38 (Supersedes Supplement No. 2 to Rate Schedule FERC No. 38).	(Fuel adjustment clause)	February 1, 1979.
CITY OF HARRISONVILLE		
Rate Schedule FERC No. 39 (Supersedes FPC No. 25, as amended).	(Executed contract, dated October 5, 1977.	February 1, 1979.
Supplement No. 1 to Rate Schedule FERC No. 39	(Rates)	February 1, 1979.
Supplement No. 2 to Rate Schedule FERC No. 39	(Fuel adjustment clause)	February 1, 1979.
Supplement No. 3 to Rate Schedule FERC No. 39	(Tax and license rider)	February 1, 1979.
Supplement No. 4 to Rate Schedule FERC No. 39 (Supersedes Supplement No. 1 to Rate Schedule FERC No. 39).	(Rates)	February 1, 1979.
Supplement No. 5 to Rate Schedule FERC No. 39 (Supersedes Supplement No. 2 to Rate Schedule FERC No. 39).	(Fuel adjustment clause)	February 1, 1979.
CITY OF LIBERAL		
Supplement No. 3 to Rate Schedule FPC No. 36 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 36).	(Rates)	February 1, 1979.
Supplement No. 4 to Rate Schedule FPC No. 36 (Redesignation of fuel adjustment rider in Supplement No. 1).	(Fuel adjustment clause)	October 1, 1976.
Supplement No. 5 to Rate Schedule FPC No. 36 (Redesignation of tax and license rider in Supplement No. 1).	(Tax and license rider)	October 1, 1976.
CITY OF PLEASANT HILL		
Supplement No. 3 to Rate Schedule FPC No. 34 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 34).	(Rates)	February 1, 1979.
Supplement No. 4 to Rate Schedule FPC No. 34 (Redesignation of fuel adjustment rider in Supplement No. 1).	(Fuel adjustment clause)	October 1, 1976.
Supplement No. 5 to Rate Schedule FPC No. 34 (Redesignation of tax and license rider in Supplement No. 1).	(Tax and license rider)	October 1, 1976.
CITY OF RICH HILL		
Supplement No. 3 to Rate Schedule FPC No. 37 (Supersedes Supplement No. 1 to Rate Schedule FPC No. 37).	(Rates)	February 1, 1979.
Supplement No. 4 to Rates Schedule FPC No. 37 (Redesignation of fuel adjustment rider in Supplement No. 1).	(Fuel adjustment clause)	October 1, 1976.
Supplement No. 5 to Rate Schedule FPC No. 37 (Redesignation of tax and license rider in Supplement No. 1).	(Tax and license rider)	October 1, 1976.

[FR Doc. 79-4356 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. RP74-100, (PGA79-3)]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Granting Waiver of Notice Requirements, and Making This Proceeding Subject to the Outcome of Other Proceeding; Pipeline Rates: PGA Suspension Nonjurisdictional Purchases

JANUARY 31, 1979.

On December 29, 1978, National Fuel Gas Supply Corporation (National Fuel) filed revised tariff sheets [1] to become effective February 1, 1979 reflecting (1) a 5.03 cent per Mcf increase in current purchased gas costs of $9,988,010 annually from pipeline and producer suppliers and (2) a 1.65 cents decrease in the surcharge adjustments [2] to recover deferred purchase gas costs of $1,073,365.

National Fuel's proposed PGA rates include the costs of local purchases from small producers within New York. Based on a review of this filing as well as other data in our files concerning the physical location and operation of this pipeline system, the Commission has concluded that these volumes purchased locally cannot flow across the New York border and into Pennsylvania, the other state served by National Fuel. Because this gas is produced, transported and consumed totally within the State of New York, these sales and the prices paid to the producers are not subject to the Commission's jurisdiction under Section 1(b) of the Natural Gas Act.[3] Nonetheless, the Commission has full jurisdiction over National Fuel's collection of these purchased gas costs from its jurisdictional customers. *See, Colorado Interstate Gas Company*, Docket No. RP72-122 (PGA78-3) and RP78-51, order issued September 25, 1978.

The subject filing includes costs National Fuel incurred under a contract with Amarex, Inc., a New York producer, for sale of natural gas in intrastate commerce. The contract contains a favored nations clause which allows the gas sale price to increase each January 1 by the same amount as the average annual increase in cost per Mcf which National pays to three of its other suppliers. Costs incurred under this contract reflect sales made both before and after the effective date of the NGPA.[4] National Fuel's gas purchase contracts with other intrastate producers may also contain similar escalator clauses.

In a policy statement of January 24, 1979, we discussed the effect of the NGPA upon escalator or favored nation clauses in intrastate contracts for sale of natural gas. There, we stated that escalator clauses in intrastate contracts may increase the contract price, in accordance with contract terms, but not to a level in excess of the new natural gas price under Section 102 of the Act. Therefore, National may reflect costs of intrastate purchases incurred after the effective date of the NGPA, provided that operation of the escalator clauses do not increase the contract prices above the maximum lawful price under the NGPA.

But costs incurred prior to the effective date of the NGPA must be scrutinized under the prudent pipeline standard.

This PGA filing includes purchases prior to December 1, 1978, at rates in excess of the nationwide rates.[5] These excess rates apparently result in part from automatic price escalation clauses in the New York producer contracts. National Fuel has not presented sufficient evidence for the Commission to find that the prices paid for these purchases were at rates a prudent pipeline would have paid under similar circumstances. Accordingly, the Commission shall suspend National Fuel's PGA filing grant waiver of the notice requirements such that it shall become effective February 1, 1979, subject to refund.

We note that the issues raised in this docket are similar to those raised in Docket No. RP74-100 (PGA78-8). Accordingly, we shall make the outcome of this proceeding subject to the outcome of the proceedings in Docket No. RP74-100 (PGA78-8).

Public notice of National Fuel's filing was issued January 8, 1979, with protests and petitions to intervene due on or before January 17, 1979.

The Commission orders:

(A) National Fuel's proposed tariff sheets referenced herein are hereby accepted for filing, suspended, and waiver of the notice requirements is granted such that these sheets may become effective February 1, 1979, subject to refund.

(B) The outcome of this proceeding is hereby made subject to the outcome of the proceedings in Docket No. RP74-100 (PGA78-8).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4357 Filed 2-7-79; 8:45 am]

[1] Twenty-fifth Revised Sheet No. 4 to FERC Gas Tariff, Original Volume No. 1.

[2] This would decrease the surcharge adjustment from 2.96 cents to 1.31 cents.

[3] Opinion No. 777, issued September 30, 1976, *Colorado Interstate Gas Company*, Docket Nos. CP75-323 and CP75-300.

[4] The Natural Gas Policy Act of 1978 controls on and after December 1, 1978.

[5] Determined pursuant to Commission Opinion No. 770-A, issued November 5, 1976, in Docket No. RM75-14.

[6450-01-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

FEBRUARY 5, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency	Date
State of New Mexico Energy and Minerals Department, Oil Conservation Division.	Nov. 29, 1978.
State of Louisiana Department of Conservation.	Nov. 29, 1978.
Railroad Commission of Texas.....	Nov. 30, 1978.
West Virginia Department of Mines, Oil and Gas Division.	Nov. 30, 1978.
Alabama State Oil and Gas Board....	Nov. 30, 1978.
State Oil and Gas Board of Mississippi.	Nov. 30, 1978.
Kansas State Corporation Commission Conservation Division.	Nov. 30, 1978.
State of Michigan, Department of Natural Resources, Geological Survey Division.	Dec. 1, 1978.
State of California Department of Conservation Division of Oil and Gas.	Dec. 4, 1978.
Commonwealth of Virginia Department of Labor and Industry, Division of Mines and Quarries.	Dec. 4, 1978.
State of Wyoming Office of oil and Gas Conservation Commission.	Dec. 4, 1978.
State of Colorado Department of Natural Resources.	Dec. 5, 1978.
State of Ohio Department of Natural Resources, Division of Oil and Gas.	Dec. 6, 1978.
State of Alaska Oil and Gas Conservation Commission.	Dec. 11, 1978.
State of Arizona Oil and Gas Conservation Commission.	Dec. 14, 1978.
State of Nebraska Oil and Gas Conservation Commission.	Dec. 15, 1978.
State of Tennessee Oil and Gas Board.	Dec. 19, 1978.
State of Indiana Department of Natural Resources.	Dec. 26, 1978.
State of Pennsylvania Department of Environmental Resources, Division of Oil and Gas.	Dec. 26, 1978.
State of Florida Department of Natural Resources.	Jan. 3, 1979.
State of North Dakota Geological Survey.	Jan. 4, 1979.
State of Illinois, Department of Mines & Minerals, Oil and Gas Division.	Jan. 5, 1979.
United States Department of Interior, Geological Survey.	Jan. 19, 1979.
State of Montana Department of Natural Resources and Conservation.	Jan. 29, 1979.

Copies of these reports are available for public inspection in the Commission's Office of Public Information,

Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4363 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-57]

NEW ENGLAND POWER CO.

Order Rejecting Filing

JANUARY 31, 1979.

On November 13, 1978, New England Power Company (NEP) submitted for filing a proposed increase in the demand charge component for the sale of System Power-Unreserved to its tariff customers and to three customers served under separate Power Contracts. The proposed demand charge would be increased from the present rate of $3.917/kW/month to $4.512/kW/month, resulting in increased revenue of $550,000 (15.2 percent for the twelve month test period ending December 31, 1977.[1]

NEP requests waiver of the filing requirements under § 35.13 of the Commission's Rules and Regulations, which requires the last day of Period I data to be no more than seven months before the tender of the filing. Here, NEP's filing was received on November 13, 1978, or three and one-half months after July 31, 1978, the latest date a filing can be received based on a calendar year of 1977. NEP claims the "seven-month rule" should be applied only in filings where Period II data is required since the rule was intended to permit a comparison of the most recently available Period I data with Period II data. NEP asserts that the waiver should be granted here because 1) Period II data was not filed [2]; 2) calendar year data is more readily available.

On December 18, 1978, Fitchburg Gas & Electric Light Company (Fitchburg) petitioned to intervene, alleging that it will not be adequately represented by any other parties to the proceeding. No specific objection or issues were raised.

The NEP Customer Rate Committee and NEP's Municipal System Unreserved Customers [3] petitioned to intervene on December 18, 1978. These petitioners protest NEP's requested increase and request the Commission to temporarily defer a decision on suspension of the proposed increase pending the anticipated completion of a settlement agreement between NEP and petitioners.

On December 17, 1978, NEP requested by letter, that the effective date of the proposed rate be extended from January 12, 1979 to February 1, 1979. NEP indicated that informal settlement discussions had taken place between the Company and representatives of "most" of the affected customers and that a settlement agreement would be subsequently filed.

SETTLEMENT AGREEMENT

On January 5, 1979, NEP filed a proposed settlement agreement which reduces the proposed demand charge from $4.512/kW/month to $4.192/kW/month resulting in a revenue increase of $253,000 (7.0 percent increase in demand charges) for the test period.[4]

This Settlement Agreement is expressly conditioned upon the Commission's acceptance of all provisions thereof, without change or condition, and upon the following further Commission actions:

(a) Waiver of the requirements of § 35.3 with respect to the filings provided for in Article I of the Settlement Agreement, to the extent necessary to effectuate all of the provisions, and

(b) Waiver by the Commission of the requirements of § 35.13 of its regulations under the Federal Power Act with respect to said filings; and

(c) Acceptance of said filings without suspension under § 205 of the dates requested in said filings.

The Settlement Agreement was executed by NEP, the NEP Customer Rate Committee, and the municipal customers under the Tariff. The settlement has not been executed by Fitchburg or the Village of Lyndonville, Vermont.

On January 24, 1979, Fitchburg filed a protest against the proposed settlement. Fitchburg states that it has not completed its review of the rate and terms of the settlement and has requested additional information from NEP on three issues: depreciation expense, administrative and general expense, and purchase power demand costs. Fitchburg claims that the additional information is needed to justify a 19.9 percent annual rate of increase of NEP's depreciation expense since 1974 and a 34.3 percent annual rate of increase in administrative and general expense during the 1974-1977 period. In addition, Fitchburg requests that NEP justify its increased purchase power demand costs in light of additions to its generating capacity. Finally, Fitchburg believes that it may abe appropriate for NEP to apply a credit for other wholesale capacity sales, and that step-up transformer costs should be reflected in a transmission rate rather than in its demand rate.

Fitchburg requests that the Commission reject NEPCO's proposed effective date of February 1, 1979, for the rates set forth in the proposed settlement and that an evidentiary hearing be held on the originally tendered rate request filed in this docket on November 13, 1978.

We find that good cause has not been shown to justify waiver of § 35.13(b)(4)(iii). NEPS's stale cost support would not provide a meaningful basis for litigation. Accordingly, we will deny NEP's request for waiver of § 35.13(b)(4)(iii) and reject the filing without prejudice to refile with appropriate cost data.

The question of Commission's treatment of the proposed settlement agreement has become moot given the rejection of the underlying filing.

The Commission orders:

(A) NEP's request for waiver of § 35.13(b)(4)(iii) is hereby denied.

(B) NEP's November 13, 1978, filing is rejected without prejudice to refile.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4358, Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-163]

NEW ENGLAND POWER POOL

Filing

FEBRUARY 2, 1979.

Take notice that Secretary of the Management Committee of the New England Power Pool (NEPOOL) on January 22, 1979 tendered for filing a NEPOOL Power Pool Agreement dated September 1, 1971, as amended, signed by David I. Sweetland, General Manager, Paseoag Fire District of Burrillville, Rhode Island. NEPOOL indicates that this Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

It is proposed that the tendered Agreement as related to the Paseoag Fire District electric system, commence on December 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

[1] Notice of the filing was issued on November 24, 1978, with comments, protests or interventions due on or before December 18, 1978.

[2] Since the proposed increase is less than $1 million, NEP was not required to file Period II data under § 35.13.

[3] The Towns of Ashburnham, Danvers, Georgetown, Groton, Hinghan, Holden, Hull, Ipswich, Littleton, Mansfield, Marblehead, Middleton, North Attleboro, Paxton, Peabody, Princeton, Shrewsbury, Sterling, Templeton, Wakefield, West Boylston, and Hudson, Massachusetts.

[4] Notice of the settlement agreement was issued on January 16, 1979, with responses due on or before January 24, 1979.

Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protest should be filed on or before February 16, 1979. 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. 79-4359 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-154]

NORTHERN STATES POWER CO.

Letter Agreement

FEBRUARY 2, 1979.

Take notice that Northern States Power Company, on January 18, 1979, tendered for filing a Letter Agreement, dated December 5, 1978, with the Department of Energy, United States of America.

The filed Letter Agreement extends certain provisions of Contracts No. 14-06-600-1556 and No. 14-06-600-1940 through July 31, 1979, or until a new interconnection contract is executed, whichever is earlier, according to Northern States.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before February 13, 1979. 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. 79-4339 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-156]

OKLAHOMA GAS AND ELECTRIC CO.

Notice of Proposed Superseding Contract

FEBRUARY 2, 1979.

Take notice that on January 19, 1979, Oklahoma Gas and Electric Company (OG&E) tendered for filing a new Agreement intended to supersede OG&E's Rate Schedule FERC No. 12. This Agreement is the contract between OG&E and the Southwestern Power Administration (SWPA). According to OG&E the new Agreement is identical to the old Agreement, and provides for the sale of Replacement Energy and Emergency Service by OG&E to SWPA.

OG&E requests waiver of the Commission's notice requirements to allow for an effective date of January 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 13, 1979. 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. 79-4340 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-28]

PUBLIC SERVICE COMMISSION OF NEW YORK

Petition for Investigation and for Appropriate Action on Rate Proceedings

FEBRUARY 2, 1979.

Take notice that the Public Service Commission of the State of New York (New York), on January 5, 1979, filed a petition urging initiation of investigatory proceedings pursuant to Sections 4, 5, 14 and 16 of the Natural Gas Act, and the institution of appropriate action in rate proceedings.

The petition urges the Commission to institute a general investigation into possible overcharges to interstate pipelines for marine construction and contracting services in the Gulf of Mexico, and to put all pipelines on notice of the risk in being required to make appropriate restitution to their customers for loss resulting from the pipelines' failure to institute appropriate damage actions prior to tolling of the statute of limitations. Additionally, New York's proposal urges the Commission (1) to make a determination as to whether excessive payments have been made by either the customers of pipeline companies with facilities in the Gulf of Mexico, or customers of the companies purchasing gas from those pipelines, resulting from overcharges for offshore marine construction or contracting services; and (2) to issue a notice requiring future orders in all rate proceedings pertaining to the aforementioned class of companies, to contain language reflecting its position to be that action in those rate proceedings will not preclude the Commission from ordering restitution to that group of customers affected by excessive overcharges, if that determination is ultimately made in a hearing on the matter.

New York states that it has served copies of this petition upon the pipelines referred to on pages 2 and 3 of the Petition, which include: (1) the Stingray Pipeline Company; (2) Sea Robin Pipeline Company; (3) Texas Eastern Transmission Corporation; (4) Columbia Gulf Transmission Company; and (5) Tennessee Gas Pipeline, in accordance with § 1.17 of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1979. 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 79-4341 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. EL79-7]

SIERRA PACIFIC POWER CO.

Filing

FEBRUARY 2, 1979.

Take notice that on January 8, 1979, Sierra Pacific Power Company (Sierra) tendered for filing a petition for a decision by the Federal Energy Regula-

tory Commission (Commission) on the proper accounting for sales of surplus, interruptible economy energy by Sierra Pacific to Pacific Gas & Electric Company (PG&E) and Utah Power & Light Company (UP&L) under the Commission's Uniform System of Accounts for Public Utilities and Licensees.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825, North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 20, 1979. 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. 79-4342 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-84]

SOUTHERN CO. SERVICES, INC.

Order Accepting and Suspending Rate Schedule, Granting Interventions, Granting Waivers, and Establishing Hearing Procedures

JANUARY 26, 1979.

On November 29, 1978, Southern Company Services, Inc. (Southern Co.), on behalf of Alabama Power Company, Georgia Power Company, Mississippi Power Company, and Gulf Power Company, submitted for filing an Amendment No. 2 to "The Southern Company System Procedures Under Intercompany Interchange Contract".[1] Southern Co. also filed new computational schedules showing the basis for inter-company capacity and energy transactions for 1979. A waiver of the sixty (60) day notice requirement was requested by Southern Co. in order for the amendment to be made effective as of January 1, 1979.

Notice of the submittal was issued on December 12, 1978, with comments, protests or petitions to intervene due on or before December 29, 1978. On December 22, 1978, Oglethorpe Power Corporation (Oglethorpe), representing 39 electric membership corporations, filed a petition to intervene and requested the Commission to suspend the rates for one day and set the matter for hearing. On December 29, 1978, the Municipal Electric Authority of Georgia (MEAG), comprising 46 Georgia cities, petitioned to intervene in this proceeding. Both Oglethorpe and MEAG are wholesale customers of Georgia Power Company. Good cause has been shown to grant intervenor status to these customers.

Southern Co. requests a waiver of the sixty day notice requirement on grounds that the existing computational schedules are inappropriate for calendar year 1979 "due to changes in costs, install generating capacity and other changes affecting system operations." Southern Co. also notes that a waiver was granted in Docket No. ER77-86 for the year 1977 and in Docket No. ER78-76 for the year 1978. Good cause has been demonstrated to grant the waiver of the notice requirement.

In addition, Southern Co. requests a waiver of the provisions of § 35.13(b)(4)(iii) of the Commission's Regulations requiring the filing of Statements A through P since that requirement "has limited application to the interchange transactions and pricing mechanisms contemplated by the subject filing." We believe that good cause has been shown to waive the filing requirement.

Our review indicates that the rates filed by Southern Co. have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, the Commission will accept Southern Co.'s submittal for filing and suspend the proposed rates and services for one day after which they shall go into effect as of January 2, 1979, subject to refund. A subsequent hearing shall be held to consider the justness and reasonableness of the proposed rates and services.

We shall also order a prehearing conference in order to establish the date for submittal of Southern Co.'s case-in-chief as well as additional dates as may be necessary.

The Commission orders: (a) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Southern Co.

(B) The request by Southern Co. for waiver of the sixty day notice requirement pursuant to § 35.3 of the Commission's Regulations, as amended by Change in Notice Requirements, issued January 2, 1979, in Docket No. RM79-11, is hereby granted.

(C) The proposed rates are hereby accepted for filing and suspended for one day, until January 2, 1979, after which they are made effective, subject to refund.

(D) The request by Southern Co. for waiver of the filing requirements under § 35.13(b)(4)(iii) of the Commission's Regulations is hereby granted.

(E) The Staff shall serve top sheets in this proceeding on or before April 17, 1979.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a prehearing conference in this proceeding to be held within thirty (30) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 for the purpose of establishing the date for Southern Co.'s submittal of its case-in-chief. The Presiding Judge is authorized to establish procedures or to rule upon all motions (except motions to consolidate and sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Presiding Judge shall also convene a prehearing conference within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission.

(H) Petitioners Oglethorpe and MEAG are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by such intervenors shall be limited to matters set forth in their petition to intervene; and, *Provided further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this matter.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT

SOUTHERN COMPANY SERVICES, INC., RATE SCHEDULE DESIGNATIONS (DOCKET NO. ER79-84)

(1) Southern Company Services Supplement No. 5 to Rate Schedule FPC No. 46 (Supersedes Supplement No. 3), Amendment No. 2 to Procedures.

(2) Supplement No. 6 to Rate Schedule FPC No. 46 (Supersedes Supplement No. 4), Schedules and Support Schedules.

Concurrences in (1) and (2) above.

[1] See Attachment for Rate Schedule Designations.

Alabama Power Supplement No. 2 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 1).

Gulf Power Company Supplement No. 2 to Rate Schedule FPC No. 62 (Supersedes Supplement No. 1).

Georgia Power Company Supplement No. 2 to Rate Schedule FPC No. 796 (Supersedes Supplement No. 1).

Mississippi Power Company Supplement No. 2 to Rate Schedule FPC No. 120 (Supersedes Supplement No. 1).

[FR Doc. 79-4343 Filed 2-7-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-155]

VIRGINIA ELECTRIC & POWER CO.

Tendered Revised Contract Supplement

FEBRUARY 2, 1979.

Take notice that on January 19, 1979, Virginia Electric and Power Company (VEPCO) tendered for filing a revised supplement to the contract between VEPCO and Northern Piedmont Electric Cooperative. VEPCO states that the revised contract supplement reflects changes due to a change in transformer capacity at Gold Mine Delivery Point as set forth below:

Present FERC No.: 81-11.
Proposed FERC No.: 81-35.
Item Corrected: 3, 5(1), 5(3), 8, 10, 11.

VEPCO further states that the revised contract supplement is intended to supersede the listed FERC Rate Schedule and requests that the revised supplement be allowed to become effective on December 11, 1978, the date the change in transformer facilities was completed.

Any person desiring to be heard or to protest with reference to said application should on or before February 13, 1979, file with the Federal Energy Regulatory Commission, 825 North Captiol Street, N.E., 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, 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 protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-4344 Filed 2-7-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PROGRAMS

[PP 6G1838/T178; FRL 1057-2]

Butachlor; Reextension of Temporary Tolerances

On January 18, 1978, the Environmental Protection Agency (EPA) announced (43 FR 2664) an extension of temporary tolerances for residues of the herbicide butachlor (*N*-(butoxymethyl)-2-chloro-2',6'-diethylacetanilide) in or on the raw agricultural commodities rice at 0.5 part per million (ppm) and rice straw at 3 ppm. These tolerances were established (42 FR 18424) in response to a pesticide petition (PP 6G1838) submitted by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63116. This extension expires April 1, 1979. (A related document reextending a feed additive regulation for residues of butachlor in rice bran and rice hulls appears elsewhere in today's FEDERAL REGISTER).

Monsanto Agricultural Products Co. has requested a one-year reextension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit (524-EUP-30) that is being reextended concurrently under the Federal Insecticide,, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a reextension of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are being reextended on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Agricultural Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 1, 1980. Residues not in excess of 0.5 ppm remaining in or on rice and 3 ppm remaining in or on rice straw after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington DC 20460 (202/755-0713).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

Dated: February 2, 1979.

[FR Doc. 79-4390 Filed 2-7-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 79-6; FCC 79-43]

PROPOSED OFFERING OF ELECTRONIC COMPUTER ORIGINATED MAIL (ECOM)

Institution of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Institution of Inquiry.

SUMMARY: In response to a proposed offering of electronic mail by the United States Postal Service, Graphnet Systems Inc. (a specialized common carrier providing facsimile message transmission and delivery services to the public under FCC tariffs) filed a petition seeking an FCC determination on the scope of its jurisdiction over electronic mail, the possible effect of the Communications Act's requirements on the Postal Service's role in this field, and development of FCC regulatory policies on emerging communications/mail offerings. In response, the Commission instituted an inquiry inviting comment on FCC jurisdiction, tariff requirements under the Communications Act, and requirements for certificates of convenience and necessity.

DATES: Comments must be received on or before February 25, 1979; oppositions must be received on or before March 11, 1979; and replies must be received on or before March 18, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-9342).

SUPPLEMENTARY INFORMATION:

INQUIRY

Adopted: January 25, 1979.

Released: February 2, 1979.

In the matter of request for Declaratory Ruling and Investigation by Graphnet Systems, Incorporated Concerning a Proposed Offering of Electronic Computer Originated Mail (ECOM), CC Docket No. 79-6.

1. We have before us a Petition for Declaratory Ruling and Request for Expedited Investigation filed on November 1, 1978 by Graphnet Systems, Inc. ("Graphnet") pursuant to § 1.2 of the Commission's rules. An opposition was filed on November 15, 1978 by Western Union Telegraph Company ("Western Union").

2. Graphnet is seeking Commission action concerning a new offering of Electronic Computer Originated Mail ("ECOM") which the United States Postal Service has proposed to begin offering to the public, using services and facilities provided by Western Union. The Postal Service filed a proposed tariff for this service with its regulatory agency, the Postal Rates Commission, on September 8, 1978, and in response that agency instituted a postal rate proceeding, Docket No. MC78-3, to consider the postal issues raised by the proposed tariff. On September 15, 1978, Western Union by letter advised the FCC of its intention to provide electronic communication facilities and services which will be used for ECOM, and claimed that it would be doing so on a non-carrier basis unless otherwise advised. On October 16, 1978, we received a letter from Western Union International, Inc., expressing concern about possible erosion of FCC jurisdiction if it allows Western Union to participate in ECOM without filing a tariff, and on October 23, 1978, we received a letter from American Cable and Radio Corp. requesting us to institute an inquiry into ECOM. The Chief, Common Carrier Bureau, pursuant to delegated authority, responded to Western Union in a November 9, 1978 letter advising it of its obligation to file a tariff.[1] All of the above is relevant to this proceeding and will be associated with its docket file.

3. As described by Western Union in its letter, ECOM operates as follows. A user will prepare its messages in electronic form and transmit them over communications channels to Western Union's facilities, which will check for proper format and sequentially order them by postal zip code. Western Union, employing its switching and communications facilities, will then transmit the messages to appropriate destination post offices as indicated by the zip coding. There, Western Union-provided printers will convert the messages to hard copy form for physical delivery by postal employees. In the preliminary phases, intended to last some 15 months during which the Postal Service will be evaluating public acceptance of ECOM, Western Union will use terrestrial communications channels and its Infomaster message-switching computer system to route, switch and transmit messages to the appropriate post offices. If the Postal Service's evaluation indicates public acceptance, Western Union proposes to switch to using domestic satellite facilities and "a dedicated network of intelligent, computer controlled small earth stations" both to accept users' ECOM messages in electronic form, and to distribute them to appropriate post offices.

4. In its letter, Western Union claimed that its participation in ECOM would not be a common carrier undertaking under the statutory scheme of the Communications Act, requiring a tariff. The Common Carrier Bureau found that a tariff is required for the electronic services and facilities which Western Union will be providing, regardless of who is offering ECOM to the general public. The Bureau's letter is duplicated in an appendix to this order and will not be restated here. However, Graphnet's petition raises issues which are broader than those addressed in the Bureau's letter; Graphnet's issues relate to whether or not the statutory scheme of the Communications Act should be applied to the ECOM service as a whole, and to the parties who are providing it.

5. Graphnet argues that the scope of the Communications Act encompasses the ECOM service, including the electronic portion of it and the physical delivery portion of it. In support, it cites the Act's definitions of "wire communication" and "radio communication." [2] It requests an immediate declaratory ruling that ECOM itself is within the scope of the Communications Act. In essence, therefore, Graphnet is requesting an immediate declaration that ECOM is within the subject-matter jurisdiction of the Communications Act.

6. Assuming that we conclude that ECOM as a service is within the jurisdiction of the Communications Act, Graphnet raises a variety of issues which flow from such determination. Is the Section 203 requirement that communications services be provided under filed tariffs applicable to ECOM? Should such a tariff be filed by Western Union, by the Postal Service, or by both? Is the Section 214 requirement that a carrier receive a certificate of convenience and necessity for extensions of lines applicable to ECOM, to Western Union's role in it, to the Postal Service's role in it, or to a joint role?

7. It is Graphnet's position that we do not have sufficient information on these issues to reach reasoned decisions, and that we should therefore institute an expedited investigatory proceeding to adduce such information. Graphnet acknowledges that we may not have a statutory basis (or desire) to regulate the Postal Service's role in ECOM under the Communications Act, and it submits that this proceeding is also a proper vehicle for receiving briefs and comments on such jurisdictional issues as well.

8. In opposition, Western Union argues that there is nothing in Graphnet's petition to support the requested relief. In Western Union's view, the petition fails because it is premised on the belief that ECOM is jointly held out to the public by Western Union and the Postal Service, while Western Union takes the position that it is held out solely by the Postal Service. Since Western Union's role in ECOM is solely that of a contract supplier to the Postal Service, which itself has complied with its regulatory requirements by filing a tariff with Postal Rates Commission, the FCC has no further interest in the matter. Western Union further argues that since Graphnet has explicitly refrained from addressing whether the FCC's jurisdiction extends to the Postal Service, we should not initiate any proceeding seeking to determine how to exercise jurisdiction over ECOM. Finally, Western Union urges that should we initiate any proceeding on these matters, we should in no way seek to stay inauguration of ECOM, an experimental service which, according to Western Union, could prove to be of substantial public benefit. [3]

DISCUSSION

9. ECOM represents and end-to-end service intended to transfer information from an originating point to single and multiple destination points. Part of this end-to-end service involves a transfer of information in electronic

[1] In response to the Bureau's letter (reproduced in the Appendix hereto), Western Union filed such a tariff on December 19, 1978, accompanied by a request that it be made effective on not less than one day's notice. This request was denied on December 20, 1978, in a ruling which cited the serious questions raised by the filing and its controversial nature. The tariff was re-filed on Jan. 8, 1979.

[2] 47 U.S.C. 153(a)-(b). Graphnet notes that these definition specifically include "receipt, forwarding, and deliver" in physical hard-copy form of communications incidental to the electronic wire or radio transmission.

[3] Western Union claims that even Graphnet appears to recognize the potential public benefits of ECOM.

form, using means (wire and radio communication channels and electronic message routing equipment) within the direct ambit of the Communications Act's regulatory scheme and purpose. The remaining part of this end-to-end service involves physical delivery of information in hard copy form by postal employees. This activity may or may not be within the ambit of the Communications Act's regulatory scheme, depending on whether such delivery of an electronically carried message is to be considered a service "incidential to such (electronic) transmission" by wire or radio, under Sections 3(a) and 3(b) of the Act.

10. Delivery of electronically carried messages has been treated both as within the Communications Act's regulatory ambit and outside it. When Western Union transmits a telegram, and as part of its service offering includes physical delivery of a hard copy message to its ultimate destination (from its electronic message receiving facilities), such delivery has consistently been offered and treated by regulatory agencies as part of the electronic message offering. State regulatory agencies have done so for many years, as has the Interstate Commerce Commission (prior to formation of the FCC), and since 1934 this Commission. At the same time, Western Union has also offered mail delivery of a telegram (at a lower price than messenger delivery) and this delivery has not been directly regulated under the Communications Act.

11. This somewhat schizophrenic regulatory view of what is essentially the same activity—delivery of an electronically carried message—was brought home directly during appellate litigation over MAILGRAM(R). MAILGRAM(R) is a Western Union offering under which various of its electronic message services terminate in printers located at Post Offices, rather than at Western Union offices. The Postal Service takes hard copy messages from these printers, inserts them in envelopes and delivers them as mail, much as it proposes to do with ECOM. When we authorized this Western Union tariffed offering, one of the issues which we necessarily confronted was whether or not the physical delivery of MAILGRAM(R) messages was "incidental" to the electronic carriage of the messages. We declined to directly regulate this activity, and the rates and terms of service for delivery of MAILGRAM(R) messages have remained a postal function since that time. In *United Telegraph Workers* v. *F.C.C.*, 436 F.2d 920 (D.C. Cir., 1970), the proposition was established that delivery of such messages is "ancillary, incidental, supplemental or accessorial" to the regulatory scheme of the Communications Act, 436 F.2d at 924. The Court held open the possibility that if necessary the FCC could control "the end-portion of the service", delivery by the Postal Service.[4]

12. Thus, a decision to control physical delivery under the FCC's jurisdiction over electronically carried messages is discretionary. The Communications Act confers jurisdiction over such activity, but it is jurisdiction which we may decline to exercise, or which we may exercise in non-traditional ways as we did in MAILGRAM(R). Western Union is arguing that if ECOM is solely the Postal Service's service, we must first decide whether or not we have comprehensive regulatory jurisdiction over the Postal Service before we can examine how ECOM fits the Communications Act's regulatory scheme. However, as MAILGRAM(R) illustrates, ECOM is not necessarily an all-or-nothing proposition. We could regulate the electronic carriage of ECOM messages as a non-postal communications activity, and decline to exercise jurisdiction over physical delivery. This would maintain Congress' apparent view that postal rates be determined by the Postal Rates Commission and communications rates by the FCC.

13. Graphnet raises regulatory issues as well as basic jurisdictional issues. It asks that we address questions related to what tariffs, covering what portion(s) of the ECOM offering, are required to be filed with the Commission under Section 203 of the Communications Act, and by whom. It asks that we address questions related to what Section 214 authorizations (certificates of convenience and necessity) are required, and by whom. Our examination of the Graphnet and Western Union pleadings convinces us that the only issues raised which require further information, as opposed to further argument and briefs, are the Section 214 issues. It is not a factual question if we consider the scope of the Communications Act, its possible applicability to the Postal Service, and its tariff filing requirements; these are questions of law and policy and may be resolved on the basis of comments and briefs. On the other hand, Section 214's applicability may turn on questions such as the impact of ECOM on existing facilities usage and assignment, and new construction which might be occasioned by ECOM, issues which will require further information to resolve. The Common Carrier Bureau's letter acknowledged this, and used § 61.38 of our rules as a vehicle for obtaining such information. Moreover, to the extent that the Postal Service might be construed as reselling a service offered by Western Union, our *Resale and Shared Use* decisions[5] may subject this resale activity to the requirements of Section 214 of the Act as an acquisition of lines. This latter Section 214 issue is one of law or policy. Thus, an extended inquiry such as is proposed by Graphnet here is not warranted.

14. In view of these considerations, we will receive briefs, oppositions and replies on an expedited briefing schedule established herein, on the following issues:

JURISDICTION

(a) To what extent, if any, is the ECOM service (or the electronic portion thereof) within the subject-matter jurisdiction of the Communications Act of 1934 as amended?

(b) To what extent, if any, does the Postal Service's role in ECOM remove ECOM (or the electronic portion thereof) from the subject-matter jurisdiction of the Communications Act of 1934 as amended?

(c) To what extent, if any, would Western Union's participation in ECOM by contract to the Postal Service, and not a filed tariff, remove ECOM (or the electronic portion thereof) from the subject-matter jurisdiction of the Communications Act of 1934 as amended?

(d) Since a common carrier is defined in the Communications Act as "any *person* engaged as a common carrier for hire", Section 3(h):

(1) Would Western Union be such a "person" engaged in providing ECOM?

(2) Would the Postal Service be such a "person" engaged in providing ECOM?

(3) Would they jointly be such a "person" engaged in providing ECOM?

(e) Should ECOM be treated in a manner similar to the treatment of MAILGRAM(R), that is as two separate activities, electronic communication subject to the Communications Act, and physical delivery not subject to the Communications Act? If so, what attributes of ECOM would prevent assertion and exercise of jurisdiction over Western Union's role in ECOM?

(f) Is the Postal Service's participation in ECOM one of resale of communications service, subject to the *Resale and Shared Use* decisions and policies? If so, does the Commission have jurisdiction to require the Postal Service to be minimally regulated under the Communications Act as required by those decisions? Is this jurisdiction dis-

[4] The Court carefully declined to decide whether or not the Postal Service is properly within the FCC's conferred jurisdiction. It stated that this issue "need not be resolved at this stage * * *." *Id.*

[5] *Resale and Shared Use*, 60 F.C.C. 2d 261 (1976); *modified*, 60 F.C.C. 2d 588, 61 F.C.C. 2d 70 (1976); *reconsideration denied*, 62 F.C.C. 2d 588 (1977); *aff'd sub nom., Am. Tel. & Tel.* v. *F.C.C.*, 572 F. 2d 17 (2d Cir., 1978), *cert. denied*, —— U.S. —— (1978).

cretionary? Should the Commission exercise its discretion?

(g) In light of the jurisdiction conferred by the Communications Act, to what extent, if any, do the standard of Sections 201 and 202 apply to the services and relationships involved in ECOM?

TARIFFS

(h) Under the statutory scheme of the Communications Act, what tariffs on which the general public may rely are required to be filed with the FCC for ECOM? Is a tariff filing before another regulatory agency (the Postal Rates Commission) a sufficient satisfaction of the regulatory scheme of the Communications Act? Who is required to file such tariffs:

(1) If the Postal Service is considered a reseller?

(2) If the Postal Service is not considered a reseller?

(i) To the extent that we have discretion in addressing these tariff issues, what alternative mechanisms to tariffs (if any) may we properly adopt and still assure that the problems identified in the Common Carrier Bureau's letter, attached hereto, do not arise (*e.g.*, discrimination, adverse revenue effects on existing Western Union services because of diversion of traffic to ECOM, affect on overall Western Union earnings, etc.)?

CERTIFICATION

(j) To what extent (if any) is Section 214 of the Communications Act applicable to ECOM, or the electronic portion thereof:

(1) In light of our *Resale and Shared Use* Decisions and policies and the Court's decision affirming them?

(2) In light of the information which Western Union has provided the Commission pursuant to the Bureau's letter and Section 61.38 of our rules (impact on service)?

15. With the possible exception of the last Section 214 issue, we do not foresee questions of fact arising during the course of this inquiry; this inquiry will therefore be focussed on questions of law and policy [6]. Therefore, at this time we are establishing the following dates for submission of briefs and comments: Initial briefs and comments will be due on or before Feb. 25, 1979; oppositions will be due on or before March 11, 1979; and replies will be due on or before March 18, 1979. The record of this proceeding will consist of all material described in paragraph 2 above, the Postal Service's pre-filed testimony in the Postal Rates Commission's Docket No. MC78-3 proceeding (for a detailed description of the operation of ECOM), comments filed in this proceeding, and any other relevant publicly available information and material of which notice may properly be taken.

16. *Accordingly, it is hereby ordered,* Pursuant to Sections 1, 2, 3, 4(i)-(j), 201-03, 214, 403 and 409(e)-(h) of the Communications Act of 1934 as amended, 47 U.S.C. 151-3, 154(i)-(j), 201-03, 214, 403 and 409(e)-(h), That an inquiry is commenced into issues related to Electronic Computer Originated Mail. Comments and briefs, oppositions, and replies may be filed, respectively, on or before February 25, 1979, March 11, 1979, and March 18, 1979 on the issues delineated in Paragraph 14 of this order and on related relevant issues of law and policy [7].

17. *It is further ordered,* Pursuant to § 1.419 of the FCC's rules and regulations, 47 CFR 1.419, That interested members of the public shall file an original and 5 copies of all statements, briefs or comments with the Federal Communications Commission, Washington, D.C. 20554, and that all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C. offices.

18. *It is further ordered,* Pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934 as amended, 47 U.S.C. 4(i)-(j), That a Petition for Declaratory Ruling and Request for Expedited Investigation filed by Graphnet Systems, Inc. on November 1, 1978 is hereby granted to the extent indicated herein.

19. *It is further ordered,* Pursuant to Sections 4(j) and 403 of the Communications Act of 1934 as amended, 47 U.S.C. 4(j) and 403, That this proceeding is subject to further order of the Commission.

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,
Secretary.

[6] Western Union's § 61.38 information may raise questions of fact, and we will be in a better position to assess whether there are material questions of fact warranting further proceedings after comments are filed. We will entertain requests for additional proceedings if it is demonstrated that they are required to resolve the issues herein.

[7] It should be noted that several of the listed issues concern matters already decided in the Bureau's delegated authority letter. As no timely applications for review or petitions for reconsideration were filed, that letter is controlling. However, in view of these matters' relationship to the issues which we are addressing in this proceeding, we do not wish to unduly limit the scope of comprehensive comments and proposals which may be forthcoming. Moreover, in view of the importance of the matters to be addressed in this proceeding, we are declining to grant at this time Graphnet's request for stay and declaratory ruling, except to the extent that the Bureau's letter has made this request moot.

ATTACHMENT

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., November 9, 1978.

Mr. JOEL YOHALEM, Esq.,
General Solicitor, Western Union Telegraph Company, Suite 1101, 1828 L Street, N.W., Washington, D.C.

DEAR SIR: This is in reply to your letter of September 15, 1978, describing Western Union's role in a proposed new offering with the United States Postal Service. Your letter states that a new service, denoted Electronic Computer Originated Mail (ECOM), using Western Union's switching and communicatons facilities, will be offered to the public solely by the Postal Service and not by Western Union, and that Western Union's offering of these facilities to the Postal Service is not a common carrier undertaking. Accordingly, you conclude that Western Union and the Postal Service can order their relationship by contract (and not filed tariff) and that Western Union may fulfill its regulatory obligations by filing a report pursuant to Section 43.54 of the FCC's Rules.

In addition to your letter, we have also received an October 16, 1978, letter from Western Union International, Inc., which expresses concern about possible erosion of Commission jurisdiction if it allows Western Union to participate in ECOM without filing a tariff, an October 23, 1978 letter from American Cable and Radio Corporation requesting the FCC to institute an inquiry into ECOM, and a November 1, 1978, petition for declaratory ruling from Graphnet Systems, Inc., raising questions about the scope of Commission jurisdiction over ECOM and Western Union's participation therein.

According to your letter, a user of ECOM will prepare its messages in electronic form and transmit them over wires to Western Union's facilities, which will check for proper format and sequentially order them by zip code. Western Union, employing its switching and communications facilities, will then transmit the messages to appropriate destination post offices as indicated by the zip coding. There, Western Union-provided printers will convert the messages to hard copy form for physical delivery by postal employees. In the preliminary phases, intended to last 15 months, during which the Postal Service will evaluate public acceptance of ECOM, Western Union will use its Infomaster system to route and switch messages to the appropriate post offices. According to your letter, customer-originated messages in electronic form will be received by Infomaster over the nationwide telephone network (WATS and MTS service). It is not clear whether or not Infomaster will also accept ECOM messages over its existing TWX, Telex and INFOCOM input mechanisms. If the Postal Service's evaluation indicates public acceptance, you propose to switch to domestic satellite facilities and "a dedicated network of intelligent, computer controlled small earth stations" both to accept the users' ECOM messages in electronic form and to distribute ECOM messages to appropriate post offices.

You characterize the offering of Western Union's facilities for the electronic portion of the ECOM service as one which runs solely to the Postal Service and not the gen-

eral public, and conclude that providing such service to the Postal Service is not a common carrier offering requiring a tariff. Moreover, you propose to file no tariffs offering ECOM (or its electronic portion) to the public because, in your view, ECOM is to be marketed solely by the Postal Service and not Western Union. We have reviewed the representations made in your letter, and conclude for the reasons detailed below that Western Union must file a tariff which covers the provision of this service.

First, the Postal Service and the ECOM-using public will be using Western Union's Infomaster and communications facilities in a manner which is no different from their use by other users of these facilities, all of which other uses are currently regulated and governed by filed tariffs (*e.g.*, TWX, Telex, INFO-COM and MAILGRAM). Your sole argument in support of different treatment of use of these facilities by the Postal Service and the ECOM-using public is that only the Postal Service, and not Western Union, will be "holding out" ECOM to the using public. However, this argument appears to relate only to whether or not the Postal Service might be required to file a tariff with the Commission; it does not, of itself, justify Western Union's offering of its facilities in connection with ECOM on a non-carrier basis. In our view, Western Union's long standing and consistent tariffing of these facilities for other purposes clearly demonstrates the common carrier nature of their use in a similar manner for ECOM. In essence, the claim that one user (or group of users) of your facilities will be doing so with an objective different from existing users does not, of itself, justify calling provisions of service to the former a non-carrier activity.

Second, use of the Infomaster and communications facilities for ECOM will apparently be compensated at a rate different from those prevailing for Western Union's other tariffed services. Such discrimination may not be unjust or unlawful, but that is a regulatory determination which is to be made on the basis of tariffs, and cannot be avoided by calling the offering non-carrier, or claiming that it is provided on an agency or contractual basis.

Third, the ECOM service is substantially identical to Western Union's tariffed MAILGRAM offering in scope, service, operation and facilities. MAILGRAM is also an end-to-end communications offering in which messages are accepted in electronic form at Western Union's facilities, are transmitted electronically by Western Union to appropriate post offices, are printed out in hard copy form on Western Union-provided apparatus, and are delivered by postal employees. Western Union has tariffed the electronic communication segment of this end-to-end offering with the FCC in clear recognition that this is the type of interstate communications subject to the Communications Act of 1934. While you argue that ECOM and MAILGRAM differ inasmuch as the former will be the Postal Service's offering to the public and the latter is Western Union's, this difference does not alter the fact that the two services are virtually identical and make similar use of facilities provided by Western Union. The similarity of ECOM and MAILGRAM dictates consistent treatment by the Commission of Western Union's participation therein. Also, this similarity raises serious questions of discrimination between ECOM and MAILGRAM users of Western Union's facilities, since it appears that Western Union will be compensated at a lower rate for ECOM use than for MAILGRAM use. Here too, such discrimination may not be unjust or unlawful, but that is a regulatory determination which must be made by the Commission on the basis of the statutory scheme envisioned by Title II of the Communications Act.

Fourth, a more fundamental issue of potential cross-subsidization is raised by Western Union participating in ECOM as described in your letter. Without regulatory safeguards such as the cost studies required to support a new tariff filing under Section 61.38 of the Commission's rules, we are unable to determine to what extent, if any, the compensation which you will be receiving for use of your facilities for ECOM is adequate (covers relevant costs). Any shortfall might be required to be made up by users of your existing regulated services. Moreover, demand shifts by users of your existing services to ECOM may affect your revenues and your ability to cover your revenue requirements at existing rates. This too dictates that the normal regulatory safeguards of the Communications Act be observed in connection with Western Union's participation in ECOM.

Finally, you observe that the Commission has allowed Western Union to engage in certain undertakings on a non-carrier basis. This is true, but in each case the undertaking was not interstate communications by wire or radio used by the public (*e.g.* delivery of candy and flowers, communications totally in foreign countries, performance of professional accounting, legal or engineering services). The facilities which you will be providing in connection with ECOM are undeniably interstate communications by wire or radio, except in the unlikely event a particular communication originates and terminates in the same state (a situation which presumably can only occur in the case of wire communications).

Though Graphnet Systems, Inc. has filed a petition for declaratory ruling seeking a Commission decision concerning the scope of its jurisdiction over the entire ECOM service, we are not taking a position at this time on the broad set of issues raised by that petition; these will be addressed in the procedural setting of Graphnet's petition. We are addressing here solely your participation in ECOM without a tariff filed with the Commission. As noted above, the facilities and services which Western Union will be providing in connection with ECOM do not differ in any material respect to facilities and services which you are already providing to users of Western Union's existing tariffed services, and you have failed to justify different treatment of the Postal Service and the ECOM-using public from others. Your participation in ECOM raises significant potentials for discrimination against various users of Western Union's existing tariffed services, and this further dictates that a tariff be filed, properly supported pursuant to Section 61.38 of the FCC's rules. Moreover, we note that filing such a tariff would be consistent with and parallel to the existing electronic mail service (MAILGRAM) which is jointly furnished by Western Union and the Postal Service, and therefore represents no new departure in Commission policy.

I trust that this clears up any uncertainty about your proposed service offering.

Sincerely,

LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 79-4373 Filed 2-7-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AMERICAN EXPRESS CO.

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-164

WHEREAS, American Express Company, American Express Plaza, New York, New York 10004, has ceased to charter the passenger vessel ATLAS for voyages to and from United States ports;

WHEREAS, Certificate (Performance) No. P-164 issued to American Express Company has been returned for revocation,

It is ordered, That Certificate (Performance) No. P-164 covering the ATLAS be and is hereby revoked effective January 31, 1979.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission January 31, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-4284 Filed 2-7-79; 8:45 am]

[6730-01-M]

[Docket No. 79-6]

PUERTO RICO MARITIME SHIPPING AUTHORITY (PRMSA) AND TRAILER MARINE TRANSPORT CORP. (TMT) PROPOSED REDUCED RATES

Order of Investigation and Hearing

On December 22, 1978, December 28, 1978, and January 5, 1979, PRMSA filed revised pages to its Tariff FMC-F No. 7 with scheduled effective dates of January 25, January 28, and February 7, 1979. (See Appendix A). The pages would change the rate structure pertaining to various commodities moving in the Charleston, South Carolina/Puerto Rico trade, and result in a reduction in rates for this traffic. Currently, cargo moving through the Port of Charleston, South Carolina, moves at the same level of rates applicable to Baltimore, Maryland, and New York, New York. The proposed changes will extend the lower rates and provisions currently applicable to Jacksonville and/or Miami, Florida, to Charleston, South Carolina. PRMSA's operation will utilize one ship on a triangular run which will sail from Charleston each Thursday, call at Jacksonville on Friday and arrive in San Juan, on Monday, with a transit time of less

than three days. This will provide a weekly sailing from Charleston, and, coupled with PRMSA's second vessel already in this trade, will provide a weekly sailing for Miami and a twice a week service for Jacksonville.

Trailer Marine Transport Corporation (TMT) protested the changes proposed by PRMSA, requesting rejection, or, in the alternative, suspension and investigation. The protest of TMT relies in large measure on *Rates from Jacksonville, Florida to Puerto Rico,* 10 FMC 376 (1967). There the Commission concluded that there was no competitive necessity for eliminating TMT's differential since rate parity would probably drive TMT out of the trade. Also, it was ruled that Sea-Land had not justified its proposed differentially lower rates between Jacksonville and Puerto Rico as compared with its rates between other Atlantic ports and Puerto Rico. TMT contends the Commission's interpretation of applicable law and conclusions reached in that case apply in the proposed PRMSA rate modifications here. TMT goes on to argue that there is no justification for the rates in terms of cost of operation, value of service or other transportation conditions. Thus, it concludes that the rates of PRMSA should be found in violation of sections 14, Second, 16, First, and 18(a) of the Shipping Act, 1916.

TMT's allegations regarding the need for a rate differential must be considered in the light of current conditions in the trade. *Rates from Jacksonville,* upon which TMT relies, is over ten years old. Changes in TMT's operations during the intervening ten years may have reduced or eliminated the necessity for a differential. TMT has continued to upgrade its service. It has recently added two new triple deck barges, each having a capacity of 374 40-foot trailers, bringing its fleet capacity to 1,648 trailer spaces. Moreover, TMT has increased its frequency of sailings. It operates two barges directly between Jacksonville and San Juan, with a sailing every five days and a transit time of four days, ten hours. Two additional barges also operate on a triangular run from Jacksonville to Miami to San Juan, with a sailing every seven days and a transit time of five days, seven hours. The tugs used in this operation average ten knots. This has enabled TMT to compete successfully with PRMSA at rate parity at the ports of Jacksonville and Miami. Accordingly, we believe an investigation is appropriate in order to determine if the rationale of *Rates from Jacksonville* is still valid in light of changed circumstances.

Despite TMT's allegation that PRMSA is operating a fighting ship in violation of section 14, Second, we will limit the investigation and hearing to alleged violations of sections 18(a) and 16, First, Shipping Act, 1916. Instead of serving Charleston with a container vessel as it has in the past, PRMSA intends to utilize the same Ro-Ro vessel which currently serves Jacksonville. The mere substitution of vessels at the Port of Charleston does not amount to operation of a fighting ship. The Commission has recognized the distinction between operating a fighting ship on the one hand, and cutting rates for cargo carried on the other. Only the former violates section 14, Second, Shipping Act, 1916. See *Grace Line, Inc. vs. Skips A/S Viking Line et al.,* 7 FMC 432, 450 (1962) and *Rates on U.S. Government Cargoes,* 11 FMC 263, 284 (1967).

On January 5, 1979, TMT filed First Revised Page 98 and Second Revised Page 136 to its Tariff FMC-F No. 5 with scheduled effective dates of February 5, 1979. The pages proposed to reduce trailerload rates on Bakery goods and Furniture, N.O.S. approximately 13 percent and subjects the changes to an expiration date of June 30, 1979. On January 18, 1979, PRMSA filed 2nd Revised Page 238 and 2nd Revised Page 331 to its Tariff FMC-F No. 7 with scheduled effective dates of February 18, 1979. These pages, like TMT's, proposed to reduce trailerload rates approximately thirteen percent on bakery goods and furniture, N.O.S. Unlike TMT's changes they are not subject to an expiration date.

PRMSA has filed a protest against changes of TMT and TMT has filed an offsetting protest against the tariff changes of PRMSA. Both TMT and PRMSA are competing for cargo which apparently originates in the areas of North Carolina, South Carolina and Kentucky. TMT believes that it is entitled to a differential in rates between Charleston, South Carolina and Jacksonville, Florida. PRMSA believes that it should be entitled to compete for a share of the cargo by establishing rate parity with TMT. Thus these commodity rate reductions also raise questions regarding the application of *Rates from Jacksonville.* Accordingly, we believe that they should be included in the investigation and hearing.

The question of whether or not PRMSA has reduced its Charleston rates to noncompensatory level should also be considered in the investigation and hearing. PRMSA was not required to submit financial justification for the changes pursuant to General Order 11 because it certified that the changes would not increase or decrease its domestic offshore gross revenue by 3 percent or more in the trade. Thus, there are no figures to confirm or refute TMT's allegation.

We recognize that PRMSA's Ro/Ro service to Charleston is a new service and therefore there is no experience with these vessels upon which a cost analysis could be based. Nevertheless, PRMSA has served Charleston with containerships for some time. Therefore, it does have experience with the traffic which moves through the port. In addition, it has experience operating Ro/Ro vessels. We believe that these factors may permit the development of meaningful cost analyses despite the lack of Ro/Ro experience in Charleston.

Now, therefore, it is ordered, That, pursuant to the authority of sections 18(a) 16, First, and 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. §§ 815, 817, 821, 845, 845a), an expedited investigation is hereby instituted into the lawfulness of the tariff matters contained on Second Revised Page 136 of Trailer Marine Transport Corporation Tariff FMC-F No. 5 and Second Revised Page 238 and Second Revised Page 331 of Puerto Rico Maritime Shipping Authority FMC-F No. 7 and the tariff matter listed in Appendix A for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That Puerto Rico Maritime Shipping Authority and Trailer Marine Transport Corporation be named Respondents in this proceeding;

It is further ordered, That the deadlines imposed by Public Law 95-475 will be observed;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That the parties submit to the Administrative Law Judge, at a prehearing conference, recommendations identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order limiting the issues and establishing the procedure for their resolution;

It is further ordered, That during the pendency of this investigation, PRMSA and TMT will serve the Ad-

ministrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That (1) a copy of this Order be forthwith served upon the Respondents and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER, and (2) the Respondents and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should promptly file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A.—*Puerto Rico Maritime Shipping Authority*

Revised page	Item No.	Effective date	Commodity
1 R/P 331	6350	January 25, 1979.	Furniture, N.O.S.
1 R/P 138	Rule 280	January 28, 1979.	Insurance Provisions.
1 R/P 238	2600	January 28, 1979.	Bakery Goods.
1 R/P 254	3530	January 28, 1979.	Buildings or Houses.
1 R/P 267	3980	January 28, 1979.	Carpets or Carpeting.
1 R/P 328	6300	January 28, 1979.	Freight All Kinds.
1 R/P 329	6300	January 28, 1979.	Freight All Kinds.
1 R/P 347	7170	January 28, 1979.	Household Appliances.
1 R/P 487	14360	January 28, 1979.	Tires or Tubes.
1 R/P 542	16490	January 28, 1979.	Aluminum Cable or Wire.
1 R/P 604	18270	January 28, 1979.	Pocket Books or Purses.
1 R/P 609	18450	January 28, 1979.	Scrap Metal.
1 R/P 228	2300	February 7, 1979.	Aluminum Shapes.
1 R/P 288	4850	February 7, 1979.	Cooling Boxes, Freezers or Refrigerators.
1 R/P 290	5065	February 7, 1979.	Cranes, Electric.
1 R/P 330	6340	February 7, 1979.	Furniture, office.
1 R/P 334	6520	February 7, 1979.	Glass, Plate, prism, decorated or cut.
1 R/P 379	8620	February 7, 1979.	Machinery or Machines or Equipment: Air Conditioning, Cooling, Filtering, Heating, Humidifying, Dehumidifying or Washing.
1 R/P 381	8674	February 7, 1979.	Machinery or Machines or Equipment: Construction, moving on own wheels or tracklaying.
1 R/P 426	11130	February 7, 1979.	Pipe or Tubing: Plastic and Fittings.
2 R/P 436	11262	February 7, 1979.	Plastic Materials: Sleeves, plrn.
1 R/P 466	13030	February 7, 1979.	Snack Items.
1 R/P 484	14165	February 7, 1979.	Thinner, lacquer.
1 R/P 491	14540	February 7, 1979.	Trailers, Empty, boxed or unboxed.

