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PART I

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rules and regulations

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18110; FCC 75-104]

PART 73—RADIO BROADCAST SERVICES

MULTIPLE OWNERSHIP OF STANDARD, FM AND TELEVISION BROADCAST STATIONS; SECOND REPORT AND ORDER[1]

In the matter of amendment of §§ 73.34, 73.240 and 73.636 of the Commission's rules.

1. The Commission has before it the further notice of proposed Rulemaking in this proceeding (22 F.C.C. 2d 339 (1970)) and responsive filings by numerous parties. Also under consideration are updated written filings and additional information presented during two and a half days of oral argument, pursuant to an invitation of the Commission given March 7, 1974 (45 F.C.C. 2d 768). A list of filing parties appears in Appendix A.

2. The proceeding began March 27, 1968, with the adoption of a *Notice of Proposed Rule Making* (33 Fed. Reg. 5315). Broadly speaking, the notice proposed rules proscribing common ownership of broadcast stations in different broadcast services in the same market (i.e., no common ownership of TV–AM, or TV–FM, or AM–FM).[1a] The proposed rules were prospective in nature, i.e., they did not contemplate divestiture of existing facilities but were to apply only to applications to construct new facilities or to acquire existing facilities.

3. A *First Report and Order* was adopted on March 25, 1970 (22 F.C.C. 2d 306). The rules promulgated therein were modified somewhat in a *Memorandum Opinion and Order* adopted February 26, 1971 (28 F.C.C. 2d 662), which disposed of petitions for reconsideration of the *First Report and Order*. These new rules prohibited common ownership of VHF television stations and aural stations in the same market. They permitted AM–FM combinations and they provided that all applications involving common ownership of UHF and aural stations would be treated on a case-by-case basis. They did not require divestiture, but did require that if the owner of a VHF station and one or two aural stations in the same market sold, he could not sell the TV and the aural stations to the same party. They did not cover common ownership of newspaper and broadcast stations.[2]

4. On the same date that the *First Report and Order* was adopted, the Commission also adopted a *Further Notice of Proposed Rule Making* (22 F.C.C. 2d 339) which contained a proposal as to common ownership of broadcast stations and of daily newspapers and broadcast stations in the same market. The proposal would require divestiture, within five years, to reduce one party's holdings in any market to one or more daily newspapers, or one television broadcast station, or one AM–FM combination. Under the proposal, if a broadcast station licensee were to purchase one or more daily newspapers in the same market, it would be required to dispose of any broadcast stations that it owned in that market within one year or by the time of its next renewal date, whichever is longer. No grants for broadcast station licenses would be made to owners of one or more daily newspapers in the same market. Comments were also invited on whether divestiture should be required with regard to AM–FM combinations so that no party could own such a combination unless he had made a showing that the two stations were for economic or technical reasons so interdependent that one could not be sold without the other.[3]

5. Although not unprecedented, the idea of divestiture of ownership was a departure from the typical Commission approach of limiting any new rules to prospective effect. As a consequence of the incorporation of this facet of the proposal, the question of the impact on industry structure was introduced. Moreover, because of the differences between prospective and retrospective proposals, each needs to be examined separately and tested against appropriate criteria.

6. *Response to the Proposal.* As could be expected, our proposal generated a great deal of interest and provoked a sizable number of filings. Most were directed to the question of newspaper-broadcast ownership, with most parties opposing rule changes but a number supporting them. Some approached the issues from the point of view of anti-trust economic analysis; others stressed the diversity of viewpoint aspect. In addition, some parties discussed AM–FM combinations or television-radio combination divestiture.

7. Factual differences between situations also affected the nature of the views expressed in a filing. Thus, for example, as to newspapers, at one end of the continuum was the daily newspaper-television combination which faced multiple competitors of both media, and at the other end was the joint holding of the only TV station and daily newspaper in a market. Whether in terms of economics

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[1] A synopsis of the actions taken can be found in Appendix G.

[1a] Before the proceeding was initiated, the rules governing common ownership of broadcast stations in the same market prohibited such ownership in the *same* broadcast service if certain coverage contours overlapped. They permitted common ownership of stations in *different* broadcast services in the same market. Hence a single licensee was permitted to own an AM–FM–TV combination licensed to serve the same community. moreover, the rules contained no prohibition of common ownership of newspapers and broadcast stations in the same market. However, as a matter of policy expressed in the Commission's multiple ownership rules and elsewhere, the Commission did examine concentrations of ownership in the same geographic area on an *ad hoc* basis in both comparative and non-comparative situations. These examinations gave consideration to broadcast and non-broadcast interests, such as newspapers.

[2] Under these rules, a TV station and an AM station were considered to be in the same market if the Grade A contour of the TV station encompassed the entire community of license of the AM station or if the 2 mV/m contour of the AM station encompassed the entire community of license of the TV station. With regard to TV and FM stations, the Grade A contour was used for TV and the 1 mV/m contour was used for FM. As to AM–FM combinations, they were considered to be in the same market if the 1 mV/m contour of the FM station encompassed the entire community of license of the AM station or if the 2 mV/m contour of the AM station encompassed the entire community of license of the FM station. With certain exceptions, the *First Report and Order* proscribed the formation of new AM–FM combinations in the same market and prohibited the sale of such an existing AM–FM combination to a single party unless a special showing were made that for technical or economic reasons the stations had to be operated in combination. The aforementioned *Memorandum Opinion and Order* (at 670–672) reversed the prohibitions against forming AM–FM combinations or selling existing combinations to a single party. In so doing it indicated that the subject of common ownership of AM and FM stations in the same market would be explored in the phase of the proceeding commenced by the *Further Notice of Proposed Rule Making*. It also indicated that, as an effective alternative to diversification of ownership, the Commission intended to explore the possibility of amending the AM–FM program duplication rule (§ 73.242) in such a way as to provide more non-duplicated programming over commonly owned AM and FM stations in the same area. A proceeding has since been begun to explore this possibility (*Notice of Proposed Rule Making*, Docket No. 20016, 39 Fed. Reg. 14228 (1974)).

or viewpoint diversity, parties differed on the weight to be given other media (for example news magazines) received in the market but originating elsewhere. So too with the weight to assign other local media such as weekly newspapers and outdoor advertising or direct mail. Although important factual differences were noted, a parallel method of evaluating the situations