[FR Doc. 79-4285 Filed 2-7-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

[Docket No. R-0200]

PRIVACY ACT OF 1974

Proposed New System of Records

Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. § 552a), the Board of Governors of the Federal Reserve System hereby gives notice of a new system of records that it proposes to maintain. The Board filed a new system report with the Office of Management and Budget, the Speaker of the House, and the President of the Senate on January 29, 1979.

Public comments are invited on this notice on or before March 9, 1979, addressed to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, D.C. 20551. All material submitted should be in writing and should contain the docket number R-0200. All written documents will be made available for public inspection during the regular hours of the Office of the Secretary at the above address.

Dated: February 2, 1979.

By order of the Board of Governors.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

BGFRB-18

System name

FRB-Changes in Bank Control Records.

System location

Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

Categories of individuals covered by the system

Individuals who acquire or propose to acquire control of a bank holding company or insured bank.

Categories of records in the system

Contains the name of the individual purchaser of shares of stock, details of the transaction, personal financial and biographical statements, and information regarding the individual's business associations. Identifying information includes name and address and may include date of birth and social security number.

Authority for maintenance of the system

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

The name of the affected bank or bank holding company, the seller and purchaser, the number of shares involved, and other material details of the transaction may be distributed for publication and incorporated in public orders and notices issued by the Board in the discharge of its statutory responsibilities. As required by law, certain of the records will be made available to Federal and State banking authorities and the Board will seek to insure that the receipt of information by those authorities is subject to appropriate safeguards. In the event that the system of records indicates a violation or potential violation of law, the relevant records in the system of records may be referred to the appropriate Federal or State agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the relevant statute, rule, regulation or order. In the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court or counsel for purposes of discovery and the development of the proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records.

Retrievability

Indexed by name.

Safeguards

Locked in Diebold power file. Access limited to Board staff on a restricted basis.

Retention and disposal

Indefinite.

System manager(s) and address

Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

Notification procedure

Inquiries should be addressed to the System Manager, address above. Inquirers may be required to include notarized statement attesting to identity.

Record access procedures

Same as Notification above.

Contesting record procedures

Same as Notification above.

Record source categories

Principally generated by the individuals to whom the records pertain, supplemented by information from financial institutions and Federal and State banking authorities.

Systems exempted from certain provisions of the act

None.

[FR Doc. 79-4152 Filed 2-7-79; 8:45 am]

[1610-01-M]

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 February 1, 1979. 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 CAB request 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 request, comments (in triplicate) must be received on or before February 26, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of a new Form 277, Budget Proposal/Reimbursement Claim Form, which relates to Part 304 of the Board's Procedural regulations, "Compensation of Participants in Board Proceedings." The clearance is requested because the form will be required for use in claims for reimbursement for participation in Board proceedings under the Department of Transportation and Related Agencies Appropriations Act, 1979, Pub. L. 95-335, 92 Stat. 435, August 4, 1978. Form 277 may be used voluntarily for a Budget Proposal, but it is mandatory that the form be submitted as a Reimbursement Claim Form. The CAB estimates that respondents will number approximately 25 and that reporting time will average one hour per request.

The CAB in a notice attached to the instruction book entitled "Applying for Compensation for Participation in CAB Proceedings," states that the use of Form 277 for reimbursement claims will be required for claims submitted after March 21, 1979. CAB's notice also implies that optional use of the form for filing a budget proposal can begin immediately. Although the notice specified that claims for reimbursement must be filed on Form 277 after March 21, 1979, and indicated respondents can use the form beginning January 1979 for budget proposals, these effective dates are contingent upon CAB's compliance with 44 U.S.C. 3512 which precludes the collection of information from ten or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed form is consistent with the provisions of section 3512. This notice represents the beginning of our review.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-4304 Filed 2-7-79; 8:45 am]

[6820-38-M]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 78; Formal Case No. 708]

DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION AND WASHINGTON GAS LIGHT CO.

Proposed Intervention in A Gas Utility Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the District of Columbia Public Service Commission involving an investigation of the purchased gas adjustment (PGA) clause employed by Washington Gas Light Company. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, N.W., Washington, DC 20405, telephone (202) 566-0726, within thirty (30) days of the publication of this notice in the FEDERAL REGISTER, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: January 23, 1979.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 79-4269 Filed 2-7-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Closing Dates for Receipt of (1) Applications for Determining an Expected Family Contribution, and (2) Student Eligibility Reports

The United States Commissioner of Education gives notice of the following cutoff dates for the receipt of applications for determining expected family contributions (student eligibility indexes) and for submitting Student Eligibility Reports (SER's) under the Basic Educational Opportunity Grant Program. The calculation of an expected family contribution is a prequisite to receiving a Basic Grant award.

Authority for this program is contained in section 411 of the Higher Education Act of 1965, as amended.

(20 U.S.C 1070a)

The Basic Grant Program's purpose is to assist students in the continuation of their training and education at the postsecondary level by providing a "foundation" or "floor" of financial aid to help defray educational costs. In order to insure that applications are received by the deadline, students are encouraged to submit the materials discussed in this notice as early as possible.

I. APPLICATION CLOSING DATE

(1) To receive a Basic Grant for the award period ending June 30, 1979, an application for determining an expected family contribution for the 1978-79 award period must be submitted to BEOG, P.O. Box A, Iowa City, Iowa 52240 on or before March 15, 1979. An application will be considered submitted on time if it is postmarked by March 15, 1979 and received at BEOG, P.O. Box A, Iowa City, Iowa 52240 no later than March 25, 1979.

(2) Applications for determining an expected family contribution for the 1978-79 award period submitted to satellite processors through the Multiple Data Entry System must be postmarked on or before March 15, 1979 and received no later than March 25, 1979 at the appropriate satellite processor. The following are the addresses for those processors: College Scholarship Service, P.O. Box 2700, Princeton, New Jersey 08540; College Scholarship Service, Box 380, Berkeley, California 94701; American College Testing Program Student Assistance Programs, 2201 North Dodge Street, P.O. Box 1000, Iowa City, Iowa 52240; and The Pennsylvania Higher Education Assistance Agency, PHEAA/BEOG Application, P.O. Box 3157, Harrisburg, Pennsylvania 17105.

Corrected Application Closing Date: Applicants whose applications are submitted on a timely basis but are returned to the applicant because of incomplete or inconsistent information must submit the corrected applications to BEOG, P.O. Box C, Iowa City, Iowa 52240 on or before May 5, 1979, in order to be processed. A corrected application will be considered submitted on time if it is postmarked by May 5, 1979 and received at BEOG, P.O. Box C, Iowa City, Iowa 52240 no later than May 15, 1979.

Applicant Recomputation Request: (1) An applicant may request a recomputation of his or her expected family contribution (student eligibility index) because of extraordinary circumstances affecting the expected family contribution determination under the conditions stated in the Basic Grant Program Regulations (45 CFR 190.39 and 190.48).

A recomputation request involving an adjustment to assets for loss or damage resulting from a National disaster as declared by the President will be made when a National Disaster Area Asset Adjustment sheet along with a valid SER is submitted to BEOG, P.O. Box X, Iowa City, Iowa 52240. *This request must be submitted by the deadline applicable to corrected applications.*

All other requests for recomputation under Sections 190.39 and 190.48 will be made when the Supplemental Form for the 1978-79 award period is submitted together with a new regular application to BEOG, P.O. Box S, Iowa City, Iowa 52240. In order to be processed, *this application (the Supplemental Form with the accompanying regular application) must be submitted to BEOG, P.O. Box S, Iowa City, Iowa 52240 on or before March 15, 1979.* An application and Supplemental Form will be considered submitted on time if they are postmarked by March 15, 1979 and received at BEOG, P.O. Box S, Iowa City, Iowa 52240 no later than March 25, 1979.

(2) Applicants may request a recomputation of their expected family contribution (student eligibility index) because of clerical or arithmetic error as stated in the Basic Grant Program Regulations (45 CFR 190.15). In order to be processed, this request must be submitted to BEOG, P.O. Box C, Iowa City, Iowa 52240 on or before May 5, 1979. A request for recomputation of expected family contribution because of clerical or arithmetic error will be considered submitted on time if it is postmarked by May, 5, 1979 and received at BEOG, P.O. Box C, Iowa City, Iowa 52240 no later than May 15, 1979.

II. SUBMISSION OF STUDENT ELIGIBILITY REPORTS (SER's) FOR 1978-79

(1) *Regular Disbursement System:* To receive payment for attendance at an institution of higher education during the 1978-79 award period, a student must submit a valid SER to that institution while enrolled and eligible for payment at that institution. This can occur no later than May 31, 1979, or the end of the student's academic year, whichever comes first. However, if the student enrolls for the first time during the award period on or after May 1, 1979, the SER must be submitted to the institution while the student is enrolled and eligible for payment no later than June 30, 1979 (45 CFR 190.76).

(2) *Alternate Disbursement System:* Applicants attending institutions that participate in the Basic Grant Program through the Alternate Disbursement System must submit to the institution a valid SER while enrolled and eligible for payment at that institution no later than May 31, 1979, or the end of the student's academic year, whichever comes first. However, if the student enrolls for the first time during the award period on or after May 1, 1979, the SER must be submitted to the institution while the student is enrolled and eligible for payment no later than June 30, 1979.

The student must then submit the valid SER and OE Form 304 to BEOG, P.O. Box K, Iowa City, Iowa 52240, on or before June 10, 1979, if the student's program of study began before May 1, 1979. The forms will be considered submitted on time if they are postmarked by June 10, 1979 and received at BEOG, P.O. Box K, Iowa City, Iowa 52240 no later than June 20, 1979.

If the student's program of study began on or after May 1, 1979, these forms must be submitted to BEOG, P.O. Box K, Iowa City, Iowa 52240 on or before July 10, 1979. The forms will be considered submitted on time if they are postmarked by July 10, 1979 and received at BEOG, P.O. Box K, Iowa City, Iowa 52240 no later than July 20, 1979.

Additional request(s) for payment and/or corrected OE Form 304-1 Student Reports must be submitted on or before July 31, 1979. The forms will be considered submitted on time if they are postmarked on or before July 31, 1979 and received at BEOG, P.O. Box K, Iowa City, Iowa 52240 no later than August 10, 1979.

(3) *Duplicate SER Requests:* A duplicate SER may be requested by a student by writing to BEOG, P.O. Box T, Iowa City, Iowa 52240. The processing time for duplicate requests is generally three to four weeks. A request for a duplicate copy of the SER for the award period 1978-79 will be considered submitted on time if it is postmarked by June 5, 1979 and received at BEOG, P.O. Box T, Iowa City, Iowa 52240 no later than June 15, 1979.

III. VALIDATION OF SER's

(1) *Regular Disbursement System:* A student whose application is being validated and who leaves school because of graduation, withdrawal or completion of an academic term (quarter, semester or trimester), is eligible for payment if he or she submits a corrected, reprocessed valid SER to the institution within 90 days after the end of the academic term in which he or she was last enrolled.

If an institution does not have traditional academic terms, the student must submit a corrected and reprocessed valid SER to the institution within 90 days after his or her last day of enrollment, or by September 30, 1979, whichever comes first.

(2) *Alternate Disbursement System:* A student whose application is being validated and who leaves school because of graduation, withdrawal or

completion of an academic term (quarter, semester or trimester) is eligible for payment if he or she submits a corrected, reprocessed valid SER and OE Form 304-1 Student Report to BEOG, P.O. Box K, Iowa City, Iowa 52240 within 90 days after the end of the academic term in which he or she was last enrolled, or by September 30, 1979, whichever comes first.

If the student's institution does not have traditional academic terms, the student must submit a corrected and reprocessed valid SER and OE Form 304-1 Student Report to BEOG, P.O. Box K, Iowa City, Iowa 52240 within 90 days after his or her last day or enrollment, or by September 30, 1979, whichever comes first.

A student who submits a corrected SER after these deadlines is not eligible for a Basic Grant payment.

Application Forms: Application forms and information brochures are available and may be obtained from college financial aid officers, high school counselors, or Educational Opportunity Center counselors, or by writing to BEOG, P.O. Box 84, Washington, D.C. 20044.

Appplicable Regulations: The regulations applicable to this program are:

Basic Educational Opportunity Grant Regulations (45 CFR Part 190).

Further Information: For further information, contact Ms. Diane Sedicum, Acting Chief, Basic Grant Branch, Division of Policy and Program Development, Bureau of Student Financial Assistance, U.S. Office of Education, (Room 4100 Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(20 U.S.C. 1070a)

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: February 2, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-4369 Filed 2-7-79; 8:45 am]

[4110-89-M]

Office of the Secretary

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Extension of Closing Date for Receipt of Applications for New Awards for Fiscal Year 1979

The February 14, 1979, closing date for transmittal of applications under two targeted competitions conducted under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education is extended. These competitions are entitled "Adapting Improvements: Better Strategies for Educating Adults" and "Examining the Varieties of Liberal Education." *The new closing date is May 21, 1979.*

Authority for this program is contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d).

This program issues awards to institutions of postsecondary education and other public and private educational institutions and agencies.

The purpose of the awards is to improve postsecondary education.

Applications must be mailed or hand delivered by May 21, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to either "Adapting Improvements" or "Liberal Education", both at the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202. Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt stamped with the date of mailing by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a ligible date stamped by the U.S. Postal Service.

(NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its proposal will not be considered in the current competition.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C.

The Office of the Assistant Secretary will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program Information: These competitions solicit proposals for projects that will further one or more of the objectives of the Fund for the Improvement of Postsecondary Education. The objectives of the Fund are contained in 45 CFR 1501.8. The preapplication and application steps will be combined for these two competitions. A single application is thus required, but procedures applicable at both steps will apply in these competitions. Applications will be evaluated in accordance with the criteria contained in 45 CFR 1501.7. The Fund's objectives, evaluation criteria, and application procedures for these competitions are described in two publications: (1) "Program Information and Application Procedures for Adapting Improvements: Better Strategies for Educating Adults," and (2) "Program Information and Application Procedures for Examining the Varieties of Liberal Education." These documents may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202.

Available Funds: Approximately $1,000,000 is expected to be available for new grant awards in FY 79 for these two competitions.

It is estimated that these funds could support approximately 30 new grants. Of these, approximately 15 new grants would be funded in each program.

Under the competition entitled "Adapting Improvements: Better Strategies for Educating Adults," the anticipated award for new grants will be between $5,000 and $80,000 for a twelve-month period. Applicants may request approval of a multi-year work plan of up to three years in duration.

Under the competition entitled "Examining the Varieties of Liberal Education," the anticipated award for new grants will be between $20,000 and $30,000 for a seventeen month period: in addition, a resource agency will be funded at approximately $70,000-$90,000 for each of two years.

These estimates do not bind the Assistant Secretary for Education except as may be required by applicable statute and regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable Regulations: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in 45 CFR Part 1501. Awards are also subject to the provisions contained in 45 CFR Parts 100 and 100a, except that awards are not subject to the provisions of 45 CFR 100a. 26(b) relating to criteria for awards.

Further Information: For further information contact the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W.,

Room 3123, Washington, D.C. 20202. Telephone: (202) 245-8091.

(20 U.S.C. 1221d)

Dated: January 29, 1979.

MARY F. BERRY,
Assistant Secretary for Education.

(Catalog of Federal Domestic Assistance No. 13.925, Fund for the Improvement of Postsecondary Education)

[FR Doc 79-4368 Filed 2-7-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-79-912]

PUBLIC HOUSING MANAGERS

Certification

Application for Accreditation as Approved Certifying Organizations

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is given announcing that HUD is ready to receive and process applications for accreditation of organizations to act as Approved Certifying Organizations under the Public Housing Managers Certification Program.

DATE FOR SUBMISSION: An application may be submitted immediately upon publication of this Notice, or at any time thereafter until further notice to the contrary.

ADDRESS FOR SUBMISSION: Address application to: Chairman, Public Housing Managers Certification Review Committee, Office of Housing, Room 6246, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Wayne Hunter, Office of Public Housing, at the address listed above, 202-755-6460. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Requirements pertaining to the Public Housing Managers Certification Program, including eligibility standards and accreditation criteria pertaining to Approved Certifying Organizations, are set forth in Part 867 of Title 24 of the Code of Federal Regulations. Note that the original formulation of Part 867, as issued on September 29, 1976, was recently changed in some important respects by amendments published in Volume 43, No. 210 of the FEDERAL REGISTER (page 50426) on October 30, 1978. Three copies of the application shall be submitted. The application shall include information sufficient to permit HUD to decide whether the applicant meets the prescribed standards. After review of an application, HUD will inform the applicant of its decision.

Issued at Washington, D.C., February 1, 1979.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 79-4281 Filed 2-7-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-16164]

ALASKA NATIVE CLAIMS SELECTION

This decision rejects various Native and State selections surrounding Womens Bay near Kodiak, Alaska, and approves lands for conveyance to Koniag, Inc., Regional Native Corporation.

I. VILLAGE SELECTION APPLICATION REJECTED IN ENTIRETY VILLAGE SELECTION APPLICATIONS REJECTED IN PART

The below-listed village selection applications were filed pursuant to Sec. 12(a) and (b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (supp. V, 1975)) for the surface estate of certain lands withdrawn by Executive Order 8278, as amended, in the Womens Bay area of Kodiak Island:

Application No.	Date	Village corporation
AA-6688-A, Sec. 12(a)	Sept. 24, 1974, as amended Dec. 13, 1974.	Ouzinkie Native Corporation.
AA-8448-B, Sec. 12(a)	October 17, 1974, as amended Dec. 13, 1974.	Leisnoi, Inc.
AA-8448-F3, Sec. 12(b)	Dec. 17, 1975	Leisnoi, Inc.
AA-8448-K3, Sec. 12(b)	Dec. 17, 1975	Leisnoi, Inc.
AA-8448-L3, Sec. 12(b)	Dec. 17, 1975	Leisnoi, Inc.
AA-8448-M3, Sec. 12(b)	Dec. 17, 1975	Leisnoi, Inc.
AA-8459—A Sec. 12(a)	Oct. 7, 1974, as amended Dec. 13, 1974.	Bells Flats Natives, Inc.

Section 12 provides that each village corporation shall select the acreage allocated to it from lands withdrawn by Sec. 11(a) which provides that lands withdrawn or reserved for national defense purposes are excluded from withdrawal under this section.

Executive Order 8278, dated October 28, 1939, as amended, withdrew lands surrounding Womens Bay for military purposes. On December 1, 1975, PLO 5550 transferred jurisdiction of the lands from the Department of the Navy to the U.S. Coast Guard for defense purposes. On December 17, 1975, PLO 5566 partially revoked PLO 5550 and withdrew lands for Native selection. On December 14, 1977, PLO 5627 transferred jurisdiction to the Bureau of Land Management of a portion of the lands in the Womens Bay area that were withdrawn by PLO 5550 and withdrew it for conveyance to Koniag, Inc., Regional Native Corporation.

Those lands withdrawn by PLO 5550 and PLO 5627 are not available for Native selection pursuant to Sec. 12. The statutory deadline for filing selections pursuant to Sec. 12(a) was December 18, 1974 and Sec. 12(b) was December 18, 1975. The lands currently withdrawn by PLO 5566 were withdrawn for defense purposes (PLO 5550) until December 17, 1975 and therefore were only available for selection pursuant to Sec. 12(b).

Accordingly, village selections AA-6688-A, AA-8448-B, AA-8448-F3, AA-8448-K3, AA-8448-L3, AA-8448-M3 and AA-8459-A are hereby rejected as to the following described lands:

VILLAGE SELECTION AA-6688-A

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):

T. 28 S., R. 20 W.

Sec. 19, that portion formerly within PLO 5550;
Sec. 20, all;
Sec. 29 (fractional), that portion within and formerly within PLO 5550;
Sec. 30, that portion within and formerly within PLO 5550;
Sec. 31, that portion within PLO 5627 and PLO 5550;
Sec. 32 (fractional), that portion within PLO 5627 and PLO 5550.

Containing approximately 1,935 acres.

VILLAGE SELECTION AA-8448-B

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539, more particularly described as (protracted):

T. 28 S., R. 20 W.

Secs. 2, 10, 11 and 16, all;
Secs. 21 and 22 (fractional), all;
Sec. 23, that portion on Azimka Island, excluding U.S. Survey 444H;
Secs. 24 and 25 (fractional), all;

Sec. 26 (fractional), exculuding U.S. Survey 4441;
Sec. 27 (fractional), that portion south and east of Womens Bay and Blodgett Island;
Sec. 28 (fractional), all.
Sec. 29 (fractional), that portion within and formerly within PLO 5550;
Sec. 30, that portion within and formerly within PLO 5550;
Sec. 31, that portion within PLO 5627 and PLO 5550;
Sec. 32 (fractional), that portion within PLO 5627 and PLO 5550;
Sec. 33 (fractional), all;
Secs. 34 and 35 (fractional), that portion within PLO 5550.
T. 29 S., R. 20 W.
Secs. 5 and 6 (fractional), that portion within PLO 5627.
29 S., R. 21 W.
Sec. 1, that portion within PLO 5627.
Aggregating approximately 3,562 acres.

VILLAGE SELECTION AA-8448-K3

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., 20 W.
Sec. 21 (fractional), that portion within PLO 5627 and FLO 5550;
Secs. 28 and 29 (fractional), that portion within PLO 5627.
Containing approximately 120 acres.

VILLAGE SELECTION AA-8443-M3

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 25 (fractional), all;
Sec. 26 (fractional), excluding Zaimka Island and U.S. Survey 444I;
Sec. 27 (fractional), that portion south and east of Womens Bay and Blodgett Island.
Containing approximately 488 acres.

VILLAGE SELECTION AA-8459-A

SEWARD, MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 23, that portion on Zaimka Island, including U.S. Survey 444H;
Sec. 25 (fractional), all;
Sec. 26 (fractional), including U.S. Survey 444I;
Sec. 27 (fractional), that portion south and east of Womens Bay;
Sec. 29 (fractional), that portion within and formerly within PLO 5550;
Sec. 30, that portion within and formerly within PLO 5550;
Sec. 31, that portion within PLO 5627 and PLO 5550;
Sec. 32 (fractional), that portion within PLO 5627 and PLO 5550;
Sec. 33 (fractional), all;
Secs. 34 and 35 (fractional), that portion within PLO 5550.
T. 29 S., R. 20 W.
Secs. 5 and 6 (fractional), that portion within PLO 5627.
T. 29 S., R. 21 W.
Sec. 1, that portion within PLO 5627.
Aggregating approximately 2,291 acres.

AA-8448-F3

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 24, that portion of Zaimka Island and excluding U.S. Survey 444H;
Sec. 24 (fractional), that portion within PLO 5550;
Sec. 26, that portion on Zaimka Island.
Containing approximately 32 acres.

AA-8448-L3

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 33 (fractional), excluding Nome Island;
Secs. 34 and 35 (fractional), that portion within PLO 5550.
Containing approximately 955 acres.

When this decision becomes final, selection application AA-8448-M3 will be closed of record. The lands remaining within the other selection applications will be processed at a later date.

II. 14(H)(3) SELECTION APPLICATION REJECTED IN ENTIRETY

On December 16, 1975, Natives of Kodiak, Inc. filed selection application AA-9106-E pursuant to Sec. 14(h)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (Supp. V, 1975)) for the surface estate of certain lands in the Womens Bay area of Kodiak Island.

Executive Order 8278, as amended, withdrew all of the selected lands on October 28, 1939 for military purposes and it was still withdrawn for military purposes on December 31, 1976, the last date for filing Sec. 14(h)(3) selections.

Section 14(h) of the Act authorizes the Secretary of the Interior to withdraw unreserved and unappropriated public lands for conveyance to Natives residing in Kodiak. Therefore, since the lands were withdrawn for military purposes and were not withdrawn for selection by the Natives of Kodiak, AA-9106-E is rejected in its entirety.

14(H)(3) SELECTION AA-9106-E

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 26 (fractional), excluding U.S. Survey 444I and Zaimka Island;
Sec. 27 (fractional), that portion within Blodgett Island.
Containing approximately 323 acres.

When this decision becomes final, selection application AA-9106-E will be closed of record.

III. 14(H)(2) SELECTION APPLICATION REJECTED IN PART

On July 22, 1975, Bells Flats Native Group filed selection application AA-9592 pursuant to Sec. 14(h)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (Supp. V, 1975)) for the surface estate of certain lands in the Womens Bay area of Kodiak Island.

Executive Order 8278, as amended, withdrew the lands which are the subject of this decision on October 28, 1939 for military purposes. The land was still withdrawn for military purposes until December 14, 1977, when PLO 5627 withdrew the lands pursuant to Sec. 14(h)(8) for selection by Koniag, Inc., Regional Native Corporation, who properly selected it on December 16, 1977.

Section 14(h) of the Act authorizes the Secretary of the Interior to withdraw unreserved and unappropriated public lands for conveyance to Native groups. Accordingly, Sec. 14(h)(2) selection application AA-9592 is hereby rejected as to the lands described below:

14(H)(2) SELECTION AA-9592

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly described as (protracted):
T. 28 S., R. 20 W.
Sec. 29 (fractional), that portion within PLO 5627;
Sec. 31, that portion within PLO 5627;
Sec. 32 (fractional), that portion within PLO 5627.
T. 29 S., R. 21 W.
Sec. 1, that portion within PLO 5627.
Aggregating approximately 215 acres.

IV. STATE SELECTION APPLICATIONS REJECTED IN PART

The State of Alaska filed general purpose selection applications A-062768, as amended, on July 2, 1965; AA-597, as amended, on December 21, 1966; and AA-651, as amended, on January 6, 1967, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)) for lands in the Womens Bay area of Kodiak Island.

Application A-062768 initially selected lands relinquished by the Navy at Gibson Bay (PLO 3507). This application was amended on February 15 and 17, 1967 to include all the land in Ts. 28 and 29 S., R. 20 W., Seward Meridian, Alaska, subject to prior valid existing rights. On June 12, 1972, the State submitted another amendment selecting all lands except patented lands in T. 29 S., R. 20 W. Application AA-597 initially selected the southern portion of the U.S. Naval Reserve relinquished by the Navy (PLO 4119). An amendment was filed on June 16, 1972, selecting all lands except patent-

ed lands within Ts. 28 and 29 S., Rs. 20 and 21 W., Seward Meridian, Alaska.

On January 6, 1967, application AA-651 initially selected T. 29 S., R. 21 W., Seward Meridian, Alaska, excluding two grazing leases and the U.S. Naval Reserve. An amendment was filed on June 16, 1972 which selected all lands except patented lands within T. 29 S., R. 21 W.

Section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)) states that general purpose selections are to be made "* * * from the public lands * * * which are vacant, unappropriated and unreserved at the time of selection." The June 16, 1972 amendment to A-062768, AA-597 and AA-651 selected lands that were withdrawn for military purposes from October 29, 1939 to December 14, 1977, when PLO 5627 withdrew the lands for regional selection.

Accordingly, State selection applications A-062768, AA-597 and AA-651 are hereby rejected as to the following described lands:

STATE SELECTION A-062768

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

Those portions of U.S. Survey 2539 more particularly described as (protracted):

T. 29 S., R. 20 W.
Secs. 5 and 6 (fractional), that portion within PLO 5627,

State Selection AA-597

U.S. Survey 444I

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

Those portions of U.S. Survey 2539 more particularly described as (protracted):

T. 28 S., R. 20 W.
Secs. 21, 22 and 25 (fractional), that portion within PLO 5627;
Sec. 26 (fractional), that portion within PLO 5627 and excluding U.S. Survey 444I;
Secs. 27, 28 and 29 (fractional), that portion within PLO 5627;
Sec. 31, that portion within PLO 5627;
Sec. 32 (fractional), that portion within PLO 5627.
T. 29 S., R. 20 W.,
Secs. 5 and 6 (fractional), that portion within PLO 5627.
T. 29 S., R. 21 W.,
Sec. 1, that portion within PLO 5627.

STATE SELECTION AA-651 SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 29 S., R. 21 W.,
Sec. 1, that portion within PLO 5627.

Aggregating approximately 844 acres.

The lands remaining within the selection applications will be processed at a later date.

LANDS PROPER FOR 14(h)(8) REGIONAL SELECTION APPROVED FOR INTERIM CONVEYANCE AND PATENT

On December 16, 1977, Koniag, Inc., Regional Native Corporation filed Sec. 14(h)(8) regional selection application AA-16164 under the provisions of Sec. 14(h) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 705; 43 U.S.C. 1601, 1613 (Supp. V, 1975)) for the surface and subsurface estates of lands at Womens Bay withdrawn for its selection by PLO 5627.

As to the lands described below, the application submitted by Koniag, Inc., Regional Native Corporation, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

This decision approves approximately 844 acres selected pursuant to Sec. 14(h)(8) for conveyance to Koniag, Inc., Regional Native Corporation, for a cumulative total of approximately 844 acres. This does not exceed the 44,418 acres allocated to Koniag, Inc., Regional Native Corporation for Sec. 14(h)(8) selection (42 FR 6431).

In view of the foregoing, the surface and subsurface estates of the following described lands (PLO 5627) are considered proper for acquisition by Koniag, Inc., Regional Native Corporation, and are hereby approved for conveyance pursuant to Sec. 14(h)(8) of the Alaska Native Claims Settlement Act:

U.S. Survey 444, Tract I, of the Russian Greek Church Mission Reserves situate at Kodiak, District of Alaska.
Containing 21.78 acres.

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

That portion of U.S. Survey 2539 more particularly located within (protracted) T. 28 S., R. 20 W., Secs. 21, 22, 28, 29, 31 and 32; T. 29 S., R. 20 W., Secs. 5 and 6; and T. 29 S., R. 21 W., Sec. 1 and described as follows:

Beginning at a point at the line of mean high tide on the southerly shore of Womens Bay, NORTH of USGS triangulation station "CHRIS"; thence westerly and northerly, along the line of mean high tide of Womens Bay, to a point at the line of mean high tide on the northwesterly shore of Womens Bay, near the most northerly end of the old shipyard, located northeasterly of USGS triangulation station "SHANNON"; thence N.38°30'W., approximately 500 feet to a point on the boundary of PLO 5566 described as bearing S.51°30'W., thence S.51°30'W.; approximately 1500 feet to a point; thence S.38°30'E., approximately 125 feet to a point, which is N.38°30'W., 300 feet distant from the centerline of the Chiniak Road, thence southwesterly, along a line which is 300 feet from and parallel to, the centerline of the Chiniak Road to a point which is common to the line described in Tract B of PLO 4119 as bearing N.25°49'30"W.; thence S.25°49'30"E., along a portion of the line described in Tract B of PLO 4119 to a point which is 50 feet southeasterly from the centerline and on the seaward side of the Chiniak Road; thence southerly and easterly, along a line which is 50 feet and parallel to, the centerline of the Chiniak Road, to a point NORTH of USGS triangulation station "CHRIS"; thence NORTH, to the line of mean high tide on the southerly shore of Womens Bay, the point of Beginning.

Containing approximately 377 acres.

That portion of U.S. Survey 2539 more particularly located within (protracted) T. 28 S., R. 20 W., Secs. 25, 26 and 27, described as follows:

Beginning at a point located S.59°E., 290 feet from USGS triangulation station "ENGLISH"; thence S. 31°W., 3800 feet to a point; thence EAST, approximately 4000 feet to a point at the line of mean high tide on the westerly shore of Chiniak Bay; thence northeasterly, northerly, and southwesterly, along the line of mean high tide of Chiniak and Womens Bays to a point; thence S.31°W., 220 feet more of less to the point of Beginning, excluding ANCAS Sec. 3(e) application AA-12828 and U.S. Survey 444, Tract I.

Containing approximately 445 acres.

Aggregating approximately 844 acres.

This conveyance is for all lands selected by application AA-16164, except possibly U.S. Coast Guard application ANCSA Sec. 3(e) AA-12828 of two acres, more or less, for the Womens Bay Entrance Light. It is currently impossible to determine whether AA-12828 and AA-16164 have lands in common. If survey shows that there is a conflict, then a Sec. 3(e) determination will be made.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

1. A right-of-way, AA-8174, 100 feet in width, traversing lands in protracted Secs. 21, 22, 28 and 29, T. 28 S., R. 20 W., Seward Meridian, Alaska, for a Federal Aid Highway. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

2. A right-of-way, AA-11198, containing approximately 5.510 acres within protracted Sec. 21 T. 28 S., R. 20 W., Seward Meridian, Alaska, for a Federal Aid material site. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

3. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-16164-8E, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specificallly listed are prohibited:

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-

wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

a. (EIN 20a D9, L) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 20b along the State highway northerly to the tidelands on Womens Bay. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 20b D9, L) A one (1) acre site easement in Sec. 6, T. 29 S., R. 20 W., Seward Meridian, along the State highway which extends around the coast of Womens Bay. The uses allowed for a one (1) acre site are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmoblies, cars, trucks), and loading or unloading. Loading or unloading shall be limited to 24 hours. Uses which are not specifically listed are prohibited.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601) (Supp. V, 1975), any valid existing right recognized by said act shall continue to have whatever right of access as is now provided for under existing law;

3. The naval airspace reservation of Executive Order 8597, dated November 18, 1940; and

4. The terms and conditions of the agreement dated December 9, 1977, among Koniag, Inc., the Secretary of the Interior, and the Commandant of the U.S. Coast Guard. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management case file for Koniag, Inc., Regional Native Corporation, serialized AA-16164. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Koniag, Inc., Regional Native Corporation, is entitled to conveyance of 44,418 acres of land selected pursuant to Sec. 14(h)(8) of the Alaska Native Claims Settlement Act. To date, 844 acres of this entitlement have been approved for conveyance; the remaining entitlement of 43,574 acres will be conveyed at a later date.

The use permit dated June 24, 1978 between the Bureau of Land Management and Koniag, Inc., will terminate upon conveyance of these lands in accordance with Condition No. 1 of said permit.

There are no navigable water bodies within the described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks in the Anchorage Times and the Kodiak Mirror. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until March 12, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Koniag, Inc., Regional Native Corporation, P.O. Box 746, Kodiak, Alaska 99615.

Ouzinkie Native Corporation, P.O. Box 89, Ouzinkie, Alaska 99644.

Leisnoi, Inc., P.O. Box 641, Kodiak, Alaska 99615.

Bells Flats Natives, Inc., P.O. Box 794, Kodiak, Alaska 99615.

Natives of Kodiak, Incorporated, P.O. Box 164, Kodiak, Alaska 99615.

Bells Flats Native Group, P.O. Box 794, Kodiak, Alaska 99615.

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

JUDITH A. KAMMINS,
Chief, Division of ANCSA Operations.

[FR Doc. 79-4320 Filed 2-7-79; 8:45 am]

[4310-84-M]

[CA 2545; CA 2545-A]

CALIFORNIA

Application; Correction

JANUARY 30, 1979.

In FR Doc. 78-29344, appearing on page 48083 of the Wednesday, October 18, 1978 issue, the notice is corrected to include, "T. 37 N., R. 4 E., Secs. 5, 7, 8, 18 and 19" under the heading "Mount Diablo Meridian, California."

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-4305 Filed 2-7-79; 8:45 am]

[4310-84-M]

[ES 20065]

FLORIDA

Notice of Proposed Withdrawal and Reservation of Lands

The National Park Service, Department of the Interior, on October 16, 1978, filed application, Serial No. ES 20065, for the withdrawal of the following described lands from settlement, sales, location or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All that tract of land lying and being situate on Perdido Key, Township 3 South, Range 31 West, Tallahassee Meridian, in the County of Escambia, State of Florida, being more particularly bounded and described as follows:

Lot 2, in fractional Section 25;
Lots 1 and 2, in fractional Section 28;
Lot 2, in fractional Section 30;
Lot 3, in fractional Section 24.

Containing 195.26 acres of land, more or less, above the water line.

Being the same land set apart for the use of the War Department by Executive Order No. 8508 dated August 8, 1949.

Also being the same land classified for disposal by Public Land Order 1603 dated March 18, 1958;

A tract of land being all of fractional Sections 25, 26, and 27, Township 2 South, Range 26 West situated on Santa Rosa Island, Tallahassee Meridian, Escambia County, Florida.

Containing 767.68 acres, more or less;

A tract of land being all of fractional Sections 19 through 24 inclusive and 26 through 30 inclusive, Township 2 South,

Range 25 West and all of fractional Sections 19 through 23 inclusive, Township 2 South, Range 24 West, situated on Santa Rosa Island, Tallahassee Meridian, Okaloosa County, Florida.

Excepting from the above described tract of land that portion of Santa Rosa Island lying East of a line which lies East 1,327,473.95 feet of the origin of the State Co-ordinate System (Lambert Projection, Florida, North Zone).

Containing 2499.70 acres, more or less;

A tract of land situated, lying and being on Santa Rosa Island, Okaloosa County, Florida, being more particularly described as follows:

Beginning at a point on the centerline of the south end of Brooks Bridge over Santa Rosa Sound at Fort Walton, Florida: Thence South 39° 39', East, 996.60 feet to a point on the southerly right-of-way line of U.S. Highway No. 98, said point also being the point of beginning, the co-ordinates of said point are North 514, 250.43 feet and East 1,338,660.53 feet; thence easterly along said southerly right-of-way line curving to the left having a radius of 3175.36 feet for a distance of 662.40 feet and a long chord which bears South 56° 56' East, 661.31 feet; thence South 8° 14' West, 1090.00 feet, more or less, to the north shoreline of the Gulf of Mexico; thence westerly along the said shoreline to a point which bears North 78° 39' West, 601.00 feet; thence North 8° 14' East, 1,335.00 feet, more or less, to the point of beginning.

Bearings are grid bearings referred to in Lambert Co-ordinate System, State of Florida, North Zone.

Being known as radar station "Dick", and containing 17.00 acres, more or less; and

A tract of land being all of fractional Sections 19 through 23 inclusive and 26 through 29 inclusive in Township 2 South, Range 23 West of Tallahassee Meridian on Santa Rosa Island in Okaloosa County, Florida.

Expecting from the above described tract of land that portion of Santa Rosa Island lying West of a line which lies East 1,343,313.95 feet of the origin of the State Co-ordinate System (Lambert Projection, Florida, North Zone).

Also excepting from the above described tract of land that portion of Santa Rosa Island lying North of the Northerly right-of-way line of U.S. Highway No. 98 and West of a line which lies East 1,344,813.95 feet of the origin of the State Co-ordinate System (Lambert Projection, Florida, North Zone).

Containing 951.33 acres, more or less.

The applicant agency desires that the land be withdrawn and reserved for inclusion in the Gulf Islands National Seashore. The lands on Santa Rosa Island were withdrawn for the use of the War Department by Presidential Proclamation No. 2659 on August 13, 1945, and are presently part of Eglin Air Force Base.

On or before March 12, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned officer of the Bureau of Land Management on or before March 12, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

DAVID P. LODZINSKI,
Acting Director,
Eastern States.

[FR Doc. 79-4270 Filed 2-7-79; 8:45 am]

[4310-84]

[ES 20066]

FLORIDA

Proposed Withdrawal and Reservation of Lands

The National Park Service, Department of the Interior, on October 16, 1978, filed application, Serial No. ES 20066, for the withdrawal of the following described lands from settlement, sale, location or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All that certain tract or parcel of land known as Fort McRae Military Reservation lying and being situate at the east end of Perdido Key, County of Escambia, State of Florida, and being more particularly described as follows:

Tallahassee Meridian
Township 3 South
Range 31 West
Section 34, Lot 1
Sections 33 and 34, the former Robertson Island, now connected to Lot 1 of Sec. 34, unsurveyed.

Containing 135.00 acres of land, more or less, above the water line.

The applicant agency desires that the land be withdrawn and reserved for inclusion in the Gulf Islands National Seashore.

The lands were withdrawn from the public domain and reserved for use of the Department of the Navy by Public Land Order 1603, dated March 18, 1958.

On or before March 12, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the propsed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned officer of the Bureau of Land Management on or before March 12, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching an agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

DAVID P. LODZINSKI,
Acting Director,
Eastern States.

[FR Doc. 4271 Filed 2-7-79; 8:45 am]

[4310-84-M]

[ES 20059]

FLORIDA

Proposed Withdrawal and Reservation of Land

The National Park Service, Department of the Interior, on October 13, 1978, filed application, Serial No. ES 20059, for the withdrawal of the following described land from settlement, sale, location or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All those tracts of land lying and being situate in fractional Section 16, T. 3 S., R. 31 W., Tallahassee Meridian, Escambia County, Florida, being more particularly bounded and described as follows:

Commencing at a granite monument on the easterly boundary of the Fort Barrancas Military Reservation, which is also the westerly boundary of the Pensacola Naval Reservation, said granite monument bearing South 89° 44' 57" East and 6012 feet distant from the Pensacola Light; thence South 8° 31' East, 466 feet, more or less, along aforesaid boundary line, to the shore of Pensacola Bay; thence Westerly along the meanders of the shoreline an approximate distance of 5600 feet to the point of beginning; thence North 00°00'03" West a distance of 1150.00 feet; thence North 89° 44' 57" West a distance of 1200.31 feet; thence South a distance of 2350 feet to the shore of Pensacola Bay; thence Northeasterly and Easterly along the meanders of the shoreline approximately 1880 feet to the point of beginning.

Containing 43.50 acres of land, more or less, above the water line.

Being part of the same land transferred to the Department of Commerce for use as a lighthouse reservation, by Executive Order 4739, dated October 5, 1927; and

Commencing at a granite monument on the easterly boundary of the Fort Barrancas Military Reservation, which is also the westerly boundary of the Pensacola Naval Reservation, said granite monument bearing South 89° 44' 57" East and 6012 feet distant from the Pensacola Light; thence South 8° 31' East, 466 feet, more or less, along aforesaid boundary line, to the shore of Pensacola Bay; thence Westerly along the meanders of the shoreline an approximate distance of 4400 feet to the point of beginning; thence North, a distance of 1250 feet, more or less; thence North 89° 44' 57" West, a distance of 1200 feet, more or less, to the east boundary of the Coast Guard Station; thence South 00° 00' 03" East, by and with the east boundary of the Coast Guard Station, a distance of 1150 feet, more or less, to the shore of Pensacola Bay; thence Easterly, along the meanders of the shoreline, an approximate distance of 1200 feet, to the point of beginning.

Containing 31.50 acres of land, more or less, above the water line.

Being part of the same land transferred to the Department of Commerce for use as a lighthouse reservation by Executive Order 4739 dated October 5, 1927. Also being the same land transferred by the United States Coast Guard to the Department of the Navy on August 24, 1955.

The applicant agency desires that the land be withdrawn and reserved for inclusion in the Gulf Islands National Seashore.

On or before March 12, 1979, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned officer of the Bureau of Land Management on or before March 12, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent and form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

DAVID P. LODZINSKI,
Acting Director,
Eastern States.

[FR Doc. 79-4272 Filed 2-7-79; 8:45 am]

[4310-84-M]

[ES 20054]

MISSISSIPPI

Proposed Withdrawal and Reservation of Lands

The National Park Service, Department of the Interior, on October 12, 1978, filed application, Serial No. ES 20054, for the withdrawal of the following described land from settlement, sale, location or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

All those tracts or parcels of land lying and being on Ship Island, Harrison County, Mississippi, more particularly described as follows:

Commencing at the Ship Island Lighthouse, said Lighthouse having the longitude of 88° 57' 57.8" West and latitude of 30° 12' 45.1" North; thence Westerly, 1000 feet to a point on the North shoreline of Ship Island, said point being the point of beginning; thence along the meanders of the North shoreline of said island, in a generally easterly direction to a point 400 feet East of aforesaid Lighthouse; thence due South across Ship Island to the South shoreline of said island; thence with the meanders of the South shoreline of Ship Island, in a generally Westerly direction to a point 1000 feet West of aforedescribed Lighthouse; thence due North across Ship Island to the North shoreline and the point of beginning.

Containing 42.000 acres, more or less, above the water line.

Being a portion of those lands not conveyed out of Ship Island Military Reservation, but retained for Lighthouse purposes. The West boundary herein described being described also in Parcel "A", and the East boundary being described in Parcel "B", of a quitclaim deed from the United States of America to Joe Graham Post Number 119, The American Legion, Incorporated, dated September 15, 1933, and recorded among the land records of Harrison County, Mississippi in Deed Book 199 pages 197 to 199.

Also being known as Parcel "A" (II) of the Ship Island Light Reservation as defined by the Acting Secretary of Commerce on August 15, 1929, pursuant to Public Law No. 1022, 70th Congress, approved March 4, 1929; and

Commencing at the Ship Island Lighthouse, said lighthouse having the longitude of 88° 57' 57.8" West and latitude of 30° 12' 45.1" North; thence Westerly, 3640 feet to a point on the North shoreline of Ship Island, said point being the Northwest corner of a parcel of land conveyed to the American Legion from the United States of America by deed dated September 15, 1933, said tract being designated as Parcel "A" and recorded among the land records of Harrison County, Mississippi in Deed Book 199 pages 197 to 199, said point also being the beginning of the hereafter described tract of land; thence due South, across Ship Island to the South shoreline of said island; thence along the meanders of the South shoreline of said island, in a generally westerly direction to meet the North shoreline on the most westerly point of Ship Island; thence along the meanders of the North shoreline of said island to the point of beginning.

Containing 50.00 acres, more or less, above the water line.

Being known as Parcel "B" (I) of the Ship Island Light Reservation as defined by the Acting Secretary of Commerce on August 15, 1929, pursuant to Public Law No. 1022, 70th Congress, approved March 4, 1929.

The applicant agency desires that the land be withdrawn and reserved for inclusion in the Gulf Islands National Seashore. The land is presently withdrawn for lighthouse purposes by Executive Order No. 4584, February 15, 1927, as amended by the Act of Congress of March 4, 1929 (45 Stat. 1556), and by the Executive order of July 7, 1852.

On or before March 12, 1979, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned officer of the Bureau of Land Management on or before March 12, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

DAVID P. LODZINSKI,
Acting Director,
Eastern States.

[FR Doc. 79-4274 Filed 2-7-79; 8:45 am]

[4310-84-M]

[M 42697]

MONTANA

Application

FEBRUARY 2, 1979.

Notice is hereby given that, pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Shell Oil Company has applied for a 6-inch oil and gas pipeline right-of-way for the following lands:

PRINCIPAL MERIDIAN, MONTANA

T. 22 N., R. 60 E.,
Sec. 20, Lot 4 and SE¼SW¼.

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

T. 148 N., R. 105 W.,
Sec. 10, Lots 3 and 4; and
Sec. 15, Lot 1.

This pipeline will convey natural gas across 0.75 miles of public lands in Richland County, Montana, and McKenzie County, North Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

EDWARD H. CROTEAU,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 79-4306 Filed 2-7-79; 8:45 am]

[4310-84-M]

[N-912]

NEVADA

Initial Inventory of Wilderness

JANUARY 30, 1979.

The Nevada State Office of the Bureau of Land Management has begun its initial inventory of wilderness in Nevada pursuant to Section 603 of the Federal Land Policy and Management Act of 1976. The initial inventory will review all public lands in Nevada and ascertain which obviously and clearly do not contain wilderness characteristics as specified by Congress in the 1964 Wilderness Act. Those that do not qualify will be dropped from further wilderness consideration and all restrictions imposed by Section 603 of the Federal Land Policy and Management Act to protect wilderness values will be lifted. Those areas that may have wilderness values will be intensively studied to determine which actually do contain wilderness characteristics specified by law and should be designed Wilderness Study Areas for ultimate consideration by Congress for inclusion in the National Wilderness Preservation System. Information on the Bureau's progress can be obtained from the Bureau of Land Management, Federal Building, 300 Booth Street, Room 3008, Reno, Nevada 89509.

Dated: January 30, 1979.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc. 79-4307 Filed 2-7-79; 8:45 am]

[4310-84-M]

[OR 17390; 2310 (943.4)]

OREGON

Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, Department of the Interior, on January 15, 1979, filed application Serial No. OR 17390 for the withdrawal of the following described lands from operation of the mining laws but not the mineral leasing laws, subject to valid existing rights:

WILLAMETTE MERIDIAN

T. 2 S., R. 6 E.,
Sec. 21, E½SE¼NE¼, SW¼SE¼NE¼.

The area described contains 30 acres of revested Oregon and California Railroad grant lands in Clackamas County, Oregon.

The land encompasses the Rock Corral, an historic campsite on the Barlow Road branch of the Oregon Trail. The Bureau of Land Management desires that the land be withdrawn and reserved for protection of the historic and scenic values of this significant cultural resource.

For a period of 40 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Managment, at the address shown below, on or before March 12, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also assure that the area sought is the minimum essential for the proposed use and provide for the maximum concurrent utilization of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above described lands are temporarily segregated from the mining laws but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of the lands by the Secretary, or (c) two years from the date of publication of this notice. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except public hearing requests) in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: January 30, 1979.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-4273 Filed 2-7-79; 8:45 am]

[4310-84-M]

UTAH; MANAGEMENT OF WILDERNESS STUDY AREAS

Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the following public meeting will be held to discuss the Draft Interim Management Policy and Proposed Mining Regulations for Wilderness Study Areas (published in FEDERAL REGISTER January 12, 1979): Public Meeting—Salt Lake City, February 27, Little Theater, Salt Palace, 7 p.m.

Written and oral comments will be accepted at the meeting. People who cannot attend the meeting should address their written comments to the Director (303), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. The period for public review and comment continues through March 13, 1979.

Dated: February 2, 1979.

WILLIAM LEAVELL,
Associate State Director.

[FR Doc. 79-4310 Filed 2-7-79; 8:45 am]

[4310-84-M]

[Wyoming 66267]

WYOMING

Application

JANUARY 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch pipeline and related anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 94 W.,
Sec. 20, E½SW¼.

The pipeline with appurtenant anode facilities will transport natural

gas produced from the AMOCO P-1 well located in the NW¼SW¼ of sec. 20 to a point of connection with Cities Service Gas Company's existing gathering line in the SW¼NE¼ of sec. 29, all within T. 23 N., R. 94 W., 6th P.M., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 79-4308 Filed 2-7-79; 8:45 am]

[4310-84-M]

[Wyoming 66691]

WYOMING

Application

JANUARY 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O. D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 12 N., R. 94 W.,
Sec. 18, S½NE¼, NE¼NE¼, E½SW¼ and NW¼SE¼;
Sec. 19, lot 1.

The pipeline is a proposed addition to an existing gathering system transporting natural gas from a well in the NE¼NE¼ of section 18 into an existing pipeline in lot 1 of section 19, T. 12 N., R. 94 W., in Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 79-4309 Filed 2-7-79; 8:45 am]

[4310-31-M]

Geological Survey

OIL AND GAS WELL COMPLETION AND WORKOVER OPERATIONS ON THE OUTER CONTINENTAL SHELF

Proposed Development of Standard for Training and Qualifications of Personnel and Solicitation of Public Comment on Content and Scope of the Standard

Notice is hereby given that pursuant to 30 CFR 250.11, 250.41, 250.43, and 250.46, the U.S. Geological Survey (USGS) intends to develop a standard for the training and qualification of personnel engaged in offshore oil and gas well completion and workover operations and in the support services and activities associated with those operations.

The purpose of the standard is to ensure that personnel possess the required knowledge and skills in operations, equipment, techniques, and procedures to maintain the control of oil and gas wells during completion and workover operations or during any operation where a well which is capable of flowing oil or gas is opened to the atmosphere, its wellhead is removed, or the normal safety controls on the well are taken out of service.

The USGS contemplates that the developed standard will provide the minimum criteria for the training of all well completion and workover personnel whose decisions or actions have a significant bearing on safety or environmental protection.

It is intended that the developed standard will be referenced as a requirement in the finalized Outer Continental Shelf (OCS) Order No. 6, which is now being developed for all OCS Areas. This Order would also require personnel, whose job duties relate to a conventional rig operating in a drilling mode to deepen or sidetrack a well, to be trained and qualified in accordance with the USGS OCS Training Standard, "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations," No. T 1 (GSS-OCS-T 1).

Interested parties may submit written comments and suggestions on the proposed standard to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, on or before April 9, 1979.

Comments are specifically requested on the following points:

1. The identification of those specific operations, activities, job responsibilities, and job classifications to be considered in the establishment of standards.

2. The criteria for qualifying personnel and for the maintenance of the qualification.

3. The criteria for accreditation of organizations who provide or seek to provide training and certification of qualifications of personnel.

4. Procedures to be used in the development and implementation of the standard.

5. Date and time interval considerations for the implementation process.

For further information, contact Mr. Richard B. Krahl, Chief, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, telephone 703-860-7531.

Dated: February 2, 1979.

HENRY W. COULTER,
Acting Director.

[FR Doc. 79-4267 Filed 2-7-79; 8:45 am]

[4310-84-M]

Office of the Secretary

LIVESTOCK GRAZING ON PUBLIC LANDS

Schedule of Fees, 1979

Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1979 fee year beginning March 1, 1979, and ending February 29, 1980, for livestock grazing on the public lands.

For the purpose of establishing charges, one animal unit month (AUM) shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Bills shall be issued in accordance with the rates prescribed in this notice.

INSIDE STATUTORY GRAZING DISTRICTS

Pursuant to Departmental regulations (43 CFR 4130.5-1(a)), as published January 10, 1979 (44 FR 2173), fees within districts, except as otherwise provided herein, shall be $1.89 per AUM.

Exceptions to the above rates are hereby set as follows for certain LU project lands (Bankhead-Jones Land) in order to continue the basis of fees that has heretofore been established:

Arizona. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.03 per AUM.

Colorado. For the Great Divide project transferred to the Department by Executive Order 10046, the fees shall be $2.03 per AUM.

Montana. For all LU lands within districts transferred to the Department by Executive Order 10787, the fees shall be $2.03 per AUM.

New Mexico. For the Hope Land project transferred to the Department by Executive Order 10787, the fees shall be $1.98 per AUM. For the San Simon project (Cienega area) transferred to the Department by Executive Order 10322, the fees shall be $2.03 per AUM.

OUTSIDE STATUTORY GRAZING DISTRICTS (EXCLUSIVE OF ALASKA)

Pursuant to Departmental regulations (43 CFR 4130.5-(a)), the rate for grazing leases except as otherwise provided herein, shall be $1.89 per AUM.

Exceptions to the above rate are hereby set as follows for certain Lu project lands and for all O&C and intermingled public domain lands in Western Oregon in order to continue the basis of fees that has heretofore been established:

Montana. For those Milk River project lands outside districts transferred to the Department by Executive Order 18787, the fees shall be $2.03 per AUM.

Wyoming. For the Northeast Wyoming project lands transferred to the Department by Executive Order 10046 and amended by Executive Order 10175, the fee shall be $2.03 per AUM.

Western Oregon. For Western Oregon, the fee shall be $2.03 per AUM.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

FEBRUARY 1, 1979.

[FR Doc. 79-4366 Filed 2-7-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. BRISTOL-MYERS COMPANY ET AL.

Public Comments and Government's Response Thereto Relating to Proposed Final Judgment Against the Beecham Defendants

Pursuant to requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d), set out below are: two separate public comments received from (1) Professor John C. Sheehan, Massachusetts Institute of Technology, and Arthur D. Little, Inc., and (2) Ayerst Laboratories Division of American Home Products Corporation; objections of Bristol-Myers Company (a defendant in this lawsuit); and the government's responses thereto, all relating to a proposed final Judgment against Beecham Group Limited and Beecham Inc. in *U.S.* v. *Bristol-Myers et al.*, M.D.L. Docket No. 50, Civil Action No. 822-70 (D.D.C.).

Dated: January 29, 1979.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Company, Beecham Group Limited, and Beecham Inc.* Defendants.

M.D.L. Docket No. 50.

Civ. No. 822-70.

RESPONSE OF THE UNITED STATES TO COMMENTS OF SHEEHAN ET AL., RELATING TO PROPOSED FINAL JUDGMENT AGAINST THE BEECHAM DEFENDANTS

Pursuant to 15 U.S.C. 16 (b), the United States submits this response to comments [1] received from Professor John C. Sheehan, Arthur D. Little, Inc., and Massachusetts Institute of Technology (collectively "Sheehan et al."), in connection with a proposed Final Judgment that would, if approved by the Court, dispose of this action against Beechan Group Limited and Beecham Inc. The comments seek certain modifications in both the proposed Judgment and the Competitive Impact Statement ("CIS"). These modifications are intended, according to the comments, to remove any possible "inaccuracy or ambiguity concerning the ownership of U.S. Patent No. 3,159,617," [2] and to avoid the possibility of any unfavorable and inadvertent impact on Shechan et al.'s interests concerning that patent.

After careful consideration of these comments, we have concluded that the changes requested by Shechan et al. are unnecessary for two reasons. First, the clarification provided in this response makes it reasonably certain, even without the modifications requested, that neither the proposed final judgment nor the CIS will have any unfavorable impact on Sheehan et al.'s interests in U.S. Patent No. 3,159,617, or will result in any ambiguity concerning the ownership of that patent. Second, such modifications would probably be largely ineffective as a remedial measure anyway since both the proposed judgment and CIS have already been published in the FEDERAL REGISTER and a summary of them published in at least one newspaper.

1. A statement is made in the comments about "possible inaccuracy * * * concerning the ownership of U.S. Patent No. 3,159,617." Apparently, that statement refers, in turn, to a statement in the CIS (p. 5, n. 3) that U.S. patent No. 3,159,617 was "assigned" to defendant Bristol-Myers Company ("Bristol"). Actually, the patent issued to Dr. Sheehan, a professor at M.I.T., who had previously assigned to Arthur D. Little, Inc. ("ADL") the patent application that ultimately issued as U.S. Patent No. 3,159,617. By an agreement of April 25, 1961, ADL, in turn, granted to Bristol certain rights in that patent application; those rights are described in the agreement as "an exclusive license, including the right to grant sublicenses" (Art. II). Bristol has exercised that right several times; on January 1, 1967, Bristol granted to Beecham Group Limited, under U.S. Patent No. 3,159,617, rights that are described as "a non-exclusive sublicense, *not* including the right to grant further sublicenses" (emphasis added). Therefore, it seems clear from this that Beecham has no right to grant to anyone else any rights in that patent.

2. Several statements are made in the comments about the possibility of an inadvertently unfavorable impact upon Sheehan et al., and about possible ambiguity in the ownership of U.S. Patent No. 3,159,617. Apparently, those statements refer, in turn, to references to that patent in footnotes 3 and 7, on pages 5 and 16, respectively, of the CIS. The patent is referred to in the CIS because it is part of the factual background of this litigation, because the defendants Beecham and Bristol both have some rights under it, and because the patent is the subject of an agreement between them. Whatever possibility of unfavorable impact or ambiguity may exist by virtue of references to the patent in the CIS, it is clear, from the facts set forth above, that those semisynthetic penicillin patents that Beecham has the right to license do not include U.S. Patent No. 3,159,617.

3. As for the proposed Final Judgment, it makes no specific reference at all to U.S. Patent No. 3,159,617, although the patent is embraced within the Judgment's broad definition of "semisynthetic penicillin patents" (Art. II(L)). That definition also embraces a number of other patents that Beecham has licensed to Bristol, and that, like U.S. Patent No. 3,159,617, Beecham has no further right to license or sublicense. The proposed Judgment was so structured because we did not know, and did not want to assume the burden of finding out, precisely what relevant Patents Beecham actually had the right to license. By broadly defining

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[1] "Comments on Final Judgment Published November 3, 1978, in the FEDERAL REGISTER Vol. 34—No. 214," dated December 20, 1978 ("comments").

[2] As the CIS correctly notes, that patent relates to a process (called acylation) for making semisynthetic penicillins from 6-aminopenicillanic acid.

the class of relevant patents, the Judgment would shift that burden to Beecham. Nevertheless, we think the proposed Judgment is clear and unambiguous about Beecham's compulsory licensing obligation under it. Article VI(C) of the proposed Final judgment requires Beecham to grant a license, upon written request, under any "semisynthetic penicillin patent", *but only if* "Beecham has the right to license [such patent] as of the date of any such request [for it]." Thus, since Beecham has no such right now with respect to U.S. Patent No. 3,159,617 (as noted above), the proposed Final Judgment does not require, or even purport to require, Beecham to grant any rights under that patent. And the proposed Judgment would do so only if Beecham subsequently acquires such right and retains it at the time of a request for such a license under the proposed Judgment.

Dated: January 29, 1979.

Respectfully submitted: Thomas H. Liddle, Robert S. Schwartz, Lee J. Keiler, *Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724-7969.*

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Response of the United States to Comments of Sheehan et al., Relating to Proposed Final Judgment Against the Beecham Defendants and Comments on Final Judgment Published November 3, 1978, in the Federal Register Vol. 34—No. 214 were served this date by certified mail upon the following counsel:

Richard A. Whiting, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C. 20036.

Philip A. Lacovara, Esq., Hughes Hubbard & Reed, 1660 L Street, N.W., Washington, D.C. 20036.

David I. Shapiro, Esq., Dickstein Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037.

Arnold Bauman, Esq., Shearman & Sterling, 53 Wall Street, New York, New York 10017.

Jerome G. Shapiro, Esq., Hughes Hubbard & Reed, 1 Wall Street, New York, New York 10005.

Daniel A. Rezneck, Esq., Arnold & Porter, 1229 19th Street, N.W., Washington, D.C. 20036.

Dated: January 29, 1979.

THOMAS H. LIDDLE,
Attorney, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Company Beecham Group Limited*, and *Beecham Inc.*, Defendants.

Civil No. 822-70.

COMMENTS ON FINAL JUDGMENT PUBLISHED NOVEMBER 3, 1978, IN THE FEDERAL REGISTER VOL. 34—No. 21

These comments are submitted by Professor John C. Sheehan, Arthur D. Little, Inc. (hereinafter LITTLE) and Massachusetts Institute of Technology (hereinafter MIT), because the proposed Final Judgment may inadvertently affect their interests with respect to U.S. Patent No. 3,159,617, covering an invention made by Prof. Sheehan of MIT. Prof. Sheehan is a world recognized authority on the chemistry of penicillin and in addition to his patents he has authored or co-authored a large number of journal articles on penicillins and related subjects. Prof. Sheehan and MIT assigned the application which matured into U.S. Patent No. 3,159,617 to LITTLE, a Massachusetts corporation having its principal place of business at 25 Acorn Park, Cambridge, Massachusetts. MIT, Prof. Sheehan and LITTLE share in royalties received from the licensing of U.S. Patent 3,159,617. LITTLE has licensed U.S. Patent 3,159,617 to Bristol-Myers Company, who in turn has granted sublicenses to Beecham Inc., as well as to other manufacturers of semisynthetic penicillin. Prof. Sheehan, MIT and LITTLE receive income under the license and sublicenses.

It is believed that the proposed Final Judgment as presently phrased may inadvertently have an unfavorable impact upon MIT, Prof. Sheehan and LITTLE. As set forth more fully below, it is respectfully submitted that any such inadvertent effect with respect to U.S. Patent 3,159,617 may be easily avoided by changes which would not alter the competitive impact detailed in the Competitive Impact Statement. Accordingly, it is respectfully requested that

(1) the statement, "a patent (No. 3,159,617) assigned to Bristol and relating to the acylation of 6-APA (a crucial step in commercial production of all semisynthetic penicillins)" be striken from footnote [3] of Paragraph II.B. of the Competitive Impact Statement;

(2) "(U.S. Pats. Nos. 3,159,617 and 3,576,797)" of footnote [7] of Paragraph III.D.3. of the Competitive Impact Statement be modified to read "(U.S. Pat. No. 3,576,797)"; and

(3) "United States Patent 3,159,617" be added as subparagraph (3) after the statement, "The term 'semisynthetic penicillin patent' does not include:" in Paragraph II(L) of the proposed Final Judgment.

These requested amendments in the proposed Final Judgment and Competitive Impact Statement would remove any present inaccuracy or ambiguity concerning the ownership of U.S. Patent No. 3,159,617, would eliminate the possibility of any undesirable and unintended impact upon Prof. Sheehan, MIT or LITTLE, none of whom are parties to the original suit or to the Final Judgment, and would not alter the relative positions of the United States Government and the defendant Beecham.

These comments and requests for modification of the proposed Final Judgment and Competitive Impact Statement are submitted in accordance with the provisions of Section V of the Competitive Impact Statement. Favorable consideration and entering of the requested amendments to the Final Judgment and Competitive Impact Statement is respectfully requested.

Dated: December 20, 1978.

Respectfully submitted: Richard T. Murphy, Jr., *Vice President and Corporate Counsel, Arthur D. Little, Inc.*; R. J. Horn, *Kenway and Jenney, Attorneys, Massachusetts Institute of Technology and* John C. Sheehan, *Patentee, U.S. Patent 3,159,617.*

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Company, Beechan Group Limited*, and *Beecham Inc.*, Defendants.

M.D.L. Docket No. 50

Civ. No. 822-70

RESPONSE OF THE UNITED STATES TO COMMENTS OF AYERST LABORATORIES DIVISION OF AMERICAN HOME PRODUCT CORPORATION, RELATING TO PROPOSED FINAL JUDGMENT AGAINST THE BEECHAM DEFENDANTS

I. INTRODUCTION

Pursuant to 15 U.S.C 16(b), the United States of America submits this response to comments and supporting materials [1] filed by Ayerst Laboratories Division of American Home Products Corporation ("Ayerst"), relating to a proposed Final Judgment that would, if approved by the Court, dispose of this action against Beecham Group Limited and Beecham Inc. (collectively "Beecham"). In its comments, Ayerst asks that certain provisions of Article VIII of the proposed Judgment be revised to require Beecham to assign to Ayerst without charge Beecham's trademarks Penbritin and Penbritin S (collectively "Penbritin"). As currently drafted, those provisions (which expressly exclude Penbritin) would require Beecham to assign, without charge, certain other trademarks to persons by whom the trademarks were exclusively used in the United States, in marketing semisynthetic penicillins that Beecham supplied to them (see pp. 17-18, Competitive Impact Statement)

In support of its request, Ayerst makes essentially the following three arguments: (1) "there is no justifiable basis for distinguishing the Penbritin trademarks from the other trademarks covered by Article VIII" of the proposed Judgment (p. 4, Comments); (2) exclusion of the Penbritin trademarks from the provisions of Article VIII will put Ayerst at a substantial competitive disadvantage in the ampicillin market vis-a-vis those of its competitors who purchase ampicillin from Beecham and resell under trademarks that, unlike the Penbritin trademarks, are to be assigned to then pursuant to the Judgment; and (3) putting Ayerst at such a disadvantage will have anticompetitive consequences. We will, in this response, deal with each of these arguments in Parts II and III, below. In addition, while we do not believe that the public interest requires the revision of the proposed Judgment that Ayerst seeks, we nevertheless recognize the possible adverse effect that Article VIII of

[1] "Comments of Ayerst Laboratories Division of American Home Product Corporation, Relating to Proposed Final Judgment Against Beechman Group Limited and Beecham, Inc.," dated December 29, 1978 ("Comments").

the proposed Judgment may have on Ayerst's private interests, and we discuss that matter in Part IV, below.

II. THE PUBLIC INTEREST DOES NOT REQUIRE COST-FREE ASSIGNMENT OF THE PENBRITIN TRADEMARKS

Assignment of trademarks, as required by Article VIII of the proposed of Judgment, amounts to divestiture. Article VIII was the result of our conclusion that the divestiture of certain trademarks was (1) appropriate under the special circumstances surrounding the creation, ownership, and use of those marks, and (2) justified as pro-competitive. Althought assignment of the Penbritin trademarks to Ayerst without cost might also be marginally competitive, different circumstances concerning the ownership and use of the Penbritin trademarks indicate a different result. Our decision resulted from an evaluation of (1) whether it was appropriate under those different circumstances to divest Beecham of Penbritin without compensation, (2) the adverse impact on Beecham of doing so, and (3) the public interest in requiring assignment of that trademark to Ayerst.

A. *Penbritin*

In its April 2, 1959, agreement with Bristol-Myers Company ("Bristol") Beecham agreed to market semisynthetic penicillins in the United States only in consumer package form, and only under its own trademarks. When Beecham entered the U.S. antibiotic market in 1963, it did so by means of Beecham Research Laboratories, Inc. ("BRL"), a joint venture with Ayerst in which Beecham held the controlling share, so that Beecham could take advantage of Ayerst's established marketing force.[2] Beecham manufactured the products (including ampicillin) that it sold in the United States through BRL. For ampicillin, it chose the trademark Penbritin—Beecham's "flagship" trademark, the same ampicillin trademark it has used in entering other world markets, and which it has promoted in international scientific and medical literature. Beecham registered the Penbritin trademark in the United States in 1960, three years before it entered into any relationship with Ayerst. Thus, the arrangement with Ayerst was designed *not* to avoid the trademark restriction in the 1959 agreement, but rather to get Beecham itself into the U.S. market with its own Penbritin trademarks.

Until mid-1969, when Beecham began marketing ampicillin itself under the trademark "Totacillin," Penbritin was Beecham's only U.S. ampicillin trademark. Moreover, prior to that time, Ayerst sold Penbritin not for its own separate and independent account, but rather on behalf of Beechan and Ayerst as a marketing agent for their joint venture company.

In its Comments, Ayerst asserts that "from the outset Penbritin was closely associated with the name Ayerst, not Beecham," (p. 7) and "It is Ayerst, not Beecham, which has promoted the trademark Penbritin* * *" (p. 8). That is a considerable overstatement. First, Beecham has made substantial investments in the promotion of the Penbritin trademarks. Beecham either shared with Ayerst or reimbursed Ayerst for a major portion of BRL's expenditures in promoting Penbritin. Second, for the period 1963-1969 at least, all Penbritin capsules were individually marked with the name Beechman. (*See, e.g.*, p. VII, Product Identification Sections of the 1968 and 1969 Editions of the Physicians Desk Reference.) Third, it appears that, prior of 1969 at least, Penbritin packages in the United States carried both the Ayerst and Beechman names in about equal prominence, but sometimes Beecham was more prominent than Ayerst. (*See, e.g.*, documents 2061(u) and 019738 in the Document Depository.)

B. *Other "Beecham" Trademarks*

The trademarks affected by Article VIII, including those referred to in Ayerst's Comments ("Pen-A") and "Alpen"),[3] have a different history. These trademarks never received any investment or promotion by Beecham. Moreover, they were used exclusively by persons who bought ampicillin from Beecham for their own independent and separate resale, not as selling agents for Beecham. It appears that Beecham registered in the U.S. Patent and Trademark Office and retained "ownership" of these trademark *only* because the 1959 agreement with Bristol gave Beecham no other way to sell ampicillin to customers at the manufacturing level of trade in the United States. As we said in the Competitive Impact Statement ("CIS"):

"In an effort to get around this trademark restriction, Beecham allowed its customers to select, from a number of unused names or Beecham ideas for possible trademarks, a name under which each customer would like to resell the dosage form semisyntheic penicillin that Beecham supplied to it. Beecham then registered as a trademark in the Patent Office the name selected by its customers; each customer the promoted and marketed the product supplied by Beecham under that name. As a result of this promotional effort, Beecham's customers, rather than Beecham, developed whatever good will is associated with, and provided whatever value there is in, these trademarks in the United States."

The purpose of Article VIII is to release what we believe are non-*bona fide* "Beecham" trademarks from Beecham's control, to the greatest extent possible. Thus, Beecham is required to assign these trademarks, without cost, to their exclusive users (to whom we think they belong anyway). It must do this as soon as it acquires the right to sell semisynthetic penicillin under trademarks other than those "owned" by it, or there is a determination that agreements restricting Beecham sales to sales under such trademarks are unenforceable. In the meantime, Paragraph VIII(D) requires Beecham to authorize the exclusive users of these trademarks to sell, under these trademarks, ampicillin not purchased from Beecham. We anticipate that the effect of this provision will be to create additional competition for the supply of products sold under trademarks in which Beecham made no investment and therefore has no real interest.

C. *Ayerst's Position*

Ayerst contends that these provisions of the Judgment should apply to Penbritin as well, because "[w]hatever goodwill Beecham had derived indirectly through Ayerst and BRL prior to September 1969 has now been totally and irretrievably lost by Beecham" (p. 10, Comments). Later, however (p. 11), Ayerst refers to its expenditures in developing "the well known Penbritin trademark * * * over a period of 15 years at great expense."[4] This period includes 1963-1969, in which Beecham decided to launch the Penbritin trademark, and *shared* the expense of promoting and sustaining it. Beecham's benefit from this investment is "lost" only if one accepts Ayerst's conclusion that Beecham no longer has any *bona fide* interest in the trademark. We do not accept that conclusion.

It appears to us that Beecham and Ayerst have each invested in, and derived benefit from, the Penbritin trademark. Under these circumstances, we do not believe that divesting Beecham of Penbritin without compensation is justified by the possibility of achieving the marginal pro-competitive effect that may be associated with such a divestiture. Moreover, before interfering with present and future contractual relationships concerning ownership of the Penbritin trademark, we would have to be persuaded (and we are not) that such interference is necessary to protect the public interest.

III. ALTHOUGH A COST-FREE ASSIGNMENT OF PENBRITIN WOULD HAVE BEEN A MORE FAVORABLE RESULT FOR AYERST, AYERST OVERSTATES THE ALLEGED ANTICOMPETITIVE EFFECT OF THE FAILURE TO REQUIRE SUCH AN ASSIGNMENT

Ayerst's claim that its ability to compete will be harmed so substantially as to affect the public interest is succinctly stated in its Comments (pp. 11 and 16):

"Under the Judgment, Ayerst must continue to buy from Beecham pursuant to the price and trademark royalty terms of its distribution agreement, while other present bulk [sic] customers of Beecham are free to seek more favorable terms from other suppliers and may become free to manufacture ampicillin themselves.

* * * * *

"Impairing or destroying Ayerst's competitive position will almost certainly have anticompetitive consequences and will be contrary to the public interest."

We think Ayerst overstates the consequences of not assigning Penbritin to it free of charge. Ayerst's argument that its competitive position will thus be impaired or destroyed is based, it seems to us, upon the assumption that only two possibilities exist: (1) Ayerst's marketing practices of ampicillin must remain unchanged, or (2) the Judgment must require assignment of Penbritin. We believe that additional options exist.

First, for some markets at least, Ayerst may not need the Penbritin trademark, and therefore may not have to continue to buy ampicillin from Beecham pursuant to its distribution agreement with Beecham seriously damages "Ayerst's ampicillin injectable business. Ampicillin injectables are sold primarily on a bid basis to hospitals and governmental entities." (St. John Affidavit,

[2] Neither that arrangement nor any subsequent arrangement between Beecham and Ayerst is specifically challenged in the complaint in this case.

[3] Lederle entered the market under the trademark Alpen in 1969, and Pfizer under the trademark Pen-A in 1972.

[4] Ayerst's reference to "the well known Penbritin trademark" is an apparent recognition that that trademark is probably more valuable than the trademarks affected by Article VIII of the proposed Judgment, since those trademarks have not been in use nearly as long as Penbritin has.

p. 2). These institutional bids, however, are won on the basis of price and quality, not trademark identification or promotion. If Ayerst can indeed obtain ampicillin from sources other than Beecham,[5] it should be able to obtain bid business equally well *without* using a brand name as it does using Penbritin. Thus, by dropping use of a brand name, Ayerst can, for bid business, attain the same competitive position as the companies that are assigned trademarks under Article VIII.[6] Like the other companies, Ayerst can bid to supply ampicillin it makes itself or obtains elsewhere.

Second, although trademarks do play more of a role in non-bid markets, the public will not nccessarily be injured if Ayerst must choose among adhering to the status quo (*i.e.*, its present arrangement with Beecham), finding a new ampicillin trademark, or using no trademark at all in these markets. Ayerst relies upon the observation in the CIS that Beecham's customers "have been (and will likely continue to be) unwilling to make the requisite additional investment in another trademark under which to promote and market the same product purchased from another source." This does not mean, however, that Ayerst must continue with Penbritin. If, indeed, Ayerst can obtain ampicillin from another source, it might well prefer to stay in the market *without* a brand name (other than "Ayerst"), thereby reducing its advertising and promotional expenses. The success of smaller and less well established drug companies in selling non-branded ampicillin would appear to make this a very viable option.

IV. Even Though Some Sort of Intermediate Resolution (Between Cost-Free Assignment and Ayerst's Present Arrangement With Beecham) Might be Fair to Ayerst and Still Accommodate Both Beecham's and Ayerst's Interest in Penbritin, it Does not Justify our Jeopardizing the Proposed Judgment by Insisting on Such a Resolution

We recognize that Ayerst, as a result of the proposed Final Judgment, will be in a less favorable position in some instances than certain of its competitors, such as Pfizer and Lederle. Because we could not justify a cost-free divestiture of the Penbritin trademarks, it may be necessary for Ayerst to change its marketing practices or to renegotiate its arrangement with Beecham in order to improve its competitive position.[7]

Upon receiving and considering Ayerst's Comments, the government first proposed to Beecham that the government and Beecham agree to add to Article VIII of the proposed Judgment a Beecham undertaking to offer Ayerst an additional license option. The option would be roughly as follows: for the life of the present trademark and distribution agreement with Ayerst, and any renewals contemplated therein, Beecham would give Ayerst the right to use the Penbritin trademarks for sales of ampicillin procured from any non-Beecham source, subject to a reasonable royalty for such use, and appropriate provisions for assurance of quality. The actual terms, we suggested, probably ought to be left to direct negotiation between Beecham and Ayerst. Beecham declined, however, to accept our proposal or to reopen negotiation of the proposed Judgment on that point.

We then asked Beecham whether a satisfactory compromise along the lines proposed above might be negotiated directly with Ayerst about Penbritin. Beecham responded that it was not able to make any immediate offer along such lines, although counsel for Beecham has informed us that Beecham would be willing to talk with Ayerst about this and other related matters.[8]

Although we believe a solution as outlined above would be fairer to Ayerst's private interests than the one that we negotiated with Beecham, we are unable to obtain it now without seriously jeopardizing the proposed Judgment. Because Ayerst still has viable options available to it, and because we have determined that the public interest should not be significantly affected by the treatment of Penbritin in the proposed Final Judgment, we have not insisted that the terms of that Judgment be renegotiated.

Conclusion

For the reasons stated above, entry of the proposed Final Judgment is in the public interest, and the public interest does not require cost-free divestiture of a *bona fide* Beecham trademark.

Dated: January 29, 1979.

Respectfully submitted: Thomas H. Liddle, Robert S. Schwartz, Lee J. Keller, *Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724-7969.*

Certificate of Service

I hereby certify that copies of the foregoing Response of the United States To Comments of Ayerst Laboratories Division of American Home Products Corporation, Relating To Proposed Final Judgment Against the Beecham Defendants were served this date by certified mail upon the following counsel:

Richard A. Whiting, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C. 20036.

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Daniel A. Rezneck, Esq., Arnold & Porter, 1229 19th Street, N.W., Washington, D.C. 20036.

Dated: January 29, 1979.

Thomas H. Liddle,
Attorney, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724-7969.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *Bristol-Myers Company, Beecham Group Limited*, and *Beecham, Inc.*, Defendants.
M.D.L. Docket No. 50

Civ. No. 822-70

Filed:————

Comments of Ayerst Laboratories Division of American Home Products Corporation, Relating to Proposed Final Judgment Against Beecham Group Limited and Beecham, Inc.

Willkie Farr & Gallagher, *Attorneys for American Home Products Corporation, One Citicorp Center, 153 East 53rd Street, New York, New York 10022, (212) 935-8000.*

Willkie Farr & Gallagher,
New York, N.Y., December 29, 1978.

Re United States of America v. Bristol-Myers Company, Beecham Group Limited and Beecham, Inc., M.D.L. Docket No. 50 Civ. No. 822-70

Robert V. Allen, Esq.,
Chief, Intellectual Property Section, Antitrust Division, SAFE 704, United States Department of Justice, Washington, D.C. 20530.

Dear Mr. Allen: Enclosed herewith are copies of "Comments of Ayerst Laboratories Division of American Home Products Corporation Relating to Proposed Final Judgment Against Beecham Group Limited and Beecham, Inc." and the supporting affidavit of Judson St. John. The originals of these documents have been filed with the Court.

Very truly yours,

Stephen Greiner.

U.S. District Court for the District of Columbia

United States of America, Plaintiff, v. *Bristol-Myers Company, Beecham Group Limited*, and *Beecham, Inc.*, Defendants.
M.D.L. Docket No. 50

Civ. No. 822-70

Filed:————

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[5] One obvious possible source for Ayerst would be Wyeth Laboratories, which, like Ayerst, is also a division of American Home Products. Wyeth is also a sublicensee of defendant Bristol-Myers under the ampicillin and many other of Beecham's semisynthetic penicillin patents.

[6] We have been informed by counsel for Ayerst that "Ayerst's ampicillin injectible business" represents a significant portion of Ayerst's overall ampicillin business. In 1977, it represented about 47% of ampicillin sales, and in 1978 about 55%.

[7] Since Ayerst might prefer to sell non-branded ampicillin in some or all markets, it would appear to be in a favorable negotiating position with Beecham.

[8] While expressing no opinion as to what the outcome of any such negotiations should be, there are other possibilities aside from the one we proposed. One would be an assignment of Penbritin to Ayerst, similar to the provisions of Article VIII, but with some negotiated payment by Ayerst reflecting the present value of Beecham's contributions. Another would be modification of the terms of the present agreement, so as to preserve the continued interest of each party in Beecham's supplying ampicillin to Ayerst.

COMMENTS OF AYERST LABORATORIES DIVISION OF AMERICAN HOME PRODUCTS CORPORATION, RELATING TO PROPOSED FINAL JUDGMENT AGAINST BEECHAM GROUP LIMITED AND BEECHAM, INC.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 USC 16(b)), Ayerst Laboratories ("Ayerst"), a division of American Home Products Corporation ("AHP"), hereby files these written comments [1] relating to the proposed final judgment ("Judgment") submitted for entry against Beecham Group Limited ("Beecham Group") and Beecham, Inc. ("Beecham") in this civil antitrust action.

1. THE PROVISIONS OF THE JUDGMENT TO WHICH THESE COMMENTS RELATE

These comments relate to Section VIII of the Judgment. That section provides that Beecham will assign, without charge, certain trademarks to persons by whom the trademarks were used in the United States in marketing semisynthetic penicillins that Beecham supplied to them. These trademarks include at least Alpen, the trademark used by the Lederle Laboratories Division ("Lederle") of American Cyanamid Company for the ampicillin it markets, and Pen-A, the trademark used by Pfizer Inc. ("Pfizer") for the ampicillin it sells.

Beecham is precluded under its 1959 licensing agreement with Bristol-Myers Company ("Bristol") from selling semisynthetic penicillins in the United States except under trademarks which Beecham owns. Therefore, the Judgment provides that the trademarks owned by Beecham will be assigned when Beecham (i) acquires the right to sell the semisynthetic penicillins involved under a trademark other than one owned by it or (ii) when there is a determination that the agreements restricting Beecham's right to sales under its own trademarks are unenforceable. Until either one of the foregoing occurs, Beecham is required by the Judgment to authorize those persons using its trademarks to continue to use such trademarks for the sale of the same semisynthetic penicillin purchased from persons other than Beecham. The only trademarks excluded from the provisions of Section VIII are "Penbritin" and "Penbritin S", the trademarks used by Ayerst in connection with its sales of ampicillin.

The purported rationale for Section VIII is set forth in the competitive impact statement ("CIS") filed by the United States in compliance with the Antitrust Procedures and Penalties Act:

In an effort to get around [the restriction permitting Beecham to sell semisynthetic penicillins only under its own trademarks], Beecham allowed its customers to select from a number of unused names or Beecham ideas for possible trademarks, a name under which each customer would like to resell dosage form semisynthetic penicillin that Beecham supplied to it. Beecham then registered as a trademark in the Patent Office the names selected by its customer; each customer then promoted and marketed the product supplied by Beecham under that name. As a result of this promotional effort, Beecham's customers, rather than Beecham, developed whatever goodwill is associated with, and provided whatever value there is in, these trademarks in the United States. And the fact that Beecham's customer made an investment in a trademark registered by Beecham, rather than in a trademark registered by them in their own name, was attributable directly to the trademark restriction in the 1959 agreement and the way in which Beecham sought to avoid it. Finally, Beecham authorized its customers to use the trademarks that Beecham registered only for the sale of the semi-synthetic penicillin that Beecham supplied to them.

The effect of this practice has been to insulate Beecham from competition from other suppliers in sales to its customers of ampicillin and other semisynthetic penicillins. [CIS at Section III E]

The purported rationale for the exclusion of "Penbritin" and "Penbritin S" from the application of Section VIII of the Judgment is also set forth in the CIS:

Beecham's world-wide trademarks, "Penbritin" and "Penbritin S", are specifically excluded from the application of Section VIII of the proposed Judgment. They are so excluded even though the "Penbritin" trademark is the subject of an arrangement (with the Ayerst Division of AMHO) similar to the arrangements that Beecham has with other customers involving trademarks that Beecham is required to assign under the proposed judgment. The reason for this exclusion is that, unlike the trademarks to be assigned under Section VIII, Beecham used its "Penbritin" trademarks itself extensively in the United States (and elsewhere) well before entering into its present arrangement with Ayerst. They appear therefore to be bona fide Beecham trademarks. [CIS at Section III E]

2. THE UNDERLYING FACTS DO NOT SUPPORT THE ALLEGED RATIONALE UPON WHICH THE EXCLUSION OF THE PENBRITIN TRADEMARK FROM SECTION VIII IS BASED

As indicated above, the Judgment provides that Beecham's bulk customers (which include at least Lederle and Pfizer) will be allowed to use (for the sale of ampicillin purchased from sources other than Beecham) the trademarks under which they have previously sold semisynthetic penicillin purchased from Beecham. The reason for this provision is that (i) such customers, rather than Beecham, promoted the trademark and developed whatever goodwill is associated with it, and (ii) such customers invested in the trademark registered by Beecham rather than in a trademark registered by them in their own name because of the trademark restriction in the 1959 agreement and the way Beecham sought to avoid it. [CIS Section III E] These same facts characterize Ayerst's use of the Penbritin and Penbritin S trademarks. Accordingly, there is no justifiable basis for distinguishing the Penbritin trademarks from the other trademarks covered by Section VIII.

The Penbritin trademarks were introduced into the United States in 1963 when Beecham and Ayerst first entered into marketing arrangements with regard to ampicillin. Since that time Ayerst has been continuously involved directly in the use and promotion of the Penbritin trademarks, neither of which have ever been used by Beecham independent of Ayerst in the United States. The CIS recognizes Ayerst's continuous use of the Penbritin marks when it recites (at p. 6) that "since about November 1962, Beecham and the Ayerst Division of AMHO have entered into various marketing arrangements, trademark licenses and purchase agreements, pursuant to which Beecham has supplied Ayerst with ampicillin for Ayerst's sale under Beecham's 'Penbritin' trademark. * * *" Since September 2, 1969 neither Beecham nor any of its subsidiaries have used the trademark Penbritin or played any role whatsoever in the promotion or selling of Penbritin.

From January 3, 1963 through September 1969, Ayerst marketed ampicillin under the trademark Penbritin for Beecham Research Laboratories, Inc. ("BRL"), a corporation 51% owned by Beecham and 49% by Ayerst, pursuant to a marketing agency agreement. Long prior to the effective date of the marketing agency agreement, Ayerst was an established firm in the prescription drug business in the United States whose name was well known to physicians, druggists, hospitals and other large purchasers of such drugs. As the marketing agency agreement specified, Ayerst, unlike BRL, had a large staff of detailmen to sell and promote prescription drugs. It was for this reason that BRL was willing to appoint Ayerst to market Penbritin. On the other hand, BRL had been formed only in 1962. From 1963 through 1969, when BRL ceased operations, its business activities were limited to the sale of semisynthetic penicillins (principally ampicillin) through Ayerst. During that period, BRL was not well known to physicians and large purchasers of prescription drugs. Moreover, prior to 1970 at least, Beecham, like BRL, was not well known in this country in the prescription drug field and its sales of prescription drugs were small.

During the period of the marketing agency agreement, the trademark Penbritin became associated with the name Ayerst, and Ayerst developed the goodwill associated with that trademark because of three principal factors. First, during that period the promotional material used by Ayerst specified that Penbritin was distributed by Ayerst, Laboratories, as distributors for BRL. The name Ayerst, however, was more prominently displayed on that material than the name BRL. (*see, e.g.*, documents A04772, A04783, A04846, A04950, A04919, and A04974 in the document depository). Second, during the period 1963 through 1969, the detailmen who sold and promoted Penbritin were employed by—and were known by the physicians and trade to be employees of—Ayerst, not BRL or Beecham. The large majority of the persons to whom Penbritin was sold or promoted by the Ayerst detailmen, together with other Ayerst products, undoubtedly identified the name Penbritin with Ayerst. third, the identification of the trademark Penbritin with Ayerst was strengthened by the fact, as indicated above, that Ayerst was a long-established and well-known firm in the prescription drug field in the United States, whereas BRL and Beecham were newcomers to the prescription drug business in this country and were relatively unknown here. Consequently, from the outset Penbritin was closely associated with the name Ayerst, not Beecham, and it was Ayerst that developed and was the beneficiary of the goodwill associated with the trademark.[2]

[1] Ayerst is submitting herewith the supporting affidavit of its Executive Vice President, Judson St. John.

[2] Under the Judgment Ayerst will be permitted to use the Beecham "Veracillin" trademark and may receive an assignment of it. Veracillin is the trademark under which Ayerst has sold dicloxacillin since 1968. Ayerst now sells veracillin pursuant to a distribution agreement with Beecham

Footnotes continued on next page

Effective September 2, 1969, Beecham and Ayerst entered into a distribution agreement pursuant to which Ayerst has purchased ampicillin from Beecham and sold it under the "Penbritin" trademark. (See document A03022-A03056 in the document depository) The distribution agreement provides that Ayerst may use the Penbritin trademark only with respect to ampicillin purchased from Beecham (with certain exceptions in the event Beecham is unable to fill Ayerst's orders). The purchase price for such ampicillin is (i) Beecham's cost, (ii) an amount for interest on the investment made by Beecham in its plant devoted to the production of Penbritin, (iii) 5% of Beecham's manufacturing cost and such interest on investment, and (iv) the royalties payable by Beecham to third parties and Beecham Group. In addition, the agreement provides for the payment of a trademark royalty by Ayerst equal to 50% of its net profits before taxes.

As before, under this arrangement, it is Ayerst, not Beecham, which has promoted the trademark Penbritin and has continued to develop all goodwill associated with that trademark in the United States. Thus, it is the name of Ayerst which appears on advertisements for Penbritin in medical journals, on promotional material sent to physicians and on package labels and inserts (See, e.g., documents A04987, A05017, A04998, A04999, A05029 and A05025-26 in the document depository)—much the same as the names of Beecham's other bulk customers appear on promotional material used in connection with the semisynthetic pencillin products which they market.

Moreover, after September 2, 1969 the reason Beecham retained ownership of the Penbritin trademark and the reason Ayerst invested in the trademark registered in Beecham's name rather than in a trademark registered in Ayerst's name, was attributable directly to the trademark restriction in the 1959 agreement and the way Beecham sought to avoid it. This is precisely the same reason, according to the CIS, that Beecham retained ownership of the trademarks developed by Beecham's other bulk customers and that such customers invested in those trademarks. Therefore, the rationale set forth in the CIS for the provisions in the Judgment requiring Beecham to assign trademarks such as Pen-A and Alpen applies in all respects to Penbritin.

In sum, when the CIS states that the reason for the exclusion of Penbritin from Section VIII is that "Beecham used its Penbritin trademark itself extensively in the United States (and elsewhere) [3] well before entering into its present arrangements with Ayerst" it is in error. As noted, Ayerst was involved from the beginning in the use of the mark Penbritin in the United States, and from the beginning it was Ayerst which primarily promoted the mark and was identified with it. Moreover, for the last nine years in the United States Ayerst alone has promoted the Penbritin marks, has invested heavily in those trademarks and has developed *all* goodwill now associated with those trademarks. Whatever goodwill Beecham had derived indirectly through Ayerst and BRL prior to September 1969 has now been totally and irretrievably lost by Beecham.

3. AYERST WILL BE SUBSTANTIALLY DISADVANTAGED UNDER THE TERMS OF THE JUDGMENT VIS-A-VIS OTHER PRESENT PURCHASERS FROM BEECHAM AND OTHERS WHO MARKET AMPICILLIN.

If Ayerst desires to sell ampicillin under the Penbritin trademark, it will be required to abide by the terms of the September 2, 1969 distribution agreement. Under that agreement, it must purchase ampicillin only from Beecham (at specified prices) and must pay Beecham a substantial trademark royalty on its sales. Because of current market conditions, Ayerst must sell ampicillin, if at all, under the well known Penbritin trademark which it has developed over a period of 15 years at great expense. As a practical matter Ayerst cannot at this time develop a new trademark under which to sell ampicillin. The CIS recognizes the difficulty faced by Beecham's customers in developing new trademarks:

> For after having once made such an investment in a trademark registered by Beecham, these customers have been (and will likely continue to be) unwilling to make the requisite additional investment in another trademark under which to promote and market the same product purchased from another source. [CIS at Section III E]

Under the Judgment, Ayerst must continue to buy from Beecham pursuant to the price and trademark royalty terms of its distribution agreement, while other present bulk customers of Beecham are free to seek more favorable terms from other suppliers and may become free to manufacture ampicillin themselves. This will plainly and unfairly disadvantage Ayerst in a number of ways.

First, under the Judgment, persons other than Ayerst who currently purchase in bulk from Beecham, can seek better prices from other suppliers. [4] Bristol, Wyeth, and Squibb all manufacture and may sell bulk ampicillin without violating any contractual obligation or any other persons' patent rights. Not only will Beecham's present bulk customers have the potential of purchasing from other sources at lower prices, but their ability to purchase elsewhere may enable such persons to negotiate better terms with Beecham. Second, if an adverse determination is rendered against Bristol in the litigation, or Bristol settles on terms similar to those contained in the Judgment against Beecham, additional sources of bulk ampicillin might become available from which Beecham's present customers could make purchases. Such sources could include (1) ampicillin manufactured by other persons not now licensed by Bristol (including Beecham's present bulk customers), (2) ampicillin manufactured outside the United States, and (3) compulsory bulk sales by Bristol itself. Third, in the event of an adverse determination against Bristol, Beecham's present bulk customers, other than Ayerst, will have the option of manufacturing ampicillin themselves. Fourth, in all events by November 1981, when Bristol's ampicillin trihydrate patent expires, (1) the additional sources of supply mentioned above (except compulsory bulk sales by Bristol) may become available and (2) Beecham's bulk customers will be allowed to manufacture ampicillin. Under the Judgment, Ayerst, unlike its competitors, will not be able to take advantage of these potential sources of supply or to manufacture ampicillin itself because it will be required to continue to purchase from Beecham. [5]

Ayerst will be subjected to other serious competitive disadvantages if it alone is forced to purchase from Beecham. In the last several years, Ayerst has been unable to obtain the quantities of ampicillin from Beecham, particularly the injectable forms, which it needs to meet its orders. In addition, many deliveries by Beecham to Ayerst have been delayed. As a result, Ayerst has lost substantial revenues. For example, Ayerst's inability to obtain needed supplies from Beecham has forced it to give up large bids which it had won to supply certain states and hospitals with Penbritin. Under the distribution agreement Ayerst has no effective way of overcoming the problems caused by Beecham's failure to supply and its late deliveries. While the distribution agreement provides that in the event Beecham does not fulfill Ayerst's ampicillin orders, Ayerst may, if certain conditions are met, obtain its requirements from other suppliers, this provision does not help Ayerst significantly. In the case of ampicillin contracts for which Ayerst must bid, it is essential that Ayerst be assured many months in advance that it will be able to fulfill its obligations. Under the distribution agreement, Ayerst is unable to obtain timely assurances that it will be supplied by Beecham or other sources.

Not requiring Beecham to assign the Penbritin trademark to Ayerst poses another major problem for Ayerst. By its terms, the distribution agreement expires at the very latest in 1989. At that time, Ayerst can no longer use the Penbritin trademark (unless it enters into another agreement with Beecham) and Beecham will become free to use that mark. In contrast, the trademarks now used by Beecham's other bulk purchasers will be assigned to them. Under these circumstances, as a practical matter, it will be

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Footnotes continued from last page

identical to the distribution agreement relating to Penbritin. Moreover, prior to September 2, 1969, Ayerst sold Veracillin pursuant to a marketing agency agreement dated August 5, 1966. That agreement is *identical* to the marketing agency agreement of the same date under which Ayerst sold "Penbritin". (See, e.g., documents A01553-A01579 in the document depository) Since the arrangements between Ayerst and Beecham relating to "Veracillin" and "Penbritin" before and after September 2, 1969 were the same, there is no reason for the Judgment to treat Penbritin differently.

[3] Use by Beecham of the Penbritin trademark outside of the United States does not give Beecham any trademark rights or goodwill in the United States. Trademark rights or goodwill in the United States can be obtained only by use of the trademark in this country.

[4] In addition, Ayerst will be forced to continue to pay Beecham a trademark royalty, thereby increasing its costs, whereas it would appear others who now purchase in bulk from Beecham (pursuant to arrangements requiring them to pay Beecham a trademark royalty) and compete with Ayerst such as Lederle will be relieved of this expense. The significance of this is obvious. Ayerst pays Beecham a trademark royalty equal to 50% of its net profits before taxes on Penbritin sales.

[5] The competitive disadvantage to Ayerst of being forced to buy ampicillin from Beecham is evident from a review of current ampicillin pricing. Currently, Beecham and other competitors give deals to pharmacies and wholesalers permitting those persons to purchase ampicillin below the cost at which Ayerst purchases it from Beecham.

difficult for Ayerst to justify making the required investment in the promotion of Penbritin which will enable it effectively to compete in the ampicillin market.

4. INSOFAR AS THE JUDGMENT EXCLUDES PENBRITIN FROM THE PROVISIONS OF SECTION VIII, THE JUDGMENT IS NOT IN THE PUBLIC INTEREST

The CIS concludes that the arrangements by which Beecham's present customers (presumably including Ayerst) are required to purchase only from Beecham has an anticompetitive effect:

The effect of this practice has been to insulate Beecham from competition from other suppliers in sales to its customers of ampicillin and other semisynthetic penicillins. This effect will continue unless each of Beecham's customers is free to use, with a semisynthetic penicillin purchased from a source other than Beecham, the trademark that Beecham registered (but only the customer used) in the United States and in which such customer has already made a substantial investment * * * Thus, requiring assignment of (or authorization to use) such trademarks should, the Government believes, further open up the semisynthetic penicillin market to effective competition. [CIS Section III E]

Allowing Beecham to retain the Penbritin trademark will not only insulate Beecham in its sales of ampicillin to Ayerst from competition from other suppliers, but it may seriously weaken the competitive position of Ayerst in the market as indicated above and this fact itself may have important anticompetitive effects on the ampicillin market.

Historically, Ayerst has been an important competitor in the ampicillin market. Throughout the 1960s, Ayerst was among the market leaders in sales of ampicillin. Although its market share has dropped [6] since that time, Ayerst is still a significant competitor and its presence in the market is likely to have an effect on price competition.

As indicated above, forcing Ayerst alone to adhere to the trademark provisions of its distribution agreement with Beecham may substantially impair its competitive position and may, in fact, force it from the market. Impairing or destroying Ayerst's competitive position will almost certainly have anticompetitive consequences and will be contrary to the public interest.

5. CONCLUSION

For the reasons indicated above, the Judgment should be revised so as not to exclude Penbritin from the provision of Section VIII.

Dated: December 29, 1978.

Respectfully submitted: Willkie Farr & Gallagher, *Attorneys for American Home Products Corporation.*

By: Stephen Greiner (a member of the firm), One Citicorp Center, 153 East 53rd Street, New York, N.Y. 10022.

[6] A portion of Penbritin's decline in market share is directly attributable to Ayerst's inability to obtain its ampicillin needs from Beecham on a timely basis.

AFFIDAVIT OF JUDSON ST. JOHN

AFFIDAVIT

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Co., Beecham Group Limited*, and *Beecham, Inc.* Defendants.

M.D.L. Docket No. 50

Civ. No. 822-70

Filed:————

State of New York ss.:
County of New York

JUDSON ST. JOHN, being duly sworn, deposes and says:

1. I am an Executive Vice President of Ayerst Laboratories ("Ayerst"), a division of American Home Products Corporation ("AHP"). I submit this affidavit to document certain facts which are referred to in the written comments of Ayerst submitted herewith relating to the proposed Judgment against Beecham Group Limited ("Beecham Group") and Beecham, Inc. ("Beecham") in this litigation.

2. As set forth in the comments, Ayerst has been unable to obtain from Beecham the quantities of ampicillin injectables which Ayerst's business requires. For example, during the three year period 1976 through 1978, Ayerst ordered 3,377 kilos of ampicillin injectables from Beecham but received shipments totaling only 1,743 kilos, or 52% of the amount ordered. The problem during 1977 and 1978 has become increasingly acute. During the latter period orders aggregating 2,428 kilos have been placed while shipments amounting to only 845 kilos have been made.

3. Because of the nature of the ampicillin injectable market, Beecham's failure to make deliveries has had a serious affect on Ayerst's ampicillin injectable business, Ampicillin injectables are sold primarily on a bid basis to hospitals and governmental entities. To compete effectively in this market, it is imperative for the bidder to know well in advance that it will have an adequate supply with which to meet its obligations in the event it is awarded the contract. Because of Beecham's failure to supply Ayerst's requirements of ampicillin injectables, Ayerst's competitive position in this market has been seriously hurt. It should be noted that the September 2, 1969 distribution agreement between Ayerst and Beecham contains a provision allowing Ayerst, under certain circumstances, to obtain ampicillin from suppliers other than Beecham. In practice, however, this provision affords Ayerst little protection. frequently, Ayerst has not been given sufficient notice by Beecham that it would not supply Ayerst with enough ampicillin to meet Ayerst's needs so as to enable Ayerst to obtain (or attempt to obtain) ampicillin injectables from another source on a timely basis.

4. Beecham's failure to meet Ayerst's ampicillin injectable needs has resulted in Ayerst's loss of several large bids which it had won to supply Penbritin to hospitals and governmental entities. During the fiscal year ended March 31, 1977 Ayerst was forced to give up, because of lack of Penbritin injectable, a bid of $500,000 to supply the Joint Purchasing Corporation (the corporation which buys, among other things, drugs for those hospitals, principally in New York City, who are members of the Federation of Jewish Philanthropies), a bid of $500,000 to supply western New England Hospital Purchasing Group, and bids aggregating $200,000 to supply the purchasing arms of the states of Maine and Connecticut—all of which Ayerst had won.

5. Besides Beecham's failure to deliver sufficient ampicillin to Ayerst, the majority of ampicillin injectable shipments made in recent years were delivered late. During the three year period from 1976 through 1978, 70% of Beecham's deliveries of ampicillin injectables were more than one month late.

6. Ayerst's comments also state that in terms of pricing, Ayerst has been placed at a severe competitive disadvantage because it can purchase only from Beecham under the distribution agreement. In fact, the prices Ayerst must pay to Beecham for several size and dosage packages of Penbritin capsules have exceeded the prices at which Totacillin capsules have been sold to pharmacists and wholesalers during deals offered by Beecham. For example, effective June 1, 1977, Ayerst's purchase prices from Beecham (which do not include other costs such as those for promotion, distribution, etc.) for capsules have been as follows:

Package size and dosage:	*Cost*
250 mg. x 100	$4.88
250 mg. x 500	23.45
500 mg. x 50	4.51
500 mg. x 500	42.65

In a promotional brochure dated July 10, 1978, a copy of which is annexed hereto as Exhibit "A", Beecham offered ampicillin capsules to pharmacists at the following prices:

Package size and dosage	Price	Price ($250-399)	Price ($400 or more)
250 mg. x 100's	$4.09	$3.94	$3.79
250 mg. x 500's	18.48	17.99	17.50
500 mg. x 50's	4.07	3.96	3.85
500 mg. x 500's	37.14	36.17	35.20

Squibb also has offered pharmacists lower prices than those paid by Ayerst to Beecham. During the period from July 1, 1978 through September 30, 1978 Squibb offered the following prices for ampicillin capsules:

Package size and dosage	Price	Early buy incentive discount price
250 mg. x 100	$4.85	$4.71
250 mg. x 500	20.90	20.27
500 mg. x 500	41.50	40.26

7. Information has also been obtained by Ayerst that within the last two years, certain of Ayerst's competitors have won bids to supply ampicillin injectables to hospitals and governmental entities at prices less than Beecham's price on such injectables to Ayerst.

8. For the reasons set forth above and in the comments of Ayerst, I respectfully request that Section VIII of the Judgment be amended so as not to exclude the Penbritin trademarks from the terms thereof.

JUDSON ST. JOHN.

Sworn to before me this 29th day of December, 1978.

BRENDA R. GARNER,
Notary Public.

BEECHAM LABORATORIES,
Bristol, Tenn., July 10, 1978.

DEAR PHARMACIST: Beecham, the discoverer and developer of ampicillin as well as most of the important semisynthetic penicillins, is pleased to announce a significant reduction in prices for the following penicillin products through a 1978 Special Antibiotic Combination offer to the direct customer.

TOTACILLIN® (ampicillin)
BACTOCILL® (oxacillin sodium)
CLOXAPEN® (cloxacillin sodium)
DYCILL® (dicloxacillin sodium)

The attached sheet displays the new reduced prices on the above products based upon certain minimum qualifying order levels valued at the "special offer list prices" of any combination of the items listed. You can obtain the special prices by purchasing qualifying orders before November 30, 1978, and then unlimited reorders will be honored through March 31, 1979 at the lowest prices earned during the offer period ($150 minimum order at special offer list prices required).

Beecham has one of the most complete product lines of oral forms of ampicillin, both capsules and oral suspensions.

The oral anti-staph products, BACTOCILL® (oxacillin sodium), CLOXAPEN® (cloxacillin sodium), and DYCILL® (dicloxacillin sodium) are offered at prices which are up to 15% below other competitive products.

To take advantage of these "most" competitive prices, contact your Beecham representative or your local Beecham Distribution Center through one of the following toll free numbers:

Bristol, TN.—Ask for Customer Service, 1-800-251-0271. (Except Tennessee—615/764-5141)—States Serviced: Arkansas, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia and West Virginia.

Piscataway, N.J., 1-800-526-3540. (Except New Jersey—201/469-5441)—States Serviced: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

Elmhurst, Illinois, 1-800-323-1033. (Except Illinois—1-800-942-2488)—States Serviced: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Arlington, Texas, 1-800-433-1553. (Texas outside Dallas/Ft. Worth 1-800-792-8921). (Dallas/Ft. Worth—1-817-261-6626)—States Serviced: Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

TOTACILLIN ORAL/ORAL ANTI-STAPH PRICES; 1978 SPECIAL ANTIBIOTIC COMBINATION OFFER

[Effective July 10, 1978-November 30, 1978]

	Special offer list prices	Mix A special offer list price $150-$249	Mix B special offer list price $250-$399	Mix C special offer list price $400 or more
Totacillin capsules (ampicillin):				
250mg. x 100's	4.09	4.09	3.94	3.79
250mg. x 500's	18.48	18.48	17.99	17.50
500mg. x 50's	4.07	4.07	3.96	3.85
500mg. x 500's	37.14	37.14	36.17	35.20
Totacillin for oral suspension (ampicillin):				
125mg./5ml. x 80ml	.73	.73	.71	.69
125mg./5ml. x 100ml	.83	.83	.81	.79
125mg./5ml. x 150ml	1.14	1.14	1.12	1.10
125mg./5ml. x 200ml	1.43	1.43	1.41	1.39
250mg./5ml. x 80ml	1.07	1.07	1.05	1.03
250mg./5ml. x 100ml	1.23	1.23	1.21	1.19
250mg./5ml. x 150ml	1.78	1.78	1.74	1.70
250mg./5ml. x 200ml	2.17	2.17	2.13	2.09
Bactocill (oxacillin sodium):				
250mg. x 100's	16.48	16.48	16.32	16.16
500mg. x 100's	30.74	30.74	30.43	30.13
Cloxapen (cloxacillin sodium):				
250mg. x 100's	19.79	19.79	19.59	19.39
500mg. x 100's	39.29	39.29	38.89	38.50
Dycill (dicloxacillin sodium):				
250mg. x 100's	19.75	19.75	19.55	19.35
500mg. x 100's	34.55	34.55	34.20	33.86

Reorder privileges: Unlimited reorders from December 1, 1978 through March 31, 1979 at lowest prices earned during the offer period ($150 minimum order at special offer list prices required); All prices subject to 2% additional cash discount if paid within 30 days of invoice date, net 31 days.

Sacramento, California, 1-800-824-5022 (California except area code 916—1-800-852-7578), Sacramento to A.C. 916—381-4030—States Serviced: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

If you order exclusively through a wholesaler, contact your local wholesaler about new reduced prices for TOTACILLIN , BACTOCILL , CLOXAPEN and DYCILL under the 1978 Special Antibiotic Combination Offer.

Very cordially yours,

M. MARION JONES,
Vice President—Sales & Marketing.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Company, Beecham Group Limited*, and *Beecham Inc.* Defendants.

M.D.L. Docket No. 50

Civ. No. 822-70

RESPONSE OF THE UNITED STATES, UNDER 15 U.S.C. 16(b), TO OBJECTIONS OF DEFENDANT BRISTOL-MYERS COMPANY TO ENTRY OF PROPOSED FINAL JUDGMENT AGAINST THE BEECHAM DEFENDANTS

INTRODUCTION

Pursuant to 15 U.S.C. 16(b), the United States submits this partial response to certain objections made by defendant Bristol-Myers Company ("Bristol") to entry of a proposed Final Judgment against Beecham Group Limited and Beecham Inc. (collectively "Beecham"). On December 29, 1978, Bristol filed a paper,[1] objecting to entry of the proposed Judgment, and seeking certain relief (including modification of that Judgment). Bristol purported to base its objections on 15 U.S.C. 16(b), and to seek relief pursuant to F.R.Civ.P. 41(a)(2) and 54(b). Bristol objected on the following grounds (p. 2, Objections):

(A) the decree would violate Bristol's fundamental rights to Due Process by granting the government unfair procedural advantages in the continued prosecution of its claims against Bristol, and

(B) the decree would require Beecham to infringe Bristol's rights under the United States Patent No. 3,164,604 covering 6-amino penicillanic acid ("6-APA"), . . . by making compulsory sales of 6-APA, and might encourage additional infringement of that patent by recipients of Beecham's proposed covenants not-to-sue.

On January 22, 1979, the government filed a separate paper responding to Bristol's due process "objection" and to the relief Bristol sought under Rules 41(a)(2) and 54(b). That response demonstrates that the proposed Judgment would not deny Bristol due process of law, that the relief Bristol requested is unnecessary, and that Bristol's deposition rights (as ensured by Order of this Court) fully protect its legitimate procedural interests. In our view, 15 U.S.C. 16(b) does not require the government to publish that response.[2]

In this paper, we (1) show that Bristol's due process "objection" is not directed to the "public interest" determination required by 15 U.S.C. 16(e), and (2) respond on the merits only to Bristol's objections concerning its asserted rights under the 6-APA patent (U.S. No. 3,164,604). Pursuant to 15 U.S.C. 16(d), we are publishing this response, and we are also publishing (even though, in our view, not required by that statute to do so) Bristol's entire filing concerning the proposed Judgment.

I. BRISTOL HAS NO VALID PROCEDURAL OBJECTION TO THE PROPOSED FINAL JUDGMENT UNDER 15 U.S.C. 16

Bristol cites no authority in support of its demand to modify the substantive provisions of this proposed consent judgment. The only basis for Bristol to attempt to do so is pursuant to 15 U.S.C. 16. Subsection (e) of that statute provides that no consent judgment may be entered without a determination by the Court that such judgment is "in the public interest." That same subsection also provides that in making such determination, a court may consider:

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipat-

[1] "Objections of Defendant Bristol-Myers Company To Entry of Proposed Final Judgment Against Beecham Defendants and Request for Relief" ("Objections").

[2] This is because (a) the relief Bristol sought pursuant to Rules 41(a)(2) and 54(b) is directed solely to Bristol's due process "objection", and (b) neither that objection nor the relief requested is directed to the "public interest" determination required by 15 U.S.C. 16(e).

ed effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

The "public interest" is in no way involved in Bristol's purely private concerns as a litigant in this case. Indeed, the only reference in Bristol's paper to the public interest appears in the conclusion. There, Bristol contends (p. 9):

"[t]he proposed consent decree is not in the public interest as it would cause serious injury to Bristol's Constitutional and economic rights."

Bristol's access to Beecham witnesses and documents (as compared with that of the plaintiffs) has nothing whatever to do with (1) the "competitive impact" of the proposed Judgment, (2) the impact of entry of that Judgment upon the public generally or on persons allegedly harmed by Bristol's conduct, or (3) the public's interest in free and open competition in the pharmaceutical market. Obviously, Bristol has confused its own interest with the public interest. As we said in our January 22 response, to the extent that Bristol believes that it is being treated unfairly (although we do not believe it is) in its defense against charges brought on the public's behalf, Bristol's recourse lies in the provisions of the Federal Rules of Civil Procedure.

II. THE PROPOSED JUDGMENT DOES NOT REQUIRE BEECHAM, OR ENCOURAGE OTHERS, TO VIOLATE WHATEVER RIGHTS BRISTOL MAY HAVE UNDER THE 6-APA PATENT OR ITS 1959 AGREEMENT WITH BEECHAM

A. *Alleged "Infringement"*

Bristol objects to the proposed judgment on the grounds that it "requires" infringement of Bristol's exclusive rights under U.S. Patent No. 3,164,604, which claims 6-APA. [3] Article V(F) of the proposed Judgment does require Beecham, under certain circumstances, to sell 6-APA in the United States. It is not all that clear, however, that Beecham's sales of 6-APA would involve any infringement of the 6-APA patent, because, in our view, Beecham's April 2, 1959, agreement with Bristol (which is specifically challenged in this lawsuit) permits Beecham to make such sales. But even if we are wrong about that, there is no substantial likelihood of any violation of either Bristol's contractual or patent rights, because there is apparently little likelihood of any sales of 6-APA under the proposed Judgment.

1. The 1959 agreement does not prevent sales of 6-APA.

Bristol contends that Beecham's so-called "reserved right" in the license agreement of April 2, 1959, "provides *no* right under United States Patent No. 3,164,604 to sell 6-APA • • •" (p. 6, Objections; emphasis added). Bristol is clearly wrong about that, for Beecham has at least some right to sell 6-APA. While granting Bristol certain exclusive rights in a number of United States patents (including the 6-APA patent), the 1959 agreement also expressly recognized Beecham's right "to sell in the United States of America Licensed Products A • • • in consumer package form under trademarks owned by Beecham • • •." And, as we understand the 1959 agreement, 6-APA is a "Licensed Product A". [4] Thus, Beecham has an express right under that agreement to sell Licensed Products A (including 6-APA) in "consumer package form."

6-APA is a starting material from which all semisynthetic penicillins are made. It is neither sold nor used as a phrmaceutical or for clinical purposes. Thus, it is not sold, used, or consumed in a "dosage form," [5] such as pills, tablets, or capsules. Instead, 6-APA is made, sold, and used by its ultimate consumer in powder (or other bulk) form, as a raw material in making semisynthetic penicillins. And for 6-APA the ultimate consumers are manufacturers of semisynthetic penicillins. Thus, for this product and for those consumers, whatever the package form may be in which 6-APA powder is ordinarily sold to its ultimate consumers, that package form must necessarily, and as a matter of common sense, be a "consumer package form" within the meaning of the 1959 agreement. [6] In view of this, it seems to us that a fair and reasonable interpretation of the 1959 agreement is that Beecham would not violate any of "Bristol's exclusive rights under the 6-APA patent" if Beecham were to sell 6-APA in the United States pursuant to the proposed Judgment.

In any event, Beecham is a party to both this proposed Judgment and the 1959 agreement. Therefore, whatever risks of violating either Bristol's contractual or patent rights exist, by reason of having to sell 6-APA pursuant to the proposed Judgment, they are risks that Beecham has obviously already assumed by agreeing to the Judgment. In addition, the proposed Judgment would have no effect whatsoever on Bristol's right to enforce whatever contractual or patent rights it may have. Thus, if Bristol now has a right to sue Beecham, because of any Beecham sales of 6-APA, Bristol would still have the same right to do so after the Judgment is entered.

2. Sales of 6-APA under the proposed Judgment are unlikely anyway.

Beecham is obliged under the proposed Judgment to sell 6-APA in the United States only in certain limited circumstances, all of which must exist concurrently in order for the obligation to apply. Those circumstances include:

(1) 6-APA becomes "temporarily unavailable commercially from a source other than Beecham or Bristol";

(2) a request for 6-APA is made in writing for delivery in the United States to meet *bona fide* stated requirements for manufacture and sale of semisynthetic penicillins in the United States;

(3) a person making such a request is practicing under a license granted pursuant to Article VI of the Judgment, and is neither a 6-APA nor semisynthetic penicillin bulk-customer or licensee of either Beecham or Bristol as of the date of entry of the Judgment; and

(4) Beecham made, or had made for it, at least some 6-APA that it used in making >semisynthetic penicillins sold in the United States during the previous calendar year.

As for the commercial availability of 6-APA, Bristol itself informed us, during joint settlement discussions, that 6-APA was now virtually a commodity on the world market, and therefore was readily available from a number of sources. If Bristol is right about that, there may be few, if any, occasions when Beecham will be obliged to sell 6-APA in the United States pursuant to the proposed Judgment. [7]

B. *Covenants Not-To-Sue*

Bristol also objects to entry of the proposed Judgment because, Bristol claims, it might encourage persons other than >Beecham to infringe the 6-APA patent. Such encouragement might occur, Bristol contends, because the proposed Judgment "does not require Beecham to disclose to all recipients of Beecham's covenant not-to-sue that Bristol, as exclusive licensee, [as well as Beecham] has the right to bring suit to enjoin or seek damages for infringement" (p. 7, Objections).

It is unnecessary, we submit, for the Judgment to require Beecham to do so, because the competitive impact statement makes it clear that Bristol has that right (pp. 9 and 15). In any event, Beecham has advised us that they will so inform each applicant for a covenant not-to-sue.

CONCLUSION

For the foregoing reasons, Bristol has failed to show that the proposed Final Judgment is not in the public interest, or that it would cause any serious injury to Bristol's Constitutional or economic rights. Entry of the proposed Judgment is, we submit, in the public interest.

Dated: January 29, 1979.

[3] The 6-APA patent issued with only one claim. That claim covers "solid, nonhygroscopic 6-aminopenicillanic acid having [a specific] structural formula . . . and melting at about 209-210°C." Thus, any 6-APA that is hygroscipic, or that is not a solid, or that melts at some temperature outside the narrow two-degree range specified in the claim should not infringe the patent.

[4] That term is defined in the agreement as "all products embodying or made in accordance with or through the use of any of the inventions disclosed or claimed in (1) Licensed Beecham Patents • • •", which includes the 6-APA patent.

[5] "Dosage form" is defined in the proposed Judgment (Article II(D)) as "any form in which ethical phrmaceuticals are package or formulated for use by or administration to their ultimate human or animal consumer, and includes, among other things, pills, tablets, capsules, elixirs, syrups, vials, and ampules."

[6] Indeed, it would be economically wasteful and impracticable to sell 6-APA to semisynthetic-penicillin manufacturers in any form other than powder or another bulk form. The cost of converting bulk powder to a dosage form is not insubstantial, and since 6-APA is usually reacted while in solution in the manufacture of semisynthetic penicillins, the powder form is likely to be far easier to get into solution than a tablet or pill would be.

[7] Also, Bristol contends that "there is no economic reason for . . . a provision [requiring the Beecham defendants to sell 6-APA] since Bristol has granted rights to manufacture and sell 6-APA to . . . American Home Products Corporation, E. R. Squibb & Sons, Inc. and Pfizer" (p. 6, Objections). In view of this, Bristol itself (as well as American Home Products, Squibb, and Pfizer) would certainly be possible (although unlike Beecham not certain) sources of 6-APA.

Respectfully submitted,

THOMAS H. LIDDLE,
ROBERT S. SCHWARTZ,
LEE J. KELLER,
Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724-7969.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Response of the United States, Under 15 U.S.C. § 16(b), To Objections of Defendant Bristol-Meyers Company To Entry of Proposed Final Judgment Against the Beecham Defendants were served this date by certified mail upon the following counsel:

Richard A. Whiting, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C. 20036.

Philip A. Lacovara, Esq., Hughes Hubbard & Reed, 1660 L Street, N.W., Washington, D.C. 20036.

David I. Shapiro, Esq., Dickstein Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037.

Arnold Bauman, Esq., Shearman & Sterling, 53 Wall Street, New York, New York 10017.

Jerome G. Shapiro, Esq., Hughes Hubbard & Reed, 1 Wall Street, New York, New York 10005.

Daniel A. Rezneck, Esq., Arnold & Porter, 1229 19th Street, N.W., Washington, D.C. 20036.

Dated: January 29, 1979.

THOMAS H. LIDDLE,
Attorney, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/724-7969.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, against *Bristol-Myers Company, Beecham Group Limited* and *Beecham Inc.*, Defendants.

M.D.L. Dkt. No. 50

C. A. No. 822-70

OBJECTIONS OF DEFENDANT BRISTOL-MYERS COMPANY TO ENTRY OF PROPOSED FINAL JUDGMENT AGAINST BEECHAM DEFENDANTS AND REQUEST FOR RELIEF

On October 25, 1978, the United States ("the government") and defendants Beecham Group Limited and Beecham Inc. (collectively "Beecham") submitted to the Court for approval a proposed Final Judgment ("the proposed consent decree") which, if approved, would settle both equitable and legal claims asserted by the government against Beecham. Defendant Bristol-Myers Company ("Bristol") objects to entry of the proposed consent decree pursuant to 15 U.S.C. 16(b), and, pursuant to Rules 41(a)(2) and 54(b) of the Federal Rules of Civil Procedure, requests relief against entry of judgment except upon such terms and conditions as will preserve Bristol's rights to fundamental fairness and even-handed justice.

I. OBJECTIONS TO PROPOSED CONSENT DECREE

Bristol objects to the proposed consent decree on the grounds that

(A) the decree would violate Bristol's fundamental rights to Due Process by granting the government unfair procedural advantages in the continued prosecution of its claims against Bristol, and

(B) the decree would require Beecham to infringe Bristol's rights under the United States Patent No. 3,164,604 covering 6-amino penicillanic acid ("6-APA"), whose validity is unchallenged, by making compulsory sales of 6-APA, and might encourage additional infringement of that patent by recipients of Beecham's proposed covenants not-to-sue.

A. *Judicial enforcement of provisions granting the government procedural advantages would deprive Bristol of due process and would violate principles of fundamental fairness.*

Article XVII of the proposed consent decree incorporates in the decree an agreement, denominated "Exhibit A", between Beecham and the government concerning Beecham's continued availability to the government as a witness during pretrial proceedings and at trial of the action against Bristol. In Exhibit A, Beecham agrees to produce its personnel to testify for the government either at pretrial depositions or at trial, as the government elects, and agrees to use its best efforts to assist the government in deposing and securing the presence at trial of retired or former Beecham personnel (Exhibit A, pars. 1(c) and 1(e)). Beecham also agrees to use its best efforts to obtain written statements for the government from present and former Beecham personnel, and agrees to comply with requests by the government to inspect and copy documents relating to the subject matter of the action (Exhibit A, pars. 1(b), 1(c) and 1(d)).

Article XIII of the proposed consent decree provides that jurisdiction will be retained over Beecham by this Court to implement the decree including "the enforcement of compliance therewith, or for the punishment of violations thereof."

There are no comparable procedural rights afforded to Bristol for its defense of the action, and no provision for judicial protection and intervention to assure fairness to Bristol.

Where an unlawful conspiracy is charged, it is particularly important that the defense, the judge and the jury have access equal to that of the prosecution to the "storehouse of relevant fact." Thus, in *Dennis* v. *United States*, 384 U.S. 855 (1966), the Supreme Court stated (*id.* at 873):

"A conspiracy case carries with it the inevitable risk of wrongful attribution of responsibility to one or more of the multiple defendants. *See, e.g., United States* v. *Bufalino*, 285 F.2d 408, 417-418 (C. A. 2d Cir. 1960). Under these circumstances, it is especially important that the defense, the judge and the jury should have the assurance that the doors that may lead to truth have been unlocked. In our adversary system for determining guilt or innocence, it is rarely justifiable for the prosecution to have exclusive access to a storehouse of relevant fact. • • •" [Footnote omitted.]

A decree entered upon consent is more than a mere contract between the parties; it is a judicial act. *Pope* v. *United States*, 323 U.S. 1, 12 (1944); *United States* v. *Swift & Co.*, 286 U.S. 106, 115 (1932). Enforcement by this Court of the provisions of Exhibit A for the sole benefit of the government, without affording Bristol the same rights and the same protection of this Court, would constitute a judicial deprivation of Bristol's rights to Due Process, and could result in clearly erroneous determinations by the trier of fact.

Court approval of Exhibit A to the proposed consent decree would constitute entry of an enforceable order of this Court (i) judicially providing pretrial discovery by documents and testimony for one side of a lawsuit, while such relief is not equally available to the other side,[1] and (ii) judicially providing for trial witnesses who are out of subpoena range to be available to one side in a lawsuit, while not similarly providing for the other side.

Testimony by Beecham witnesses at pretrial and trial is essential to Bristol's rebuttal of any adverse inferences which the government may seek to draw from documents produced by Beecham in pretrial proceedings or from testimony of Beecham witnesses at trial. Although the Court, by order dated December 6, 1978, has ordered Beecham to submit to depositions by Bristol beginning in February, 1979, until the government has designated its intended trial witnesses and documentary exhibits, Bristol will not know what testimony by Beecham personnel will be necessary to present a rebuttal case. As a consequence of the provision in Exhibit A by which Beecham agrees to provide the government with witnesses to testify *either* at deposition *or* at trial, but *not both*, the government is free to elect not to depose its key witnesses but rather to present them only as trial witnesses.

Beecham Group Limited is a British corporation. Bristol will not be able to subpoena its employees at trial if it ceases to be a party to this litigation. Thus, should the Court enter judgment in the form of the proposed consent decree, Bristol will be deprived of adequate pretrial preparation and, at trial, will be denied the power to compel attendance of Beecham witnesses to testify in its defense. The government, on the other hand, will have the unfair advantage of being able to invoke the full powers of the Court to compel Beecham to appear and testify on its behalf at trial.

"Due process is that which comports with the deepest notions of what is fair and right and just." *Solesbee* v. *Balkcom*, 339 U.S. 9, 16 (1950). Due process requires that a defendant be given the benefit of compulsory process to secure and present evidence in its behalf and to require the attendance of witnesses and the production of documents. *Oregon R.R. & N. Co.* v. *Fairchild*, 224 U.S. 510, 525 (1912). Due process requires that justice be "even handed". *Poller* v. *Columbia Broadcasting System, Inc.*, 368 U.S. 464, 473 (1962). Bristol respectfully submits that Due Process requires that this proposed consent decree providing for judicial enforcement of procedural unfairness should not be entered by this Court.

B. *The proposed decree improperly requires beecham to infringe and to encourage others to infringe bristol's rights under the 6-apa patent.*

Bristol objects to the proposed consent decree on the grounds that it requires in-

[1] On December 28, 1978, counsel for Beecham assured counsel for Bristol that if Beecham produces documents or statements of witnesses to plaintiffs, they will also be made available in the document depository. Based upon this representation, Bristol has no objection to those aspects of pars. 1(b), 1(c) and 1(d) of Exhibit A.

fringement of Bristol's exclusive rights under the 6-APA patent, a basic and valid patent whose validity has never been challenged by the government or anyone else.

Article V(F) of the proposed consent decree requires Beecham, under certain circumstances, to sell 6-APA in the United States. 6-APA is claimed in United States Patent No. 3,164,604 to which Bristol has exclusive rights, subject to Beecham's reserved right in the license agreement of April 2, 1959. Since the reserved right provides no right under United States Patent No. 3,164,604 to sell 6-APA, any such sales by Beecham would constitute an infringement of Bristol's patent rights. *Littlefield* v. *Perry*, 88 U.S. 205, 222-23 (1874); *Research Frontiers Inc.* v. *Marks Polarized Corp.*, 290 F. Supp. 725 (E.D.N.Y. 1968).

There is no legal justification for entry of an order of this Court which would require a foreign corporation to infringe a valid United States patent. The 6-APA patent issued from the United States Patent Office pursuant to a decision by the Court of Customs and Patent Appeals attesting to its validity. *Application of Doyle*, 327 F.2d 513 (C.C.P.A. 1964). No one, including the government, has challenged the validity of this patent despite the fact that this litigation has been pending for nearly nine years. The requirement that Beecham violate the patent rights of others by selling 6-APA is inconsistent with the approach taken by the government on other equitable relief which is limited to requiring Beecham to do only that which it has a right to do under the patents in question.[2] Furthermore, there is no economic reason for the government to seek such a provision since Bristol has granted rights to manufacture and sell 6-APA to several major pharmaceutical manufacturers including American Home Products Corporation, E. R. Squibb & Sons, Inc. and Pfizer.

Bristol also objects to entry of the proposed consent decree on the grounds that it does not require Beecham to disclose to all recipients of Beecham's covenant not-to-sue that Bristol, as exclusive licensee, has the right to bring suit to enjoin or seek damages for infringement. As a result, recipients may be misled and unlawful infringement of a valid United States patent may be fostered by conduct engaged in pursuant to the terms of the proposed consent decree.[3]

II. REQUEST FOR RELIEF

Rule 41(a)(2) of the Federal Rules of Civil Procedure provides that where an action may not be dismissed save upon order of the court, such order shall be "upon such terms and conditions as the court deems proper."

Rule 54(b) provides that when multiple parties are involved in an action, "the court may direct the entry of a final judgment as to one or more but fewer than all • • • parties only upon an express determination that there is no just reason for delay • • •."

Bristol submits that entry of the proposed consent decree dismissing the government's claims against Beecham would not be proper, and that there are compelling reasons for delay in entering such a final judgment, unless entry of the proposed decree is subject to the following terms and conditions:

(1) that the government identify for Bristol at least 45 days prior to dismissal of its action against Beecham those Beecham witnesses whom the government intends to call at trial and those Beecham documents which it intends to introduce at trial;

(2) that Beecham be required to produce for deposition by Bristol any of the government's intended trial witnesses whom the government does not depose;

(3) that Beecham be required to produce at trial any Beecham employees designated by Bristol upon the further condition that reasonable expenses of the witnesses be paid by Bristol; and

(4) that this Court retain jurisdiction over Beecham to enforce Bristol's rights under the above terms and conditions.

In *duPont Glore Forgan, Inc.* v. *Arnold Bernhard & Co., Inc.*, 73 F.R.D. 313, 315 (S.D.N.Y. 1976), dismissal of plaintiff's claims against one of several defendants under Rule 21 in a securities fraud case was expressly conditioned on that defendant making material witnesses available to other defendants at trial. Similarly, in *Hudson Engineering Company* v. *Bingham Pump Company*, 298 F. Supp. 387, 389 (S.D.N.Y. 1969), a patent-antitrust action, voluntary dismissal of the action by one of two plaintiffs against a single defendant under Rule 41(a)(2) was expressly conditioned on the requirement that the dismissed plaintiff make its employees available to the remaining plaintiff for interviews prior to trial and to testify at trial.

Similar relief is essential in the circumstances of this case. The procedural unfairness inherent in the terms of Exhibit A to the proposed consent decree cannot be overcome by Bristol once Beecham Group Limited, a British corporation, ceases to be a party to this action and is no longer subject to the compulsory process of the Court.

CONCLUSION

The proposed consent decree is not in the public interest as it would cause serious injury to Bristol's Constitutional and economic rights. Bristol therefore respectfully urges this Court not to enter the proposed decree. However, Bristol would not oppose entry of a decree modified to omit provisions relating to the 6-APA patent if Bristol's fundamental rights Due Process and a fair trial are protected by granting the additional relief requested herein.

Dated: New York, New York, December 29, 1978.

Respectfully submitted, Hughes Hubbard & Reed.

By: Jerome G. Shapiro, *a Member of the Firm, Attorneys for Defendant, Bristol-Myers Company, One Wall Street, New York, New York 10005, (212) 943-6500; 1660 L Street, N.W., Washington, D.C. 20036, (202) 862-7400.*

[2] See Articles V(A)(1), V(A)(2)(c), VI(C) and Competitive Impact Statement pp. 9, 11 and 16.

[3] Article VI(A) of the proposed consent decree also requires Beecham to grant royalty-free covenants not-to-sue for infringement of any patent used in connection with the manufacture, use, or sale of ampicillin. Among the patents used in connection with the manufacture of ampicillin, is United States Patent No. 3,159,617 ("the Sheehan patent") owned by A. D. Little and licensed exclusively by A. D. Little to Bristol. Beecham has no right to license or enforce this patent, a right which remains with A. D. Little and Bristol. Beecham's covenant not-to-sue for infringement of the Sheehan patent would be entirely meaningless and misleading.

CERTIFICATE OF SERVICE

I certify that on December 29, 1978 true copies of the within papers were served by hand upon the persons listed below, except that where indicated by an asterisk (*), copies were served by first-class mail:

Robert V. Allen, Chief, Intellectual Property Section, Antitrust Division, SAFE 704, United States Department of Justice, Washington, D. C. 20530.

Thomas H. Liddle, Esq., Intellectual Property Section, Antitrust Division, United States Department of Justice, 521 12th St., N.W., Washington, D.C. 20004.

*Thomas H. Liddle, Esq., Attorney for the United States, 5715 Glenwood Road, Bethesda, Maryland 20034.

*Stephen Greiner, Esq., Willkie, Farr & Gallagher, Attorneys for American Home Products Corp., 153 East 53rd Street, New York, New York 10022.

Daniel A. Rezneck, Esq., Arnold & Porter, Attorneys for American Home Products Corp., 1229 Nineteenth St., N.W., Washington, D.C. 20036.

Robert F. Dobbin, Esq., Shearman & Sterling, Attorneys for Beecham Group Ltd., 53 Wall Street, New York, New York 10005.

Richard A. Whiting, Esq., Steptoe & Johnson, Attorneys for Beecham Group Ltd., 1250 Connecticut Ave., N.W., Washington, D.C. 20036.

David I. Shapiro, Esq., Dickstein, Shapiro & Morin, Attorneys for the State of Alabama, et al., 2110 L Street, N.W., Washington, D.C. 20037.

WILLIAM R. STEIN.

[FR Doc. 79-4311 Filed 2-7-79; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) and its subcommittees will meet Wednesday, Thursday, Friday and Saturday, February 21, 22, 23, and 24, 1979, at the Hanalei Hotel in San Diego, California. The meeting will be open to the public.

On Wednesday, February 21, preceding the full committee, the Subcommittee to Advise the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Subcommittee on the Concentration of Federal Effort will hold a Public Hearing. The Subcommittees have invited testimony from all interested persons on three topics: 1) Reauthorization of the Juvenile Jus-

tice and Delinquency Prevention Act, 2) the Location of OJJDP, and 3) Recommendations Regarding the Level of Appropriations for OJJDP in Fiscal Year 1980. The hearing is scheduled to begin at 9:00 a.m. Following a luncheon recess at noon, the hearing will reconvene at 2:00 p.m. and end at 5:00 p.m. Following the public hearing, the Executive Committee will meet at 6:30 p.m. Wednesday evening.

The meeting of the full Committee is scheduled to convene at 9:00 a.m. on Thursday, February 22. The session will begin with a report from the Executive Committee and a report by the Administrator of the Office of Juvenile Justice and Delinquency Prevention. At 10:30 a.m. following a brief recess, the four subcommittees: Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; Advisory Committee on Standards for Juvenile Justice; Advisory Committee to the Administrator of the Office; and Advisory Committee on the Concentration of Federal Effort, will meet. The Subcommittee to Advise the Administrator and the Subcommittee on the Concentration of Federal Effort will meet in joint session from 10:30 a.m. until 12:30 p.m. Following a 12:30 p.m.-1:30 p.m. luncheon recess, the subcommittees will reconvene in individual sessions for the remainder of the day. Topics scheduled to be addressed by subcommittees include: Training Functions of the National Institute, Second National Meeting of State Advisory Groups, Formula Grant Guidelines, Location of the Runaway Youth Act Program and the NAC Newsletter.

On Friday, February 23, at 10:00 a.m., the full Committee will reconvene to hear a joint report on the public hearing from the Subcommittee to Advise the Administrator and the Subcommittee on the Concentration of Federal Effort. Following a 12:30 p.m.-1:30 p.m. luncheon recess, the full Committee will meet to hear reports from the Subcommittee to Advise the Administrator and the Subcommittee on the Concentration of Federal Effort. After a brief recess at 3:15 p.m., the full Committee will reconvene at 3:30 p.m. to hear reports from the Subcommittee on the Institute and the Subcommittee on Standards. The subcommittee reports will be followed by an opportunity for public commentary.

The full Committee will reconvene on Saturday, February 24, at 9:00 a.m. to discuss recommendations concerning the juvenile who has committed a violent offense. This discussion will be followed by a review of plans for the May meeting of the Committee. The meeting of the full Committee is scheduled to adjourn at 11:30 a.m.; an hour long meeting of the Executive Committee will follow.

For further information, contact Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, N.W. Washington, D.C. 20531.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79-4268 Filed 2-7-79; 8:45 am]

[6820-49-M]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

MEETING; CORRECTION

JANUARY 31, 1979.

Meeting correction, FEDERAL REGISTER Document No. 79-2912, published at p. 5730, in issue of January 29, 1979.

National Commission on the International Year of the Child Meeting scheduled for February 9, 1979, should read—9:30 A.M. to 1:00 P.M.

BENEDICT J. LATTERI,
Administrative Officer, National Commission on the International Year of the Child.

[FR Doc. 79-4312 Filed 2-7-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON SPENT FUEL STORAGE

Meeting

The ACRS Subcommittee on Spent Fuel Storage will hold a meeting on February 23, 1979 in Room 1046, 1717 H St., N.W., Washington, DC 20555, to continue its review of the NRC proposed rule on Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation (ISFSI).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Friday, February 23, 1979—8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions to permit discussion of provisions for the physical security of licensed nuclear facilities of this type. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions, (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, (telephone 202/634-3314) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Dated: February 1, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-4118 Filed 2-7-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-516 and STN 50-517]

LONG ISLAND LIGHTING CO. AND NEW YORK STATE ELECTRIC & GAS CORP., JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2

Availability of Partial Initial Decision and Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Partial Initial Decision dated May 9, 1978, and an Initial Decision dated December 26, 1978, by the Atomic Safety and Licensing Board in the above-captioned proceedings are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC and at the Riverhead Free Library 300 Court Street, Riverhead, New York.

Based on the record developed in the public hearing in the above-captioned matter, the Partial Initial Decision and Initial Decision modified in certain respects the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed construction of the Jamesport Nuclear Power Station, Units 1 and 2.

Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the Final Environmental Statement is deemed modified to the extent that the Findings and Conclusions contained in the Partial Initial Decision and Initial Decision differ from those contained in the Final Environmental Statement. As required by § 51.52(b)(3) of 10 CFR Part 51, a copy of the Partial Initial Decision and Initial Decision, which modify the Final Environmental Statement, have been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of 10 CFR Part 51.

The Partial Initial Decision, the Initial Decision, and the Final Environmental Statement are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, DC, and in the Riverhead Free Library, 330 Court Street, Riverhead, New York. Copies of the Final Environmental Statement (Document No. NUREG-75/079) may be purchased at $10. for printed copies and $2,25 for microfiche from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 1st day of February 1979.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-4297 Filed 2-7-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-354 and 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO. AND ATLANTIC CITY ELECTRIC CO., HOPE CREEK GENERATING STATION, UNITS 1 AND 2

Issuance of Amendment to Construction Permits and Availability of Decision

Notice is hereby given that pursuant to a Decision dated January 12, 1979, by the Atomic Safety and Licensing Appeal Board, the Nuclear Regulatory Commission has issued Amendment No. 5 to Construction Permit No. CPPR-120 and Amendment No. 5 to Construction Permit No. CPPR-121 issued to Public Service Electric and Gas Company and Atlantic City Electric Company for construction of the Hope Creek Generating Station, Units 1 and 2, located in Salem County, New Jersey. The Appeal Board's Decision directed the addition of conditions to the construction permits designed to ensure that the Commission's staff will be promptly alerted should circumstances arise which suggest that either liquefied natural gas traffic or a significant increase in liquefied petroleum gas traffic on the Delaware River will materialize or that other factors which govern the flammable vapor cloud probability calculation will change.

The Nuclear Regulatory Commission has found that the provisions of the amendments comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the Decision dated January 12, 1979, Amendment No. 5 to Construction Permit No. CPPR-120, Amendment No. 5 to Construction Permit No. CPPR-121, and other related documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. Single copies of the Decision, Amendment No. 5 to CPPR-120, and Amendment No. 5 to CPPR-121 may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 1st day of February, 1979.

For the Nuclear Regulatory Commission.

ROBERT L. BAER,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 79-4299 Filed 2-7-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-354 and 50-355]

SECOND SUPPLEMENTARY INITIAL DECISION OF THE ATOMIC SAFETY AND LICENSING BOARD AND DECISION OF ATOMIC SAFETY AND LICENSING APPEAL BOARD FOR THE HOPE CREEK GENERATING STATION, UNIT NOS. 1 AND 2

Availability

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in § 51.52(b)(3) of 10 CFR Part 51, notice is hereby given that a Second Supplementary Initial Decision by the Atomic Safety and Licensing Board, dated April 13, 1978, and a Decision of the Atomic Safety and Licensing Appeal Board, dated January 12, 1979 have been issued.

Copies of both documents are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and in the Salem Free Library, 112 West Broadway, Salem, New Jersey. Copies are also available at the State Clearinghouse, Bureau of State and Regional Planning, Department of Community Affairs, 329 West State Street, Trenton, New Jersey. The Final Environmental Statement issued February 14, 1974 is also available at these locations.

Based on the record developed in the public hearing in the above captioned matter, the Decision of the Atomic Safety and Licensing Appeal Board and the Second Supplementary Initial Decision of the Atomic Safety and Licensing Board modified in certain aspects the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation dated February 1974 relating to the construction of the Hope Creek Generating Station.

Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the Final Environmental Statement is deemed modified by the Licensing Board and Appeal Board issuances to show that the flammable cloud accident is so unlikely that its environmental impact need not be considered. As required by § 51.52(b)(3) of 10 CFR

Part 51, copies of the Decision by the Atomic Safety and Licensing Appeal Board and copies of the Second Supplementary Initial Decision by the Atomic Safety and Licensing Board have been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of 10 CFR Part 51.

Single copies of the Second Supplementary Initial Decision by the Atomic Safety and Licensing Board and the Decision by the Atomic Safety and Licensing Appeal Board may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 1st day of February 1979.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1 Division of Site Safety and Environmental Analysis.

[FR Doc. 79-4298 Filed 2-7-79; 8:45 am]

[7590-01-M]

[Docket No. 50-112]

THE UNIVERSITY OF OKLAHOMA

Proposed Issuance of Amendment to Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility License No. R-53, issued to the University of Oklahoma (the licensee), for operation of the AGN-211 Reactor located on the licensee's campus in Norman, Oklahoma.

The amendment would authorize an increase in the reactor's licensed maximum power level from 15 watts (thermal) to 100 watts (thermal), in accordance with the licensee's application for license renewal dated October 6, 1978 (43 FR 53073, November 15, 1978), as revised January 5, 1979.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 12, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Oklahoma AGN-211); and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application for renewal dated October 6, 1978, and the January 5, 1979 letter which revises the application. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 31st day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-4119 Filed 2-7-79; 8:45 am]

[7590-01-M]

[Docket No. PRM-2-7]

WELLS EDDLEMAN

Petition for Rule Making

Notice is hereby given that Mr. Wells Eddleman, Rt. 1, Box 183, Durham, North Carolina, has filed with the Nuclear Regulatory Commission a petition for rule making dated January 4, 1979 to amend § 2.714 of the Commission's regulation "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2.

The petitioner states that: Notwithstanding my belief that 10 CFR § 2.714

allows a person newly arrived in the vicinity of a nuclear power plant site to petition with good cause to intervene, and notwithstanding my belief that any organization legitimately formed after the closing date for intervention petitions (and not formed with the purpose of circumventing the rules and procedures of the NRC, or of Federal law), also has good cause to be granted leave to intervene, I propose that this be made explicit by amending § 2.714 of 10 CFR 2 as follows; replacing section (a)(1)(i) with this wording:

(i) Good cause if any, for failure to file on time. Good cause shall include acquiring an interest in the proceeding, particularly by exercising Constitutional rights (e.g. free movement), after the deadline for filing, provided such acquisition of interest was not primarily intended to give cause for leave to intervene. Further, any organization formed after the deadline for intervention but without the express intent to circumvent the filing deadline by so organizing, and any corporate person moving into the vicinity of a nuclear power plant a significant office, factory or moveable property shall also be considered as having good cause for nontimely filing.

The petitioner states further that beyond the purpose stated above the purpose of the rule proposed by the petitioner is to protect the interests of those who by exercising their legal and/or Constitutional rights, become interested in a proceeding after a filing deadline that may well have been years in the past.

The petitioner states also that: I personally have an interest in this proceeding because I unwittingly moved close to a nuclear plant site in 1977 (12 August), and wish to be afforded the same opportunity to petition to intervene as anyone who was living in the area when the plant was proposed or its initial hearings held. I do not ask any suspension of any proceedings. I do request that should this proposed rule be adopted in whole or in part it be applied to my case retroactively to this date or to the date of filing of any petitions to intervene which makes a point of late intervention by exercise of Constitutional rights etc. as specified in my proposed rule, including the right to a rehearing based on this proposed rule if and when it is made part of 10 CFR 2.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

Dated at Washington, D.C. this 2nd day of February 1979.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 79-4296 Filed 2-7-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-6]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Aircraft Accident Report.—The formal investigation report on the midair collision which occurred last May 18 near the Memphis (Tenn.) International Airport has been made public by the National Transportation Safety Board. The report, No. NTSB-AAR-78-14, was released on January 30, and indicates that a Falcon Jet DA-20, on an instrument flight rules plan with an instructor pilot and three students on board, collided with a Cessna 150M 3.7 miles west of the airport. An instructor pilot and one passenger were aboard the Cessna. All six persons were killed.

Investigation showed that the Cessna was VFR and was receiving Stage III radar service. Both aircraft were under control of Memphis tower controllers and were in radar and radio contact with the tower. The weather in the Memphis area was: Scattered clouds at 4,500 feet and visibility—6 miles with haze.

The Safety Board determined that the probable cause of this accident was the failure of controller personnel to separate the aircraft as required by procedures established for a terminal radar service area (TRSA), to insure that proper coordination was effected, to issue appropriate traffic advisories, and the failure of each flightcrew to see and avoid the other aircraft.

Active flight training in a high density terminal area was seen by the Board as a significant issue in this accident. The Safety Board has repeatedly urged the Federal Aviation Administration to develop "reliever" airports to reduce the need for extensive flight training at larger airports. Further, the Board concluded that air traffic control procedures in use at Memphis lacked the redundant safeguards needed when controller coordination procedures were not followed. Such system redundancy could have been avoided by aircraft detection and collision avoidance systems now being developed or in use.

As a result of this accident, the Safety Board on October 26 recommended that FAA (1) consider revising Memphis ATC procedures to keep jet aircraft at or above 2,500 feet between repeated instrument training approaches; (2) create from existing TRSA's, such as Memphis, "TRSA I" locations where traffic is heaviest and ATC automation is available, and "TRSA II" elsewhere; and (3) require each aircraft operating in a TRSA I to be in radio contact with ATC, and in a TRSA I and the busier TCA II areas to be equipped with an altitude encoding transponder—a radar response device which enhances an aircraft's target on an ATC radarscope and also provides it with the aircraft's altitude. (Recommendations A-78-79 through 81; see 43 FR 51151, November 2, 1978.)

On January 9 FAA responded to these recommendations, indicating that procedures for handling consecutive approaches at Memphis have been formalized and instituted; also, FAA plans to issue in the near future rulemaking proposals to meet the intent of recommendations A-78-80 and 81. (See 44 FR 5215, January 25, 1979.)

SAFETY RECOMMENDATIONS

Aviation: A-79-1 and 2.—While in cruise flight at 800 feet over Vancouver, Wash., last May 25, a Hughes Model 269A helicopter experienced a loss of engine power. The pilot-in-command took control of the aircraft from a student pilot and implemented autorotation procedures. However, during the descending approach to the intended landing site, the aircraft struck powerlines and fell inverted to the ground. Although there was a large fuel spill, no fire ensued. The student pilot was killed, and the instructor pilot was seriously injured. This cockpit information was documented immediately after the accident: Battery and generator switches—on; mixture—rich; carburetor heat—cold; magneto—both; fuel shutoff—on; fuel boost pump—off.

Safety Board investigation of the accident disclosed that (1) the fuel

system for this helicopter requires an auxiliary fuel boost pump that incorporates an internal bypass system; (2) on May 18, 1978, an auxiliary fuel boost pump without a bypass feature had been installed on the aircraft; and (3) the electric fuel boost pump was turned off in flight, which caused the engine to lose power because of insufficient fuel flow.

In view of the potentially catastrophic consequences associated with such an installation, and to prevent human error in the maintenance of all aircraft that utilize these fuel pumps, the Safety Board on February 2 recommended that the Federal Aviation Administration:

Issue a General Aviation Airworthiness Alert to all aircraft owners, operators, manufacturers, and maintenance personnel apprising them of the circumstances of this accident and the approved flight manual operating procedures for checking fuel boost pump pressures. (A-79-1)

Advise overhaul facilities and manufacturers that permanent identification of parts is required by 14 CFR 45.15. (A-79-2)

Both recommendations are designated "Class II, Priority Action."

Highway: H-79-1 and 2.—An ambulance responding to an emergency call last August 22 and traveling at an estimated speed of 90 mph failed to negotiate a curve on New Hampshire State Route 116 North of Littleton, N.H., and rolled over. Two persons in the ambulance were killed and the driver was injured.

The Safety Board's continuing investigation of this accident has revealed that the driver did not understand the principles of high-speed driving techniques. The driver said she entered the curve too wide and turned the steering wheel to the left, turning the ambulance toward the inside of the curve, and lost control. In an attempt to regain control, the driver steered to the right. She overcorrected and subsequent steering efforts by the driver aggravated the loss of control until the vehicle rolled over.

Apparently, driver inexperience and lack of familiarity with the high-speed handling characteristics of this vehicle was a factor in the accident. The Board notes that many factors contribute to handling characteristics, including suspension design, tire design, tire pressures, weight, center of gravity location, speed, and acceleration. The Board believes that even with adverse handling characteristics, the vehicle was capable of negotiating the curve; but the inexperienced driver was unable to properly steer to maintain control of the vehicle.

Since ambulance drivers are authorized to exceed posted speed limits, they should be competent and qualified to operate such vehicles at high speeds. Accordingly, the Safety Board on February 1 recommended that the National Highway Traffic Safety Administration:

Modify Highway Safety Program Standard No. 11, "Emergency Medical Services," and the NHTSA "Training Program for Operation of Emergency Vehicles," to provide for behind-the-wheel training in the principles and techniques of high-speed driving, and to require that a student successfully complete both a written and a behind-the-wheel examination before he is licensed. (H-79-1)

Urge the States to maintain and make available, through the State driver licensing agency, the records of all licensed emergency vehicle operators so that employers can determine if an applicant for an emergency vehicle driver position is licensed for the operation of emergency vehicles. (H-79-2)

The first recommendation is designated "Class I, Urgent Action"; the second is a "Class II, Priority Action" recommendation.

Responses to Safety Recommendations

Highway: H-77-41.—Letter of January 19 from the Federal Highway Administration is in response to the Safety Board's November 2 comments of FHWA's initial response of last July 25 (43 FR 37777, August 24, 1978). The recommendation, asking FHWA to require local jurisdictions to obtain State approval before installing traffic control devices on State routes through their jurisdictions, resulted from investigation of the August 20, 1976, collision of a tractor-semitrailer with multiple vehicles in Valley View, Ohio.

The Safety Board agrees with FHWA's finding that an increase in local-level traffic management and control education would achieve proper application of traffic control devices by local jurisdictions, and the Board's November 2 letter indicates that a strong sense of urgency should be displayed in carrying out this education process. The Board expressed interest in implementing Highway Safety Program Standard (HSPS) 13, "Traffic Engineering," section I of which lists the minimum makeup of a State program and includes a comprehensive manpower development plan to provide the necessary traffic engineering capability, including (1) supplying traffic engineering assistance to those jurisdictions unable to justify a full-time traffic engineering staff, and (2) upgrading the skills of practicing traffic engineers and providing basic instruction in traffic engineering techniques to subprofessionals and technicians. The Board believes that each State must implement this program to insure that local jurisdictions will properly apply traffic control devices. FHWA has the responsibility of overseeing implementation of HSPS No. 13, and the Board asked to be advised as to how many States do have a manpower program prescribed by this standard, the effect the program has had on the level of traffic engineering services statewide, and the intentions of FHWA in providing for nationwide implementation of HSPS No. 13.

FHWA's January 19 letter refers to the initial response which indicated that the recommended regulation would mean a major change in responsibility, would require changes in State and local laws, and would not have much, if any, effect since local signs currently must satisfy State law. Further, FHWA states that it has neither the authority to require nor the sanctions to enforce such a requirement. As indicated in FHWA's July 25 letter, the DOT Order 2100.1A criteria has been satisfied. In answer to the new issues raised by the Board on November 2, FHWA offers to meet with the Board to discuss in detail various manpower programs responsive to Standard No. 13.

H-78-63.—FHWA's letter of January 22 is in response to one of the recommendations issued last September 26 following investigation of the Cates Trucking, Inc., tractor-semitrailer/multiple vehicle collision override near Atlanta, Ga., on June 20, 1977. The recommendation urged FHWA to direct its Bureau of Motor Carriers Safety (BMCS) to increase surveillance of motor carrier operations under its jurisdiction and assure that they are in compliance with existing regulations for driver qualifications and hours of service.

FHWA reports that BMCS has already increased inspection of carriers who are under the Federal Motor Carriers Safety Regulations. One way in which the increase is being implemented is through BMCS roadside safety inspection, which activity has a threefold purpose: (1) To detect motor carrier violations of the regulations and remove defective vehicles from the highway; (2) to obtain information about motor carriers, including the vehicle and driver, for the purpose of identifying carriers who need further attention; and (3) to identify carriers operating within FHWA's jurisdiction whose activity was previously unknown. Additional emphasis has been placed on high-impact roadside inspections, and several publications entitled "BMCS Roadside Safety Inspections" relating to this increased inspection program have been released to industry and the general public.

Further, FHWA reports that other inspection activities are performed by the BMCS field staff, such as inspection of carrier equipment and records at the carrier's facility. These inspections determine whether the carrier is complying with the Federal regulations. FHWA says that a 50 percent in-

crease in its overall inspection safety program is planned for FY 79 over FY 78.

FHWA notes that the increase in inspection activities have been accomplished only through reduction of other activities, such as participation in safety meetings and educational activities, and no overall increase in activity can be accomplished until the size of the motor carrier safety staff is increased. BMCS has asked that it be exempted from the current Executive order imposing a partial freeze on hiring, and also hopes to be permitted to fill the 26 additional positions authorized by Congress. FHWA says these decisions, however, are not within its scope.

Pipeline: P-78-1 through 8.—Consolidated Gas Supply Corporation of Clarksburg, W.Va., on January 23 replied to the Safety Board's inquiry of September 29 concerning recommendations issued following investigation of the propane pipeline rupture and fire near Ruff Creek, Pa., July 20, 1977. The Board's letter to Consolidated followed evaluation of the company's initial response of last July 17 (43 FR 37777, August 24, 1978), and indicated that recommendations P-78-2, 4, 6, and 8 had been closed with acceptable action on the company's part. The Board's inquiries addressed recommendations P-78-1, 3, 5, and 7 which were being held open pending further action by Consolidated.

With reference to P-78-1, which recommended that the sagbend at the accident site and other known locations of settlement be tested for signs of stress-corrosion cracking, the Board noted that Consolidated did not mention other areas of settlement and asked to be advised if there are such locations and if they have been scheduled for testing. Consolidated reports that the entire length of Line G-136 is being walked at least once a month and more frequently in certain areas (between freeways I-79 and I-70), and helicopters are also used to patrol the line on a regular basis; no ground settlement has been witnessed in the area of the pipeline. Consolidated says that elevation bench marks have been established in the area of the failure at Craynes Run to check for any movement of the pipe or surrounding ground. The bench marks are being monitored on a weekly basis, and since the failure no movement of pipe or ground in this area has been witnessed. Routine surveillance will be continued and should any settlement be discovered, the pipe in that area will be thoroughly investigated for stress-corrosion cracking.

The Safety Board asked, with reference to recommendations P-78-3, to receive a copy of Consolidated's operations and maintenance procedures. Consolidated states that a draft of the procedures has been prepared and is being reviewed by the company legal staff. Issuance is expected soon.

With reference to Consolidated's response to recommendations P-78-5, the Safety Board asked to be supplied with any information developed as a result of the company evaluation of the Bethany International acoustic monitoring system. Consolidated reports that its evaluation of the monitoring system is still in progress and the desired sensitivity settings of the system are now being determined. Sensitivity can be set so fine that false triggering of the monitor will occur, Consolidated states, and this degree of sensitivity cannot be tolerated. This installation is still considered experimental and surveillance of its performance will be continued to get it fine tuned to the extent that it will meet Consolidated's requirements as a position leak detection device.

Concerning recommendations P-78-7, the Safety Board asked to be notified of the testing schedule when completed—the segment of pipeline 10 miles downstream of former Preston Compressor Station plus an area between I-70 and I-79 to be inspected on a random sample basis for evidence of stress, corrosion cracking or increased depth and general corrosion pitting. In response, Consolidated cites seven instances where inspecions were made at the time repairs were being made to minor leaks (less than five barrels per day) in that area within a three-month period late last summer. The inspection procedures and results are provided in detail. No evidence of stress corrosion cracking was found.

Railroad: P-77-13.—Letter of January 19 from the Federal Railroad Administration is in response to a recommendation issued June 1, 1977, following Board investigation of the collision of two Consolidated Railroad Corporation commuter trains in New Canaan, Conn., July 13, 1976. The recommendation asked FRA to promulgate regulations for railroad commuter lines that will: Establish standards for the interior design of commuter cars to prevent and reduce injuries from accidents; insure that when the cars' power source fails, emergency lighting is adequate and doors can be operated easily from inside and outside; establish standards for evacuating passengers; and prevent a passenger train from entering an occupied block. (See 42 FR 29580, June 9, 1977.)

In response to the first three parts of this recommendation, FRA reports that on October 6, 1977, its Office of Safety convened a meeting of all parties interested in a passenger safety program, including representatives from FRA's Office of Research and Development, the Office of Safety, and the Urban Mass Transportation Administration. At this time, the Office of Research and Development agreed to prepare, with UMTA's support, a preliminary test plan incorporating the Safety Board's passenger safety recommendations. These then could be tested on passenger cars at the Department of Transportation's Test Center in Pueblo, Colo. This program has been scheduled for completion during the last quarter of 1980 or first quarter of 1981, and until the testing program has been completed, FRA says it cannot adequately and fully respond to specific passenger car safety recommendations.

FRA interprets the Board's recommendation for a regulation which would prevent a passenger train from entering an occupied block as pertaining to the area of operating rules, not to the mandatory installation of automatic train stop devices throughout the Nation's railroads. FRA states, "History has shown that trains can safety enter and operate in an occupied block under proper operating rule procedures. The predominant cause of collisions in occupied blocks is lack of compliance with carrier operating rules."

Based on an analysis of accident data for the 10-year period 1965-1974 which indicates that rear-end collisions accounted for less than 1 percent of reportable train accidents, FRA states that it is apparent that there is not a significant difference in the number of train collisions occurring under various operating rules procedures. "The element common to the vast majority of collisions is the failure of operating personnel to comply with the requirements of the operating rules," FRA stated. Believing that the underlying cause of these human failures is a lack of adequate training and testing programs, FRA intends to develop minimum training and testing programs for operating employees. FRA does not concur with the Board's recommendation to regulate preventing a passenger train from entering an occupied block.

NOTE.—Single copies of the Safety Board's recommendation letters and responses thereto are available free of charge. Single copies of accident reports are also available without charge, but stocks are limited. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906))).

MARGARET L. FISHER,
Federal Register Liaison Officer.

FEBRUARY 2, 1979.

[FR Doc. 79-4360 Filed 2-6-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—which is earlier.

The following reports on new or altered systems were received by OMB between January 1, 1979 and January 12, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

DEPARTMENT OF JUSTICE

System Name: Essential Chemical Reporting System.

Report Date: January 10, 1979.

Point-of-Contact: Mr. William Snider, Administrative Counsel, Department of Justice, Washington, D.C. 20530.

Summary: This new system is proposed by the Drug Enforcement Administration as a means of carrying out its responsibilities under the Psychotropic Substances Act of 1978. That Act requires the DEA to maintain records about the sale, distribution, or importation of piperidine. DEA will also use the records in the system to provide statistical reports and "investigative leads concerning violations of the Comprehensive Drug Abuse Prevention and Control Act of 1970."

DEPARTMENT OF COMMERCE

System Names: (1) Department Mailing Lists; (2) Secretarial Correspondence Files.

Report Date: January 5, 1979.

Point-of-Contact: Mr. Donald S. Budowsky, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Summary: The Department Mailing Lists are being amended by the addition of a list of National Bureau of Standards employees who are interested in forming or joining carpools. The second system, Secretarial Correspondence Files, is a new system, intended to track correspondence and pending responses. It will be an automated system, and will eventually operate through the Commerce Department.

Waiver Requests: OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve the agency of the obligation to publish a notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between January 1, 1979 and January 12, 1979. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedures should be directed to OMB.

CANAL ZONE GOVERNMENT

System Name: Personnel Information System.

Report Date: January 12, 1979.

Point-of-Contact: Mrs. Hazel Murdock, Canal Zone Government, Washington, D.C. 20004.

Summary: This new system of records is proposed as a part of the implementation of the Panama Canal Treaties. It will be an automated system designed to combine with the existing automated payroll system in order to process the transfers, reductions-in-force, and retirement of some 20,000 Canal agency employees.

Status of Waiver Request: No action as of January 29, 1979.

CENTRAL INTELLIGENCE AGENCY

System Names: (1) Office of Data Processing Security Clearance Records;

(2) Security Access Records;

(3) Inquiries from Private Individual About the CIA and its Mission;

(4) Contact with the News Media and Index;

(5) Manuscript Review;

(6) Publishing and Speaking Engagement Clearance;

(7) CIA Personnel in Contact with the Press;

(8) Logistics Security Clearance Records;

(9) Publicity.

Report Date: January 12, 1979.

Point-of-Contact: Mr. John F. Blake, Central Intelligence Agency, Washington, D.C. 20505.

Summary: Systems (1)-(7) are newly reported systems of records; however (3)-(7) were previously reported as part of CIA's system or records "Publicity," (formerly identified as "Publications about CIA"), and are now the subject of new notices. The first two systems, "Office of Data Processing Security Clearance Records" and "Security Access Records," are still under development, and no waiver is requested for them. The former includes information about the security clearances of contractors and vendors associated with the Office of Data Processing; the latter is used to track the entry and departure of individuals with security badges to and from CIA buildings. Finally, the Logistics Security Clearance Records System, used in "conducting agency business with the commercial sector and for liaison purposes with other government agencies, is being automated; and the "publicity" system is being amended to reflect the separation of the new systems listed above. No waiver is requested for the changed systems.

Status of Waiver: No action as of 1/22/79.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 79-4275 Filed 2-7-79; 8:45 am]

[4710-09-M]

DEPARTMENT OF STATE

[Public Notice 647]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that

no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the FEDERAL REGISTER.

Applications have been received from the Union of Soviet Socialist Republics for fishing during 1979 and are reproduced herewith. Individual vessel applications for fishing during 1978 and 1979 have been received from Japan, Korea and the Union of Soviet Socialist Republics and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202)634-7265).

Dated: January 30, 1979.

JAMES A. STORER,
Director,
Office of Fisheries Affairs.

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England. Mid-Atlantic. South Atlantic. Gulf of Mexico. Caribbean.
BSA	Bering Seas and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England. Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific.
SNL	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl	Pacific.

ACTIVITY CODES SPECIFY CATEGORIES OF FISHING OPERATIONS APPLIED FOR AS FOLLOWS:

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation/Vessel Name/Vessel Type	Application No.	Fishery	Activity
Korea: *O Dae Yang 212*, Longliner	KS-79-0063	BSA, GOA	1
Japan:			
Yashima Maru, medium stern trawler.	JA-79-0381	NWA	1
Eikyu Maru No. 82, longliner	JA-79-0607	BSA, GOA	1
Fumizuki Maru, cargo/transport	JA-79-1145	NWA, BSA, GOA	1
Hirotsuki Maru, cargo/transport	JA-79-1146	NWA, BSA, GOA	1
Daigen Maru, cargo/transport	JA-79-1147	NWA, BSA, GOA	1
Hiyo Maru, cargo/transport	JA-79-2025	BSA, CRB, GOA. NWA, SMT, SNA.	3
USSR:			
**Nadezhdinsk*, large stern trawler	UR-79-0002	WOC	2
**Arkovo*, large stern trawler	UR-79-0012	WOC	2
**Nadezhda*, large stern trawler	UR-79-0061	WOC	2
**Kolyvan*, large stern trawler	UR-79-0095	WOC	2
**Taishet*, large stern trawler	UR-79-0102	WOC	2
**Kazatin*, large stern trawler	UR-79-0116	GOA	2
**Mys Grina*, large stern trawler	UR-79-0169	WOC	2
**Mys Groznyi*, large stern trawler	UR-79-0185	WOC	2
**Revolutsioner*, large stern trawler	UR-79-0187	WOC	2
**Ugolny*, large stern trawler	UR-79-0197	WOC	2
**Mys Belkina*, large stern trawler	UR-79-0214	WOC	2
**Mys Chaikovskogo*, large stern trawler.	UR-79-0229	WOC	2
**Kamyshin*, large stern trawler	UR-79-0231	GOA	2
Zvezda Rybaka, cargo/patrol vessel	UR-79-0370	BSA, GOA, WOC	3
Tikhookeansky, large stern trawler	UR-79-0556	BSA, GOA, WOC	1
**18 Syezd Vlksm*, large stern trawler	UR-79-0617	WOC	2
Akmolinsk, large stern trawler	UR-79-0700	BSA, GOA, WOC	1
Iuzhnomorsk, large stern trawler	UR-79-0701	BSA, GOA, WOC	1
**Akmolinsk*, large stern trawler	UR-79-0700	WOC	2
**Iuzhnomorsk*, large stern trawler	UR-79-0701	WOC	2
Zabajkalje, cargo/transport	UR-79-0702	BSA, GOA, WOC	3

*For more information regarding the activities being requested for these vessels see The Application for Vessel Permits to Receive United States Harvested Fish from vessels of the United States which is printed in this announcement.

APPLICATION FOR VESSEL PERMITS TO RECEIVE UNITED STATES HARVESTED FISH FROM VESSELS OF THE UNITED STATES

No.————

In accordance with the provisions of the Fishery Conservation and Management Act of 1976, as amended, the Government of USSR hereby submits this application for permits for vessels under its jurisdiction to receive United States harvested fish from vessels of the United States within the Fishery Conservation Zone of the United States during the year 1979.

Fishing Vessel Identification Forms will be submitted in support of this application. The fisheries, species, and amounts of United States harvested fish desired to be received by vessels of the USSR flag are as follows:

Fishery	Species	Total tonnage requested for each species (MT)
Washington, Oregon, California.	Pacific Hake	30,000
	Jack Mackerel	1,500
Gulf of Alaska	Pollock	2,000
	Pacific Cod	1,900
	Pacific Ocean Perch.	1,400
	Sablefish	400
	Other species	300

Detailed descriptions of the methods of operation proposed for each fishery requested are attached and form a part of this application. Submitted: January 18, 1979. Y. Zramenskiy, Counselor.

(A) *FISHERY—TRAWL FISHERIES OF WASHINGTON, OREGON AND CALIFORNIA*

SPECIES

PACIFIC HAKE ..... 30,000 mt
JACK MACKEREL ..... 1,500 mt

(1) *NUMBER AND TYPE OF FOREIGN VESSELS TO BE EMPLOYED*

14 Soviet processing vessels of the BMRT and RTM type equipped to produce frozen round, headed and gutted, and fillet fish and fish meal.

(2) *NUMBER AND TYPE OF VESSELS OF THE UNITED STATES FROM WHICH UNITED STATES HARVESTED FISH WILL BE RECEIVED*

8-10 midwater trawl vessels ranging in size from 70-110 feet and 350-1300 HP

(3) *NAME AND ADDRESS OF COMPANY WITHIN THE UNITED STATES WHO WILL BE PRINCIPAL CONTACT WITH OWNERS/OPERATORS OF VESSELS OF THE UNITED STATES*

MARINE RESOURCES CO. (MRC) 4215 21 ST AVENUE WEST, #206, SEATTLE WA 98199

(4) *GEOGRAPHICAL AREA IN WHICH VESSELS WILL OPERATE*

Fishery Conservation zone in Monterey, Eureka and Columbia areas

(5) *MONTHS DURING WHICH VESSELS EXPECT TO OPERATE*

May 1-October 31, 1979

(6) *BY SPECIES AND QUANTITY, THE PROCESSED PRODUCTS AND ULTIMATE EXPECTED MARKET OF UNITED STATES HARVESTED FISH, INCLUDING QUANTITIES WHICH ARE TO BE EXPORTED TO THE UNITED STATES*

Species will be processed into products given in (1) above. Quantities of each product type will be dependent upon market demand at time of fishery. Products will be sold by MRC in Orient, Eastern Europe, Western Europe and USSR. Small quantity of fillet blocks will be test marketed in U.S.

(7) *BY SPECIES, QUANTITY OF INCIDENTAL CATCH TO BE RECEIVED*

Incidental species not more than following amounts:

ROCKFISH ..... 240 mt
FLOUNDERS ..... 30 mt
SABLEFISH ..... 30 mt
OTHER SPECIES ..... 150 mt

(8) *PROCEDURES TO BE EMPLOYED TO MINIMIZE THE AMOUNT OF INCIDENTAL CATCH RECEIVED BY FOREIGN VESSELS AND THE DISPOSITION OF INCIDENTAL CATCH BY SPECIES*

All U.S. midwater trawlers fishing for MRC will have sufficient horsepower, winches, midwater trawls and electronics to enable them to avoid contact with the bottom and nontarget species.

If quantities of incidental species in received catches should be excessive, operation will move to new fishing ground. Incidental species will be disposed in foreign markets.

(9) *METHOD OF TRANSFER FROM VESSELS FOR THE UNITED STATES TO FOREIGN VESSELS*

Catches will be transferred from catching vessel to processing vessel by zippered cod ends.

(10) *RELATIONSHIP TO OTHER FISHING OPERATIONS*

Five processing vessels will work entirely with American vessels during May.

Ten processing vessels (including the above five vessels) will work majority of time with the American vessels from June 1-October 31, while four vessels will be in reserve during this period to replace any of the ten primary vessels that might have a breakdown or to work with American vessels when fishing is heavy.

After June 1 processing vessels will fish on Soviet quota when they are not receiving sufficient fish from American vessels.

(11) *BY SPECIES, APPROXIMATE PRICE (U.S. DOLLARS PER M.T.) TO BE PAID FOR UNITED STATES HARVESTED FISH*

Base price for delivered catches of food grade fish of USD $132.27/MT

(B) *FISHERY—GROUNDFISH OF THE GULF OF ALASKA*

SPECIES

ALASKA POLLOCK ..... 2,000 mt
PACIFIC COD ..... 1,900 mt
PACIFIC OCEAN PERCH ..... 1,400 mt
SABLEFISH ..... 400 mt
OTHER SPECIES ..... 300 mt

(1) *NUMBER AND TYPE OF FOREIGN VESSELS TO BE EMPLOYED*

Two Soviet processing vessels of BMRT type equipped to produce frozen round, headed and gutted fish, and fish meal.

(2) *NUMBER AND TYPE OF VESSELS OF THE UNITED STATES FROM WHICH UNITED STATES HARVESTED FISH WILL BE RECEIVED*

2-3 combination bottom/midwater trawl vessels ranging in size from 82-125 FT and 600-1450 HP.

(3) *NAME AND ADDRESS OF COMPANY WITHIN THE UNITED STATES WHO WILL BE PRINCIPAL CONTACT WITH OWNERS/OPERATORS OF VESSELS OF THE UNITED STATES*

MARINE RESOURCES CO. (MRC) 4215 21ST AVENUE WEST, #206, SEATTLE WA 98199

(4) *GEOGRAPHICAL AREA IN WHICH VESSELS WILL OPERATE*

Fishery Conservation Zone in Gulf of Alaska, primarily in Chirikof and Shumagin areas.

(5) *MONTHS DURING WHICH VESSELS EXPECT TO OPERATE*

May 1-November 30, 1979

(6) *BY SPECIES AND QUANTITY, THE PROCESSED PRODUCTS AND ULTIMATE EXPECTED MARKET OF UNITED STATES HARVESTED FISH, INCLUDING QUANTITIES WHICH ARE TO BE EXPORTED TO THE UNITED STATES*

Species will be processed into products given in (1) above. Quantities of each product type will be dependent upon market demand at time of fish-

ery. Products will be sold by MRC in Orient, Eastern Europe, Western Europe and USSR.

(7) *BY SPECIES, QUANTITY OF INCIDENTAL CATCH TO BE RECEIVED*

Incidental species not more than 300 mt. Species unknown.

(8) *PROCEDURES TO BE EMPLOYED TO MINIMIZE THE AMOUNT OF INCIDENTAL CATCH RECEIVED BY FOREIGN VESSELS AND THE DISPOSITION OF INCIDENTAL CATCH BY SPECIES*

All U.S. midwater trawlers fishing for MRC will have sufficient horsepower, winches, midwater trawls and electronics to enable them to avoid contact with the bottom and nontarget species. If quantities of incidental species in received catches should be excessive, operation will move to new fishing ground. Incidental species will be disposed in foreign markets.

(9) *METHOD OF TRANSFER FROM VESSELS OF THE UNITED STATES TO FOREIGN VESSELS*

Catches will be transferred from catching vessels to processing vessel by zippered cod ends.

(10) *RELATIONSHIP TO OTHER FISHING OPERATIONS*

Both processing vessels will work primarily with American vessels but during periods of insufficient transfers they will catch fish for themselves under Soviet quota.

(11) *BY SPECIES, APPROXIMATE PRICE (U.S. DOLLARS PER M.T.) TO BE PAID FOR UNITED STATES HARVESTED FISH*

Prices for individual species will be negotiated with fishermen during first quarter of year.

[FR Doc. 79-4243 Filed 2-7-79; 8:45 am]

[4710-07-M]

[Public Notice CM-8/154]

SHIPPING COORDINATING COMMITTEE

Subcommittee on Safety of Life at Sea, Meeting

The panel on bulk cargoes of the Working Group on Subdivision and Stability—a component of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 10:00 a.m. on Thursday, February 22, 1979, at the National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, New York, 10048.

The purpose of the meeting will be to review any bulk cargo documents received in preparation for the Twentieth Session of the IMCO Subcommittee on Containers and Cargoes, March 5-9, 1979.

For further information contact Mr. Edward H. Middleton, U.S. Coast Guard (G-M/82), Washington, D.C. 20590, telephone (202) 426-2170 or Captain S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, New York, 10048, telephone (212) 432-1280.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

JANUARY 29, 1979.

[FR Doc. 79-4276 Filed 2-7-79; 8:45 am]

[4710-0-M]

[Public Notice CM-8/155]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 1, 1979 at 10:00 a.m. in room A-110 (Training Room) of the Federal Communications Commission, 1229 20th Street, N.W., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, data, maritime mobile and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held during 1979 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Richard H. Howarth, State Department, Washington, D.C. 20520, telephone (202) 632-1007.

Dated: February 1, 1979.

RICHARD H. HOWARTH,
Chairman,
U.S. CCITT National Committee.

[FR Doc. 79-4277 Filed 2-7-79; 8:45 am]

[4710-02-M]

Agency for International Development

[Delegation of Authority No. 133]

Authorization of Project and Non-Project Assistance

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104, from the Secretary of State, dated November 3, 1961 (26 FR 10608, November 10, 1961), as amended, I hereby delegate as follows:

1. To the Assistant Administrator for Near East, the Assistant Administrator for Latin America and the Caribbean, the Assistant Administrator for Africa, the Assistant Administrator for Asia, the Assistant Administrator, Bureau for Development Support and the Assistant Administrator, Bureau for Private and Development Cooperation, the authority to authorize project and non-project assistance under the Foreign Assistant Act of 1961, as amended ("the Act"), within their respective areas of responsibility, where such project or non-project assistance does not, over the approved life of the project or non-project assistance, exceed $10 million.

2. There is also delegated to the above Assistant Administrators the authority to amend the authorization of project and non-project assistant for which authority is provided in Section 1 of this Delegation and the authority to make non-substantive amendments to authorizations of project or non-project assistance previously authorized by the Administrator.

3. References to project and non-project assistance in this Delegation of Authority shall not be deemed to include housing guaranty programs under the Act, which are the subject of Delegation of Authority No. 88.

4. Authorities hereby delegated may be redelegated:

5. This Delegation of Authority is effective immediately.

Dated: February 1, 1979.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 79-4313 Filed 2-7-79; 8:45 am]

[4710-02-M]

[Redelegation of Authority No. 133.1]

ASIA BUREAU

Mission Directors

1. Pursuant to the authority delegated to me by A.I.D. Delegation of Authority No. 133, dated February 1, 1979, regarding authorization of project and non-project assistance, I hereby redelegate to the Directors of A.I.D. Missions in Bangladesh, India,

Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, and Thailand, and to any duly designated person performing the functions of any such Mission Director, authority to exercise any of the following functions with respect to assistance for the country to which he or she is assigned, retaining for myself concurrent authority to exercise such functions and the authority to reserve to myself the authorization of any particular project or projects:

A. The authority to authorize project and non-project assistance under the Foreign Assistance Act of 1961, as amended, where such project or non-project assistance does not, over the approved life of the project or non-project assistance, exceed $5 million; and

B. The authority to amend the authorization of project and non-project assistance authorized by a Mission Director in accordance with paragraph 1A above, or in accordance with any subsequent redelegation of authority, except that any such amendment may not increase by more than 10 percent the total assistance initially authorized by the Mission Director for the life of the project or non-project assistance.

2. The authorities redelegated by paragraph 1 shall be exercised in accordance with applicable statutes, regulations, policies, procedures, and directives, and only after appropriate consultation with A.I.D. technical and legal staff.

3. The authorities redelegated by paragraph 1 above may not be further redelegated.

4. References to project and non-project assistance in this redelegation of authority shall not be deemed to include housing guaranty programs under the Act.

5. This redelegation of authority is effective immediately.

Dated: February 1, 1979.

JOHN H. SULLIVAN,
Assistant Administrator,
Bureau for Asia.

[FR Doc. 79-4314 Filed 2-7-79; 8:45 am]

[8120-01-M]

TENNESSEE VALLEY AUTHORITY

MALLARD-FOX CREEK AREA IN NORTH ALABAMA

Proposed Development and Use

The Tennessee Valley Authority (TVA) has decided to prepare an environmental impact statement (EIS) regarding a request for industrial development of a portion of the lands in the Mallard Creek and Fox Creek area on Wheeler Reservoir and the commitment of contiguous areas to long-term wildlife management. The site is in Lawrence and Morgan Counties about 5 miles west of Decatur, Alabama.

TVA has custody of approximately 1,950 acres of land in this vicinity, a portion of which was acquired in 1930 and the remainder in 1950 as a potential power plant site. It is situated on the south shore of Wheeler Reservoir and contains substantial amounts of shoreline and wetland areas. TVA has made a major portion of the property, designated as the Mallard-Fox Creek Wildlife Management Area, available to the State of Alabama under a 60-day revocable land-use permit for wildlife management since 1959. The area has been a popular hunting area while under state management.

TVA has been requested by two industrial concerns to make land in this area available for industrial development. One company would use approximately 44 acres for a barge loading facility to be used by its existing chemical plant which is located on an adjoining tract. The other company would use approximately 200 acres of land for the construction and operation of a plant to manufacture plastic pellets.

The request under consideration by TVA has three basic elements. Out of the total of approximately 1,950 acres in the Mallard-Fox Creek area, TVA would designate approximately 1,300 acres for wildlife management on a long-term basis, make the two areas available as requested for industrial development, and reserve the remaining approximately 400 acres for future industrial development. The EIS will address the environmental impacts of these three aspects including the effects of construction and operation of the chemical plant and the barge loading facility.

Possible future uses of the Mallard-Fox Creek area were discussed at a public meeting held by TVA in Decatur, Alabama, on December 7, 1978. Based upon the statements made by interested persons at the meeting and TVA's preliminary investigations, TVA has identified the following potentially significant issues:

1. Environmental and economic impacts associated with commitment of approximately 650 acres of land presently under wildlife management for industrial development, including impacts on wetlands from industrial development on two designated tracts;

2. Environmental and economic impacts associated with commitment of approximately 1,300 acres of land presently used under a 60-day revocable permit to long-term wildlife management;

3. The impacts on water quality and aquatic life from industrial development of two designated tracts, including those caused by dredging and possible spills of materials to be shipped by barge; and

4. Impact of industrial development on the local and regional economy.

TVA invites interested persons and agencies to comment on the above scope of the EIS and requests that comments and questions be sent to the Director of Environmental Planning, 268 401 Building, Chattanooga, Tennessee 37401, telephone number 755-3161, by February 16, 1979. It will be unnecessary for those choosing to comment on the scope of the EIS to submit supporting data or information. TVA hopes to release a draft EIS for public review and comment on March 15, 1979.

Dated: January 31, 1979.

LEON E. RING,
General Manager.

[FR Doc. 79-4315 Filed 2-7-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-79-021]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Meeting

Pursuant to section (10)(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Monday, March 5, 1979 in Room 3201, Trans Point Building, 2100 Second Street, South West, Washington, D.C. beginning at 1:30 p.m. The agenda for this meeting will be as follows:

1. Review of action taken at the twentieth meeting of the Council
2. Executive Director's Report
3. Update on Fire Extinguisher Requirements for Thrill Craft
4. Rules of the Road Advisory Committee (RORAC) Report
5. Briefing on Canadian Coast Guard's Recreational Boating Safety Program
6. Office of Boating Safety Report
7. Members' Items
8. Chairman's Session

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Commander Neal Mahan, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard

(G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C. on January 29, 1979.

E. A. DELANEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Boating Safety.

[FR Doc. 79-4371 Filed 2-7-79; 8:45 am]

[4910-14-M]

[CGD 79-015]

PORT ACCESS ROUTES

Amplification of Relationship to OCS Oil and Gas Leases

A notice "PORT ACCESS ROUTES, Relationship to OCS (Oil) and Gas Leases" was published by the Coast Guard in the FEDERAL REGISTER on January 29, 1979 (44 FR 5739). That notice contained information concerning the study of the potential vessel traffic density and the need for safe access routes for vessels in the North Atlantic Ocean off the Northeast and Mid-Atlantic coast. The study is being conducted by the Coast Guard in accordance with sub-section 4(c)(3)(A) of the Ports and Waterways Safety Act (PWSA) (Pub. L. 95-474, 92 Stat. 1473). As a result of that notice, the Coast Guard has received numerous questions on its policies and long range plans affecting the routing of ships on the Outer Continental Shelf (OCS). The action to be taken as a result of the study cannot be specified at this time. However, the Coast Guard has certain policies and broad intentions which are provided here to assist those who wish to submit comments to the study and those who are concerned with OCS Oil and Gas leases, including OCS Sale No. 49 which was announced in the FEDERAL REGISTER on January 29, 1979. These policies and intentions are based on Coast Guard experience in the areas of ships routing, navigation, shiphandling, the effects of weather, and prior analysis of the traffic density in certain regions of the area to be studied, as well as the mandates of the PWSA.

The PWSA directs that the Coast Guard "* * * provide safe access routes for the movement of vessel traffic proceeding to or from ports * * * and shall designate necessary fairways and traffic separation schemes * * *" The PWSA provides clear guidance as to the manner in which this is to be done. Among the concepts that stand out are: "Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses" and "to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved."

The PWSA also directs consultation with the Secretaries of State, Interior, Commerce, and the Army, and the Governors of the affected States. We are to "at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions." In addition, the Act states that the Coast Guard "may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided,* That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues." Further details are contained in Sections 4(c) and Section 5 of the PWSA.

The use conflicts which are of current concern in the area to be studied are related to three factors, that of the volume of opposing traffic flowing along certain traditional routes, that of fishing in certain regions, and that of potential placement of oil exploration and production facilities in or near these routes. The factor of opposing traffic has been addressed by the establishment of Traffic Separation Schemes (TSSs) in various harbor approaches from the Chesapeake Bay to Boston. These are subject to modification as a result of the current study and with the adoption of recommended changes by the Inter-Govermental Maritime Consultative Organization.

Fisheries will be fully considered in the conduct of the study.

The factor of oil exploration and production has been considered by previous work of the Army Corps of Engineers (COE), particularly in relation to the approaches to New York an the approaches to the Delaware Bay. In these areas, it is anticipated that the following access will be found necessary: An eastern route, a southeastern route, and a southern route for the approaches to New York Harbor, and an eastern route and a southeastern route for the approaches to Delaware Bay. Optimum routing without considering the location of petroleum resources would be to have Traffic Separation Schemes with approximately 5 mile wide traffic lanes and approximately 3 mile wide separation zones in each of the five approach routes with shipping safety fairways overlaying the traffic lanes.

At this time the amount and location of petroleum resources in the areas which might be affected by these routes is known only to the extent of estimates based on geophysical information and on preliminary drilling in a portion of the area. Hence, the Coast Guard anticipates establishing temporary measures to provide safe routing, while allowing exploration of the entire area. Such measures might be provisional port access routes as proposed in the FEDERAL REGISTER by the COE on June 30, 1978 (43 FR 28523), or one of the several modifying proposals made by commenters to the COE notices. Another alternative, which appears less desirable in this area, would be to establish guidelines for the spacing of exploration equipment along the access routes. Similar guidelines are contained in "Authorization for Exploratory Drilling in the Gulf of Santa Catalina, California" published by the COE in the FEDERAL REGISTER on June 30, 1978 (43 FR 28475). Such regulatory guidelines, if adopted, would probably apply within the limits of the provisional port access routes mentioned above.

Once the location of petroleum is known, regular routes will be established, as necessary, to provide safe access. Such routes would be located, to the maximum extent practicable, in a manner to allow the placement of production facilities necessary to extract the oil. The following modifications to optimum permanent routing measures are among those being considered: Lane widths could be reduced to less than 5 miles in the eastern and southeastern approaches to New York since improved navigation equipment will be required on vessels entering U.S. ports. The lanes east of Nantucket Light Vessel might be directed to the south of the area of proposed Lease Sale #42. All other routes could be rotated on their focal points up to 10 or 20 degrees (depending on the approach) to reduce adverse effects on production. Lanes could not be rotated into the tracts of Lease Sale #40 unless such tracts had been abandoned. Single fairways might be used in the approaches to Delaware Bay and possibly in the southeastern route off New York. Where a pair of lanes are found necessary due to volume of traffic, they would not have to be parallel, but could diverge in order to accommodate production areas. Given these flexibilities in the establishment of safe access routes, and current estimates of the magnitude and location of oil and gas resources on the Atlantic OCS, it is not anticipated that conflicts between navigation and oil and gas operations will occur which would unduly hamper either activity.

As competition for the sea surface increases and conflicts result, all users must share in any inconvenience. The Coast Guard is carefully examining this problem in order to arrive at the most equitable solution, one which

seeks to minimize conflicts, but which has safety as the paramount consideration.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

FEBRUARY 6, 1979.

[FR Doc. 79-4410 Filed 2-7-79; 8:45 am]

[4910-14-M]

[78-83]

SAFETY APPROVAL OF CARGO CONTAINERS

Delegation of Authority

Section 4(d) of the International Safe Container Act, (46 U.S.C. 1503(d)), requires publication in the FEDERAL REGISTER of the name and address of each organization that has been delegated authority to approve containers, together with the functions delegated and the period of designation.

The following organizations have been delegated authority to approve cargo containers in conformance with the International Convention for Safe Containers, 1972, and the applicable regulations in 49 CFR Parts 450-453:

American Bureau of Shipping, 65 Broadway, New York, N.Y. 10004.
International Cargo Gear Bureau, Inc., 17 Battery Place, New York, N.Y. 10004.
Marine Container Equipment Certification Corp., 358 St. Marks Place, Staten Island, N.Y. 10301.
ABS Worldwide Technical Services, Inc., 65 Broadway, New York, N.Y. 10004.
Hales Testing Laboratories, 646 Hegenberger Road, Oakland, Calif. 94621.
B. A. Bodenheimer & Co., Inc., 1435 Bedford Street, Stanford, Conn. 06905.
Line Fast Corp., 805 Grundy Avenue, Holbrook, N.Y. 11741.

These delegations remain in effect unless withdrawn by the Commandant or voluntarily terminated by the Approval Authority.

For further information contact: Mr. Charles H. Hochman, Project Manager, Cargo and Hazardous Materials Division (G-MHM-2/83) Room 8307, U.S. Coast Guard, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-1577.

HENRY H. BELL,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

FEBRUARY 2, 1979.

[FR Doc. 79-4370 Filed 2-7-79; 8:45 am]

[4910-60-M]

Materials Transportation Bureau

[Docket No. 77-9W]

TRANS-ALASKA CRUDE OIL PIPELINE

Petition for Waiver of Girth Weld Defects at the Valdez Terminal

On October 17, 1977, the Alyeska Pipeline Service Company (Alyeska) petitioned the Material Transportation Bureau (MTB) for a waiver of the Department of Transportation (DOT) regulations governing the acceptability of liquid pipeline girth welds (49 CFR 195.230, 195.232, 195.226, 195.228, and 195.234) for certain welds located at the Valdez Terminal of Alyeska. These welds were identified by DOT during a review of terminal weld radiographs as not being in compliance with the Department's welding standards.

After completing its initial technical review, the MTB, on December 9, 1977, requested additional information concerning fracture toughness and material properties of fittings and valves containing arc burns, physical and metallurgical properties and welding procedures of welds containing defects, information on pipe specifications of pipe installed at the terminal, and information concerning the terminal weld fatigue environment. This information was supplied by Alyeska by letter and enclosures dated March 31, 1978.

A comparison in June 1978 by MTB of deficient welds identified by DOT during the terminal review against the welds identified in Alyeska's petition revealed that the Alyeska petition did not include five welds identified by DOT and that 18 other welds included in the petition were not cited as deficient for the same reasons identified by DOT during the terminal review. Alyeska was notified of these findings, reviewed the radiographs of the welds and included these welds in a revision to the petition submitted by letter dated November 3, 1978.

At the time the girth welds at the terminal were made, Alyeska assumed that the terminal piping was not subject to the regulations. For that reason, the girth welds in these terminal lines were made to Alyeska's welding specifications but not necessarily to 49 CFR Part 195. Since that time, the Department determined that the part of the terminal piping through which crude oil flows under pump pressure is subject to the regulations in 49 CFR Part 195. Following that determination, DOT conducted a review of the radiographs of all terminal girth welds on pipe 36-inch and larger in diameter, the pipe sizes transporting crude oil throughout the terminal, to determine the extent of compliance with requirements of Part 195. This review conducted in Anchorage by radiographic specialists from the Department began on July 11, 1977, and ended on July 22, 1977.

A total of 1,431 welds were reviewed during that time. Radiographic experts determined that 1,209 were in compliance with the DOT welding standards. A review of the remaining 222 welds indicated noncompliance with welding standards addressing arc burns, acceptability of weld defects, and film quality. Seven of the 222 welds were also made without offsetting longitudinal seams on adjacent pipe lengths as required by 49 CFR 195.218. Although Alyeska was granted a waiver for those seven welds from the offsetting longitudinal seam requirements on August 17, 1977 (42 FR 42943, August 25, 1977), two of the seven girth welds also contained arc burns and for that reason are included in this petition. The balance of 217 welds is the subject of this waiver request.

Notwithstanding that noncompliance with DOT welding standards was discovered by the DOT review, it became obvious that corrective action by repair or a processed waiver request could not be taken prior to the oil from reaching Valdez without suspending filling operations (line fill from Prudhoe Bay started on June 20, 1977). To ascertain whether the welds found in noncompliance would adversely impact the oil containment ability of the terminal piping system, the Department retained two independent welding experts, Dr. Robert C. McMaster, Regents Professor of Welding and Electrical Engineering, Ohio State University, and member of the panel who had evaluated the two previous Alyeska waiver requests to DOT involving fracture mechanics, and Mr. Dan Polansky, Physical Scientist, Naval Surface Weapons Center, to review the appropriate radiographs. The experts found that although the welds were not in literal compliance with the DOT standards, it appeared there would be no adverse safety consequence on the structural integrity of the pipeline if oil were allowed to enter the terminal prior to corrective action taken on the welds. DOT concurred with this expert judgement and crude oil was allowed to flow into the terminal.

Aleyska's waiver request falls into four categories:

A. 135 welds which contain arc burns not allowed by 49 CFR 195.226.

B. 57 welds which contain weld defects not in compliance with the Standards of Acceptability in API Standard 1104 referenced in 49 CFR 195.228.

C. Radiographs of 48 welds rejected based on film quality in violation of 49 CFR 195.234.

D. Weld No. 1289 on Berth 3 at the terminal which contains a repaired crack not allowed by 49 CFR 195.230 and 49 CFR 195.232.

The total of the four categories is greater than the number of welds in the petition (217) because some welds were not acceptable for more than one reason.

In categories A and B, Alyeska proposed to use, as an alternate acceptance criteria to Part 195 standards, the fracture mechanics decision curves contained in DOT's November 26, 1976, waiver on a similar request (41 FR 52933, December 2, 1976) and in the waivers granted on June 17, 1977, for girth welds on the main line (42 FR 31512, June 21, 1977). Alyeska has further stated that to repair the defective welds now, with oil flowing through the pipe, would not be economically justified in light of the limited risk associated with the degree of noncompliance. In the November 26, 1976, waiver Decision cited by Alyeska in support of its current request, the DOT, after careful consideration of the issues and the technical advice provided by its experts and consultants, determined that—"Fracture mechanics analysis is acceptable as a basis for granting exemptions from existing standards in appropriate circumstances, if such analysis produces a convincing and conservative estimate of structural integrity."

The specific criteria for applying this determination to the task of accepting or rejecting individual girth welds were set forth in the form of four decision curves in an appendix to the Decision. Alyeska requested a waiver from the DOT welding standards for 612 of the approximately 30,000 field girth welds performed during the 1975 construction season. That number was reduced to 34 welds as repairs to the 1975 welds were completed during the construction season of 1976. In all, there are approximately 100,000 main line girth welds in the pipeline—30,000 field welds performed during each of the 1975 and 1976 construction seasons and 40,000 "double joint" shop welds performed at the pipe storage facilities in Fairbanks and Valdez joining two sections of pipe before transporting them to construction sites. Concerns about the quality of girth welds and the adequacy of the quality control system had prompted Alyeska to audit the radiographic records of the 1975 field girth welds during the winter of 1975-76. It was that audit which led to Alyeska's first girth weld waiver request.

With respect to the 34 unrepaired girth welds then known to exist, the DOT further determined that those having dimensions which fell below the Decision curve for the type of defect concerned "do not constitute a risk of failure at those connecting points during the expected lifetime of the pipeline." The DOT found that 21 of the 34 welds were acceptable on the basis of fracture mechanics analysis. A waiver was granted for only three welds located under the Middle Fork of the Koyukuk River inasmuch as repair efforts on the other 31 were then well on their way to completion.

The June 17, 1977, waiver Decision was made subsequent to a sampling of the radiographs of all main line girth welds. Because of concerns about the total girth weld population, the DOT took a statistical sample of the 1975 field welds, 1976 field welds, and double joint welds made in the Fairbanks and Valdez shops. A sample consisting of the radiographs for 500 randomly selected welds was chosen from each of the above three categories for a total sample size of 1500. Beginning in March 1977, the radiographs were interpreted by three DOT radiographic specialists. In order to minimize any dependent bias in the interpretation, each of the three radiographic specialists independently reviewed each of the randomly selected radiographs against the DOT regulatory standard of acceptability as specified in 49 CFR 195.226 and 195.228. In each case where at least two specialists interpreted a radiograph as indicating an arc burn or a defect, related narrative records and documentation were examined and two independent radiographic experts reviewed the specialists' findings. The two radiographic experts[1] are employees of Rockwell International Corporation then under contract to the Energy Research and Development Administration (ERDA), now part of the Department of Energy.

The ERDA experts, employing a technology used in dealing with the earlier waiver request, determined the depth and length of each defect they confirmed. (These two ERDA experts were again used to measure weld defect and arc burn size for this present waiver request.)

The fracture mechanics decision curves contained in the DOT's November 26, 1976, waiver Decision were applied to these measurements, and the results indicated that all but eight welds out of the 118 containing defects and arc burns confirmed by ERDA experts were acceptable by fracture mechanics. Although the question before the DOT on Alyeska's earlier waiver request concerned only a portion of the total main line girth welds, the conclusions reached and the accompanying decision curves developed for worst possible case situations are no less valid and applicable for the total pipeline. For this reason, DOT decided to extend the applicability of that earlier decision to cover the entire 800-mile main line of the trans-Alaska crude oil pipeline and thereby granted the requested waiver from compliance with DOT welding standards (49 CFR 195.226 and 195.228) for the reasons and under the conditions cited therein.

For the eight welds not acceptable on the basis of fracture mechanics analysis, DOT concluded, after extensive consultation with welding, metallurgical, nondestructive testing, and fracture mechanic experts within DOT and outside, that there was no more than an extremely remote risk of loss of pipeline integrity from these welds.

While the MTB was confident that fracture mechanics had been well established as an alternate acceptance criteria for weld defects and arc burns on the Alyeska main line 48-inch, it did not have that confidence with respect to defects in the Valdez Terminal piping. The piping at the terminal differs from the main line in three respects: (1) valves and fittings as well as pipe are involved; (2) there is 36-inch and 42-inch diameter pipe in addition to 48-inch pipe; and (3) the welds were made by welding procedures which differ from the welding procedures used on the main line.

Before the fracture mechanics curves developed for the main line could be validly applied to weld defects and arc burns at the terminal, it had to be established that the fracture toughness and material properties of the pipe, valves, and fittings and welding procedures for the terminal welds

[1] Wayne D. Stump, manager of nondestructive testing, at the Rocky Flats Plant of Rockwell International (Prime U.S. ERDA contractor), where he has been employed for the past 25 years, holds a BS in Physics from the University of Denver and is a registered professional engineer in Colorado. Mr. Stump is a 25-year member and fellow of the American Society for Nondestructive Testing and has held several section offices in the Society. He is a certified ASNDT Level III in several test methods including radiography, and serves on the National Certification Panel for Level III personnel. He also holds membership in the American Society of Metals and the National Management Association.

John L. Summers, nondestructive testing area manager, at the Rocky Flats Plant, Rockwell International (Prime U.S. ERDA contractor), where he has been employed for 25 years, holds an associate degree of Science from Mascatine Junior College and has completed additional studies at the University of Colorado. Mr. Summers is a 22-year member and fellow of the American Society for Nondestructive Testing, having held several section offices in the Society. He is a certified ASNDT Level III in several test methods including radiography, and has served on the select Ad Hoc committee for Level III certification and is currently on the National Certification Panel for Level III personnel. He is a National Director for ASNDT. Mr. Summers also holds membership in the American Society of Metals and the National Management Association and is a registered professional engineer in the State of California.

closely approaches or were identical to those used on the main line.

Arc burns cited in the Alyeska waiver petition are located on two valves and 14 fittings in addition to the ones located on pipe. Alyeska supplied information on the fracture toughness of the fittings and valves and the specifications for each, indicating material properties of the steel, particularly carbon content. The specifications for the valves and fittings used at the terminal prescribe as a test for fracture toughness a Charpy V-notch energy level of 12 ft.-lbs. minimum and 15 ft.-lbs. average at a test temperature of −20°F. Actual Charpy levels for three heats of steel used for valve bodies ranged from 23 ft.-lbs. to 39 ft.-lbs. and for five tests run on steel used for fittings from 37 ft.-lbs. to 99 ft.-lbs. These valves compare favorably with those for the 48-inch main line pipe which ranged from 55 ft.-lbs. to over 100 ft.-lbs. at a test temperature of 14°F. Another indication of fracture toughness is the carbon content of the steel. If the carbon content of the steel used in the terminal valves and fittings is equal to or lower than that for the 48-inch main line pipe, the fracture toughness of the valves and fittings should be higher. The specifications supplied by Alyeska indicate the maximum carbon content for the valves and fittings to be 0.18 and 0.20 weight percent respectively which compares favorably with the 0.20 weight percent for the 48-inch main line pipe.

The stress level on the terminal pipe, valves, and fittings produced by internal pressure is a contributing factor to arc burn crack growth. The pipeline safety regulations allow the operation of a pipe at a stress level as high as 72 percent of specified minimum yield strength (SMYS) of the pipe. The operating stress on the valves containing arc burns ranges from 1 to 9 percent of SMYS and the fittings from 4 to 17 percent of SMYS. The design of the terminal piping is such that one weld could be subjected to stresses up to 48 percent of SMYS during each of an estimated 10 surges over the life of the system.

The MTB believes from the fracture toughness data and chemical composition, particularly carbon content, that the valves and fittings have similar material characteristics to the 48-inch main line pipe and behave similarly with regard to resisting arc burn crack growth. Because the operating stress level produced by internal pressure on the valves and fittings is so much less than on the main line pipe, this further supports the unlikelihood of growth of arc burn cracks on the valves and fittings at the terminal as compared to main line pipe. The MTB, therefore, used the fracture mechanics curves developed for arc burns on the main line 48-inch pipe as standards of acceptability for arc burns contained on valves and fittings at the terminal.

Similarly, MTB evaluated the possible use of the decision curves to determine the acciptability of arc burns on the different diameter pipe used at the terminal. The three diameters on which weld radiographs were evaluated by DOT were 36-inch, 42-inch, and 48-inch. The 48-inch terminal pipe was made to the same pipe specification as the main line 48-inch pipe so arc burns on it could be evaluated identically to the arc burns on the main line. The 36-inch and 42-inch terminal pipe was made to a different specification than the main line 48-inch pipe, but the pipe quality requirements in the specifiction are identical with the exception of two minor differences involving inside diameter tolerance and test temperature for Charpy impact testing. The 48-inch main line pipe specification requires a test temperature for Charpy impact testing of +14°F and the 36-inch and 42-inch pipe specification requires −20°F. Charpy V-notch testing performed by Alyeska on 36-inch and 42-inch pipe showed excellent toughness properties; e.g., 36-inch pipe with Charpy V-notch energy of 103 ft.-lbs. at −50°F and crack opening displacement (COD) of 12.6 mils at −75°F and 42-inch pipe with Charpy V-notch energy of 86.5 ft.-lbs. at −50°F and COD of 13.6 mils at −75°F. This data substantiates that the 36-inch and 42-inch pipe used at the terminal is of identical quality in its resistance to arc burn growth as the 48-inch pipe used in the main line. The MTB, therefore, used the fracture mechanics acceptability curves developed for arc burns on the main line 48-inch pipe as standards of acceptability for arc burns on the 36-inch and 42-inch terminal pipe.

There were two welding procedures used at the terminal. All but five welds in the waiver request were welded with a "vertical-down" procedure, the same direction of welding as with the main line welding procedures. This welding procedure provided for the use of cellulosic coated electrodes, as with most of the main line welding procedures, except for the root pass which was welded with a low hydrogen electrode. The other five welds were welded with a "vertical-up" procedure which is a type of procedure used extensively in plant piping. Alyeska explained that the "vertical-up" procedure was used at the terminal at certain times since many of the terminal welders were more proficient welding "vertical-up" rather than "vertical-down." The electrodes used in the "vertical-up" welding procedure on all welding passes were of a low hydrogen type mineral coating rather than cellulosic coating which is usually used during pipeline welding.

Alyeska performed Charpy V-notch and COD testing on terminal welds made by these two procedures. The results of these tests and the procedures themselves were critically examined and compared with test results and procedures associated with main line 48-inch construction by both DOT experts and the National Bureau of Standards. These experts concluded that welds made to the terminal procedures would produce welds of comparable quality to the ones made by the main line welding procedures. The welding procedures for terminal piping were not significantly different from the main line welding procedures, and all test values were above the lower bound values previously established for fracture mechanics decision curves. Based on these findings, the MTB used the fracture mechanics curves developed for the acceptability of weld defects on the 48-inch main line as an alternate acceptance criteria to Part 195 standards for welds containing defects at the terminal.

The MTB's use of the 48-inch main line fracture mechanics curves as an alternate acceptance criteria to Part 195 standards for arc burns and girth weld defects on terminal valves and fittings and 36-inch and 42-inch terminal pipe is justified because the MTB would be assured, based upon the foregoing discussions, of the structural integrity of the welds since the arc burns and defects in question are shown to be acceptable under the same alternate criteria as used earlier for the main line welds.

In using the 48-inch main line fracture mechanics curves as an alternate acceptance criteria to Part 195 standards for arc burns on terminal valves and fittings and 36-inch and 42-inch terminal pipe and for terminal welds containing defects, the arc burn and defect measurements (length and depth) were plotted on the appropriate fracture mechanics curves. The measurements made part of Alyeska's waiver request, as confirmed by the ERDA experts, were plotted and all points representing the measurements of each defect or arc burn plot well below the decision curve indicating acceptance of each arc burn and defect.

MTB accepts Alyeska's arguments that the necessity of having to shut down and empty the terminal pipelines, excavate and remove corrosion protection from buried welds, and removal of insulation from aboveground welds in order to achieve literal compliance with Part 195 standards would be extremely burdensome and costly. Accordingly, effective immediately, the Alyeska Pipeline Service Company is hereby granted a waiver from compliance with requirements of 49 CFR

195.226 and 49 CFR 195.228 with respect to the 135 welds containing arc burns and the 57 welds containing defects identified in Alyeska's October 17, 1977, waiver request.

In category C, 28 of the 48 deficient weld radiographs were rejected because the density was either too dark or too light to satisfactorily interpret the film. The film in question either had a density less than 1.5 H & D [2] or a density greater than 3.5 H & D.

The DOT welding standards in 49 CFR 195.234(b) require in part that "Any nondestructive testing of welds must be performed in accordance with a written set of procedures for nondestructive testing. . . ." Although Alyeska established Specification 82.4 titled "Radiographic Examination of Welds for Pump Stations and Terminal" which set an acceptable lower and upper H & D limit on the density of radiographic film, Alyeska failed to comply with that specification on the 28 weld radiographs. Alyeska found, however, that the contrast, sharpness, and sensitivity of these radiographs were adequate even though the H & D density exceeded the requirements in Alyeska Specification 82.4. The H & D film density is within the lower limit of API 1104 (API 1104 has no upper limit) and film was accurately interpreted when using the high intensity views lights used on the project.

Fifteen of the 48 deficient weld radiographs in category C were rejected because the films were judged to have unacceptable contrast, unacceptable penetrameter sensitivity, or penetrameter not visible as established by Alyeska Specification 82.4. While the DOT radiographic specialists determined that contrast was not acceptable in portions of certain of these 15 radiographs and the 4T hole [3] was not visible on some penetrameters indicating unacceptable penetrameter sensitivity, Alyeska found that other film quality indicators, such as density limits, were adequate and that the films had sufficient contrast to interpret the defect.

The remaining five radiographs in category C were rejected because they were judged to have improper identification, incomplete film coverage, or penetrameter location. Alyeska indicated, with respect to these five radiographs, the film identification was accurately established and the procedural infractions did not affect the film quality. The five films were accurately interpreted in the area where the infractions occurred.

MTB believes that there is no compelling reason to reradiograph the welds in category C because of the burdensome expense to expose these welds, because of the low stress level to which these welds are subjected during operation, and because previous evaluation of other weld defects at the terminal using fracture mechanics has shown that those defects were acceptable. Accordingly, effective immediately, the Alyeska Pipeline Service Company is hereby granted a waiver from compliance with requirements of 49 CFR 195.234(b) with respect to the 48 deficient weld radiographs which did not comply with the film quality requirements of Alyeska Specification 82.4.

The weld in category D is a repair of a crack in weld No. 1289 similar to the six repaired cracks at the terminal on which waivers were granted previously (42 FR 25983, June 9, 1977). In performing the repairs to this weld as well as the previous six, Alyeska followed its company established repair welding procedures instead of following the regulations in 49 CFR 195 since it believed, at that time, that these welds were not subject to the DOT regulations.

Weld No. 1289 was produced by the union of two 48-inch by 24-inch side outlet welding tee fittings. A crack was detected by radiography, subsequently explored by grinding, and verified by dye penetrant examination. In support of its petition, Alyeska states that the weld should not be required to be removed in accordance with DOT standards for the following reasons:

1. The existing weld cannot be removed, the ends rebeveled, and a new weld produced since in each case the joint design would be altered precluding the production of a sound weld. Moreover, since the header piping is rigid, and cannot be shifted for a new lineup, the spacing remaining after removal and rebevel would be too great to produce a sound weld.

2. The time required to obtain replacement fittings would be prohibitive. Replacement fittings would take approximately six months to obtain since fittings of this size and specification are unique to the trans-Alaska pipeline.

3. If one fitting is replaced with another fitting, the range of dimensional tolerances of the fittings would make matching lineup extremely difficult and perhaps impossible without further disassembly of the header assembly. For example, the length dimension of the replacement tee could vary by as much as ¾ inch.

4. Alyeska repair procedure WRP-100AP used in repairing the weld was developed in accordance with the guidelines in the repair procedures in API 1104, Section 7.

5. The weld repair was conducted under closely controlled conditions. It was closely monitored and documented.

6. The repaired weld was pressure tested to 780 psig. Operating pressure while loading a tanker is approximately 100 psig. Static pressures are less than 200 psig.

7. Because spillage due to a failure from this weld would be within the confines of the Terminal, a leak could be quickly detected and repair crews quickly mobilized to contain and stop the spillage.

A representative of the MTB has inspected Weld No. 1289 and found that the circumstances described by Alyeska in support of its petition for waiver are accurately described. In addition, the ERDA experts have examined radiographs of the original cracked weld and radiographs after repair was completed. They have confirmed that Weld No. 1289 did contain a crack and that the crack is not visible in the radiograph after the repair.

After review and deliberation of all the information submitted by Alyeska, and other relevant information, MTB finds that a waiver from the applicable provisions of 49 CFR 195.230 and 195.232 for Weld No. 1289 is appropriate and consistent with pipeline safety for the following reasons:

1. The crack is not visible in the radiograph after the repair according to ERDA radiographic experts.

2. The weld has withstoof a hydrostatic test without leakage or failure at pressures far in excess of what it will be subjected during operation.

3. The repair to the weld was made under closely controlled conditions with various levels of inspection by the contractor, Alyeska, and the Federal government further assuring established procedures were followed during repair and that a sound weld exists.

4. If the weld was removed and a new weld made, the problems with proper lineup, excessive space to be filled with weld metal, and destruction of the original joint design by rebeveling probably would result in a weld not as safe as the existing one.

5. The excessive cost involved in replacing the valves or fittings is not justified.

Accordingly, effective immediately, the Alyeska Pipeline Service Company is hereby granted a waiver for compliance with requirements of 49 CFR 195.230(a) and 49 CFR 195.232(a) and (c) for Weld No. 1289.

(18 U.S.C. 834; 49 U.S.C. 1655; 49 CFR 1.53(b), App. A of Part I, and App. A of Part 106)

[2] H & D stands for Hurter-Driffield method of defining quantitative blackening of the film.

[3] 4T hole is a circular drilled hole in the penetrameter with diameter four times the thickness of the penetrameter.

Issued in Washington, D.C., on January 26, 1979.

CESAR DE LEON,
Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-3999 Filed 2-7-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-3; Notice 2]

INTERNATIONAL HARVESTER CO.

Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by International Harvester Co., of Chicago, Illinois, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1581 et seq.) for an apparent noncompliance with 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, *Air Brake Systems.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on April 24, 1978, and an opportunity afforded for comment (43 FR 17437).

Paragraph S5.3.3, Brake actuation time, requires that the air pressure in each brake chamber of a truck air brake system, with the initial service reservoir system air pressure at 100 psi, shall reach 60 psi in not more than 0.45 second. Petitioner's normal surveillance testing has shown a noncompliance with this requirement that exists on approximately 750 trucks manufactured from September 1977 through November 1977. The vehicles are S-Series Trucks Model Series 2500, 2600 4 x 2 and 6 x 4 vehicles equipped with FA-231 (16,000 lb.) and FA-232 (18,000 lb.) front axles and antilock air brake code 04081. The noncompliance was found in the right front brake where the front chamber application time was 0.47 second, and the rear chamber 0.475 second. The company argued that for several reasons this was inconsequential as it relates to motor vehicle safety. The maximum possible effect on stopping distances from 60 mph under the worst road conditions has been computed to be 18 inches. The condition causes no other compliance problems with the standard and the trucks continue to meet stopping distance and controllability requirements. Under normal stopping procedures, there will be no effect on stopping distance. Other factors such as brake burnishing, and tire tread design, to name two, have a greater effect upon stopping distance than the 0.020-0.025 second variation observed. In summary, the company argued that "no effects will exist in real world conditions in which these vehicles operate day to day."

One comment was received on the petition, from Freightliner Corporation, which supported it. The support is consistent with Freightliner's long standing view that there should be no actuation or release timing requirements.

The agency has decided to deny Harvester's petition. While a deviation of 0.020 and 0.025 second may appear inconsequential, the regulatory scheme of the National Traffic and Motor Vehicle Safety Act requires the establishment of "minimum standards for motor vehicle performance". A manufacturer who establishes his tolerances at or near the minimum levels risks, in the event of failure, a determination of noncompliance, the obligation to notify and remedy, the threat of civil penalties and injunctive relief, and the probability that he will be unable to establish that he exercised due care in designing and manufacturing his product to conform. The use of a precise figure like 0.45 second—or any other time period for that matter—is necessary to meet the objectivity requirement of the Act and to make the standard enforceable. Such values are necessary and desirable in a regulatory context for both the regulated party and the regulator. Harvester, for example, would find it difficult to establish compliance with a brake actuation time specification which stated only a subjective requirement that "the air pressure shall reach an acceptable level quickly". Finally, to decide that a deviation of 0.020 second is "inconsequential" could encourage manufacturers to be less careful in design and production, and possibly lead to further deviations and erosion of the standard. The agency has concluded that, generally, values once established must be retained until modified by public rulemaking procedures. The agency believes that Congress did not intend that an inconsequentiality grant be made simply because a manufacturer came close to meeting a minimum performance level but for one reason or another did not reach it. The agency notes, but does not rely on the fact in its decision, that no explanation or excuse has been given by the petitioner for the failure.

International Harvester has failed to meet its burden of persuasion, and its petition that its failure to comply with Standard No. 121 be deemed inconsequential as it relates to motor vehicle safety is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 31, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-4116 Filed 2-7-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

ELEMENTAL SULPHUR FROM CANADA

Antidumping; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative Modification of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that elemental sulphur from Canada is no longer being sold to the United States at less than fair value within the meaning of the Antidumping Act of 1921 by the following manufacturers: Canadian Superior Oil Ltd., Shell Canada, Ltd., Hudson's Bay Oil & Gas Company, Ltd., Chevron Standard Ltd., and Gulf Oil Canada Ltd. In addition, these manufacturers have given assurances that they will not make future sales to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*). If this action is made final, the finding of dumping covering the subject merchandise from Canada will be modified to exclude sales by the above manufacturers entered on or after the effective date of this notice. Interested persons are invited to comment on this action.

EFFECTIVE DATE: February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Crowe, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A Finding of Dumping with respect to elemental sulphur from Canada was published as Treasury Decision 74-1 in the FEDERAL REGISTER of December 17, 1973 (38 FR 34655). After due investigation, it has been determined tentatively that elemental sulphur from Canada, manufactured by Canadian Superior Oil, Ltd.; Shell Canada, Ltd.; Hudson's Bay Oil & Gas Co, Ltd.; Chevron Standard Ltd.; and Gulf Oil Canada, Ltd. is no longer being, nor likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED: The investigation indicated that there have been no sales to the United States by the above-named producers at less than fair value for more than a two-year period. The above-named manufacturers have given formal assurances that nor future sales to the United States will be made at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

In concluding that each of these five firms have not made sales to the United States at less than fair value for at least a two-year period since the Finding of Dumping, Treasury has investigated prices of and the cost of producing this merchandise within the meaning of section 205(b) of the Act during the period January 1, 1975, through December 31, 1976, and on the basis of this investigation has concluded that sales below home market prices have not been made, and that such home market prices are in no instance less than the cost of producing the sulphur in question.

The primary issue considered in calculating cost of production was whether the sulphur sold by the named companies should be considered a "by-product" or "co-product" of crude oil and natural gas production. It was determined that sulphur was properly considered a co-product in those instances in which sulphur revenues constituted a significant portion of a facility's total sales revenues. In those circumstances, allocation of all actual costs, from the point of initial exploration through the processing of the entire "product line," was deemed appropriate and was used to calculate the cost of producing sulphur. However, whenever the revenues from sales of sulphur, including attribution of an appropriate value to current inventory, fell below 10 percent of total revenues from individual plants or facilities, sulphur was considered a by-product. In those circumstances, expenses such as oil or gas exploration costs, could not be, and were not, allocated to the cost of producing sulphur. In no case was sulphur regarded as a "waste product," having no actual costs attributed to its production. In all cases, the cost of production of sulphur was less than home market prices of such sulphur for each producer concerned.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the Finding of Dumping with respect to elemental sulphur from Canada to exclude sales by the above-named producers.

In accordance with section 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER. Requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in ten copies in time to be received by his office not later than March 12, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material, and they are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential information.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

JANUARY 8, 1979.

[FR Doc. 79-4362 Filed 2-7-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Revised Exemption No. 143]

ALL RAILROADS

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That because of slow return of empty boxcars to the Union Pacific Railroad Company (UP) the supply of cars on that line has been seriously hampered; that there is a substantial need for boxcars for off-line loading in terminal switching service in the Fairfax Industrial District, located in Kansas City, Missouri; that the aforementioned delays in the return of boxcars owned by the UP has resulted in a shortage of UP cars in the Fairfax Industrial District; that the shippers in this district are unable to furnish adequate advance routing information for the UP and its connections to select suitable cars owned by other railroads for loading in compliance with Car Service Rules 1 and 2; that the preponderance of the loading in this district is eastward; that the UP has an ample supply of boxcars owned by lines operating in States east of the Fairfax Industrial District; and that although the shippers are unable to furnish specific advance routing data for specific shipments, the majority of the foreign cars loaded in the district will be destined to or in the direction of the car owners and in compliance with Car Service Rules 1 and 2.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" may be loaded by shippers served by the UP in its Fairfax Industrial District in Kansas City, Missouri, without regard to the requirements of Car Service Rules 1 and 2 subject to exceptions 1 to 5 inclusive, shown below.

It is further ordered, That other railroads receiving cars from the UP in terminal switching service, loaded by shippers in the aforementioned Fairfax Industrial District for line-haul movement via their lines, may accept forwarding instructions from such shippers without regard to the requirements of Car Service Rules 1 and 2.

EXCEPTIONS

1. Cars of Canadian or Mexican ownership.
2. Cars subject to a car relocation or cars assistance directive issued by the Car Service Division, Association of American Railroads.
3. Cars with inside length of 59-ft. 8-in. or greater.
4. Cars subject to an Interstate Commerce Commission Order requiring the return of cars to owners.
5. Cars owned by the following western railroads; The Denver and Rio Grande Western Railroad Company, Southern Pacific Transportation Company, The Western Pacific Railroad Company.

Effective January 31, 1979.

Expires April 30, 1979.

Issued at Washington, D.C., January 24, 1979.

INTERSTATE COMMERCE COMMISSION.
JOEL E. BURNS,
Agent.

[FR Doc. 79-4383 Filed 2-7-79; 8:45 am]

[7035-01-M]

Office of Hearings

[Notice No. 23]

ASSIGNMENT OF HEARINGS

FEBRUARY 5, 1979.

Cases assigned for hearing, postponement, cancellation or oral argu-

ment 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. FD 28910F, Denver & Rio Grande Western Railroad Company Discontinuance of Passenger Trains Nos. 17 and 18 (The Rio Grande Zephyr) Between Grand Junction, Co. and Salt Lake City, Utah, now assigned for hearing on February 26, 1979, at Salt Lake City, Utah and will be held in Room 3421, Federal Building.

MC 127042 (Sub-206F), Hagen, Inc., now assigned for hearing February 6, 1979 is canceled and application dismissed, at Billings, Montana.

MC 116254 (Sub-205F), Chem-Haulers, Inc., now assigned for hearing at Kansas City, Missouri February 26, 1979 is canceled and application dismissed.

MC 106873 (Sub-3F), Heavy Hauling Co., Inc., now assigned for hearing on April 25, 1979, (3 days), at Portland, Oregon in a hearing room to be later designated.

MC 123819 (Sub-68F), Ace Freight Line, Inc., now assigned February 12, 1979, at New Orleans, La., is canceled.

MC 130482F, Central Travel & Ticket, Inc., now assigned for hearing on March 21, 1979, (3 days), at Toledo, Ohio in a hearing room to be later designated.

MC 119656 (Sub-44F), North Express, Inc., now assigned for hearing on March 26, 1979, (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 124078 (Sub-845F), Schwerman Trucking Co., now assigned for hearing on March 27, 1979, (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 144437 (Sub-4F), Walters Enterprises, Inc., now assigned for hearing on March 28, 1979, (3 days), at Columbus, Ohio in a hearing room to be later designated.

MC 140511 (Sub-7F), Autolog Corporation, a Delaware Corp. now assigned for hearing on April 23, 1979, (1 week), at New York, New York in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-4377 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Notice No. 24]

ASSIGNMENT OF HEARINGS

FEBRUARY 5, 1979.

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.

CORRECTION

MC 144288 F, Evans Reliable Messenger, Inc., now assigned for hearing on February 7, 1979, in Room 314A, P.O. Box Bldg., 141 Church Street, New Haven, Connecticut, instead of The New Court House.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-4378 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 359]

WATER CARRIER REGULATION

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: This proceeding was instituted by a notice published in the FEDERAL REGISTER on December 18, 1978, at 43 FR 59608. All interested parties were initially invited to file comments on or before February 16, 1979.

We believe that a further extension of time is necessary for interested parties to evaluate their positions and prepare comments.

DATES: Comments regarding the proceeding must be submitted to the Commission on or before April 2, 1979. No further extensions are contemplated.

FOR FURTHER INFORMATION CONTACT:

Hanford O'Hara, 202-275-7793, or Ann C. Pongracz, 202-275-1851.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-4404 Filed 2-7-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 22 Under Service Order No. 1344]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to transport promptly all traffic offered for movement to, from or via stations on its lines in the States of Iowa and Minnesota, because of adverse weather conditions.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, being unable to transport promptly all traffic offered for movement to, from or via stations on its lines in the States of Iowa and Minnesota, because of adverse weather conditions, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., January 26, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 2, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the

American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 26, 1979.

INTERSTATE COMMERCE COMMISSION.
JOEL E. BURNS,
Agent.

[FR Doc. 79-4381 Filed 2-7-79; 8:45 am]

[7035-01-M]

[ICC Order No. 21, Under Service Order No. 1344]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to transport promptly all traffic offered for movement to, from or via stations on its lines in the States of Illinois and Wisconsin, because of snow drifts.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, being unable to transport promptly all traffic offered for movement to, from or via stations on its lines in the States of Illinois and Wisconsin, because of snow drifts, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., January 25, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 2, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 25, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-4384 Filed 2-7-79; 8:45 am]

[7035-01-M]

[ICC Order No. 19, Under Service Order No. 1344]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago and North Western Transportation Company is unable to transport promptly all traffic offered for movement over its lines between Albert Lea, Minnesota, and Austin, Minnesota, because of adverse weather conditions.

It is ordered,

(a) *Rerouting traffic.* The Chicago and North Western Transportation Company, being unable to transport promptly all traffic offered for movement over its lines between Albert Lea, Minnesota, and Austin, Minnesota, because of adverse weather conditions, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 3:00 p.m., January 24, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 24, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-4379 Filed 2-7-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 20 Under Service Order No. 1344]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago and North Western Transportation Company is unable to transport promptly all traffic offered for movement to and from Dyersville, Iowa, because of adverse weather conditions.

It is ordered,

(a) *Rerouting traffic.* The Chicago and North Western Transportation Company being unable to transport promptly all traffic offered for movement to and from Dyersville, Iowa, because of adverse weather conditions, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 3:00 p.m., January 24, 1979.

Expiration date. This order shall expire at 11:59 p.m., March 1, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 24, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-4380 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Twenty-Fourth Revised Exemption No. 129]

CHICAGO, WEST PULLMAN & SOUTHERN RAILROAD CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditons, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a) and 2(b).

Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
XXX

XXX Detroit and Mackinac Railway Company deleted.

Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Richmond, Fredericksburg and Potomac Railroad Company
Reporting Marks: RFP

Effective 12:01 a.m., February 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 24, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-4382 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Notice No. 156]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before March 12, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77844. Transferee: SAND-HILLS GRAIN, INC., 524 Augusta Street, Bassett, NE 68714. Transferor:

Grand Island Contract Carriers, Inc., Box 2078, West Old Highway 30, Grand Island, NE 68801. Representatives: George L. Hirschbach, Hirschbach & Wichser, 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Jack Schulz, Box 82028, 13th and N Streets, Lincoln, NE 68501. By order entered February 2, 1979, the Commission, Motor Carrier Board, approved the transfer from transferor to transferee of the operating rights set forth in Permit No. MC-129808 (Sub. No. 29) issued January 19, 1979 as follows: Battery acids, brake fluids, gasoline antifreeze, windshield washer solutions, and lacquer (except commodities in bulk), from the facilities of Scholle Corp., at or near Garland, TX, to points in Colorado, New Mexico, Oklahoma, Arkansas, and Louisiana. From the facilities of Scholle Corp., at or near Raytown, MO, to points in Colorado, Kansas (except the facilities of General Battery Corp., at Salina), Nebraska and Iowa. RESTRICTION: The authority granted herein is limited to a transportation service to be performed under a continuing contract(s) with Scholle Corp.

MC-FC-77848, filed September 13, 1978. Transferee: GENE CURTIS TRUCKING CO., INC., 7404 West 205th Avenue, Lowell, IN 46356. Transferor: Harold C. Dahl, P.O. Box 211, Lowell, IN 46356. Representative: Edwin J. Simcox, Suite 800, Circle Tower Bldg., Indianapolis, IN 46204. Authority sought for purchase of the operating rights set forth in Certificate No. MC-140438, issued September 3, 1976 as follows: *Wood pallets*, from Tefft, IN to Oregon, OH. Transferee presently holds no authority from this Commission, and application has not been filed for Section 210a(b) au>thority.

MC-FC-77939, filed November 27, 1978. Transferee: PENN-ILLINOIS TRUCKING CO., INC., 5100 5th Avenue, Pittsburgh, PA 15232. Transferor: Pittsburgh-Chicago Transport, Inc. (Samuel and Miriam Alice Schreiber, Successors-In-Interest), 5100 Fifth Avenue, Pittsburgh, PA 15232. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-135305 on November 8, 1971, as follows: General commodities between Chicago, IL and Pittsburgh, PA over specified routes. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77959, filed December 13, 1978. Transferee: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44306. Transferor: Rubber City Express, Inc., 1805 Market Street, Akron, OH 44305. Representative: Michael L. Moushey, 275 East State Street, Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 136470 Sub 1, issued May 30, 1973, as follows: Such commodities as are dealt in by rubber manufacturers and steel product manufacturers, and equipment, materials and supplies used in the conduct of such business, from Akron, OH to points in RI, MA, CT, and parts of NY and NJ; Tire fabric, from Fall River and New Bedford, MA to Akron, OH; Chemicals, form Naugatuck, CT to Akron, OH; scrap tires and tubes, from specified points in MA, CT, NJ and NY to Akron, OH, under contract with persons operating rubber manufactruing plants. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77989, filed January 4, 1979. Transferee: CAINES TRUCKING, INC., P.O. Box 236, Riegelwood, NC 28456. Transferor: R. H. Trucking, Inc., Route 2, Nichlos, SC 29581. Representative: Edward L. Williamson, 136 Washington Street, Whiteville, NC 28472. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 139608 Sub 1, issued October 2, 1975, as follows: *Wood chips*, between points in NC and SC, restricted to traffic originating at or destined to the plant site of Georgia-Pacific Corp, of Augusta, GA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-4376 Filed 2-7-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 6]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 6415 Subs 5 and 6 (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATES) filed November 17, 1978. Petitioner: FEUER TRANSPORTATION INC., Federal and Knowles Streets, Yonkers, NY 10702. Representative: Edward L. Nehez, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificates in MC 6415 Subs 5 and 6 issued December 24, 1959 and January 16, 1967, respectively. MC 6415 Sub 5 authorizes transportation, over irregular routes, of *General commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Hudson, Essex, Bergen, Union, Passaic, Middlesex, Monmouth, Somerset and Morris Counties, NJ. MC 6415 Sub 6 authorizes transportation, over irregular routes, of *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in the New York, NY, Commercial Zone, as defined by the Commission, in 1 M.C.C. 665, on the one hand, and, on the other, points in Nassau and Suffolk Counties, NY, and those in that part of Fairfield County, CT, on and west of a line beginning at the NY-CT State line and extending along CT Hwy 29 to Long Island Sound.

By the instant petition, petitioner seeks to modify the above territorial descriptions to read as follows: Sub 5—Between New York, NY, on the one hand, and, on the other, points in Hudson, Essex, Bergen, Union, Passaic, Middlesex, Monmouth, Somerset, Morris, Warren, Hunterdon, Mercer, Burlington, and Ocean Counties, NJ, and points in Westchester, Nassau, and Rockland Counties, NY; Sub 6—Between points in Hudson, Essex, Bergen, Union, Passaic, Middlesex, Monmouth, Somerset, Morris, Warren, Sussex, Hunterdon, Mercer, Burlington, and Ocean Counties, NJ, on the one hand, and, on the other, points in

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Nassau and Suffolk Counties, NY, and those in Fairfield County, CT, on and west of a line beginning at the NY-CT State line and extending along CT Hwy 29 to Long Island Sound.

MC 12983 (M1F) (NOTICE OF FILING OF PETITION TO MODIFY LICENSE) filed October 18, 1978. Petitioner: RALPH A. JOHANSEN ASSOCIATES, INC., d.b.a. JOHANSEN ROYAL TOURS, 1410 Vance Bldg., Seattle, WA 98101. Representative: James H. Glavin, P.O. Box 40, Waterford, NY 12188. Petitioner holds a license issued July 11, 1974 and served September 26, 1974, to engage in operations as a *broker* in transporting: (1) Passengers and their baggage, in sightseeing or pleasure tours, in special and charter operations, in round trip tours, beginning and ending at Seattle, WA, and extending to points in the United States (including AK, but excluding HI). (2) Passengers and their baggage, in sightseeing and pleasure tours, in one-way special and charter operations, (a) from points in WA (except Vancouver, WA), to points in OR and CA, and (b) from San Francisco, Los Angeles, and San Diego, CA, to points in OR and WA. Applicant is authorized to engage in the above-specified operations as a broker at Seattle, WA.

By the instant petition, petitioner seeks to modify the territorial description to authorize operations between points in the United States (including AK and HI).

MC 76065 (Sub-21) (M1F) (Notice of Filing Petition to delete restriction), filed October 4, 1978. Petitioner: EHRLICH-NEWMARK TRUCKING CO., INC., 505-509 West 37th Street, New York, NY 10018. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds a motor *common carrier* certificate in MC 76065 (Sub-21), issued December 2, 1974, authorizing transportation, over irregular routes of: (1) *Wearing apparel*, (2) *materials, supplies and equipment* used in the manufacture of wearing apparel (except commodities in bulk), and (3) *department store merchandise* when moving in the same vehicle with wearing apparel on hangers. Between Washington, DC, Philadelphia, PA, and points in that part of PA and MD on and east of US Hwy 11, on the one hand, and, on the other, points in VA (except Crewe). RESTRICTION: The authority granted herein is restricted against the tacking of such authority with other authority held by carrier.

By the instant Petition, Petitioner seeks to modify the above authority by deleting the restriction. NOTE: By deletion of the tacking restriction, the following tacking possibilities exist. (1) Tack MC 76065 Sub-21 with MC 76065 at points in PA on and east of US Hwy 11 to provide a through service between points in VA (except Crewe) on the one hand, and, on the other, points in Hudson, Essex, Union, Passaic, and Middlesex Counties, NJ, and New York, NY and (2) Tack MC 76065 Sub-21 with MC 76065 Sub-20 at Philadelphia, PA to provide a through service between points in VA (except Crewe), on the one hand, and, on the other, points in that part of DE on and north of DE Hwy 310, and points in that part of NJ on and south of US Hwy 22, and on and west of NJ Hwy 18 and US Hwy 9 (except points in Atlantic, Salem, Gloucester, Cumberland and Camden Counties).

MC 97699 (Sub-5) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed October 5, 1978. Petitioner: BARBER TRANSPORTATION CO., a corporation, 1970 Deadwood Ave., Rapid City, SD 57701. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Petitioner holds a motor *common carrier* certificate in MC 97699 Sub-5 issued July 16, 1957, authorizing transportation, over regular routes, as pertinent, of: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Lemmon, SD, and St. Paul, MN, serving the intermediate point of Minneapolis, MN. From Lemmon over US Hwy 12 to St. Paul, and return over the same route.

By the instant petition, petitioner seeks to modify the above authority by adding Mobridge, SD as an additional intermediate point.

MC 108962 (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed November 14, 1978. Petitioner: MIDWEST SPECIALIZED HAULERS, INC., P.O. Box 753, Dubuque, IA 52001. Representative: A. Charles Tell, Columbus Center, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Petitioner holds a motor *common carrier* certificate in MC 108962 issued May 4, 1978, authorizing transportation, over irregular routes, as pertinent, of *Heavy machinery and contractor's machinery, equipment, materials* and *supplies*, between Dubuque, IA, and points in IA within 25 miles of Dubuque, on the one hand, and, on the other, points in WI and MN.

By the instant petition, petitioner seeks to add "Such commodities as by reason of their size or weight require special handling or the use of special equipment" to the commodity description.

MC 111473 (Sub-1) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed November 15, 1978. Petitioner: INTER-STATE TRUCK LINES, INC., 555 S. 16th St., Columbia, PA 17512. Representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street, NW, Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 111473 Sub-1, issued January 12, 1950, authorizing transportation, over irregular routes, as pertinent, of *Wearing apparel*, in boxes and cases, from New York, NY, to points and places in that part of PA on, east, and south of a line beginning at the PA-MD State line and extending along US Hwy 11 to Harrisburg, PA, then along US Hwy 22 to the PA-NJ State line.

By the instant petition, petitioner seeks to modify the above authority by substituting the language "on hangers" for "in boxes and cases."

MC 113434 (Sub-44) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed November 14, 1978. Petitioner: GRABELL TRUCK LINE, INC., P.O. Box 1001, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. Petitioner holds a motor *common carrier* certificate in MC 113434 Sub-44, issued January 27, 1977, authorizing transportation, over irregular routes, of *Canned and preserved foodstuffs*, from Edmore and Croswell, MI, to points in IL and IN (except points in the Chicago, IL, commercial zone, as defined by the Commission), KY, OH, MO, WI, the Upper Peninsula of MI, and points in that part of PA east of US Hwy 220, restricted to the transportation of shipments originating at the facilities of Nu-Foods at Edmore, MI and Aunt Jane Foods, Inc., at Croswell, MI, and destined to the above-named destinations.

By the instant petition, petitioner seeks to modify the above authority by deleting the exception against service to the Chicago, IL, commercial zone, as defined by the Commission, from Croswell, MI. The exception will still remain effective from Edmore, MI.

MC 113666 (Sub-81) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed October 13, 1978. Petitioner: FREEPORT TRANSPORT, INC., 1200 Butler Rd., Freeport, PA 16229. Representative: William H. Shawn, Suite 501, 1730 M Street, NW, Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC 113666 Sub-81, issued November 14, 1975, authorizing transportation, in foreign commerce, over irregular routes, of *Refractory products*, and *materials* and *supplies* used in the production and installation of refractory products (except liquid commodities,

in bulk, in tank vehicles), and brick, from points in WV, KY, PA, OH, and MO, to ports of entry on the United States-Canada Boundary line, located in MN, MI, NY, ME, NH, and VT. RESTRICTION: The authority granted herein is restricted against the transportation (1) of refractory products from Clearfield, PA, and points within 25 miles thereof, and from Clymer, Mt. Union, and Womelsdorf, PA.; (2) of materials and supplies used in the installation of refractory products when transported in mixed shipments with refractory products from Clearfield, PA, and points within 25 miles thereof, and from Mt. Union and Womelsdorf, PA, and (3) of brick, structural tile, and crude clay (in bulk), from Clearfield, PA, and points within 25 miles thereof.

By the instant petition, petitioner seeks to modify the above certificate by deleting the foreign commerce restriction.

MC 124004 (Sub-19) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed October 11, 1978. Petitioner: RICHARD DAHN, INC., 620 W. Mountain Rd., Sparta, NJ 07871. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 124004 Sub-19, issued April 19, 1973 authorizing transportation, over irregular routes, of *Scrap brick and scrap metal*, from points in MA, CT, RI, PA, OH, and NY, to Kearny, NJ.

By the instant petition, petitioner seeks to modify the above authority by seeking a two-way radial movement, so it will read: Between points in MA, CT, RI, PA, OH, NY, on the one hand, and, on the other, Kearny, NJ.

MC 128698 (Sub-1) (M1F) (NOTICE OF PETITION TO MODIFY CERTIFICATE), filed October 19, 1978. Petitioner: ERDNER BROS., INC., P.O. Box 68-Davidson Rd., Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW, Washington, DC 20005.

Petitioner holds a motor *common carrier* certificate in MC 128698 Sub 1 issued December 23, 1975, authorizing transportation, over irregular routes, of *Foodstuff, and ingredients, materials, supplies, and equipment* used in the processing and manufacture of foodstuffs, between Milford, Bridgeville, Clayton, Georgetown, Wilmington, Milton, and Houston, DE, Whiteford, Snow Hill, Hurlock, Cambridge, Salisbury, Pocomoke City, Chestertown, Ridgely, Baltimore, Goldsboro, and Trappe, MD, Parksley and Exmore, VA, Centre Hall, Bloomsburg, York, Hanover, Lancaster, and Downingtown, PA., Bridgeton, Swedesboro, Woodstown, Camden, Moorestown, and Glassboro, NJ, Sumter, SC, Napoleon, OH, and DC, restricted against the transportation of commodities in bulk, and further restricted to the transportation of shipments originating at and destined to the facilities utilized by Campbell Soup Company, its affiliates and its subsidiaries, at the above-described points.

By the instant petition, petitioner seeks to modify the above authority by adding Chicago, IL to the territorial description.

MC 135231 (Sub-22) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed November 21, 1978. Petitioner: NORTH STAR TRANSPORT, INC., Route 1, Hwy. 1 and 59 West Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Petitioner holds a motor *common carrier* certificate in MC 135231 Sub 22 issued July 14, 1978, authorizing transportation, over irregular routes, as pertinent, of (1) *Snowmobiles, motorbikes, boats, parts and accessories*, and *sound reproducing equipment*, from Roseau, Thief River Falls, Karlstad, Rochester and Minneapolis, MN and Omaha, NE, to points in the United States including Anchorage, AK (excepting service to unnamed AK points and HI), restricted to traffic originating at the plant sites or facilities of Polaris E-Z-Co Division of Textron Inc., Arctic Enterprises, Inc., and Telex Communications, Inc., at the origin points specified, and (2) *Materials, supplies, parts, and equipment* used in the manufacture or sale of snowmobiles, motor bikes, sound reproducing equipment, and boats, from points in the United States (except AK and HI), to plant sites and facilities of Polaris E-Z-Co. Division of Textron, Inc., Arctic Enterprises, Inc., and Telex Communications, Inc., at Thief River Falls, Roseau, Karlstad, Moorhead, Clearbrook, Rochester and Minneapolis, MN, and Omaha, NE.

By the instant petition, petitioner seeks to modify the above authority by adding Scorpion Industries, Inc. of Crosby, MN, as an origin in part (1) above, and as a destination in (2) above.

MC 135928 (Sub-2) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY PERMIT), filed November 1, 1978. Petitioner: KRS TRUCKING CORPORATION, P.O. Box 789, plainfield, NJ 07061. Representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 135928 Sub 2 issued August 21, 1972, authorizing transportation, over irregular routes, of *leaders, gutters, elbows, corner ends, downspouts*, and *material*, and *supplies* used in connection therewith, from the plant site of Royal-Apex Manufacturing Co., Inc., at Plainfield, NJ, to points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada Boundary line, reunder a countinuing contract(s) with Royal-Apex Manufacturing Co., Inc.

By the instant petition, petitioner seeks to add a second commodity and territorial description which will read: *Materials, equipment* and *supplies* used in the manufacturing and sale of leaders, gutters, elbows, corner ends, and downspouts, (except in bulk), from points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, NM, then northward along the western boundaries of Itasca and Koochiching Counties, MN to the United States-Canada Boundary line to the plant site of Royal-Apex Manufacturing Co., Inc. Plainfield, NJ, under a continuing contract(s) with Royal-Apex Manufacturing Co., Inc.

MC 138880 (Sub-2) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE) filed October 18, 1978. Petitioner: RED RIVER TRANSPORT & DEVELOPING CO., INC., d/b/a AIR FREIGHT EXPRESS, P.O. Box 5021, Fargo, ND 58102. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58102. Petitioner holds a motor *common carrier* certificate in MC 138880 Sub 2 issued August 15, 1975, authorizing transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those that require special equipment), between Minneapolis- St. Paul International Airport in or near Minneapolis, MN, on the one hand, and, on the other, Superior, WI, and points in St. Louis and Carlton Counties, MN. RESTRICTION: The operations authorized herein are restricted to the transportation of shipments having an immediately prior or subsequent movement by air.

By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

MC 140252 (Sub-1) (M1F) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE) filed November 8, 1978. Petitioner: M. K. M. ASSOCIATED TRUCKING CORP.,

117 Dutch Road, East Brunswick, NJ 08816. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 140252 Sub 1 issued August 24, 1976, authorizing transportation, over irregular routes, of *Scrap metals* (except in dump vehicles, from the plantsites of National Can Corp., at or near Edison and Piscataway, NJ, Long Island City and Maspeth, NY, and Hamburg, Fogelsville and Morrisville, PA, to Sparrows Point, MD and Wilmington, DE, under a continuing contract(s) with National Can Corp., of Piscataway, NJ.

By the instant petition, petitioner seeks to modify the above authority by adding Elizabeth, NJ as a destination point in the territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to reasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 29910 (Sub-174) (Republication), filed January 21, 1977, previously noticed in the FEDERAL REGISTER issues of March 10, 1977 and January 11, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood Avenue, Fort Smith, AR 72902. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, equipment, supplies and building materials* (except limestone, limestone products, and commodities in bulk), between the plantsite of Arkansas Log Homes, Inc., located in Polk County, AR, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. Note: The purpose of this republication is to indicate the applicant's intention to tack with its existing regular route authority and will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition seeking leave to intervene in this proceeding, setting forth in detail the manner in which it has been prejudiced by lack of proper notice.

MC 115495 (Sub-37F) (Partial Correction), filed July 21, 1978, previously noticed in the FEDERAL REGISTER issue of September 7, 1978. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Everett Hutchinson, Suite 400, 1150 Connecticut Avenue NW., Washington, DC 20036. NOTE: The purpose of this partial correction is to add the following: (7), between ND, SD, NE, KS, OK, TX, AR, LA, and MS, restricted in (7) above to the transportation of traffic having a prior or subsequent movement by air, water, or rail (except trailer-on-flatcar service); and further restricted in (7) above that no service shall be rendered in the transportation of any package or article weighing more than 50 pounds, or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. (Hearing: February 27, 1979 (14 days) at 9:30 a.m., local time at the Dallas Marriott Hotel, Market Center, 2101 Stemmons Freeway, Dallas, TX and continued to April 3, 1979 (9 days), at 9:30 a.m. local time at the Dallas Marriott Hotel, Market Center, 2101 Stemmons Freeway, Dallas, TX).

MC 115495 (Sub-40F), filed January 19, 1979. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Everett Hutchinson, Suite 400, 1150 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *General commodities* (except those of unusual value, commodities in bulk, Classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission), between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY and points in PA, WV, and VA, within ten miles of the PA-OH, the WV-OH, the WV-KY, the VA-KY, the VA-TN and the VA-NC State boundary lines, subject to all the restrictions in applicant's certificates, listed below: (1) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment; and (2) no service shall be provided in the transportation of package 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. Note: Applicant specifically requests that its certificates in Nos. MC 115495 Subs 4, 14, 16, 20, and 22 be modified to expressly authorize tacking. Additional certificated operating rights are not sought by this request. (Hearing site: Chicago, IL).

MC 117416 Sub. No. 58F (correction), filed April 14, 1978, previously noticed in the FEDERAL REGISTER issue of July 27, 1978. Applicant: NEWMAN & PEMBERTON, CORP., a corporation, 2007 University Avenue NW., Knoxville, TN 37921. Representative:

Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery stores*, and in connection therewith, *materials, equipment, and supplies* used in the conduct of such business (except commodities in bulk, and frozen foods), between Cincinnati, OH, and Atlanta, Augusta, and Macon, GA, on the one hand, and, on the other, points in AL, FL, GA, LA, S, NC, SC, and TN, restricted to the transportation of shipments which either, (1) originate at Cincinnati, OH, and Atlanta, Augusta and Macon, GA and are destined to points in AL, FL, GA, LA, MS, NC, SC, and TN, or (2) originate at points in AL, FL, GA, LA, MS, NC, SC, and TN, and are destined to Cincinnati, OH, and Atlanta, Augusta, and Macon, GA. Note: The purpose of this republication is to broaden the restriction and modify the territorial description. (Hearing site: Cincinnati, OH, or Washington, D.C.)

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before March 12, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13647. By initial decision served January 15, 1979, DALKE TRANSPORT, INC., was authorized to purchase the described portion of the operating authority of JERRY LIPPS, INC., subject to republication in the FEDERAL REGISTER. The Administrative Law Judge required republication. The FEDERAL REGISTER publication was incomplete in that it did not include a portion of the authority to be transferred, *from Waco, TX, to points in AZ, CA, CO, NV, OK, and KS.* This portion of MC-118959 (Sub-No. 47) was inadvertently omitted. The original FEDERAL REGISTER Notice was published July 27, 1978.

The Administrative Law Judge authorized DALKE TRANSPORT INC. to acquire the followng portion of JERRY LIPPS, INC.'s operating authority: Plastic conduit, plastic siding and plastic molding, as a common carrier over irregular routes from McPherson, KS, to points in MN, IA, ND, SD, NE, KS, OK, NM, CO, WY, MT, ID, UT, TX, AZ, NV, WA, OR, and CA; and *from Waco, TX to points in AZ, CA, CO, NV, OK, and KS.* Plastic pipe, plastic tubing, plastic molding, plastic valves, plastic fittings, plastic siding, plastic compounds, plastic joint sealer, plastic bonding cement, and plastic accessories and materials used in the installation of such products: from Waco, TX to points in NM. Plastic conduit, plastic siding and plastic molding: From Waco, TX to points in OR, WA, ID, MT, WY, ND, SD, NE, MN, IA, that part of UT on and north of a line beginning at the NV-UT State line, then along UT Hwy 56 to junction US Hwy 91, then along US Hwy 91 to junction UT Hwy 20, then along UT Hwy 20 to its Junction US Hwy 89, then along US Hwy 89 to junction UT Hwy 4, then along UT Hwy 4 to junction Interstate Hwy 70, then along Interstate Hwy 70 to the CO-UT State Line.

If any person has any interest in or would be prejudiced by grant of the authority it may file an original and six copies of the petition (or any other pleading) within 30 days from the date of publication with appropriate service on applicant. The petition in each case must set forth the position and interest of the petitioner in the proceeding, including a showing of good cause for not filing objections at the time of or prior to the oral hearing, and specifically why the transaction would not be in the public interest. Applicant shall file its reply within 50 days from the date of publication. Applicant's attorney: John E. Jandera, 641 Harrison Street, Topeka, KS and Robert M. Pearce, P.O. Box 1899, Bowling Green, KY., 42101.

MC-F-13876F. Authority sought by BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104, to purchase a portion of the operating rights of ABC Truck Lines, Inc., 728 West Idaho Street, P.O. Box 1824, Elko, NV 89801, and for acquisition by George A. Browning and Clifton M. Browning and Lowell D. Browning of control of such rights through purchase. Applicant's Representative: Ben D. Browning and Ronald D. Browning, Attorneys, 1321 SE Water Avenue, Portland, OR 97214. Operating rights to be purchased: General Commodities with the usual exceptions, over regular routes between Elko, NV and Owyhee, NV via State Route 11 to four miles beyond Dinner Station; via State Route 43 to Mountain City Ranger Station; and via State Route 11A to Owyhee, serving all intermidiate points.

Vendee is authorized to operate as a common carrier in the States of UT, ID and OR pursuant to certificates issued in Docket MC-41932.

Application has been filed for temporary authority under Section 210a(b). In Docket MC-41932 (Sub No. 12F) application has been made to convert the above described authority to be purchased from a registered certificate to a certificate of public convenience and necessity. (Hearing sites: Boise, ID or Salt Lake City, UT.)

NOTE.—MC-41932 (Sub 12F) is a directly related matter.

MC-F-13877F. Authority sought to purchase by Ace Doran Hauling & Rigging Co., 1601 Blue Rock Street, Cincinnati, OH 45223, of a portion of the operating rights of Burgmeyer Bros., Inc., 1342 North Howard Street, Philadelphia, PA 19601, and for acquisition by Richard E. Doran, Robert J. Doran and C. M. Doran of 1601 Blue Rock Street, Cincinnati, OH 45223, of control of such rights through the purchase. Applicant's attorney is John P. McMahon, 100 East Broad Street, Columbus, OH 43215, and A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Operating rights sought to be purchased: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other ladings, as a common carrier, over irregular routes, between Chicago, IL and Chicago Heights, IL. Vendee is authorized to operate as a common carrier of general commodities, size and weight commodities and specified commodities between various points in the contiguous forty-eight States. Application has been filed for temporary authority under 49 U.S.C. § 11349. (Hearing Site: Columbus, OH.)

NOTE: MC-112304 (Sub 167F) is a directly related matter.

MC-F-13892F. Applicant (transferee): ALL FLORIDA FREIGHTWAYS, INC., 909 South State Road 7, Suite 410, Hollywood Federal Building, Hollywood, FL 33023. Applicant (transferor): OVERSEAS TRANSPORTATION CO., INC., 3355 N.W. 41st Street, Miami, FL 33142, and SOUTH FLORIDA FREIGHTWAYS, INC., 3355 41st Street, Miami, FL 33142. Applicants' attorney: PETER J. NICKLES, Covington & Burling, 888 16th Street, N.W., Washington, D.C. 20006. Authority sought for purchase by ALL

FLORIDA FREIGHWAYS of (A) the authority of OVERSEAS TRANSPORTATION CO., INC., under (1) a Certificate of Public Convenience and Necessity issued in docket No. MC-1388, decided July 14, 1958, to operate and transport over regular routes *explosives, articles of unusual value,* and *general commodities,* except household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Miami, FL, and Key West, FL, serving all intermediate points, and the off-route points of Opa Locka, FL., and points within ten miles of U.S. Hwy 1 between Miami and Key West, FL.: From Miami over U.S. Hwy 1 to Key West, and return over the same route, and *Automobiles, trucks,* and *buses,* in secondary movements, in truckaway and driveaway service, between Miami, FL, and Key West, FL, serving no intermediate points: From Miami over U.S. Hwy 1 to Key West, and return over the same route; and (2) a Certificate of Public Convenience and Necessity issued in Docket No. MC-1388 (Sub 7) decided January 22, 1960, to operate and transport over regular routes *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Miami, FL, and Homestead, FL, serving all intermediate points, and the off-route point of the plant site of Lehigh Portland Cement Company, near Sweetwater, FL: From Miami over U.S. Hwy 41 to junction FL Hwy 27, and thence south over FL Hwy 27 to Homestead, and return over the same route; and (B) the authority of SOUTH FLORIDA FREIGHTWAYS, INC., under (1) a Certificate of Registration issued in docket No. MC-97850 (Sub 1) issued on April 25, 1965, to operate and transport *freight* in common carriage: To, from and between Ft. Lauderdale and Miami, FL, and intermediate points over State Road No. 5 and, as an alternate route, over State Road No. 84, from Ft. Lauderdale to State Road No. 7, thence over State Road No. 7 to Miami, FL, serving Coconut Grove, Dania Beach, Davie, Deerfield Beach, Golden Beach, Gulfstream, Hialeah, Hollywood Beach, Miami Beach, Miami Springs, North Miami Beach, Opa-Locka, Pompano Beach, Port Everglades, and Wilton Manor, as off-route points, and between Ft. Lauderdale and Riviera Beach, FL, serving all intermediate points, over the following routes: From Ft. Lauderdale, FL, north over U.S. Hwy No. 1 (State Road No. 5) and/or State Road No. A1A to Riviera Beach, FL, and return over the same routes, with authority to use the Sunshine State Parkway for operating conveniences only, and including all lateral east-west highways and/or streets connecting the three routes above named; and (2) a Certificate of Registration issued in Docket No. MC-97850 (Sub 2) issued on June 26, 1968, to operate and transport general commodities over regular and alternate routes as follows: (a) Between Riviera Beach and Orlando, FL, serving all intermediate points: From Riviera Beach over U.S. Hwy 1 to Titusville, thence over State Road 405 to its junction with State Road 50, thence over State Road 50 to Orlando, and return over the same route, (b) Between Miami and Orlando, FL, serving all intermediate points: From Miami over U.S. Hwy 27 to South Bay, thence over State Road 80 to Belle Glade, thence over U.S. Hwy 441 to Orlando, and return over the same route, (c) Between South Bay and Orlando, FL, serving all intermediate points: From South Bay over U.S. Hwy 27 and 27A to Haines City, thence over U.S. Hwy 17 to Orlando and return over the same route, (d) Between Miami and Tampa, FL, serving all intermediate points: From Miami over U.S. Hwy 41 to Punta Gorda, thence over U.S. Hwy 17 to Bartow, thence over U.S. Hwy 98 to Lakeland, thence over U.S. Hwy 92 to Tampa and return over the same route, (e) Between Punta Gorda and Tampa, FL, over U.S. Hwy 41 serving all intermediate points, (f) Between the junction of U. S. Hwy 41 and State Road 29 near Everglades, FL, and Fort Myers, FL, serving all intermediate points: From said junction of U.S. Hwy 41 with State Road 29 over State Road 29 to its junction with State Road 82, thence over State Road 82 to Fort Myers and return over the same route, (g) Between Orlando and Tampa, FL, over Interstate Hwy 4 serving no intermediate points, (h) Between the West Palm Beach interchange on the Sunshine State Parkway and the junction of said parkway with U.S. Hwy 17, over the Sunshine State Parkway, as an alternate route for operating convenience only, Subject to the restriction that no authority is granted hereby to engage in heavy hauling, as construed by orders of the Commission, or to transport commodities in bulk, liquid or dry, and over the following off-route areas: (i) All other points in FL on or south of a line beginning at the western terminus of FL Hwy 60, thence easterly along FL Hwy 60 to its junction with Interstate Hwy 4, thence easterly along Interstate Hwy 4 to its junction with FL Hwy 50, thence easterly along FL Hwy 50 to its junction with FL Hwy 405, thence northeasterly along FL Hwy 405 to its junction with FL Hwy 402, thence easterly along FL Hwy 402 to its eastern terminus (except those points in Dade and Monroe Counties on U.S. Hwy 1 and FL Hwy 27, south of Miami will be served as off-route points). Approval of the transfer of related States operating authority was recommended by the Chief Hearing Examiner of the Florida Public Service Commission in that Commission's Docket Nos. 780614-CCT and 780615-CCT on Dec. 12, 1978. ALL FLORIDA FREIGHTWAYS, INC. holds no authority from this Commission. However BERNARD A BROWN owns all shares of ALL FLORIDA FREIGHTWAYS, INC. and a majority of the shares of NATIONAL FREIGHT INC. NATIONAL FREIGHT is authorized to operate as a common carrier in all States in the United States (except WA, OR, ID, MT, ND, SD, NV, CA, AK, and HI). Application has been filed for temporary authority under section 210a(b).

MC-F-13893F. Authority sought for purchase by A & D EXPRESS, INC., George's Road, South Brunswick, NJ 08902, of a portion of the operating rights of SHANAHAN MOTOR LINES, INC., 1001 Fairview Street, Camden NJ, 08104, of control of such rights through the transaction. Applicants' representatives: W. J. Augello, 120 Main Street, Huntington, NY 11743, and Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Operating rights sought to be purchased: General commodities, except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, PA and New York, NY, serving the intermediate and off-route points of Newark, Jersey City, New Brunswick, Elizabeth, Linden, Weehawken, Hoboken, Rahway, Paterson, Passaic, Maurer, Somerville, Freehold, Belleville, North Bergen, and Kearny, NJ. Vendee presently holds authority as a contract carrier limited to the transportation of malt beverages between specified points in MD, PA, NH, NJ, NY, and RI. Application has been filed for temporary authority under section 210a(b).

MC-F-13896F. Authority sought for purchase by BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356, of the operating rights of KATUIN BROS. INC., Highway 61 South, P.O. Box 311, Fort Madison, IA 52627, and for acquisition by GERALD J. BUESING, Route 2, Box 240C, Maple Plain, MN 55359, of control of such rights through the transaction. Applicants' attorneys: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402 and Carl E. Munson, 469 Fischer

Bldg., Dubuque, IA 52001. Operating rights sought to be purchased: Sand and gravel, in bulk, as a common carrier over irregular routes, from East Dubuque, IL, to points in IA; Ice, from Dubuque, IA to points in IL, MN, and WI; Washed stone chips and sand, in bulk, from Joilet and Lemont, IL, to Clinton, IA; Texture faced brick concrete, from Clinton, IA to points in that part of IL on and west of U.S. Hwy 51, and on and north of U.S. Hwy 136, and points in Grant and LaFayette Counties, WI; Silica sand, from the facilities of Martin Marietta Aggregates, at or near Clayton, IA to points in MN. Transferee is authorized to operate as a common carrier in MN, SD, ND, IA, WI, and MI. No tacking is sought. Application has been filed for temporary authority under Section 210a(b). If a hearing is deemed necessary, applicant's request it be held at Minneapolis, MN.

MC-F-13898F. Authority is sought by PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598 of a portion of the operating rights of Sundance Freight Lines, Inc. d/b/a Sundance Transportation, and for acquisition by IU Transportation Services, Inc. and IU International Corporation, 1500 Walnut Street, Philadelphia, PA 19102 of control of such rights through the purchase. Applicants' representatives: Roland Rice, Suite 501 Perpetual Building, 1111 E Street, N.W., Washington, DC 20004, William S. Richards, 48 Post Office Place, P.O. Box 2465, Salt Lake City, UT 84110, and H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, PA 19102. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over regular routes: (1) Between Albuquerque, NM and El Paso, TX, serving all intermediate points: From Albuquerque over U.S. Hwy 85 to Las Cruces, NM, then over U.S. Hwy 80 to El Paso, and return over the same route, service at Belen, NM, and points north thereof, shall be restricted to traffic moving to or from points south of Belen, and service at Hatch, NM, and points south thereof shall be restricted to traffic moving to or from points north of Hatch; (2) Between Ogden, UT, and Abuquerque, NM, serving the intermediate points of Salt Lake City, Provo and Ogden Arsenal, UT, and the off-route points of Hill Field, Naval Supply Depot near Ogden, UT, and the Geneva Steel Mills near Provo and those within 5 miles of Salt Lake City: From Ogden over U.S. Hwy 89 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 63 (formerly U.S. Hwy 160), then over U.S. Hwy 163 to junction U.S. Hwy 666, then over U.S. Hwy 666 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Abuquerque, and return over the same route, restricted against transportation between points in Utah and subject to the further restriction that shipments moving to or from points on the route granted herein north of but not including Salt Lake City, shall be restricted to traffic moving on Government bills of Lading; (3) Between Ogden, UT and Salt Lake City, UT, as an alternate route for operating convenience only, serving no intermediate points: From Ogden over U.S. Hwy 91 to Salt Lake City, and return over the same route, restricted to traffic moving on Government bills of lading; (4) Serving points in the El Paso, TX, and Albuquerque, NM, Commercial Zones, as defined by the Commission, as intermediate and off-route points; (5) Between Dallas, TX, and Albuquerque, MN, serving no intermediate points: From Dallas over the Dallas-Ft. Worth Turnpike to Ft. Worth, TX, then over U.S. Hwy 180 to Snyder, TX, then over U.S. Hwy 84 via Post, TX, to Ft. Sumner, TX, then over U.S. Hwy 60 to Encino, NM, then over U.S. Hwy 285 to Clines Corners, MN, then over U.S. Hwy 66 to Albuquerque, and return over the same route; (6) Serving Clovis, NM, as an intermediate point in connection with carrier's presently authorized regular route between Dallas, TX, and Albuquerque, NM, in Docket MC 108461, Sub-99.

Transferee is authorized to operate as a motor common carrier in all States in the United States (except AK and HI). Common control may be involved. Application has been made for temporary authority under Section 210a(b) of the Act. (Hearing site: Washington, DC or Phoenix, AZ.)

Operating Rights Application(s) Directly Related to Finance Proceedings

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before March 12, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 41932 (Sub-12F) filed January 3, 1979. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104. Representative: Ben D. Browning, 1321 SE Water Avenue, Portland, OR 97214. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles commodities which by reason of size or weight require special equipment, household goods as defined by the Commission, and commodities of unusual value), (1) Between Elko, NV and Owyhee, NV, serving all intermediate points, over NV Hwy 51, (2) Between Mountain Home, ID and Owyhee, NV, over ID Hwy 51, to junction NV Hwy 51, then over NV Hwy 51 to Owyhee serving no intermediate points and serving Owyhee, NV for purpose of joinder only with the requested authority in (1) above, (3) Between Twin Falls, ID and Elko, NV, serving all intermediate points, from Twin Falls, over US Hwy 93 to Wells, NV, then over Interstate Hwy 80 to Elko, NV, and return over the same route. (4) Between Wells, NV and Salt Lake City, UT over Interstate Hwy 80, as an alternate route for operating convenience only between authority requested in (3) above and with applicant's existing regular route operations; and (5) Serving Duck Valley Indian Reservation located at points in ID and NV as an off-route point in connection with applicant's existing regular routes operations in MC 41932, which authorizes service between Salt Lake City, UT and Boise, ID over described Highways.

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity in (1) above. Parts (2), (3), (4), and (5) above are authority extension requests. This application if directly related to MC-F-13876F and published in a previous section of this FR issue. (Hearing site: Boise, ID or Salt Lake City, UT.)

MC 98327 (Sub-33F) filed January 5, 1979. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael A. Bernstein, 1441 E. Thomas Road, Phoenix, AZ 95014. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by

the Commisison, commodities in bulk and those requiring special equipment): Between points in the following described area as off-route points in conjunction with carrier's regular route operations: Beginning at a line running easterly from Picacho, AZ to Mammoth, AZ, then in a southerly direction to St. David, AZ, then in a westerly direction to Sasabe, AZ and then in a northerly direction to Picacho, AZ. (Hearing site: Tucson or Phoenix, AZ.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity, and is a directly related matter to MC-F-1388F, published in a previous section of the FR issue of January 25, 1979.

MC 112304 (Sub-167F), filed: January 3, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate *common carrier* by motor vehicle, over irregular routes, transporting: 1. Commodities requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment is performed by the consignee or the consignor or both: A. Between Chicago and Chicago Heights, IL, on the one hand, and, on the other, points in IN, the Upper Peninsula of MI, NJ, NY, VT, NH, MA, CT, RI, and those points in TX north and west of a line beginning at the TX-LA State line, then over Interstate Hwy 10 to junction U.S. Hwy 90, at Beaumont, TX, then over U.S. Hwy 90 to junction Interstate Hwy 610, then over Interstate Hwy 610 to junction U.S. Hwy 290, then over U.S. Hwy 290 to junction U.S. Hwy 67, then over U.S. Hwy 67 to the United States-Mexican boundary line. (Gateway to be eliminated: The IN portion of the Chicago and Chicago Heights, IL Commercial Zones.) B. From Chicago and Chicago Heights, IL to points in CA. (Gateway to be eliminated: The IN portion of the Chicago, and Chicago Heights, IL Commercial Zones.) 2. Commodities requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment is performed by the consignee or the consignor, or both, and restricted against the transportation of commodities used in or in connection with the construction, maintenance, repair, operations, servicing or dismantling of pipe lines from Chicago and Chicago Heights, IL, to points in UT and NV. (Gateway to be eliminated: The IN portion of the Chicago, and Chicago Heights, IL Commercial Zones.) 3. Self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith; between Chicago and Chicago Heights, IL, on the one hand, and, on the other, points in IN, NJ, NY, points in that part of KY west of U.S. Hwy 127, points in the Upper Peninsula of MI and points in that part of Lower Peninsula of MI west of a line beginning at Lake Michigan and extending along Interstate Hwy 75 to junction U.S. Hwy 27, thence along U.S. Hwy 27 to the MI-IN State line, points in that part of PA east of U.S. Hwy 15 and points in that part of TX north and west of a line beginning at the TX-LA State line, thence over Interstate Hwy 10 to junction U.S. Hwy 90, at Beaumont, TX, thence over U.S. Hwy 90 to junction Interstate Hwy 610, thence over Interstate Hwy 610 to junction U.S. Hwy 290, thence over U.S. Hwy 290 to junction U.S. Hwy 67, thence over U.S. Hwy 67 to the United States-Mexican boundary line. (Gateway to be eliminated: The IN portion of the Chicago, and Chicago Heights, IL Commercial Zones). 4. Self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith (restricted to self-propelled articles which are transported on trailers) from Chicago and Chicago Heights, IL to points in CA, NV, and UT. (Gateway to be eliminated: The IN portion of the Chicago, and Chicago Heights, IL Commercial Zones). 5. Aluminum and aluminum articles requiring special equipment, restricted so that, or provided that, loading or unloading which necessitates the special equipment is performed by the consignee or the consignor or both. A. From the IN portion of the Chicago and Chicago Heights Commercial Zones to points in NC, SC, GA, FL, AL, and those in VA west of U.S. Hwy 220. (Gateway to be eliminated: The IL portions of the Chicago and Chicago Heights Commercial Zones.) B. From the IL portion of the Chicago and Chicago Heights Commercial Zones to points in ME. (Gateway to be eliminated: The IN portions of the Chicago and Chicago Heights Commercial Zones.) 6. Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing, and wire in coils, restricted so that, or provided that, the loading or unloading which necessitates the special equipment is performed by the consignee or the consignor or both: A. Between Chicago and Chicago Heights, IL, on the one hand, and, on the other, points in IN, NJ, NY and the Upper Peninsula of MI. (Gateway to be eliminated: The IN portion of the Chicago and Chicago Heights, IL Commercial Zones.) B. From Chicago and Chicago Heights, IL to points in TX. (Gateway to be eliminated: The IN portion of the Chicago and Chicago Heights, IL Commercial Zones.) (Hearing site: Columbus, OH.)

NOTE.—This Gateway Elimination Application is related to applicant's purchase of a portion of the operating rights of Burgmeyer Bros., Inc. at Docket No. MC-F-13877F, published in a previous section of this FR issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before March 12, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 2229 (Deviation 31) RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247, filed *January 22, 1979.* Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Gulfport, MS over U.S. Hwy 49 to Jackson, MS, then over Interstate Hwy 55 to Memphis, TN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Gulfport, MS, over U.S. Hwy 90 to junction U.S. Hwy 190, then over U.S. Hwy 190 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Natchez, MS, then over U.S. Hwy 65 to Ferriday, LA, then over LA Hwy 15 to Monroe, LA, then over U.S. Hwy 165 to Bastrop, LA, then over LA Hwy 139 to junction LA Hwy 142, then over LA Hwy 142 to LA-AR State Line, then over AR Hwy 133 to Crossett, AR, then over U.S. Hwy 82 to Hamburg, AR, then over AR Hwy 81 to Pine Bluff, AR, then over U.S. Hwy 65 to Little Rock, AR, then over U.S. Hwy 70 to Memphis, TN, and return over the same route.

MC 33641 (Deviation 122), IML FREIGHT, INC., P.O. Box 30277; Salt Lake City, UT 84125, filed January 22, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of

general commodities, with certain exceptions, over a deviation route as follows: From junction Interstate Hwy 5 and CA Hwy 14, over CA Hwy 14 to junction U.S. Hwy 395, then over U.S. Hwy 395 to Reno, NV and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction CA Hwy 14 and Interstate Hwy 5, over Interstate Hwy 5 to junction U.S. Hwy 99, then over U.S. Hwy 99 to Sacramento, CA, then over U.S. Hwy 40 to Reno, NV, and return over the same route.

MC 33641 (Deviation 123), IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84125, filed January 23, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From junction U.S. Hwy 99 and Interstate Hwy 5 near Wheeler Ridge, CA over Interstate Hwy 5 to Stockton, CA, then over U.S. Hwy 99 to Sacramento, CA, then over Interstate Hwy 5 to Portland, OR, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction Interstate Hwy 5 and U.S. Hwy 99 near Wheeler Ridge, CA, over U.S. Hwy 99 to Sacramento, CA, then over U.S. Hwy 40 to Winnemucca, NV, then over U.S. Hwy 95 to junction ID Hwy 55, then over ID Hwy 55 to Nampa, ID, then over U.S. Hwy 30 to Portland, OR, and return over the same route.

MC 33641 (Deviation 124), IML FREIGHT, INC., P.O. 30277, Salt Lake City, UT 84125, filed January 26, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From junction US Hwy 30 and Interstate Hwy 75, over Interstate Hwy 75, to Toledo, OH, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction Interstate Hwy 75 and US Hwy 30 over US Hwy 30 to junction US Hwy 250 near Wooster, OH, then over US Hwy 250 to Norwalk, OH, then over US Hwy 20 to junction OH Hwy 51, then over OH Hwy 51 to Toledo, OH, and return over the same route.

MC 59583 (Deviation 57), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, TN 37662, filed January 17, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (1) From Asheville, NC over Interstate Hwy 26 to junction US Hwy 176, then over US Hwy 176 to Spartanburg, SC, (2) From Asheville, NC over Interstate Hwy 26 to junction US Hwy 25 near East Flat Rock, NC, then over US Hwy 25 to Greenville, SC, and (3) From Asheville, NC over Interstate Hwy 26 to Columbia, SC and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Asheville, NC, over US Hwy 74 to Kings Mountain, NC, then over US Hwy 29 to Charlotte, NC, then over US Hwy 21 to Rock Hill, SC, then over (a) US Hwy 21 to Columbia, SC, and (b) SC Hwy 5 to Blacksburg, SC, then over US Hwy 29 to Greenville, SC, and Spartanburg, SC, and return over the same routes.

MC 69901 (Deviation 8), COURIER-NEWSOM EXPRESS, INC., 2830 National Rd., Columbus, IN 47201, filed January 24, 1979. Carrier's representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Indianapolis, IN, over US Hwy 31 to Kokomo, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Indianapolis, IN, over US Hwy 421 to junction IN Hwy 29, then over IN Hwy 29 to junction US Hwy 35, then over US Hwy 35 to Kokomo, IN, and return over the same route.

MC 69901 (Deviation 9), COURIER-NEWSOM EXPRESS, INC., 2830 National Rd., Columbus, IN 47201, filed January 24, 1979. Carrier's representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Nashville, TN, over Interstate Hwy 65 to Indianapolis, IN, then over US Hwy 31 to Kokomo, IN, then over US Hwy 35 to Logansport, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, TN over US Hwy 70N to junction US Hwy 70S, then over US Hwy 70S to junction US Hwy 70, then over US Hwy 70 to junction US Hwy 25W, then over US Hwy 25W to junction TN Hwy 61, then over TN Hwy 61 to junction TN Hwy 62, then over TN Hwy 62 to junction US Hwy 27, then over US Hwy 27 to junction US Hwy 150, then over US Hwy 150 to junction KY Hwy 35, then over KY Hwy 35 to junction KY Hwy 151, then over KY Hwy 151 to junction US Hwy 60, then over US Hwy 60 to junction US Hwy 31E, then over US Hwy 31E to junction US Hwy 31, then over US Hwy 31 to junction IN Hwy 9, then over IN Hwy 9 to junction IN Hwy 7, then over IN Hwy 7 to junction Alt. US Hwy 31, then over Alt. US Hwy 31 to junction US Hwy 31, then over US Hwy 31 to junction US Hwy 421, then over US Hwy 421 to junction IN Hwy 29, then over IN Hwy 29 to Logansport, IN, and return over the same route.

MC 69901 (Deviation No. 10), COURIER-NEWSOM EXPRESS, INC., 2830 National Rd., Columbus, IN 47201, filed January 24, 1979. Carrier's representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Louisville, KY, over Interstate Hwy 64 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Jellico, TN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Louisville, KY over US Hwy 60 to junction KY Hwy 151, then over KY Hwy 151 to junction KY Hwy 35, then over KY Hwy 35 to junction US Hwy 150, then over US Hwy 150 to junction US Hwy 27, then over US Hwy 27 to junction TN Hwy 62, then over TN Hwy 62 to junction TN Hw 61, then over TN Hwy 61 to junction US Hwy 25W, then over US Hwy 25W to Jellico, TN and return over the same route.

MC 134477 (Deviation No. 1), SCHANNO TRANSPORTATION, INC., P.O. Box 43496, St. Paul, MN 55164, filed January 11, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Chicago, IL over Interstate Hwy 90 to junction Interstate Hwy 94 near Tomah, WI, then over Interstate Hwy 94 to Minneapolis, MN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over US Hwy 330 to junction US Hwy 30, then over HS Hwy 30 to Cedar Rapids, IA, then over US Hwy 218 to Owatonna, MN, then over US Hwy 65 to Farming-

ton, MN, then over MN Hwy 218 to Minneapolis, MN and return over the same route. NOTE: This deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the leased authority expires, this deviation, if authorized, will likewise expire.

MOTOR CARRIER INTRESTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seeks concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a) (6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-4048, filed January 18, 1979. Applicant: MONK'S EXPRESS, INC., Phelps Street/Port Dickinson, Binghamton, NY 13901. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, as defined in Section 800.1 of title 17 of the Official Compilation of Codes, Rules and regulations of the State of New York, between all points in Broome, Cayuga, Chemung, Chenango, Cortland, Delaware, Madison, Oneida, Onondago, Oswego, Schuyler, Seneca, Tioga, Tompkins, and Wayne Counties, NY. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, Time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-4189 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Decisions Volume No. 7]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: January 25, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before March 12, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Secretary.

MC 409 (Sub-72F), filed December 29, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Representative:

Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *propane*, in bulk, in tank vehicles, from the Mid America Pipe Line Terminal, at or near Greenwood, NE, to points in SD. Condition: Any certificate issued in this proceeding shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Kansas City, MO, or Omaha, NE.)

MC 2202 (Sub-574F), filed November 29, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Wolfe City, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Dallas, TX, or Washington, DC.)

MC 8535 (Sub-65F), filed December 19, 1978. Applicant: GEORGE TRANSFER & RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation, at Canfield, Mingo Junction, Martins Ferry, Steubenville, and Yorkville, OH, Beech Bottom, Benwood, Follansbee, and Wheeling, WV, and Allenport and Monessen, PA, to points in IL and IN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 10345 (Sub-98F), filed December 26, 1978. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph Street, P.O. Box 13006, Lansing, MI 48901. Representative: Albert F. Beasley, 311 Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobiles*, in secondary movements, in truckaway service, and *accessories* for automobiles, when transported in mixed loads with automobiles, from Lansing, MI, Newark, NJ, and Chesapeake, VA, to points in MN. NOTE: Tacking is authorized at Lansing, MI, Newark, NJ, and Chesapeake, VA, with carrier's authority in MC-10345 and Subs, to provide a through service transporting automobiles, in secondary movements, in truckaway service, between points in AR, CT, IL, IN, IA, KS, KY, MD, MA, MI, MO, MN, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TN, VA, VT, WV, WI, and DC, those points in TX on and north of U.S. Hwy 80 and on and east of U.S Hwy 81. (Hearing site: Washington. DC.)

MC 16903 (Sub-10F), filed December 6, 1978. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roof insulation*, from the facilities of The Celotex Corporation, at Elizabethtown, KY, to points in MN, WI, IA, IL, MO, AR, LA, MS, AL, GA, FL, SC, NC, TN, KY, VA, WV, IN, MI, OH, PA, DE, MD, NJ, NY, and DC. (Hearing site: Miami, FL, or Washington, DC.)

MC 25798 (Sub-352F), filed December 28, 1978. Applicant: CLAY HIDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *canned goods*, from Queen Anne, MD, and Cheriton, VA, to points in KY, ME, MA, MO, NH, NY, TN, and VT; and (2) *beverages and beverage preparations*, (except alcoholic beverages), from Hightstown, Florence, and Vincentown, NJ, to points in ME, NH, and VA. (Hearing site: Washington, DC.)

MC 25798 (Sub-353F), filed January 2, 1979. Applicant: CLAY HIDER TRUCKING LINES, INC., a North Carolina corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (1) from points in Aroostook County, ME, to Harrington, DE, Orlando, FL, Atlanta, GA, Louisville, KY, New Orleans, LA, Andover and Southborough, MA, Edison and Secauscus, NJ, Albany and Syracuse, NY, Raleigh and Charlotte, NC, Altoona and Philadelphia, PA, Richmond, VA, and points in AR, CO, IL, IN, IA, KS, MI, MO, NE, NM, OH, OK, and WI, and (2) from Portland, ME, to points in AR, IL, IN, MI, MO, OH, and WI. (Hearing site: Washington, DC.)

MC 27817 (Sub-148F), filed November 6, 1978. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisonburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except frozen foods and commodities in bulk), (1) from the facilities of Ralston Purina Company, in Hampden Township, Cumberland County, PA, to points in NJ, and those in NY south of Interstate Hwy 84, and (2) from the facilities of Ralston Purina Company, at Cincinnati and Lancaster, OH, to the facilities of Ralston Purina Company, in Hampden Township, Cumberland County, PA, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 29555 (Sub-95F), filed December 21, 1978. Applicant: BRIGGS TRANSPORTATION CO., a corporation, North 400 Griggs Midway Building, St. Paul, MN 55104. Representative: Stephen F. Grinnell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant-site of Midwest Manufacturing Company, at or near Kellogg, IA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 30114 (Sub-7F), filed September 21, 1978. Applicant: MOLA TRUCKING, INC., d.b.a. MITCHKO TRUCKING, 650 Myrtle Avenue, Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the facilities of Imco Container Co., at Belvidere, Rockaway, and Plainfield, NJ, Lewistown, PA, Harrisonburg, VA, and Pittsfield, MA, on the one hand, and, on the other, points in NJ, NY, PA, CT, DE, MD, MA, VA, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Imco Container Co. (Hearing site: New York, NY, or Washington, DC.)

MC 30237 (Sub-38F), filed October 23, 1978. Applicant: YEATTS TRANSFER CO., a corporation, P.O. Box 666,

Altavista, VA 24517. Representative: Eston H. Alt (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* from Athens, TN, to points in CT, DE, GA, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT, WV, and DC. (Hearing site: Washington, DC, or Nashville, TN.)

MC 40898 (Sub-25F), filed December 13, 1978. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt,* in packages, from Akron, OH, to points in NC, SC, and VA. (Hearing site: Greensboro, NC.)

MC 40978 (Sub-51F), filed December 29, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic sheeting,* in rolls, from St. Louis, MO, to Oshkosh, WI. (Hearing site: Milwaukee, WI.)

MC 42487 (Sub-886F), filed November 3, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, a Delaware corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ace Electric Co., at or near Columbus, KS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO.)

MC 42487 (Sub-887F), filed November 3, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, a Delaware corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Soundesign Indiana Corporation, at or near Santa Claus, IN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Indianapolis, IN.)

MC 61231 (Sub-132F), filed November 14, 1978. Applicant: EASTER ENTERPRISES INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: W. Randall Tye, 1400 Candler Bldg., Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk in tank vehicles), between points in AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Owens-Corning Fiberglas Corporation. (Hearing site: Washington, DC.)

MC 65475 (Sub-21F), filed December 18, 1978. Applicant: JETCO, INC., A District of Columbia Corporation, 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Georgetown Steel Corp., at or near Georgetown and Andrews, SC, to points in IL, IN, IA, MI, MO, and OH. (Hearing site: Washington, DC).

MC 78228 (Sub-102F), filed December 11, 1978. Applicant: J. MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal and metal oxides,* between Transfer, PA, on the one hand, and, on the other, points in AR, CT, DE, IL, IN, KY, ME, MA, MI, NH, NJ, NY, RI, TN, VT, VA, WV, and DC. (Hearing site: Washington, DC or Pittsburgh, PA).

MC 82492 (Sub-210F), filed December 1, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (Same as above). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs* (except those commodities described in (1), above) from the facilities of Kent Provision Co., at or near Grand Rapids, MI, to those points in NY in and west of Broome, Cortland, Onondaga, and Oswego Counties, those points in PA on and west of U.S. Hwy 219, and points in IN, KY, TN, and OH. (Hearing site: Chicago, IL, or Columbus, OH).

MC 94350 (Sub-417F), filed October 23, 1978. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (Same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers,* designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings,* in sections, mounted on wheeled undercarriages, from points in Cooper County, MO, to points in AR, IL, IA, KS, NE, OK, and WI. CONDITION: The certificate to be issued shall be limited to a period expiring 3 years from its date of issue, unless, prior to the expiration (but not less than 6 months prior), applicant files a petition for permanent extension of the certificate. (Hearing site: Kansas City, MO).

MC 94548 (Sub-3F), filed December 18, 1978. Applicant FRANK CHAMPER, INC., 120 Eastern Avenue, Chelsea, MA 02150. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* (1) from Vernon, VT, to points in CT, ME, MA, NH, RI, and VT, under contract with Pine Tree Table Co., of Vernon, VT, and (2) from South Paris, ME, to points in CT, ME, MA, NH, RI, and VT, under contract with Stanley H. Cornwall Traditions, of South Paris, ME. (Hearing site: Boston, MA).

MC 96992 (Sub-13F), filed December 1, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., a Corporation, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, 1102 Perry-Brooks Building, Austin TX 78701. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquefied petroleum gases,* in bulk, between points in AL, AR, GA, FL, LA, MS, OK, and TX. (Hearing site: Houston, TX, or New Orleans, LA).

NOTE.—The certificate to be issued here shall be limited in point of time to a period expiring 5 years from the effective date thereof.

MC 103798 (Sub-26F), filed December 14, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products, and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Estherville and Sioux City, IA, and St. Paul and Worthington, MN, to points in CA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL).

NOTE.—Dual operations may be involved in this proceeding.

MC 103798 (Sub-27F), filed December 14, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese,* from Paynesville, MN, to Clinton, MO. (Hearing site: St. Paul, MN).

NOTE.—Dual operations may be involved in this proceeding.

MC 105045 (Sub-91F), filed December 21, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Worthington Steel Co., at Baltimore, MD, to points in PA, VA, NJ, NY, KY, NC, SC, CT, OH, MI, and DE. (Hearing site: Washington, DC)

MC 106398 (Sub-854F), filed December 6, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr., (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hardboard, insulation board, plywood, and particleboard,* and (2) *materials and accessories* used in the installation of the commodities in (1) above, from the facilities of Abitibi Corporation, at Roaring River, NC, to points in AZ and those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Raleigh, NC).

MC 106401 (Sub-59F), filed November 15, 1978. Applicant: JOHNSON MOTOR LINES, INC., 2426 North Graham St., Charlotte, NC 28231. Representative: W. Randall Tye, 1400 Candler Bldg., Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk, in tank vehicles), between points in AL, AR, CT, DE, FL, GA, LA, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Owens-Corning Fiberglas Corporation. (Hearing site: Washington, DC).

MC 107012 (Sub-325F), filed December 6, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Forth Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* from the facilities of Yorktowne Cabinet Division of Wickes Corporation, at or near Red Lion, Mifflinburg, and Stewartstown, PA, to points in NC and SC. (Hearing site: Philadelphia, PA, or Washington, DC).

MC 107295 (Sub-899F), filed December 11, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from Norfolk, NE, to points in the United States (except AK and HI). (Hearing site: Denver, CO).

MC 109265 (Sub-26F), filed December 22, 1978. Applicant: W. L. MEAD, INC., P.O. Box 301, Cleveland Road, Norwalk, OH 44857. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in CT as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Hartford, CT, or Boston, MA).

NOTE: Applicant is already authorized to serve between points in CT and applicant's authorized regular route points via the gateway of Providence, RI. The purpose of this application is to obtain alternate gateways on service to and from points in CT.

MC 109449 (Sub-21F), filed December 21, 1978. Applicant: KUJAK TRANSPORT, INC., P.O. Box 677, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* (except hides and commodities in bulk), and (2) *foodstuffs,* (except the commodities described in (1) above), from the facilities of Geo. A. Hormel & Co., (a) at Huron, SD, to points in OH, PA, and WV, and (b) at Austin, MN, to points in IL, IN, KS, KY, MO, OH, OK, PA, and WV, and (3) *meats, meat products and meat byproducts and articles distributed by meat-packing houses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, MN, to points in IL, restricted in (1), (2), and (3) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 109818 (Sub-39F), filed December 28, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), between the facilities of Continental Freezers of Illinois, at or near Chicago, IL, on the one hand, and, on the other, points in CO and NE, restricted to the transportation of traffic originating at or destined to the facilities of Continental Freezers of Illinois. (Hearing site: Chicago, IL.)

MC 109818 (Sub-40F), filed January 3, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum products,* from the facili-

ties of Aluminum Company of America, at or near Bettendorf, IA, to points in CO and NE. (Hearing site: Chicago, IL.)

MC 110420 (Sub-790F), filed October 25, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 168, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials, liquid latex, and styrene monomer,* in bulk, in tank vehicles, from Monaca, PA, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, ND, OH, RI, SD, VT, VA, WV, and WI. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 111545 (Sub-269F), filed December 20, 1978. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic pipe and fittings,* and (b) *equipment and materials* used in the installation of the commodities in (1)(a) above, from Corsicana, Dallas, and Frisco, TX, to points in CA and those in the United States in and east of MN, IA, NE, KS, OK, and TX, and (2) *materials* used in the manufacture of plastic pipe and fittings, in the reverse direction. (Hearing site: Dallas, TX, or Atlanta, GA.)

MC 111545 (Sub-270F), filed January 2, 1979. Applicant: HOME TRANSPORTATION CO., INC., 1425 Franklin Road, SE., Marietta, GA 30067. Representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, GA 30065. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers,* designed to be drawn by passenger automobiles (except recreational vehicles), in initial movements, and (2) *buildings,* complete or in sections, mounted on wheeled undercarriages, from points in TX, to points in AZ, CO, and NM. (Hearing site: Dallas or Houston, TX.)

MC 111812 (Sub-604F), filed December 1, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products* (except commodities in bulk), *oil filters, vehicle body sealer, and sound deadener compound,* from Emlenton, Farmers Valley, Kimberton, North Warren, Bradford, and Oil City, PA, Buffalo, NY, and St. Marys and Congo, WV, to points in FL, GA, AL, MS, NC, and SC. (Hearing site: Pittsburgh, PA.)

MC 112123 (Sub-14F), filed December 6, 1978. Applicant: BEST-WAY TRANSPORTATION, a corporation, 5150 North 16th Street, Phoenix, AZ 85106. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier,* by motor vehicle, in interstate and foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction Interstate Hwy 10 and AZ Hwy 90, at or near Benson, AZ, and junction AZ Hwy 90 and U.S. Hwy 80, over AZ Hwy 90, serving all intermediate points. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 112123 (Sub-15F), filed December 7, 1978. Applicant: BEST-WAY TRANSPORTATION, a corporation, 5150 North 16th Street, Phoenix, AZ 85106. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier,* by motor vehicle, in interstate and foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Green Valley, AZ, and Nogales, AZ, over U.S. Hwy 89 and Interstate Hwy 19, serving all intermediate points, and the off-route points of the Twin Buttes Mine Sites, Pima Mine Site, and Esperanza Mine, in Pima County, AZ. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 112822 (Sub-468F), filed December 6, 1978. Applicant: BRAY LINES INCORPORATED, 1401 N. Little St., P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods,* from the facilities of The Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin and Cartage, MO, to points in CA, CO, IA, IN, IL, ID, KS, MN, OK, OR, TX, UT, WA, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 113463 (Sub-11F), filed December 4, 1978. Applicant: CONTRACT CARRIERS, INC., 830 Broadway NE., Albuquerque, NM 87102. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, NM 87102. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *doors and component parts for doors,* from the facilities of Dependable Door Co., Inc., at or near Belen, NM, to points in Denver, Adams, Arapahoe, Jefferson, Douglas, Boulder, Weld, Larimer, El Paso, and Pueblo Counties, CO, under contract with Dependable Door Co., Inc., of Belen, NM. (Hearing site: Albuquerque, NM.)

MC 114045 (Sub-523F), filed December 11, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Ball bearings and pillow blocks,* (except those commodities which because of size or weight require the use of special equipment), from Philadelphia, Kulpsville, Hanover, and Altoona, PA, Massillon, OH, and Hornell, NY, to points in CA, NV, OR, and TX. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114045 (Sub-524F), filed January 2, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals and petroleum products,* (except commodities in bulk), from Houston, TX, to points in IN, IL, MI, OH, MO, KS, IA, WI, and MN. (Hearing site: Philadelphia, PA, or Dallas, TX.)

MC 114569 (Sub-267F), filed December 27, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk in tank vehicles), from Inwood, WV, and points in PA, to points in AL, FL, and GA. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 116628 (Sub-24F), filed December 18, 1978. Applicant: SUBURBAN TRANSFER SERVICE, INC., P.O. Box 168, Rutherford, NJ 07070. Repre-

sentative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in or used by retail department stores, between points in NY, NJ, PA, MI, MD, and VA, under contract with Arnold Constable Corporation of New York, NY. (Hearing site: New York, NY, or Neward, NJ.)

MC 116763 (Sub-461F), filed December 5, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H.M. Richters (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and converters of paper and paper products, (except commodities in bulk), from the facilities of The Mead Corporation, at Chillicothe and Schooleys, OH, and Kingsport and Gray, TN, to points in FL. (Hearing site: Columbus, OH.)

MC 116982 (Sub-16F), filed December 6, 1978. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, processed, distributed, or used by farmers, farm suppliers, farm dealers, and agricultural cooperatives, between points in ND, SD, NE, KS, MN, IA, MO, WI, IL, IN, and MI, under contract with Sauk Prairie Oil Co., Inc., of Sauk City, WI. (Hearing Site: Madison or Sauk City, WI.)

MC 117589 (Sub-58F), filed December 21, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fresh and frozen inedible packinghouse products*, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), (1) from Ft. Morgan and Sterling, CO, to Forest Grove and Tualatin, OR, and (2) from Sterling, CO, to Midvale, UT. (Hearing site: Seattle, WA.)

MC 117815 (Sub-303F), filed December 14, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth Street, Des Moines, IA 50317. Representative: Michael L. Carter, (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of the Pillsbury Company and Fox Deluxe Pizza Company, at or near Joplin and Carthage, MO, to points in NE, KS, MN, IA, WI, IL, MI, IN, KY, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 117815 (Sub-304F), filed December 14, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth Street, Des Moines, IA 50317. Representative: Michael L. Carter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of The Pillsbury Company, at or near Terre Haute and Seelyville, IN, to points in IL, IA, KS, MI, MN, MO, NE, and WI. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 118089 (Sub-29F), filed December 26, 1978. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles* (except in bulk, in tank vehicles), from Monroe, LA, to points in OK, NM, and those in TX on and east of a line beginning at the TX-OK State line and extending along U.S. Hwy 281 to junction U.S. Hwy 87, then along U.S. Hwy 87 to Port Lavaca, TX. (Hearing site: Lubbock, TX.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118142 (Sub-196F), filed December 4, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned apple juice* from the facilities of Speas Company, at or near Fremont, MI, to Kansas City, KS, Oklahoma City, OK, and Denver, CO. (Hearing Site: Kansas City, MO, or Chicago, IL.)

MC 118142 (Sub-197F), filed December 5, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of The Pillsbury Company and Fox Deluxe Pizza Company, at or near Joplin and Carthage, MO, to points in AR, CO, KS, LA, MS, NE, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing Site: Kansas City, MO, or Wichita, KS.)

NOTE.—Dual operations are at issue in this proceeding.

MC 118142 (Sub-200F), filed December 7, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of York Packing Company, at York, NE, to Fresno, Los Angeles, and Lodi, CA. (Hearing Site: Omaha, NE, or Kansas City, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 118959 Sub-190F, filed December 20. 1978. Applicant: JERRY LIPPS, INC., A Florida Corporation, 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. La Salle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vechicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Nicolet Paper Company, at or near De Pere, WI, to points in CA, GA, MS, TN, and TX, and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products, in the reverse direction. (Hearing site: Chicago, IL.)

MC 118978 (Sub-11F), filed December 11, 1978. Applicant: MERCURY EXPRESS, LTD., 100 Leeder Avenue, Coquitlam, B.C., Canada V3K 3V4. Representative: Jack R. Davis, 100 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in foreign commerce only over irregular routes, transporting *cement* and *plaster*, in bags, and *insulation materials*, from the ports of entry on the International Boundary line between the United States and Canada at or near Blaine, Lynden, and Sumas, WA, to points in AZ, CA, ID, NV, OR, UT, and WA. (Hearing site: Seattle, WA.)

MC 119399 (Sub-90F), filed December 26, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce only over irregular routes, transporting *automotive parts*, between points in the United States (except AK and HI). (Hearing site: Detroit, MI, or Kansas City, MO.)

MC 119489 (Sub-55F), filed December 26, 1978. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *propane*, in bulk, in tank vehicles, from the Mid America Pipe Line Terminal, at or near Greenwood, NE, to points in SD. CONDITION: Any certificate issued in this proceeding shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Kansas City, MO, or Omaha, NE.)

MC 119789 (Sub-537F), filed December 28, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana Corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning compounds, polishing compounds, and waxing compounds*, (2), *starch*, (3) *disinfectants, and air fresheners*, (4) *mops, dusters, waxers, and brooms*, (5) *Plastic bags*, and (6) *diet and nutritional foods* (except frozen), from the facilities of The Drackett Company, at Dayton, OH, to Dallas and Lubbock, TX, Denver, CO, Salt Lake City, UT, Los Angeles, CA, Milwaukie, OR, Kansas City and St. Louis, MO, Atlanta, GA, and Jacksonville, FL. (Hearing site: Cincinnati, OH.)

MC 119789 (Sub-538F), filed December 28, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., a Louisiana Corporation, P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials* (except in bulk), from the facilities of Cosden Oil & Chemical Company, at or near Big Spring, TX, to points in the United States (except AK, CA, and HI). (Hearing site: Dallas, TX.)

MC 119988 (Sub-181F), filed January 2, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in AR, CA, LA, TX, and WI, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 121489 (Sub-14F), filed December 22, 1978. Applicant: NEBRASKA-IOWA XPRESS, INC., a Nebraska corporation, 3219 Nebraska Avenue, Council Bluffs, IA 51501. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Scottsbluff, NE, to points in IL, IA, MN, MO, and SD. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a), formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Omaha, NE.)

MC 123263 (Sub-13F), filed December 7, 1978. Applicant: FLOYD R. WANGERIN AND LORRAINE C. WANGERIN, a partnership, d.b.a. WANGERIN TRUCKING CO., Rural Route 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed ingredients*, from the facilities of Bullard Feed Co., at Chicago, IL, to Minneapolis, MN, Lansing, MI, and points in WI and the Upper Peninsula of MI, and (2) *lumber and millwork*, from the facilities of Dufferin Bros., Inc., at or near Wallace, MI, to those points in the United States in and east of MN, IA, MO, AR, and TX, restricted in (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 123685 (Sub-24F), filed December 27, 1978. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, S.W., Massillon, OH 44646. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by, processors and distributors of salt and salt products, between Rittman, Fairport Harbor, and Cleveland, OH, on the one hand, and, on the other, points in WV, PA, NY, MI, IL, IN, KY, TN, VA, MD, NJ, and DC. (Hearing site: Cleveland or Columbus, OH.)

MC 124078 (Sub-916F), filed January 2, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay, foundry sand additives, foundry sand ingredients, foundry facings, foundry sand, graphite ore, coke breeze, calcined petroleum coke, and carbon scrap*, and (2) *mixtures* of the commodities in (1) above, from Green Bay, WI, to points in IL, IN, IA, MI, and MN. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 124078 (Sub-917F), filed January 2, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Hagerstown, MD., to points in OH. (Hearing site: Nashville, TN.)

MC 124078 (Sub-918F), filed December 14, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Memphis, TN, to points in AL, AR, MS, MO, and TN. (Hearing site: Memphis, TN.)

MC 124078 (Sub-922F), filed January 2, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611

South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, in bulk, from Gentry, AR, to points in IL, KS, LA, MS, MO, OK, TN, and TX. (Hearing site: Dallas, TX.)

MC 125433 (Sub-178F), filed December 4, 1978. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural pesticides*, (except in bulk), from Los Angeles, CA, to points in the United States (except AK and HI), and (2) *ingredients* for agricultural pesticides (except in bulk), from Henderson, NV, Kingsport, TN, Niagara Falls, NY, and North Charleston, SC, to Los Angeles, CA. (Hearing site: Los Angeles, CA, or Salt Lake City, UT.)

MC 125433 (Sub-179F), filed December 4, 1978. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water beds and accessories* for water beds, from the facilities of Morning Surf Corporation, at or near Salt Lake City, UT, to points in the United States (except AK and HI). (Hearing site: Sale Lake City, UT.)

MC 126118 (Sub-112F), filed December 15, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic rubber*, from Beaumont, TX, to Hot Springs, AR. (Hearing site: Houston, TX.)

NOTE.—Dual operations may be involved.

MC 126118 (Sub-113F), filed December 18, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *smoke detectors* and *such commodities* as are dealt in or used by manufacturers of electrical products, (except commodities in bulk and commodities which by reason of size or weight require the use of special equipment), between (a) Seattle, WA, Los Angeles, CA, and (b) the facilities of General Electric Company, at Allentown, PA, Asheboro, NC, Brockport, NY, Ontario, CA, Seattle, WA, and Laurel, MD, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Hartford, CT, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 126118 (Sub-114F), filed December 27, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and retailers of carpet, between points in Orange and Los Angeles Counties, CA, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 85. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 126118 (Sub-115F), filed December 27, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Baltimore, MD, Latrobe, PA, and points in Lehigh County, PA, to points in GA. (Hearing site: Philadelphia, PA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 126118 (Sub-116F), filed December 27, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of van and recreational vehicles (except self-propelled vehicles and commodities in bulk), from the facilities of Gladney Bros., Inc., and The Light Works, at Costa Mesa, CA, to points in the United States on and east of U.S. Hwy 85. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 126118 (Sub-117F), filed December 27, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lawn mowers, gas tanks, grass trimmers, and snow throwers*, and (2) *parts and accessories* for the commodities in (1) above, from Galesburg, IL, to points in the United States (except AK, AZ, HI, ID, NH, NV, NM, RI, SC, UT, and VT). (Hearing site: Chicago, IL, or Lincoln, NE.)

NOTE.—Dual operations may be involved in this proceeding.

MC 126555 (Sub-63F), filed December 21, 1978. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, in bulk, from the facilities of Cominco American, Incorporated at or near Sidney, NE, to points in CO, WY, KS, and SD. (Hearing site: Denver, CO, or Rapid City, SD.)

NOTE.—Dual operations may be involved.

MC 128543 (Sub-14F), filed December 4, 1978. Applicant: CRESCO LINES, INC., 13900 South Keeler Avenue, Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603.To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc, zinc alloys, and zinc products*, from the facilities of New Jersey Zinc Mineral Co., at or near Clarksville, TN, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, OH, OK, PA, SC, TX, VA, WV, and WI, under contract with Gulf & Western Natural Resources Group, of Nashville, TN. (Hearing site: Chicago, IL.)

MC 128648 (Sub-15F), filed December 18, 1978. Applicant: TRANS-UNITED, INC., a Texas corporation, 425 West 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture of insulated glass (except commodities in bulk), (a) from the facilities of Lorin Industries, at or near Muskegon, MI, to Sparks, NV, and (b) from the facilities of Allmetal Weatherstrip Company, at Sparks, NV, to points in King County, WA, under contract with Allmetal Weatherstrip Company, of Bensenville, IL. (Hearing site: Chicago, IL.)

MC 129387 (Sub-70F), filed July 5, 1978. Applicant: PAYNE TRANSPOR-

TATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen prepared foods*, in vehicles equipped with mechanical refregeration, and (2) fish and agricultural commodities, which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities in (1) above, (a) from the facilities of Van de Kamp's, at Santa Fe Springs, CA, to Erie, PA, Syracuse, NY, and points in IL, KS, MI, MO, and OH, and (b) from the facilities of Van de Kamp's, at Erie, PA, to Atlanta, GA, and points in IL, KS, MI, MN, MO, OH, and WI. (Hearing site: Los Angeles, CA.)

MC 133119 (Sub-155F), filed December 26, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from the facilities of Interbake Foods, Inc., at or near North Sioux City, SD, to points in the United States (except AK and HI). (Hearing site: Richmond, VA.)

MC 133219 (Sub-26F), filed December 15, 1978. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean oil*, in bulk, in tank vehicles, from Wichita, KS, to Port of Catoosa, OK. (Hearing site: Wichita, KS.)

MC 133689 (Sub-236F), filed November 2, 1978, previously published in the FEDERAL REGISTER issue of December 7, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW, New Brighton, MN 55112. Representative: Anthony E. Young, 29 S. LaSalle Street, suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by drugstores, between points in AL, CT, DE, FL, GA, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, on the one hand, and, on the other, points in IL, IN, IA, KY, MN, MO, NE, OH, TN, and WI, restricted to the transportation of traffic moving from, to, or between the facilities of Walgreens. (Hearing site: Chicago, IL, or St. Paul, MN.)

NOTE.—This republication shows the restriction.

MC 133735 (Sub-8F) filed December 13, 1978. Applicant: AUDUBON TRANSPORT, INC., Wever, IA 52658. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizers*, from the facilities of Chevron Chemical Co., at or near Fort Madison, IA, to points in MN, WI, IL, IN, and MO. (Hearing site: Des Moines, IA, or Kansas City, MO.)

NOTE.— The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343 formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 134105 (Sub-40F), filed December 21, 1978. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, TN 37404. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery houses, (except commodities in bulk), between the facilities of Hudson Industries, Inc., at or near Troy and Brundidge, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL.)

MC 134387 (Sub-60F), filed November 6, 1978. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Warren N. Grossman, Suite 1800, 707 Wilshire Boulevard, Los Angles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Crown Zellerbach Corporation, at Portland, Wauna, and West Linn, OR, and Camas, Port Townsend, and Port Angeles, WA, to points in CA. (Hearing site: Los Angles, CA, or Portland, OR.)

MC 135797 (Sub-159F), filed November 6, 1978. Applicant: J. B. HUNT TRANSPORT, INC., a Georgia corporation, P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *baking flour*, from points in KS and MN, to points in Benton County, AR. (Hearing site: Kansas City, MO.)

MC 135797 (Sub-160F), filed November 6, 1978. Applicant: J. B. HUNT TRANSPORT, INC., a Georgia corporation, P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of the Green Giant Company, at Denton, TX, to points in AR, LA, MS, and OK, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX.)

MC 135895 (Sub-31F), filed December 14, 1978. Applicant: B&R DRAYAGE, INC., P.O. Box 8534 Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of St. Regis Paper Company, Ferguson, MS, on the one hand, and, on the other, points in AR, LA, OK, TN, and TX. (Hearing site: Jackson or Ferguson, MS.)

MC 136315 (Sub-49F), filed December 18, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel trusses and bar joists*, and (2) *accessories* used in the installation of the commodities in (1) above, from the facilities of Vulcraft, a Division of Nucor Corporation, at or near Grapeland, TX, to points in AR, LA, MS, and OK. (Hearing site: Jackson, MS, or Dallas, TX.)

NOTE.—Dual operations may be involved.

MC 136332 (Sub-8F), filed December 4, 1978. Applicant: A. & M. TRANSPORT LTD., P.O. Box 11, Havelock New Brunswick, Canada EOA 1WO. Representative: Frederick T. McGonagle, 36 Main Street, Gorham, ME 04038. To operate as a *contract carrier*, by motor vehicle, in foreign commerce, only over irregular routes, transporting *lime, lime products, and fertilizer*, between points on the International Boundary line between the United States and Canada in ME, and points in ME, under contract with Havelock Lime Works, Ltd., of Havelock, New Brunswick, Canada. (Hear-

ing site: Portland, ME, or Boston, MA.)

MC 136343 (Sub-154F), filed December 5, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of printed matter, (except commodities in bulk), between the facilities of Arcata Book Group, at or near Fairfield, PA, Kingsport and New Canton, TN, and West Hanover and Plympton, MA, on the one hand, and on the other, those points in the United States in and east of MS, TN, KY, IL, and WI, restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Boston, MA, or Washington, DC.)

MC 136848 (Sub-23F), filed December 18, 1978. Applicant: JAMES BRUCE LEE & STANLEY LEE, A partnership, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 68764. Representative: Edward F. Stanula, 837 East 162nd Street, South Holland, IL 60473. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wrought steel pipe and tubing*, from the facilities of Pittsburgh-International, Division of Pittsburgh Tube Co., at or near Fairbury, IL, to Athens and Winfield, AL, Denver and Boulder, CO, Ashburn and Dacula, GA, McPherson and Newton, KS, Minneapolis and Winona, MN, Greenwood, Indianola, Tupelo, and Vicksburg, MS, Cedar Grove and Newark, NJ, Walden, NY, Claremore, OK, Bala Cynwyd, Camp Hill, Pine Grove, Tarentum, and York, PA, Slatersville, RI, Belton, Lyman, and Pawleys, SC, Jasper, TX, Bridgewater and Richmond, VA, and points in KY and TN, under contract with Pittsburgh-International, Division of Pittsburgh Tube Co., of Fairbury, IL. (Hearing site: Chicago, IL.)

MC 138157 (Sub-100F), filed November 3, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *medical equipment, medical materials, and medical supplies*, (except commodities in bulk), from Johnson City, TN, to points in AZ and CA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in the United States (except AK and HI), to El Paso, TX, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Los angeles, CA.)

NOTE.—Dual operations are involved.

MC 138438 (Sub-38F), filed December 18, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials* from Frederick, MD, to points in PA, VA, WV, and DC. (Hearing site: Baltimore, MD.)

NOTE.—Dual operations may be involved in this proceeding.

MC 138469 (Sub-98F), filed December 18, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by pottery and pottery supply stores (except commodities in bulk, in tank vehicles), from Edgar, FL, Macon and McIntyre, GA, Mayfield, KY, High Hill, MO, Spruce Pine, NC, Oak Hill, OH, and Custer, SD, to the facilities of Earth and Fire Pottery Supply, Oklahoma City, OK, restricted to the transportation of traffic originating at the named origins and destined to the indicated destination. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 138882 (Sub-182F), filed December 7, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at Marrero, LA, to points in the United States (except AK and HI). (Hearing site: Birmingham, AL, or Tampa, FL.)

MC 138882 (Sub-183F), filed December 4, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products, particleboard, and wood turnings*, from points in CA, WA, and OR, to points in TX, OK, AR, AL, OH, MI, WI, IL, MN, IA, MO, KY, PA, KS, TN, and MS. (Hearing site: Sacramento, CA, or Birmingham, AL.)

MC 139119 (Sub-2F), filed December 28, 1978. Applicant: BOYD TRUCKING COMPANY, INC., P.O. Box 621, Athens, TN 37303. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in McMinn County, TN (except Calhoun), on the one hand, and, on the other, Cleveland and Chattanooga, TN, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Knoxville or Chattanooga, TN.)

MC 139193 (Sub-91F), filed December 6, 1978. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64123. Representative: Jacob P. Billig, 2033 K Street, N.W., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from Montgomery, AL, to points in the United States (except AK and HI), and (2) *such commodities* as are used by meat packers in the conduct of their business (except hides, skins, and commodities in bulk), in the reverse direction, under contract with John Morrell & Co., of Chicago, ILL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 139193 (Sub-92F), filed December 6, 1978. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64123. Representative: Jacob P. Billig, 2033 K Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses* as described in sections, A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except

hides, skins, and commodities in bulk), from the facilities of John Morrell & Co., at Sioux Falls, SD, to points in IN, MI and OH, and (2) *such commodities* as are used by meat packers in the conduct of their business, (except hides, skins, and commodities in bulk), in the reverse direction, under contract with John Morrell & Co., of Chicago, IL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 139458 (Sub-4F), filed December 27, 1978. Applicant: RICHNER, INC., CO Hwy 160 South, P.O. Box 1488, Durango, CO 81301. Representative: J. Albert Sebald, 1700 Western Federal Savings Bldg. Denver, CO 80202. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt (except in bulk), fertilizer,* and *animal feed,* form points in AZ, ID, KS, NM, TX, UT, and WY, to points in CO, NM, and UT, under contract with Basin Co-Op, Inc., of Durango, CO. (Hearing site: Durango, CO, or Denver, CO.)

MC 140389 (Sub-43F), filed December 26, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid cleaning compounds and liquid bleaching compounds* (except commodities in bulk), from the facilities of National Marketing Associates, Inc., at or near New Orleans, LA, to points in AL, FL, GA, and TN, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 140829 (Sub-169F), filed December 19, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, dairy products, and articles* distributed by meat-packing houses, and as described in Sections A, B, and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *foodstuffs* (except those in (1) above), when moving in mixed loads with the commodities in (1) above, form the facilities of Oscar Mayer & Co., at Davenport and Perry, IA, Woodstock, IL, and Madison WI, to points in TX. (Hearing site: Washington, DC.)

NOTE.— Dual operations may be at issue in this proceeding.

MC 140829 (Sub-172F), filed December 29, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Aurora Packing Co., Inc., at or near North Aurora, IL, to points in IN, KY, MD, MI, MO, NJ, NY, OH, and WI. (Hearing site: Washington, DC.)

NOTE.— Dual operations may be at issue in this proceeding.

MC 140829 (Sub-173F), filed December 29, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs,* (2) *hospital supplies and materials,* and (3) *equipment and supplies* used in the administration of drugs, (except hospital supplies), from Grand Island, NY, to points in CA, IL, and TX. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141675 (Sub-5F), filed December 4, 1978. Applicant: ECONOMY TRUCKING SERVICE, INC., 1079 West Side Avenue, Jersey City, NJ 07306. Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by department stores (except commodities in bulk), (a) between New York, NY, and points in NJ, CT, and MA, on the one hand, and, on the other, Cleveland, OH, Detroit, MI, Chicago, IL, Dallas, TX, and Los Angeles, CA, under contract with Petrie Stores, Inc., of Secaucus, NJ, and (b) between New York, NY, and points in NJ, CT, and MA, on the one hand, and, on the other, Cleveland, OH, Detroit, MI, and Chicago, IL, under contract with Miller Wohl, Inc., of Secaucus, NJ. CONDITION: The permit to be issued shall be limited to a period expiring 2 years from its date of issue, unless, prior to the expiration (but not less than 6 months prior), applicant files a petition for permanent extension of the permit. (Hearing site: New York, NY.)

MC 142508 (Sub-44F), filed December 18, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *welding equipment, welding materials, and welding supplies,* from the facilities of Miller Electric Manufacturing Company, at or near Appleton, WI, to points in CO, KS, LA, MO, NE, OK, SD, TX, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 142559 (Sub-82F), filed December 19, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between points in the United States (except AK and HI).(Hearing site: Columbus, OH.)

NOTE.—Dual operations are involved in this proceeding.

MC 143098 (Sub-1F), filed January 2, 1979. Applicant: LAUGHLIN TRUCKING, INC., Route 1, Box 95, Carlton, OR 97111. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cottonseed meal, cottonseed crumbles, and cottonseed pellets,* from points in Fresno, Kern, Tulare, Madera, and Kings Counties, CA, to points in OR and WA. (Hearing site: Portland, OR.)

MC 143267 (Sub-29F), filed August 7, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Jones & Laughlin Steel Corporation, at Pittsburgh and Aliquippa, PA, to points in AR, KS, and MO. (Hearing

site: Pittsburgh, PA, or Washington, DC.)

MC 144083 (Sub-10F), filed December 4, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and furnishings*, from points in MS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VT, VA, WA, WV, WI, and WY, restricted to the transportation of traffic destined to the facilities of Montgomery Ward. (Hearing site: Jackson, MS, or Chicago, IL.)

NOTE.—Dual operations may be involved.

MC 144352 (Sub-3F), filed December 6, 1978. Applicant: HARRIS BAKING COMPANY, a corporation, 33 North Street, Waterville, ME 04901. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products*, from Springfield, MA, to Conway, NH, and points in ME, under contract with Springfields' Bakery, Inc., of Springfield, MA. (Hearing site: Boston, MA, or Portland, ME.)

MC 144709 (Sub-5F), filed December 11, 1978. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *calcium chloride*, in dump trailers, from Solvay, NY, to Paterson, NJ, under contract with Para Industries, Inc., of Paterson, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 144729 (Sub-1F), filed December 18, 1978. Applicant: RFK CHARTER COACHES, INC., 144 32nd St. Dr. SE., Cedar Rapids, IA 52403. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Woodbury, Monona, Crawford, Carroll, Audubon, Guthrie, Dallas, Polk, Story, Jasper, Poweshiek, Cass, Adair, Madison, Warren, Marion, Mahaska, Adams, Union, Clarke, Lucas, Ringgold, Decatur, and Wayne Counties, IA, and extending to points in the United States (except AK and HI). CONDITION: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343 (a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 144752 (Sub-1F), filed December 4, 1978. Applicant: MICHEL'S GARAGE, INCORPORATED, 4333 Highway 41, Franksville, WI 53126. Representative: Eugene L. Cohn, One N. LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *disabled motor vehicles*, and *replacement motor vehicles* by use of wrecker equipment only, between points in IN, IA, IL, WI, MI, and OH. (Hearing site: Chicago, IL.)

MC 144827 (Sub-11F), filed October 30, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the installation of elevators (except commodities in bulk, and those which because of size or weight require the use of special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic destined to the facilities of Dover Elevator Company. (Hearing site: Memphis, TN.)

MC 145042 (Sub-2F), filed December 6, 1978. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Street, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal and soybean hulls*, in bulk, from the facilities of Cargill, Incorporated, at or near Chicago, IL, to points in IL, IN, MI, and WI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 145097 (Sub-2F), filed November 1, 1978. Applicant: GEORGE C. HARPER, d.b.a. HARPER TRUCKING, P.O. Box 161, Green River, WY 82935. Representative: George C. Harper (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *oil drilling muds and oil drilling compounds*, between points in CO, ID, NV, SD, UT, and WY. (Hearing site: Rock Springs or Rawlins, WY.)

MC 145152 (Sub-22F), filed November 6, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in packages, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IL, IN, KY, MI, MO, NJ, NY, OH, PA, TN, and WI. (Hearing site: Houston, TX, or Fayetteville, AR.)

MC 145498 (Sub-2F), filed December 27, 1978. Applicant: SKYLINE CONSTRUCTION COMPANY, INC., Box 38, Big Piney, WY 83113. Representative: Toni Gilchrist, Box 783, Big Piney, WY 83113. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, their products, and byproducts, and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in CO, ID, MT, ND, UT, and WY. CONDITIONS: (1) Applicant shall conduct separately its for-hire carriage and other business operations; (2) it shall maintain separate accounts and records for each operation; and (3) it shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Idaho Falls, ID, or Cheyenne, WY.)

MC 145667F, filed November 2, 1978. Applicant: TRANSPORT PLANNING AND SERVICE, INC., 53 Evelyn St., North Dartmouth, MA 02747. Representative: Ronald Shapps, 450 Seventh Ave., New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *impregnated paper, imitation leather, latex adhesives, urethane adhesives, solvents, coatings, and cements*, and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, between New Bedford

and Lynn, MA, on the one hand, and, on the other, points in the United States (except AK and HI), in (1) and (2) above under contracts with C. L. Hauthaway & Sons Corp., of Lynn, MA, and Fibre Leather Mfg. Corp., of New Bedford, MA. (Hearing site: Boston, MA.)

MC 145697F, filed November 6, 1978. Applicant: RICKETTS TRUCKING CO., INC., Rte. 1, Box 396A, Gurdon, AR 71743. Representative: Charles J. Lincoln, 1550 Tower Building, Little Rock, AR 72201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood residual products*, (except commodities in bulk, in tank vehicles), from points in Clark County, AR, to points in Cass County, TX and Choctaw and McCurtain Counties, OK. (Hearing site: Little Rock or Texarkana, AR.)

MC 145713 (Sub-1F), filed December 4, 1978. Applicant: TAURUS TRUCKING CORPORATION, 199 Calcutta Street, Port Newark, NJ 07114. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *office furniture and library furniture*, and *materials* used in the manufacture of office furniture and library furniture (except in tank vehicles), from the facilities of Art Metal U.S.A., Inc., at Newark, NJ, to points in GA, MD, MA, NY, OH, PA, VA, and DC under contract with Art Metal U.S.A., Inc., of Newark, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 145761F, filed October 30, 1978, previously published in the FEDERAL REGISTER issue of December 7, 1978, as MC 145679F. Applicant: A & A TRANSPORT SERVICES, INC., A Delaware Corporation, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd. Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lighting fixtures and such commodities* as are used in the manufacture of lighting fixtures, between Wilmington, MA, Olive Branch, MS, Los Angeles, CA, and Union, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Keene Corp., of Wilmington, MA. (Hearing site: Boston, MA, or Washington, DC.)

NOTE.—This republication shows the correct docket number assigned to this proceeding as MC 145761.

MC 145843F, filed December 6, 1978. Applicant: DEAN'S WATER SERVICE, INC. R.D. #1, Box 59, Amity, PA 15311. Representative: Stephen I. Richman, 325 Washington Trust Building, Washington, PA 15301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water*, between points in Washington County, PA, on the one hand, and, on the other, points in OH and WV. (Hearing site: Pittsburgh, PA, or Wheeling, WV.)

MC 145862F, filed December 5, 1978. Applicant: DON LEE SMITH AND GILBERT ERNEST SOMERA, a partnership, d.b.a., SOMERA, SMITH TRANSPORTATION, 1250 South Wilson Way, Stockton, CA 95205. Representative: Sidney J. Cohen, 1939 Harrison St., Suite 555, Oakland, CA 94612. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, (1) from the facilities of Kaiser Aluminum & Chemical Corp., at points in CA, to points in WA and OR, and (2) from the facilities of Kaiser Aluminum & Chemical Corp., at points in WA and OR, to points in CA, under contract with Kaiser Aluminum & Chemical Corp., of Oakland, CA. (Hearing Site: San Francisco or Los Angeles, CA.)

MC 145682 (Sub-2F), filed December 1, 1978. Applicant: AAA COURIER SERVICE, INC., 611 Chestnut Street, Chattanooga, TN 37402. Representative: John R. Meldorf, Two Northgate Park, Chattanooga, TN 37415. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cancelled checks*, between Chattanooga and Nashville, TN, and Atlanta, GA. (Hearing Site: Chattanooga, TN.)

MC 145989F, filed December 14, 1978. Applicant: BUFFALO TRANSPORTATION, INC., 4949 S. 36th St., Omaha, NE 68107. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction machinery*, and (2) *materials, equipment and supplies* used in the repair and maintenance of the commodities in (1) above, between points in the United States (except AK and HI), under contract with Buffalo Machinery Co., of Omaha, NE. CONDITIONS: Applicant shall conduct separately its for-hire carriage and other business operations. It shall maintain separate accounts and records for each operation. And it shall not transport property as both a private and for-hire carrier in the same vehicle at the same time. (Hearing site: Omaha, NE.)

MC 142083 (Sub-2F), filed December 6, 1978. Applicant: SPECIALTY CARRIER, INC., 596 Christman Street, P.O. Box 11229, Atlanta, GA 30310. Representative: Edward Malinzak, One Vandenberg Center, Grand Rapids, MI 49503. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *articles used in the manufacture, and distribution* of foodstuffs (except in bulk, in tank vehicles), (1) between Grand Rapids, MI, on the one hand, and, on the other, points in DE, ME, MI, MN, MT, NH, ND, RI, SD, VT, (2) between Atlanta, GA, on the one hand, and, on the other, points in AZ, CA, CO, DE, ID, IA, KS, ME, MN, MO, MT, NE, NV, NH, MN, ND, OK, OR, RI, SD, UT, VT, WA, WI, WY, (3) between Los Angeles, CA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, (4) between Bridgeport, CT, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY; (5) between Houston, TX, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI, WY, (6) between St. Louis, MO, on the one hand, and, on the other, points in the United States (except HI and AK), under contract with Readi-Bake, Inc., of Grand Rapids, MI, and St. Louis, MO, Borck's Country Home Bakers, Inc., of Atlanta, GA, and Houston, TX, Jessie Lord, Inc., Home of Pies, of Los Angeles, CA, and Country Home Bakers, Inc., of Bridgeport, CT. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 144795 (Sub-2F), filed December 27, 1978. Applicant: MAX R. GAFFORD, Route 2, Box 3, Merino, CO 80741. Representative: Larry Morgan, 613 West Main Street, Sterling, CO 80751. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry drilling compounds*, in bags, between Sterling, CO, and points in Kimball, Banner, Scottsbluff, Morrill, Garden, and Cheyenne Counties, NE, on the one hand, and, on the other, points in Laramie, Platte, and Goshen Counties, WY, under contract with Dresser Industries, of Denver, CO. (Hearing site: Denver, CO.)

[FR Doc. 79-4180 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Decisions Volume No. 8]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: January 26, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before March 12, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representatives is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247 (e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regualtions. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human invironment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman (Board Member Boyle, not participating).

H. G. Homme, Jr.,
Secretary.

MC 2368 (Sub-89), filed January 3, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, between Hopewell, VA, and West Memphis, AR. (Hearing site: Washington, DC.)

MC 11207 (Sub-458F), filed November 6, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Ave. W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal buildings, metal building parts, and accessories* for metal buildings, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Eufaula, AL, on the one hand, and, on the other, points in FL, GA, KY, LA, MS, NC, OH, SC, TN, TX, VA, and WV. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 14138 (Sub-8F), filed December 15, 1978. Applicant: HEAVY TRANSPORT, INC., 6242 Paramount Blvd., P.O. Box 727, Long Beach, CA 90805. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *contractor's equipment, contractor's materials, and contractor's supplies*, (except commodities in bulk), and (2) *commodities* the transportation of which requires, by reason of size or weight, the use of special equipment, between Los Angeles, CA, on the one hand, and, on the other, points in AZ, NV, NM, and UT. (Hearing site: Los Angeles, CA.)

MC 14138 (Sub-9F), filed January 3, 1979. Applicant: HEAVY TRANSPORT, INC., 6242 Paramount Blvd., Long Beach, CA 90805. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *contractor's equipment, contractor's materials, and contractor's supplies* (except commodities in bulk), and (2) *commodities* the transportation of which requires, by reason of size or weight, the use of special equipment, between Los Angeles, CA, on the one hand, and, on the other, points in ID, OR, and WA. (Hearing site: Los Angeles, CA.)

MC 15735 (Sub-31F), filed December 26, 1978. Applicant: ALLIED VAN LINES, INC., a Delaware corporation,

P.O. Box 4403, Chicago, IL 60680. Representative: Ronald C. Nesmith (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting equipment, materials, and used in the manufacture of computers and computer equipment, in mixed loads with third proviso household goods as defined at 49 CFR §1056.1(a)(3), (a) between points in Essex, Hampden, Hampshire, Middlesex, and Worcester Counties, MA, Hillsborough and Rockingham Counties, NH, Chittenden County, VT, and Kennebeck County, ME, on the one hand, and, on the other, points in Maricopa County, AZ, Boulder and El Paso Counties, CO, Orange, San Francisco, San Mateo, Santa Clara, Alameda, and Los Angeles Counties, CA, and Bernalillo County, NM, and (b) between points in Boulder and El Paso Counties, CO, Maricopa County, AZ, Bernalillo County, NM, Orange, San Francisco, San Mateo, Santa Clara, Alameda, and Los Angeles Counties, CA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 23618 (Sub-43F), filed January 2, 1979. Applicant: McALISTER TRUCKING SERVICE, a corporation d/b/a MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, Dallas, TX 75245. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe and plastic pipe fittings,* from Corsicana and Dallas, TX, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the installation of plastic pipe and plastic pipe fittings (except commodities in bulk, in tank vehicles), in mixed loads with the commodities in (1) above, from Frisco, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 24784 (Sub-17F), filed November 6, 1978. Applicant: BARRY, INC., 463 South Water Street, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel containers,* from the facilities of Cortland Container Corp., at Kansas City, KS, to St. Joseph, MO, Omaha, NE, and Ponca City and Tulsa, OK. (Hearing site: Kansas City, MO.)

MC 26396 (Sub-192F), filed July 5, 1978. Applicant: POPELKA TRUCKING CO., INC., d/b/a THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and wood products,* from points in MT, to points in IA, MN, ND, NE, SD, and WI. (Hearing site: Billings, MT.)

MC 26396 (Sub-215F), filed November 8, 1978. Applicant: POPELKA TRUCKING CO., INC., d/b/a THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe,* from Winnebago, MN, to points in AR, CA, CO, IA, ID, IL, KS, MO, MT, ND, NE, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Billings, MT, or Minneapolis, MN.)

MC 36918 (Sub-10F), filed January 4, 1979. Applicant: FASTWAY TRANSPORTATION, INC., a Delaware corporation, P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpets, carpet padding, and adhesives,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between the facilities of General Felt Industries, Inc., at or near (a) Camden and Trenton, NJ, and (b) Eddystone and Philadelphia, PA, on the one hand, and, on the other, Charlottesville, Hampton, Norfolk, Richmond, and Virginia Beach, VA, and points in CT, DE, MA, MD, NJ, PA, RI, and DC. (Hearing site: Newark NJ, or New York, NY.)

MC 41406 (Sub-98F), filed November 6, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tanks,* from DeKanb, IL, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL.)

MC 51146 (Sub-659F), filed November 8, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O., Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in IL, IN, KY, MI, MN, and WI, and those points in OH on, south, and west of a line beginning at the IN-OH State line and extending along Interstate Hwy 70 to junction Interstate Hwy 77, and then along Interstate Hwy 77 to the Ohio River, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 52704 (Sub-190F), filed November 7, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers and closures and accessories for glass containers,* from the facilities of Ball Corporation, at or near (a) Muncie, IN, (b) Asheville, NC, (c) Mundelein, IL, and (d) Okmulgee, OK, to points in the United States (except AK, HI, WA, OR, ID, MT, NV, and CA), (2) *metal cans and ends for metal cans,* from the facilities of Ball Corporation, at or near (a) Golden, CO, (b) Findlay, OH, and (c) Williamsburg, VA, to points in the United States (except AK, HI, WA, OR, ID, MT, NV, and CA), and (3) *materials, equipment, and supplies* used in the manufacture distribution of articles named in parts (1) and (2) (except commodities in bulk, in tank vehicles), from the destinations named in (1) and (2) to the origin facilities named in (1) and (2). (Hearing site: Atlanta, GA.)

MC 52704 (Sub-193F), filed November 7, 1978. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulation materials and mineral wool,* from the facilities of Rock Wool Manufacturing Company, at or near Leeds, AL, to points in FL, GA, NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 59117 (Sub-62F), filed November 13, 1978. Applicant: ELLIOTT TRUCK LINE, INC., P.O. BOX 1, Vinita, OK 73401. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash* (except in bulk), from Sand Springs, OK, to points in AL, AR, CO, GA, IA, IL, IN, KS, LA, MO,

MN, MS, NE, NM, SD, TN, TX, and WI. (Hearing site: Tulsa or Oklahoma City, OK.)

MC 59135 (Sub-38F), filed December 27, 1978. Applicant: RED STAR EXPRESS LINES OF AUBURN, INC., d.b.a. Red Star Express Lines, 24-50 Wright Avenue, Auburn, NY 13021. Representative: Donald G. Hickman (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Jamestown, NY, and Erie, PA, from Jamestown over NY Hwy 60, to junction U.S. Hwy 62, then over U.S. Hwy 62, to junction U.S. Hwy 6, near Warren, PA, then over U.S. Hwy 6, to junction U.S. Hwy 6N, then over U.S. Hwy 6N, to Edinboro, PA, then over PA Hwy 99, to junction U.S. Hwy 19, then over U.S. Hwy 19, to Erie, and return over the same route, serving all intermediate points and the off-route points of Warren and Corry, PA, (2) between Jamestown, NY, and Columbus, PA, from Jamestown, over unnumbered Hwy to junction PA Hwy 957, near Sugargrove, PA, then over PA Hwy 957, to Columbus, and return over the same route, serving all intermediate points and the off-route points of Warren and Corry, PA, (3) between Union City and Erie, PA, from Union City over PA Hwy 97, to junction U.S. Hwy 19, then over U.S. Hwy 19 to Erie, and return over the same route, serving all intermediate points and the off-route points of Warren and Corry, PA, (4) between Russell and Sugargrove, PA, over PA Hwy 957, serving all intermediate points, and (5) between Lottsville, PA, and junction U.S. Hwy 6, near Wrightsville, PA, over PA Hwy 958, serving all intermediate points. (Hearing site: Jamestown and Albany, NY.)

MC 59668 (Sub-8F), filed November 16, 1978. Applicant: HAROLD G. CLINE, INC., Penns Grove, NJ 08069. Representative: M. Bruce Morgan, 104 Azar Bldg., Glen Burnie, MD 21061. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals, dyes, and motor fuel anti-knock compounds, between the facilities of E. I. DuPont de Nemours and Company, at or near Deepwater, NJ, and Saugett, IL, under continuing contract(s) with E. I. DuPont de Nemours & Company, of Wilmington, DE. (Hearing site: Philadephia, PA.)

MC 62538 (Sub-22F), filed December 26, 1978. Applicant: ASHTON TRUCKING COMPANY, A Corporation, 1245 North Highway 285, Monte Vista, CO 81144. Representative: Leslie R. Kehl, 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, CO 80264. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by flour mills and by distributors of feeds, grains, and foodstuffs, (a) from Ogden and Salt Lake City, UT, to points in AZ, CA, CO, ID, IA, OR, NE, NV, NM, UT, WA, and WY, (b) from Billings, MT, to points in AZ, CO, ID, IA, OR, NE, NV, NM, UT, WA, and WY, (c) from Denver, CO, to points in IA, KS, NE, and WY, (d) from Dallas, TX, to points in AZ, CA, CO, and NM, and (e) from Minneapolis and Hastings, MN, Oconomowoc, WI, and Alton, IL, to points in AZ, CA, CO, KS, MO, MT, NE, NM, OR, TX, UT, and WY; and (2) *materials and supplies* used in the manufacture and distribution of flour, feeds, grains, and foodstuffs, from points in AZ, CA, CO, KS, LA, ID, MO, NE, OR, TX, UT, and WA, to the facilities of Peavey Company, at (a) Alton, IL, (b) Billings, MT, (c) Denver, CO, (d) Minneapolis and Hastings, MN, (e) Ogden and Salt Lake City, UT, and (f) Oconomowoc, WI, restricted in (1)(a) and (2) above against the transportation of traffic, in containers, (A) from Salt Lake City, UT, and (B) from Ogden, UT, to points in CO, under continuing contract(s) in (1) and (2) above with Peavey Company, of Minneapolis, MN. (Hearing site: Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 64600 (Sub-49F) (Partial Republication), filed September 15, 1978, and previously noticed in the FR issue of December 19, 1978. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: William J. Jones (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A)(1) between Roanoke, VA, and Greensboro, NC: over U.S. Hwy 220, serving all intermediate points, and the off-route points of Henry and Bassett, VA, and Winston-Salem, NC, (2) between Asheville and Statesville, NC: over U.S. Hwy 70, (3) between Salisbury and Smithfield, NC: over U.S. Hwy 70 (also Alternate U.S. Hwy 70), (4) between Statesville and Winston-Salem, NC: from Statesville over U.S. Hwy 64 to Mocksville, NC, then over U.S. Hwy 158 to Winston-Salem, and return over the same route, (5) between Raleigh and Rocky Mount, NC: over U.S. Hwy 64, (6) between Charlotte, NC, and junction NC Hwy 55 and U.S. Hwy 70; from Charlotte over NC Hwy 27 to Benson, NC, then over NC Hwy 50 to Newton Grove, NC, then over NC Hwy 55 to junction U.S. Hwy 70, and return over the same route, (7) between Reidsville and Sanford, NC: over NC Hwy 87, (8) between Sanford and Clinton, NC: over U.S. Hwy 421, (9) between Wilson and Washington, NC: over U.S. Hwy 264, (10) between Rocky Mount and Williamston, NC: from Rocky Mount over NC Hwy 97 to junction NC Hwy 125, then over NC Hwy 125 to Williamston, and return over the same route, (11) between junction U.S. Hwy 70 and unnumbered hwy (approximately 11 miles northwest of Raleigh, NC) and Nelson, NC: over the unnumbered hwy, (12) between Henderson and Newton Grove, NC: from Henderson over U.S. Hwy 158 (also Alternate U.S. Hwy 158) to Oxford, NC, then over U.S. Hwy 15 to Durham, NC, then over NC Hwy 55 to Newton Grove, and return over the same route, (13) between Weldon and Wilmington, NC: from Weldon over U.S. Hwy 301 to junction U.S. Hwy 117, then over U.S. Hwy 117 to Wilmington, and return over the same route, (14) between Wilson and Morehead City, NC: from Wilson over NC Hwy 58 to Kinston, NC, then over U.S. Hwy 258 to Jacksonville, NC, then over NC Hwy 24 to Morehead City, and return over the same route, (15) between Greensboro and Stoneville, NC: over U.S. Hwy 220, (16) between Reidsville and Stoneville, NC: from Reidsville over NC Hwy 14 to Eden, NC, then over NC Hwy 770 to Stoneville, and return over the same route, (17) between Reidsville, NC, and Eden, NC: from Reidsville over NC Hwy 65 to junction NC Hwy 87, then over NC Hwy 87 to Eden, and return over the same route, (18) between Winston-Salem and Lexington, NC: over U.S. Hwy 52, (19) between Reidsville and Charlotte, NC: over U.S. Hwy 29, (20) between junction U.S. Hwys 70 and 321, and Lincolnton, NC: over U.S. Hwy 321, (21) between Weldon and Raleigh, NC: from Weldon over U.S. Hwy 158 (also Alternate U.S. Hwy 158) to Norlina, NC, the over U.S. Hwy 1 (also Alternate U.S. Hwy 1) to Raleigh, and return over the same route, (22) between Raleigh and Fayetteville, NC: over U.S. Hwy 401, (23) between junction U.S. Hwys 301 and 117 and Smithfield, NC: over U.S. Hwy 301, (24) between Fayetteville and Lumberton, NC: over U.S. Hwy 301, (25) between Clinton and Elizabethtown, NC: over U.S. Hwy 701, (26) between Norlina, NC, and junction U.S. Hwy 158

and NC Hwy 39: over U.S. Hwy 158, (27) between Edenton and New Bern, NC: over U.S. Hwy 17, (28) between Pittsboro and Sanford, NC: over U.S. Hwy 501, and (29) between Sanford and Laurinburg, NC: over U.S. Hwy 501, serving in A(2) through (29), inclusive, all points in NC as intermediate or off-route points, and restricted, in A(1) through (29), inclusive, to the transportation of traffic moving to, from, or through a point in VA. NOTE: This republication adds route (17), and adds the word "through" in the restriction at the end of the grant.

MC 65475 (Sub-22F), filed December 21, 1978. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc, zinc alloy, and zinc products,* from the facilities of Jersey Miniere Zinc Co., in Montgomery County, TN, to points in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Nashville, TN.)

MC 70557 (Sub-6F), filed November 6, 1978. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 W. Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of St. Regis Paper Co., at or near Cantonment, FL, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX. (Hearing site: Miami, FL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 82492 (Sub-211F), filed December 11, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in IL, IN, IA, KY, MI, MN, NE, NY, OH, PA, TN, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Columbus, OH.)

MC 82492 (Sub-215F), filed December 13, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods,* from the facilities of Banquet Foods Corporation, at Carrollton, Marshall, Macon, and Moberly, MO, to those points in NY in and west of Allegany, Livingston, and Monroe Counties, those points in PA on and west of U.S. Hwy 219, and points in IL, IN, MI, and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 93235 (Sub-12F), filed December 27, 1978. Applicant: INDIANA TRUCKING, INC., 400 Blaine Street, Gary, IN 46406. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles, and aluminum and plastic articles,* between the facilities of Joseph T. Ryerson & Son, Inc., at Chicago and Elk Grove Village, IL, on the one hand, and, on the other, points in IN, under continuing contract(s) with Joseph T. Ryerson & Son, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 95084 (Sub-129F), filed November 6, 1978. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 611 Church Street, Ottumwa, IA 52501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, fittings, valves, and hydrants,* (2) *accessories* for the commodities in part (1), and (3) *materials, equipment, and supplies* used in the installation of the commodities in part (1), from the facilities of Clow Corp., at or near Buckhannon, WV, to points in IL, IN, IA, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 104654 (Sub-162F), filed November 2, 1978. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St. NW., Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products (except fertilizer), and fertilizer,* between Hickman, KY, on the one hand, and, on the other, points in AR, MO, IL, TN, IN, and WV. (Hearing site: Jackson or Memphis, TN.)

MC 105045 (Sub-92F), filed December 28, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *enameled steel silos, loading and unloading devices, waste storage tanks, livestock feed bunkers, livestock scales, forage metering devices, animal waste spreader tanks, and livestock feeding systems,* and (2) *parts and accessories* for the commodities in (1) above, from the facilities of A. O. Smith Corporation, Harvestore Division, at DeKalb, IL, to points in IN, KY, NC, and SC. (Hearing site: Chicago, IL.)

MC 106074 (Sub-73F), filed November 7, 1978. Applicant: B and P Motor Lines, Inc., Oakland Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, NE., Atlanta, GA 30342. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay, floor sweeping compounds, and absorbents,* (except commodities in bulk), from the facilities of Oil-Dri Corporation of America, at or near Ripley, MS, to points in IA, IL, KS, MN, MO, NE, and WI. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 106398 (Sub-856F), filed December 27, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr., (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel pipe and structural steel products,* between the facilities of Vinton Pipe & Steel, Inc., at El Paso, TX, Clovis and Albuquerque, NM, and Salt Lake City, UT, on the one hand, and, on the other, points in the United States (including AK, but excluding HI); and (2) *steel pipe,* between points in AZ, CA, CO, ID, KS, NE, NV, NM, OK, TX, UT, and WY, restricted in (1) above to the transportation of traffic originating at or destined to the above named facilities of Vinton Pipe & Steel, Inc. (Hearing site: Albuquerque, NM.)

MC 107496 (Sub-1173F), filed November 7, 1978. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wax,*

in bulk, from Casper, WY, to points in CT; and (2) *synthetic resins*, in bulk, in tank vehicles, from Valley Park, MO, to points in FL, GA, NC, and WA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 108207 (Sub-488F), filed November 7, 1978. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AZ, AL, CA, IL, IN, IA, KY, MI, MN, MO, NE, NM, OH, SD, TN, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Dallas, TX, or Wichita, KS.)

MC 109351 (Sub-7F), filed November 17, 1978. Applicant: G & E TRUCKING CO., a corporation, 936 Front St., NW, Grand Rapids, MI 49504. Representative: George A. Pendleton, P.O. Box 51, Comstock Park, MI 49321. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *finished paper box board*, from Childsdale, MI, to Lexington, Louisville, and Owensboro, KY, points in WI, points in IN (except Elkhart, IN and points in IN in the Chicago, IL Commercial Zone as defined by the Commission), and points in IL (except points in the Chicago, IL Commercial Zone as defined by the Commission), and (2) *scrap paper*, from Lexington, Louisville, and Owensboro, KY, points in WI, points in IN (except points in Lake and Porter Counties, IN, and points in the Chicago, IL Commercial Zone as defined by the Commission), and points in IL (except points in Cook, DuPage, Henry, Kane, Kankakee, Kendall, Lake and Will Counties, IL), to Childsdale, MI, under continuing contract in (1) and (2) above with Rockford Paper Mills, Inc., of Childsdale, MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 112304 (Sub-156F), filed November 3, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from the facilities of Dixie Wood Preserving Co., Division of Hoover Universal, Inc., at or near Thomson, GA, to points in OH, PA, IL, IN, MI, KY, WV, NY, MA, CT, NJ, MD, and VA. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112588 (Sub-27F), filed January 8, 1979. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, OH 44870. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement and mortar*, (1) from East Fultonham, OH, to points in IN, KY, MI, PA, and WV, and (2) from Nitro, WV, to points in KY, OH, and PA. (Hearing site: Columbus, OH.)

NOTE.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary.

MC 112617 (Sub-409F), filed November 13, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from Louisville, KY, to points in IL, IN, MI, MO, OH, TN, and WV. (Hearing site: Louisville, KY, or Washington, DC.)

MC 113784 (Sub-72F), filed November 6, 1978. Applicant: LAIDLAW TRANSPORT LIMITED, P.O. Box 3030, Station B, Hamilton, Ontario, Canada L8L 4M1. Representative: David A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum products and roofing materials*, from points on the international boundary line between the United States and Canada in MI and NY, to points in PA, IL, IN, KY, MI, NY, OH, and WV; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in part (1), from the destination states in (1) above to points on the international boundary line between the United States and Canada in MI and NY. (Hearing site: Buffalo, NY.)

MC 113784 (Sub-737F), filed November 6, 1978. Applicant: LAIDLAW TRANSPORT LIMITED, P.O. Box 3020, Station B, Hamilton, Ontario, Canada. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Plastic corrugated drainage pipe*, from those ports of entry on the international boundary line between the United States and Canada in MI, to points in MI. (Hearing site: Buffalo, NY.)

MC 113855 (Sub-459F), filed December 28, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota Corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *logging equipment*, (2) *attachments, and parts* for logging equipment, and (3) *iron and steel articles*, between Franklin, VA, and Independence, OR, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 113861 (Sub-71F), filed November 16, 1978. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Ave., Memphis, TN 38106. Representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum* and *petroleum products*, in bulk, in tank vehicles, from Nashville, TN, to points in MS. (Hearing site: Memphis or Nashville, TN.)

MC 114045 (Sub-525F), filed December 27, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay, chemicals, lead, linseed oil, soap, vegetable wax, soybeans, acids, metal alloys, ground barytes, ground limestone, zarconium ore, and rutile ore*, (1) Bayonne and Jersey City, NJ, Philadelphia, PA, Niagara Falls, NY, and Charleston, WV, to St. Louis, MO, and points in CA, CO, OR, TX, and WA, and (2) from St. Louis, MO, to points in CA, CO, OR, TX, and WA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114194 (Sub-208F), filed November 3, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Donald D. Metzler (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry corn products*, in bulk, from Paris, IL, to points in IN, MI,

OH, NY, PA, VA, WV, DE, CT, MA, ME, VT, and NH. (Hearing site: St. Louis, MO.)

MC 114274 (Sub-53F), filed November 6, 1978. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in KS and MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. CONDITION: The certificate to be issued in this proceeding shall be limited to a period expiring 3 years from its date of issue, unless, prior to the expiration (but not less than 6 months prior to that time), applicant files a petition for permanent extension of the certificate. (Hearing site: Pittsburgh, PA.)

MC 114457 (Sub-457F), filed November 13, 1978. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers and pulpboard*, from Cincinnati, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA, or St. Paul, MN.)

MC 115213 (Sub-5F), filed October 30, 1978. Applicant: ELLIOT AND FIKES TRUCK LINE, INC., P.O. Box 8827, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *gypsum and gypsum products* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Georgia-Pacific Corporation, Gypsum Division, at Cuba, MO, and points in AL, AR, GA, IL, IA, KS, KY, LA, MS, NE, OK, TN, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 115242 (Sub-16F), filed December 11, 1978. Applicant: DONALD MOORE, 601 North Prairie Street, Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, posts, and ties*, (1) from Prairie du Chien, WI, to points in IL, IN, IA, MI, MN, MO, NE, ND, OH, and SD, and (2) from Janesville, WI, to the destination points in (1) above (except points in the Upper Peninsula of MI). (Hearing site: Madison, WI, or Chicago, IL.)

MC 115331 (Sub-465F), filed September 19, 1978, previously noticed in the FEDERAL REGISTER of December 12, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, A Delaware Corporation, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foundry sand, moulding sand, foundry and moulding sand additives, foundry and moulding sand treating compounds, coal*, and *such commodities* as are produced or distributed by producers of foundry sand and moulding sand, and, (2) *materials and supplies* used in the production and distribution of the commodities named in (1) above, between St. Louis, MO, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OK, OH, TN, TX, and WI. (Hearing site: St. Louis, MO.)

NOTE.—This republication modifies the commodity description.

MC 115331 (Sub-473F), filed November 21, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, a Delaware corporation, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from the facilities of Hunt-Wesson Foods, Inc., at or near Harvey, LA, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 115557 (Sub-18F), filed November 6, 1978. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, and (2) *materials, equipment, and supplies* used in the manufacture of new furniture, between Jamestown, NY, Brookville, Conneautville, Genesee, and Reno, PA, and points in Clarion County, PA, on the one hand, and, on the other, points in the United States, including AK and HI. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 115648 (Sub-32F), filed December 22, 1978. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82001. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ore and concentrates*, from points in Converse and Platte Counties, WY, to points in Fremont County, CO. (Hearing site: Cheyenne, WY, or Denver, CO.)

MC 116645 (Sub-27F), filed December 26, 1978. Applicant: DAVIS TRANSPORT CO., a corporation, P.O. Box 56, Gilcrest, CO 80623. Representative: Leslie R. Kehl, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquefied sugar, syrup, and sugar and syrup blends*, in bulk, (a) from points in Weld County, CO, to points in AZ, MT, ND, and SD, (b) from points in Weld County, CO (except Johnstown), to points in KS, MN, MO, NE, NM, OK, TX, UT, and WY, and (2) *sugar and syrup blends*, in bulk, from Johnstown, CO, to points in KS, MN, MO, NE, NM, OK, TX, UT, and WY. (Hearing site: Denver, CO.)

MC 117068 (Sub-106F), filed January 11, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles, aluminum articles, and iron and steel articles*, between Plymouth, MN, and the facilities of Joseph T. Ryerson & Sons, Inc., at Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 117589 (Sub-55F), filed November 28, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., P.O. Box 24507, Seattle, WA 98124. Representative: Michael D. Duppenthaler, 211 S. Washington, St., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned food products* in mixed loads with frozen fruits, frozen berries, frozen vegetables, frozen potatoes, frozen potato products, and frozen seafood, from points in WA, OR, and ID, to Denver and Pueblo, CO and Salt Lake City, UT. (Hearing site: Seattle, WA, or Denver, CO.)

MC 117686 (Sub-225F), filed November 6, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except frozen foods and commodities in bulk), from points in AZ and CA, to the facilities of Fairway Foods, Inc., at (a) Northfield, MN, and (b) Fargo, ND. (Hearing site: Minneapolis, MN, or Washington, DC.)

NOTE.—Dual operations are involved in this proceedings.

MC 117686 (Sub-226F), filed November 7, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, from Tampa, FL, to points in IA, IL, KS, MO, NE, and WI. (Hearing site: Miami, FL, or New Orleans, LA.)

NOTE.—Dual operations are involved in this proceedings.

MC 117686 (Sub-227F), filed November 8, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foods*, and (2) *materials and suppies* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, IL, KY, LA, MN, MO, MS, NC, SC, VA, and WI, restricted to the transportation of traffic originating at or destined to the above named facilities of The Pillsbury Company. (Hearing site: Minneapolis, MN, or Washington, DC.)

NOTE.—Dual operations are involved in this proceedings.

MC 117851 (Sub-27F), filed November 15, 1978. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First Street, Fort Recovery, OH 45846. Representative: Eirl N. Merwin, 85 East Gay Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *water pumps, water softeners, and filters*, and (2) *accessories and parts* for the commodities named in (1) above, from Santa Fe Springs, CA, Union City, TN, Kaufman, TX, and Deerfield and Delavan, WI, to points in the United States (except AK and HI), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, from the destination points named in (1) and (2) above, to the origin points named in (1) and (2) above, under continuing contract(s) with Sta-Rite Industries, Inc., of Delavan, WI. (Hearing site: Columbus, OH.)

MC 118142 (Sub-201F), filed December 12, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pizza, pizza ingredients, and supplies* used in the manufacture and distribution of pizza and pizza ingredients, in vehicles equipped with mechanical refrigeration, between the facilities of Tony's Pizza Service, at or near Salina, KS, on the one hand, and, on the other, points in the United States (except AK, HI, and KS), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Kansas City, MO, or Wichita, KS.)

NOTE.—Dual operations are involved in this proceeding.

MC 118202 (Sub-99F), filed December 8, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Eugene A. Schultz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meals, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at Denison, Carroll, Iowa Falls, Sioux City, Fort Dodge, and Des Moines, IA, and Crete, Omaha, and Lincoln, NE, to points in MI, IN, KY, OH, WV, VA, NY, PA, MD, DE, NJ, VT, NH, ME, MA, CT, RI, and DC. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 119399 (Sub-87F), filed November 13, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW 58th St., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry prepared feed*, (except in bulk), from the facilities of Doane Products Company, in Jasper County, MO, to points in AL, AR, GA, MS, NM, and TN. (Hearing site: Kansas City or St. Louis, MO.)

MC 119741 (Sub-122F), filed November 16, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., an Illinois Corporation, 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the facilities of Spencer Foods, Inc., at Schuyler and Fremont, NE, to points in OH and IN, restricted to the transportation of traffic originating at the above-named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 119988 (Sub-180F), filed January 2, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plumbing fixtures and plumbing supplies*, (2) *generator engines*, (3) *internal combustion engines*, and (4) *materials, equipment, and supplies* used in the manufacture and distrubution of the commodities in (1), (2), and (3) above, between the facilities of Kohler Company, in Sheboygan County, WI, on the one hand, and, on the other, points in the United States (except AK, HI, and WI). (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119991 (Sub-26F), filed November 19, 1978. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel articles* from Auburn and Buffalo, NY, Cleveland, Toledo, and Marion, OH, Kokomo, IN, Chicago, IL, Knoxville, TN, and Mt. Airy, NC, to points in IA, IL, IN, KS, KY, MI, MO, NE, OH, PA, WI, and WV. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 120427 (Sub-23F), filed November 8, 1978. Applicant: WILLIAMS

TRANSFER, INC., P.O. Box 488, Grand Island, NE 68801. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel buildings, knocked down, grain drying equipment, grain storage equipment, grain handling equipment, and iron and steel articles*, and (2) *material, equipment*, and supplies used in the manufacture of grain drying equipment, grain storage equipment, and grain handling equipment, between points in the United States (except AK and HI), on the one hand, and, on the other, points in TX. (Hearing site: Houston, TX, or Omaha, NE.)

MC 120924 (Sub-3F), filed November 6, 1978. Applicant: B & W CARTAGE CO., INC., 2932 W. 79th St., Chicago, IL 60652. Representative: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile parts*, from Grand Rapids, MI, to Chicago, IL, restricted to the transportation of traffic having a subsequent movement by rail. (Hearing site: Chicago, IL.)

MC 121664 (Sub-46F), filed November 6, 1978. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, a partnership, d/b/a HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel coils, sheet steel, steel tubing, mufflers, and tail pipes*, between Monticello, AR, and Gadsden, Birmingham, Fayette, and Monroeville, AL. (Hearing site: Birmingham, AL, or Columbus, OH.)

MC 121664 (Sub-47F), filed November 6, 1978. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, a partnership, d/b/a HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from Nashville and Jackson, TN, to points in MS, AL, FL, GA, NC, and SC. (Hearing site: Birmingham, AL.)

MC 124408 (Sub-11F), filed January 3, 1979. Applicant: THOMPSON BROS., INC., 3604 Hoveland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by (a) hardware stores, (b) drug stores, (c) discount stores, (d) department stores, and (e) supermarkets, (except commodities in bulk, in tank vehicles), from the facilities of Action Industries, Inc., at or near Cheswick, PA, to points in AR, AL, AZ, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, TN, TX, UT, WA, WI, and WY. (Hearing site: Pittsburgh, PA, or St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 124692 (Sub-260F), filed December 8, 1978. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precast concrete modular mausoleum crypt systems*, from Denver, CO, to points in NE, MT, KS, UT, SD, ND, WY, OR, WA, CA, ID, AZ, NM, OK, and TX. (Hearing site: St. Paul, MN.)

MC 124711 (Sub-71F), filed November 15, 1978. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum* and *petroleum products*, in bulk, between points in KS, on the one hand, and, on the other, points in OK, those points in TX on and north of Interstate Hwy 40, and those points in AR on and north of Interstate Hwy 40. (Hearing site: Oklahoma City, OK, or Wichita, KS.)

MC 124947 (Sub-121F), filed November 6, 1978. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating and cooling systems*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, (except commodities in bulk), from Stuttgart, AR, to points in the United States (except AK, AR, and HI). (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 125335 (Sub-47F), filed December 29, 1978. Applicant: GOOD-WAY, INC., a Maryland corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese and cheese products*, from the facilities of Borden Foods, Division of Borden, Inc., at or near Plymouth, WI, to points in AL, GA, FL, TN, NC, SC, NY, NJ, PA, VA, DE, MD, CT, MA, ME, NH, VT, RI, WV, and DC. (Hearing site: Columbus, OH, or Harrisburg, PA.)

NOTE.—Dual operations are involved in this proceeding.

MC 125335 (Sub-48F), filed December 29, 1978. Applicant: GOOD-WAY, INC., a Maryland corporation, P.O. Box 2283, York, PA 17405. Representative Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, from the facilities of Falcon Candy Co., at or near Philadelphia, PA, to points in TX. (Hearing site: Philadelphia or Harrisburg, PA.)

NOTE.—Dual operations are involved in this proceeding.

MC 125708 (Sub-157F), filed December 20, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *magnesium granules*, in containers, from Freeport, TX, to the port of entry on the International Boundary line between the United States and Canada at Sault Ste. Marie, MI; and (2) *containers*, from Sault Ste. Marie, MI, to Freeport, TX. (Hearing site: Chicago, IL.)

MC 128007 (Sub-131F), filed November 8, 1978. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison St., Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ammonium nitrate*, in bulk, from the facilities of Gulf Oil Chemicals Company, at or near Military, KS, to points in AR, CO, IA, MO, NE, OK, and TX. (Hearing site: Kansas City, MO, or Wichita, KS.)

MC 128555 (Sub-27F), filed December 29, 1978. Applicant: MEAT DISPATCH, INC., a Delaware Corporation, 2103 17th Street, East, Palmetto, FL 33561. Representative Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioners, furnaces, and space heat-*

ers, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (a) from Granada, MS, Jonesville, MI, Evansville, IN, Somerset, KY, and Garland, TX, to Orlando, FL and (b) from Orlando, FL, to Philadelphia, PA, and Kansas City, MO, under continuing contract(s) with Weatherking, Inc., of Orlando, FL. (Hearing site: Buffalo, NY.)

MC 129032 (Sub-67F), filed December 8, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative David R. Worthington, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *nutritional food supplements* (except commodities in bulk), from the facilities of Shaklee Corporation, at or near Norman, OK, to points in the United States (except AK and HI); and (2) *materials* used in the manufacture of nutritional food supplements (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of The Shaklee Corporation, at or near Norman, OK. (Hearing Site: San Francisco or Los Angeles, CA.)

MC 133655 (Sub-138F), filed December 22, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amerillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of Container Corporation of America, at or near Ft. Worth, TX, on the one hand, and, on the other, points in AR, IL, IN, KS, LA, MD, MA, MI, MS, MO, OH, OK, PA,, RI, NE, NJ, NY, and WI. (Hearing site: Chicago, IL.)

MC 133708 (Sub-37F), filed January 2, 1979. Applicant: FIKSE BROS., INC., 12647 East South St., Artesia, CA 90710. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bulk, from San Diego, CA, to points in AZ. (Hearing site: Los Angeles, CA.)

MC 134145 (Sub-71F), filed December 22, 1978. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only over irregular routes, transporting *athletic goods, batteries, purses, and alcoholic beverages*, from New York, NY, to Minneapolis, MN, under continuing contract(s) with Control Data Corporation, of Minneapolis, MN. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved.

MC 134145 (Sub-72F), filed December 28, 1978. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *computing machine paper and paper forms*, between the plant-sites of Control Data Corporation, at (a) Merced, CA, (b) Arlington, TX, (c) Lincoln, ME, and (d) Manchester, CT, under continuing contract(s) with Control Data corporation, of Minneapolis, MN. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved.

MC 134084 (Sub-6F), filed November 6, 1978. Applicant: SHROCK TRUCKING, INC., P.O. Box 428, Hubbard, OR 97032. Representative: Lawrence V. Smart, Jr., 419 Northwest 23rd Avenue, Portland, OR 77210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, (1) from Longview and Everett, WA, to Springfield, OR, and points in Marion, Clackamas, Yamhill, and Washington Counties, OR, and (2) from points in Clackamas County, OR, to points in Clark and Cowlitz Counties, WA. (Hearing site: Portland, OR.)

MC 134477 (Sub-284F), filed November 14, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX (except KS), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Paul, MN.)

MC 136318 (Sub-57F), filed November 13, 1978. Applicant: COYOTE TRUCK LINE, INC., a Delaware corporation, P.O. Box 756, Thomasville, NC 27360. Representative: David R. Parker, 717 Seventeenth Street, Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *television sets, radios, phonographs, stereo systems, recorders, players, recorded material, television stands, speaker systems, and audio equipment*, (2) *accessories, components, and parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in OR and WA, on the one hand, and, on the other, points in CA and IN, restricted in (2) and (3) above against the transportation of commodities in bulk, in tank vehicles, under continuing contract(s) in (1), (2), and (3) with RCA, of Cherry Hill, NJ. (Hearing site: Denver, CO.)

MC 136464 (Sub-41F), filed November 7, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles and textile products*, (a) from Aberdeen and Hickory, NC, and Clemson and Greenville, SC, to points in OK, NM, UT, NV, AZ, CO, WA, and OR, (b) from Aberdeen and Hickory, NC, to points in CA, and (c) between Seattle, WA, and Los Angeles, CA, under continuing contract(s) with J. P. Stevens & Co., Inc., of New York, NY. (Hearing site: Greensboro, NC.)

NOTE.—Dual operations are involved.

MC 136611 (Sub-3F), filed November 21, 1978. Applicant: RED & WHITE MARKET & TRANSFER, INC., 1214 East South St., Hastings, NE 68901. Representative: Lavern R. Holdeman, 521 South 14th St., P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from points in OH, PA, and WV, to Hastings, NE, restricted to the transportation of traffic originating at the indicated origins and destined to the named destination point. (Hearing site: Hastings or Lincoln, NE.)

MC 136786 (Sub-143F), filed November 6, 1978. Applicant: ROBCO TRANSPORTATION, INC., a Minnesota corporation, 4333 Park Ave., Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Rd., Eden Prairie, MN 55344. To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal feed*, and *feed supplements and additives*, and (2) *materials and supplies* used in the manufacture of animal feed (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Minneapolis, MN.)

MC 138824 (Sub-18F), filed November 6, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South La Salle St., Rm. 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food products*, in containers, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Ocean Spray Cranberries, Inc., (a) in Kenosha County, WI, and (b) at North Chicago, IL, on the one hand, and, on the other, points in AR, MN, KS, and those points in MO west of U.S. Hwy 65, including Springfield, MO. (Hearing site: Chicago, IL.)

MC 138826 (Sub-5F), filed November 9, 1978 Applicant: JERALD HEDRICK, d.b.a. HEDRICK & SON TRUCKING, R.R. No. 1, Warren, IN 46792. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal*, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to points in NC, TN, KY, IL, WI, MI, IN, OH, VA, WV, MD, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, and DC. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 138875 (Sub-123F), filed December 26, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laminated wooden beams*, from the facilities of Glu-Laminated Wood Systems, Inc., at or near Magna, UT, to points in AZ, CA, CO, ID, MI, NM, NV, TX, and WY. (Hearing site: Salt Lake City, UT, or Washington, DC.)

MC 140241 (Sub-35F), filed November 16, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *precut log buildings*, knocked down, between Chadron, NE, Brainerd, MN, and Malin, OR, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), from points in the United States (except AK and HI), to Chadron, NE, Brainerd, MN, and Malin, OR, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Kansas City, MO.)

MC 140447 (Sub-1F), filed November 9, 1078. Applicant: BOYCE HOWARD, d.b.a. BOYCE HOWARD TRUCKING, Highway 67, Newport, AR 72112. Representative: Thomas J. Presson, P.O. Box 71, Redfield, AR 72132. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel borings and steel turnings*, in bulk, in dump vehicles, from Batesville and Pocahontas, AR, to points in AL, KS, KY, LA, MO, MS, OK, TN, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 141124 (Sub-33F), filed November 6, 1978. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, (except commodities in bulk), from the facilities of The Mead Corporation at Lynchburg, VA, to points in MI and OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141312 (Sub-6F), filed December 11, 1978. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Kansas City, MO, and points in KS, to Lincoln, NE, under continuing contract(s) with NEBCO, Inc., of Lincoln, NE. (Hearing site: Lincoln or Omaha, NE.)

MC 141921 (Sub-33F), filed November 16, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic film* and *plastic sheeting*, and (2) *materials, equipment, and supplies* used in the distribution and sale of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), (a) from the facilities of Borden Chemical at or near North Andover, MA, to points in PA, WV, OH, IN, MI, KY, GA, WI, IL, MO, IA, MN, SD, NE, CA, KS, and CO, and (b) from the facilities of Borden Chemical at or near Griffin, GA, to points in PA, WV, MA, OH, IN, MI, KY, WI, IL, MO, IA, MN, SD, NE, CA, KS, and CO, restricted in (a) and (b) to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations (except on traffic moving in foreign commerce). (Hearing site: Concord, NH, or Boston, MA.)

NOTE.—Dual operations may be involved.

MC 143127 (Sub-19F), filed November 9, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beet sugar and cane sugar*, (except raw sugar, and commodities in bulk, in tank vehicles), from the facilities of Food Packaging, Inc., at or near Xenia, OH, to points in Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Erie, Monroe, Onondaga, and Oswego Counties, NY. (Hearing site: Philadelphia, PA, or Rochester, NY.)

MC 143254 (Sub-3F), filed November 6, 1978. Applicant: BOSTON CONTRACT CARRIER, INC., a Vermont corporation, P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson (Same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electric light bulbs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electric light bulbs, between the facilities of GTE Sylvania Incorporated, in Essex County, MA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with GTE Sylvania Incorporated, of Danvers, MA. (Hearing site: Boston, MA, or Washington, DC.)

MC 143331 (Sub-4F), filed November 17, 1978. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton Blvd., P.O. Box 817, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic bottle car-*

riers, and *can carriers*, from Fullerton, CA, to Portland, OR, and points in CO and WA under a continuing contract(s) with Hi-Cone Division, Illinois Tool Works, Inc., of Fullerton, CA. (Hearing site: Los Angeles, CA.)

MC 143530 (Sub-1F), filed October 18, 1978. Applicant: WOLF'S TOWING, INC., Routes 80 and 51, Peru, IL 61354. Representative: John S. Duncan, P.O. Box 515, La Salle, IL 61301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wrecked and disabled motor vehicles*, and (2) *replacement vehicles for the commodities named in (1)*, between Peru, Cedar Point, and Dixon, IL, on the one hand, and, on the other, points in IN, IA, MN, MO, and WI. (Hearing site: Springfield or Rockford, IL.)

MC 143607 (Sub-3F), filed November 7, 1978. Applicant: BAYWOOD TRANSPORT, INC., a Delaware Corporation, P.O. Box 8155, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, (except commodities in bulk), from points in the United States (except AK and HI), to Arlington, San Antonio, and Houston, TX, under continuing contract(s) with Accron Chemical Distr., of Arlington, TX. (Hearing site: Houston or Dallas, TX.)

MC 143607 (Sub-4F), filed November 7, 1978. Applicant: BAYWOOD TRANSPORT, INC., a Delaware Corporation, P. O. Box 8155, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *textiles and textile products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in the United States (except AK and HI), to Del Rio, Eagle Pass, and Carrizo Springs, TX, under continuing contract(s) with Salant Corporation, of El Paso, TX. (Hearing site: El Paso or Dallas, TX.)

MC 143691 (Sub-14F), filed November 13, 1978. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (Same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commercial papers, documents, written instruments, business records, accounting media, data processing media, microfilm, microfiche*, and *microforms*, between Kansas City, MO, on the one hand, and, on the other, points in KS, under continuing contract(s) with banks, banking institutions, and data processing centers. (Hearing site: Kansas City, MO.)

MC 144041 (Sub-27F), filed November 13, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, NE, Atlanta, GA 30345. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical equipment and electrical parts*, from West Hazleton, PA, to the facilities of Sarama Lighting, at or near College Park, GA. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be involved.

MC 144448 (Sub-4F), filed January 2, 1979. Applicant: HERMAN STEFFENSMEIER, d/b/a HERMAN STEFFENSMEIER TRUCKING, 311 E. Decatur Street, West Point, NE 68788. Representative: Steven K. Kuhlman, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal* (except in bulk, in tank vehicles), from the facilities of Grain States Soya, Inc., at or near West Point, NE, to points in KS and MO. (Hearing site: Lincoln, NE.)

MC 144678 (Sub-2F), filed December 26, 1978. Applicant: AMERICAN FREIGHT SYSTEM, INC., a Delaware corporation, 9393 W. 110th Street, Fifth Floor, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Spartan Packaging, Inc., at or near Lawrenceville, GA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 144702 (Sub-1F), filed November 8, 1978. Applicant: ASHEVILLE-NEW YORK MOTOR EXPRESS, INC., Box 9907, Asheville, NC 28805. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *textiles and textile products*, and (2) *materials and supplies* used in the manufacture and sale of the commodities in (1) above, between New York, NY, on the one hand, and, on the other, points in NC. (Hearing site: Asheville, NC.)

MC 144747 (Sub-3F), filed November 6, 1978. Applicant: INTERSTATE EQUIPMENT CO., INC., 22821 N. 81st Avenue, Peoria, AZ 85345. Representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *(I) materials, equipment, and supplies* used in the manufacture of wooden flush doors (except commodities in bulk), (1) from points in the United States (except AK and HI), to the facilities of Walled Lake Door Company, at (a) Tupelo, MS, (b) Cameron, TX, (c) Mobile, AL, and (d) Orange, CA, and (2) between the facilities of Walled Lake Door Company, at (a) Tupelo, MS, (b) Cameron, TX, (c) Mobile, AL, and (d) Orange, CA, and *(II) wooden flush doors and parts* for wooden flush doors, (a) from the facilities of Walled Lake Door Company, at Tupelo, MS, to points in AL, FL, GA, IA, IL, IN, MI, MN, NC, OH, SC, and WI, (b) from the facilities of Walled Lake Door Company at Orange, CA, to points in AZ, CO, NM, NV, OR, UT, and WA, (c) from the facilities of Walled Lake Door Company at Cameron, TX, to points in AR, CO, IA, IL, KS, MN, MO, NE, ND, OK, and SD, and (d) from the facilities of Walled Lake Door Company at Mobile, AL, to points in CO, FL, GA, ID, IL, IN, KS, LA, MN, NE, ND, OH, OK, PA, SD, TX, and WI, in (1) and (2) above under continuing contract(s) with Walled Lake Door Co., of Phoenix, AZ. (Hearing site: Phoenix, AZ.)

MC 144827 (Sub-14F), filed November 7, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY, to Dallas, Houston, and San Antonio, TX, restricted to the transportation of traffic moving on bills of lading of freight forwarders. (Hearing site: Dallas, TX.).

MC 144827 (Sub-15F), filed November 13, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Far-

risview, Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY, to Memphis, TN, restricted to the transportation of traffic moving on bills of lading of freight forwarders. (Hearing site: Memphis, TN.)

MC 145086 (Sub-2F), filed November 2, 1978. Applicant: C. HENDERSON TRUCKING, INC., 8 Ruth St., East Brunswick, NJ 08816. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08817. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wallpaper pulp coloring, dry paint, paste paint, and carbon black*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Wilson Products Company, at Neshanic, NJ, on the one hand, and, on the other, points in CT, DE, GA, IL, IN, LA, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, TX, VT, VA, and WV, under continuing contracts with Wilson Products Company, of Neshanic, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 145185 (Sub-1F), filed January 2, 1979. Applicant: DONALD L. DOYEN, d/b/a Doyen & Sons, 509 No. Smith, Clark, SD 57225. Representative: M. Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *french fried potatoes*, from Clark, SD, to Watertown and Sioux Falls, SD, restricted to the transportation of traffic having a subsequent movement by rail, under continuing contract(s) with Midwest Foods Corporation, of Clark, SD. (Hearing site: Sioux Falls, SD, or Sioux City, IA.)

MC 145375 (Sub-1F), filed December 29, 1978. Applicant: H. D. EDGAR TRUCKING COMPANY, INC., Route 1, Box 48, Opp, AL 36467. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wheels, toys, juvenile furniture, and outdoor playground equipment*, from Dothan, AL, to points in CA, WA, OR, NV, UT, ID, MT, CO, NM, WY, and AZ. (Hearing site: Birmingham, AL.)

MC 145441 (Sub-4F), filed November 17, 1978. Applicant: A. C. B. TRUCKING, INC., An Indiana Corporation, I-40 & Protho Junction, P.O. Box 5130, North Little Rock, AR 72119. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AL, AZ, CA, CT, DE, FL, GA, ID, IL, IN, KY, LA, ME, MD, MA, MI, MS, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Dallas, TX.)

NOTE.—Dual operations may be involved.

MC 145468 (Sub-1F), filed January 2, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Sioux City, IA, Worthington, MN, and Huron, SD, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN. (Hearing site: Phoenix, AZ, or Omaha, NE.)

NOTE.—Dual operations may be involved.

MC 145468 (Sub-2F), filed December 26, 1978. Applicant: K.S.S. TRANSPORTATION CORP., P.O. Box 3052, Route 1 and Adams Station, North Brunswick, NJ 08902. Representative: Bernard J. Kompare, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Des Moines, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be involved.

MC 145565 (Sub-2F), filed January 3, 1979. Applicant: C. D. BRESHEARS, d.b.a. J & B SERVICES, 1307 So. Lincoln, Casper, WY 82601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *equipment and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, (except oil drilling rigs), between points in WY, ND, UT, CO, MT, and ID. (Hearing site: Casper or Cheyenne, WY.)

MC 145595 (Sub-2F), filed January 10, 1979. Applicant: WARREN G. GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 W. Swan, Springfield, MO 65807. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), (1) from Kansas City, MO, to points in AZ, AR, LA, NM, OK, and TX, and (2) from Bonner Springs, KS, to points in AZ, AR, LA, NM, MO, OK, and TX. (Hearing site: Kansas City, MO.)

MC 145694F, filed November 2, 1978. Applicant: C & P CONTRACT CARRIERS, INC., 10670 Los Jardines, Fountain Valley, CA 92708. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting *agricultural chemicals* (except in bulk), between points in CA, NV, AZ, NM, KS, OK, TX, AL, MO, AR, LA, TN, MS, FL, GA, NC, SC, VA, WV, MD, DE, NJ, NY, PA, and DC, under continuing contract(s) with Helena Chemical Company, of Memphis, TN. (Hearing site: Memphis, TN, or Los Angeles, CA.)

MC 145700F, filed November 2, 1978. Applicant: TIGATOR, INC., d.b.a. TIGATOR TRUCKING SERVICE, 8686 Anselmo Lane, P.O. Box 1748, Baton Rouge, LA 70821. Representative: J. H. Campbell, Jr. (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *beef*, in boxes, from Amerillo, TX, to Baton Rouge, LA; and (2) *frozen orange juice concentrate*, from points in FL, to Baton Rouge, LA, under continuing contract(s) with Associated Grocers, Inc., of Baton Rouge, LA. (Hearing site: New Orleans, LA, or Dallas, TX.)

MC 145711 (Sub-1F), filed November 16, 1978. Applicant: KEYSTONE TRANSPORTATION, INC., 3400 Oakcliff Rd. Atlanta, GA 30340. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd, NE, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *inorganic mineral fillers*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of inorganic mineral fillers, between the facilities of Solem Industries, Inc., at or near (a) Benton, AR, and (b) Fairmount, GA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Solem Industries, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 145766F, filed November 9, 1978. Applicant: OREN TRANSPORT, INC., P.O. Box 2446, Muncie, IN 47302. Representative: Edward W. Harris, III, 1100 Merchants Bank Building, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (*1*) *insulating materials, and* (*2*) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of insulating materials, between the facilities of Oren Corporation, at (a) Muncie, IN. (b) Atlanta, GA, and (c) Binghamton, NY, on the one hand, and, on the other, points in CO, and those in the United States in and east of MN, IA. MO, KS, OK, and TX, under continuing contract(s) with Oren Corporation, of Muncie, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145774F, filed November 7, 1978. Applicant: Arthur E. Johnston and Michael A. Johnston, a partnership, d.b.a. JOHNSTON TRUCKING, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such *commodities* as are dealt in or used by dealers and servicers of water wells, between points in CO, MT, NE, ND, SD, UT, and WY, on the one hand, and, on the other, points in CO, CA, ID, IL, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, UT, WI, and WY, under continuing contract(s) with Great West Pump Co., of Upton, WY. (Hearing site: Spearfish, SD, or Upton, WY.)

NOTE.—Dual operations may be involved.

MC 145835 (Sub-1F), filed December 26, 1978. Applicant: TODAY CARTAGE, INC., Rt. 2, Box 49B, Plano, IL 60545. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 145922F, filed December 12, 1978. Applicant: WRIGHT TRUCKING, INC., Rt. 1, Box 116, Coalville, UT 84017. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *acids and chemicals*, and *equipment, materials, and supplies* used in the manufacture and distribution of acids and chemicals (except commodities in bulk), between points in CA, NV, UT, ID, and WY, under continuing contracts with Chemopharm Company and Dychem International, or Salt Lake City, UT. (Hearing site: Salt Lake City, UT.)

MC 145955F, filed December 21, 1978. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Drive, Omaha, NE 68107. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *packing-house products, and equipment, materials, and supplies*, used in the manufacture and distribution of packing-house products, between Chicago, IL, on the one hand, and, on the other, Sioux City, IA, and Omaha, NE, and (2) *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except chemicals, chemical compounds, emulsifiers, fatty acids, greases, glycerine, hides, pelts, lard, lard compounds, lard substitutes, oils, tallow, vegetable oils, and vegetable oil shortenings), (a) from the facilities of E. W. Kneip, Inc., at or near Wahoo, NE, to Aurora and Chicago, IL, and (b) from the facilities of E. W. Kneip, Inc., at Omaha, NE, to Aurora, IL. CONDITION: Prior or coincidental cancellation, at applicant's written request, of its Permit in MC-59694, issued October 9, 1964, and MC-59694 (Sub-No. 7), issued December 10, 1970. (Hearing site: Omaha, NE.)

MC 145958 (Sub-1F), filed January 2, 1979. Applicant: STELLA AND WRIGHT, INC., d.b.a. M & M WAREHOUSE, 1655 W. 31st Place, Hialeah, FL 33010. Representative: Richard B. Austin, Suite 214, Palm Coast II Bldg., 5255 N.W. 87th Avenue, Miami, FL 33178. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new crated furniture and new crated household fixtures*, and (2) *new uncrated furniture and new uncrated household fixtures*, when moving in mixed shipments with the commodities in (1) above, between the facilities of M & M Warehouse, at or near Miami, FL, on the one hand, and, on the other, points in Dade, Broward, and Palm Beach Counties, FL. (Hearing site: Miami, FL.)

MC 145995F, filed January 4, 1979. Applicant: FRANK KEELER, 4717 164th SW., Lynnwood, WA 98036. Representative: Frank Keeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products* in containers, between points in CA, OR, and WA. (Hearing site: Seattle, WA.)

PASSENGER AUTHORITY

MC 146028F, filed December 18, 1978. Applicant: LEWIS BUS LINE LIMITED, 99 Beech Street, Aylmer, Ontario, Canada N5H 1A2. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, in round-trip tours, beginning and ending at points on the international boundary line between the United States and Canada, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Buffalo, NY.)

FF 514F, filed November 8, 1978. Applicant: Southern Pacific Marine Transport, Inc., a Delaware corporation, One California Street, Suite 2760, San Francisco, CA 94111. Representative: John MacDonald Smith, 813 Southern Building, One Market Plaza, San Francisco, CA 94105. To operate as a *freight forwarder*, in foreign commerce only, through the use of the facilities of common carriers by rail, motor, and water, in the transportation of *general commodities* (except articles of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in the United States (including AK, but excluding HI), on the one hand, and, on the other, points in WA, OR, CA, TX, LA, AL, FL, SC, NC, VA, DE, NJ, PA, NY, and MA, restricted to the transportation of traffic having a

prior or subsequent movement by water in foreign commerce. (Hearing site: San Francisco, CA.)

[FR Doc. 79-4190 Filed 2-7-79; 8:45 am]

[7035-01-M]

[Exemption No. 156]

PROVIDENCE AND WORCESTER CO.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

TO ALL RAILROADS:

It appearing, That the railroad named below owns numerous sixty-foot plain boxcars; that under present conditions there are substantial surpluses of these cars on its lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, sixty-foot plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroad named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

PROVIDENCE AND WORCESTER COMPANY
REPORTING MARKS: PW

Effective February 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 26, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-4375 Filed 2-7-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

1

[M-193, Amdt. 1; Feb. 2, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the February 7, 1979, meeting agenda.

TIME AND DATE: 10 a.m., February 7, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

5a. Docket 33113: Draft final rules on advance notice for tariffs, and deadlines for complaints and answers regarding tariff suspension (OGC).

5a. Notices of rulemaking on intrastate fares and routes and Mainland-Hawaii fares. (Memo 7847-K, 7847-L, BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMTARY INFORMATION: Items 5a and 5b are being added because existing Board rules conflict with the Airlines Deregulation Act of 1978. The subject rulemaking is necessary to end that conflict and should go into effect as soon as possible. Accordingly, the following Members have voted that agency business requires the addition of Items 5a and 5b to the February 7, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-268-79 Filed 2-6-79; 3:52 pm]

[6335-01-M]

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Wednesday, February 7, 1979.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Meeting is cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Loretta Ward, 202-254-6697.

[S-263-79 Filed 2-6-79; 3:03 pm]

[6335-01-M]

3

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, February 12, 1979, 9 a.m. to 12 noon; 1:30 p.m. to 5 p.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 9 a.m. to 12 noon:

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's Report:
A. Status of Funds.
B. Personnel Report.
C. Office Directors' Reports.
D. Correspondence:
1. Letter from Labor Secretary Marshall on employment data for women, Indians and other minorities.
2. Letter from OMB Deputy John P. White on Housing Report recommendations.
3. Letter to Maryland Advisory Committee Chairperson Marjorie Smith on Commission equal employment profile.
4. Miscellaneous correspondence.
IV. Report on civil rights developments in Northwest Region.
V. State Advisory Committee Recharters: A. Hawaii; B. Illinois; C. Louisiana; D. Maryland; E. Montana; F. North Carolina; G. Oregon; H. Virginia.
VI. Status report on affirmative action initiative for 1979.
VII. Recommendation re: Battered Women Consultation follow-up.

MATTERS TO BE CONSIDERED: 1:30 p.m. to 5 p.m.:

VIII. Action re: report on Higher Education Desegregation.
IX. Philadelphia Police Practices hearing status report.
X. Wyoming Advisory Committee report on emergency of civil rights.
XI. Montana Advisory Committee report on corrections.
XII. Review of Statement on Status of Civil Rights.

CONTACT PERSON FOR MORE INFORMATION:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-264-79 Filed 2-6-79; 3:03 pm]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., February 13, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Publication of Futures Prices by the Exchanges Part 16.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-265-79 Filed 2-6-79; 3:48 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., February 13, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-266-79 Filed 2-6-79; 3:48 pm]

[6351-01-M]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., February 16, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stucky, 254-6314.

[S-267-79 Filed 2-6-79; 3:48 pm]

[6570-06-M]

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-239-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, February 6, 1979.

CHANGE IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting:

Final Report pursuant to Executive Order 12044.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued February 2, 1979.

[S-259-79 Filed 2-6-79; 3:19 p.m.]

[6740-02-M]

8

FEBRUARY 5, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: February 7, 1979; 4 p.m.

PLACE: Room 9306, 825 North Capitol St., N.E., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Matters relating to an investigation. This meeting is a continuation of a closed meeting held on February 2, 1979 and, therefore, the General Counsel's certification and the notice of explanation of action closing meeting relating to the February 2 meeting apply to the February 7 meeting.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

The following members of the Commission voted that agency business requires the holding of a closed meeting on less than the one week's notice required by the Government in the Sunshine Act:

Chairman Curtis
Commissioner Smith
Commissioner Sheldon
Commissioner Holden
Commissioner Hall

[S-256-79 Filed 2-6-79; 11:14 am]

[6730-01-M]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 13, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Delegation of authority to the Managing Director to administer special permission applications under the Ocean Shipping Act, 1978.
2. Status Report on General Order 7, Revised.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-260-79 Filed 2-6-79; 1:59 pm]

[6730-01-M]

10

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 14, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
2. General rate increase by Matson Navigation Company in the United States-Hawaii trades.
3. Docket No. 76-10: *Joy Manufacturing Co.* v. *Lykes Bros. Steamship Co., Inc.*—Petition of Complainant for reconsideration of Commission decision.

Portions closed to the public:

1. Agreement Nos. 9929-3, et al. (Combi Lines Joint Service Agreement)—Decision on Remand of Interim Approval Order.
2. Docket No. 74-8: *European Trade Specialists, Inc. and Kunzle & Tasin* v. *Prudential-Grace Lines, Inc., and the Hippage Co., Inc.*—Consideration of the record on remand.
3. Docket No. 74-41: Agreement Nos. 8200, 8200-1, 8200-2, and 8200-3—Between the Pacific Westbound Conference and Far East Conference—Consideration of the record.
4. Discussion of Commission procedures regarding settlement of civil penalties.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-261-79 Filed 2-6-79; 1:59 pm]

[6735-01-M]

11

FEBRUARY 6, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2:30 p.m., February 8, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: This meeting may be closed.

MATTERS TO BE CONSIDERED:

Secretary of Labor v. *Republic Steel Corporation*, Docket Nos. IBMA 76-28, MORG 76-21.

Secretary of Labor v. *Republic Steel Corporation*, Docket Nos., IBMA 77-39, MORG 76X95-P.

Secretary of Labor v. *Kaiser Steel Corporation*, Docket No. DENV 77-13-P.

It was determined by unanimous vote of all Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-257-79 Filed 2-6-79; 11:28 am]

[6210-01-M]

12

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 6838, February 2, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, February 7, 1979.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such open item was added:

Alternative actions with respect to the Board's amendment to Regulation Z (Truth in Lending) regarding open end credit plans secured by consumers' residences. (This matter was originally announced for a meeting on February 1, 1979).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: February 5, 1979.

GRIFFITH GARWOOD,
Deputy Secretary of the Board.

[S-255-79 Filed 2-6-79; 11:14 am]

[7555-01-M]

13

NATIONAL SCIENCE BOARD.

DATE AND TIME: February 15, 1979, 9-10 a.m., open session. February 16, 1979, 9 a.m., closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Change in agenda.

MATTERS TO BE CONSIDERED:

Change to portions closed to public.

Changed Item: B. NSB and NSF Assistant Director Nominees.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-258-79 Filed 2-11-79; 1:08 pm]

[7910-01-M]

14

RENEGOTIATION BOARD.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

DATE, TIME, AND MATTERS TO BE CONSIDERED: Division Meetings concerning the following contractors for the fiscal years indicated will be held as follows:

1. Monday, February 12, 1979, 1:30 p.m., Temtex Industries, Inc., consolidated with: Temco, Inc., fiscal year ended August 31, 1972.

2. Tuesday, February 13, 1979, 9:30 a.m., Lankford Manufacturing Company, Inc., fiscal years ended December 31, 1974 and 1975.

3. Thursday, February 15, 1979, 9:30 a.m., Teledyne Industries, Inc., SII to the Ryan Aeronautical Co., fiscal years ended October 31, 1967 and 1968; fiscal years ended December 31, 1967 and 1968.

4. Wednesday, February 21, 1979, 9:30 a.m., A. J. Industries, Inc., consolidated with: Sargent-Fletcher Company, Fleetwood Metals, Inc., Armstrong Products Company, and Transpro, Inc., fiscal years ended March 31, 1973, 1974, and 1975.

5. Thursday, March 1, 1979, 9:30 a.m., Dow Corning Corporation, fiscal years ended December 31, 1970, 1971, 1972, and 1973.

6. Friday, March 2, 1979, 9:30 a.m., Rex Precision Products, Inc., fiscal year ended November 30, 1974.

7. Monday, March 5, 1979, 9:30 a.m., University Computing Company, SII to Computer Technology, Inc., fiscal years ended December 31, 1970 and 1971.

8. Monday, March 12, 1979, 9:30 a.m., Chrysler Corporation, consolidated with: Chrysler Outboard Corporation, and Chrysler Motors Corporation, fiscal year ended December 31, 1971.

9. Wednesday, March 14, 1979, 9:30 a.m., A. J. Industries, Inc., consolidated with: Sargent-Fletcher Company, Fleetwood Metals, Inc., Armstrong Products Company, and Transpro, Inc., fiscal years ended March 31, 1973, 1974, and 1975.

10. Thursday, March 15, 1979, 9:30 a.m., the Dow Chemical Company, fiscal years ended December 31, 1972, 1973, 1974, and 1975.

11. Monday, March 19, 1979, 9:30 a.m., Cutler-Hammer, Inc., consolidated with: Yig-Tek Corporation, I. I. Industries, Inc., Kasper Instruments, Inc., Eltek Corporation, and Automated Equipment Corporation, fiscal years ended December 31, 1972, 1973, 1974, and 1975.

12. Wednesday, March 21, 1979, 9:30 a.m., National Steel & Shipbuilding Company, fiscal years ended December 31, 1973 and 1974.

13. Friday, March 23, 1979, 9:30 a.m., Motorola, Inc. (a Delaware corporation), SII to Motorola, Inc. (an Illinois corporation), fiscal years ended December 31, 1971, 1972 and 1973.

14. Monday, March 26, 1979, 9:30 a.m., University Computing Company, SII to Computer Technology, Inc., fiscal years ended December 31, 1970 and 1971.

15. Wednesday, March 28, 1979, 9:30 a.m., the Scott & Fetzer Company, fiscal year ended November 30, 1975.

16. Monday, April 2, 1979, 9:30 a.m., Chrysler Corporation, consolidated with: Chrysler Outboard Corporation, Chrysler Motors Corporation, fiscal year ended December 31, 1971.

17. Thursday, April 5, 1979, 9:30 a.m., the Dow Chemical Company, fiscal years ended December 31, 1972, 1973, 1974, and 1975.

18. Friday, April 6, 1979, 9:30 a.m., Sanders Associates, Inc., fiscal years ended July 25, 1975 and 1976.

19. Monday, April 9, 1979, 9:30 a.m., Texas Instruments Incorporated, fiscal years ended December 31, 1973 and 1974; Texas Instruments Supply Company, fiscal years ended December 31, 1973 and 1974.

20. Tuesday, April 10, 1979, 1:30 p.m., Cutler-Hammer, Inc., consolidated with: Yig Tek Corporation, I. I. Industries, Inc., Kasper Instruments, Inc., Eltek Corporation, and Automated Equipment Corporation, fiscal years ended December 31, 1972, 1973, 1974 and 1975.

21. Wednesday, April 11, 1979, 9:30 a.m., National Steel & Shipbuilding Company, fiscal years ended December 31, 1973 and 1974.

22. Wednesday, April 18, 1979, 9:30 a.m., Motorola, Inc. (a Delaware corporation), SII to Motorola, Inc. (an Illinois corporation), fiscal years ended December 31, 1971, 1972 and 1973.

23. Thursday, April 19, 1979, 9:30 a.m., the Scott & Fetzer Company, fiscal year ended November 30, 1975.

24. Friday, April 27, 1979; 9:30 a.m., Sanders Associates, Inc., fiscal years ended July 25, 1975 and 1976.

25. Monday, April 30, 1979, 9:30 a.m., Texas Instruments Incorporated, fiscal years ended December 31, 1973 and 1974; Texas Instruments Supply Company, fiscal years ended December 31, 1973 and 1974.

26. Wednesday, May 2, 1979, 9:30 a.m., National Presto Industries, Inc., consolidated with: World Aerospace Corporation, Midwestern Company, SII: National Presto Industries, Inc., Jackson Sales & Storage Company, Century Metaleraft Corporation, Presto Manufacturing Company, Master Corporation of Texas, Johnson Printing, Inc., Presto Parts & Service Corporation, Presto Parts & Service, Inc., Presto Parts & Service Company, Presto Parts & Service Corp., National Presto Industries Export Corporation, and Presto International Limited, fiscal years ended December 31, 1973, 1974 and 1975.

27. Thursday, May 3, 1979, 9:30 a.m., Marion Corporation, fiscal years ended January 31, 1975 and 1976; Marion Corporation, SII to: Alabama Refining Company, Inc., fiscal year ended January 31, 1974.

28. Friday, May 4, 1979, 9:30 a.m., AMF Incorporated (Agent), consolidated with: AMF Beaird, Inc., the Cuno Engineering Corporation, and W. J. Voit Rubber Corporation, fiscal years ended December 31, 1969 and 1970.

29. Monday, May 7, 1979, 9:30 a.m., Burroughs Corporation, fiscal years ended December 31, 1971, 1972, 1973, 1974, and 1975.

30. Thursday, May 10, 1979, 9:30 a.m. International Business Machines Corporation, consolidated with: The Service Bureau Corporation, Science Research Associates, Inc., fiscal years ended December 31, 1971, 1972, 1973, 1974, and 1975.

31. Friday, May 18, 1979, 9:30 a.m., AMF Incorporated (Agent), consolidated with: AMF Beaird, Inc., the Cuno Engineering Corporation, and W. J. Voit Rubber Corporation, fiscal years ended December 31, 1969 and 1970.

32. Wednesday, May 23, 1979, 9:30 a.m., National Presto Industries, Inc., consolidated with: World Aerospace Corporation, Midwestern Company, SII: National Presto Industries, Inc., Jackson Sales & Storage Company, Century Metaleraft Corporation,

Presto Manufacturing Company, Master Corporation of Texas, Johnson Printing, Inc., Presto Parts & Service Corporation, Presto Parts & Service, Inc., Presto Parts & Service Company, Presto Parts & Service Corp., National Presto Industries Export Corporation, and Presto International Limited, fiscal years ended December 31, 1973, 1974 and 1975.

33. Thursday, May 24, 1979, 9:30 a.m., Marion Corporation, fiscal years ended January 31, 1975 and 1976; Marion Corporation, SII to: Alabama Refining Company, Inc., fiscal year ended January 31, 1974.

34. Thursday, May 31, 1979, 9:30 a.m., Burroughs Corporation, fiscal years ended December 31, 1971, 1972, 1973, 1974, and 1975.

35. Friday, June 1, 1979, 9:30 a.m. International Business Machines Corporation, consolidated with: The Service Bureau Corporation, Science Research Associates, Inc., fiscal years ended December 31, 1971, 1972, 1973, 1974, and 1975.

SUPPLEMENTAL INFORMATION: Present appropriations for the functions of the Renegotiation Board are available only through March 31, 1979. A request for additional funds for the continuation of the Board's operation through fiscal year 1979 is included in the *Appendix of the Budget of the United States Government, 1980,* however. In establishing the dates of the meetings described in items 16 through 35 above, inclusive, the Board is acting in furtherance of this Budget request.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Council-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: February 5, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-262-79 Filed 2-6-79 2:52 pm]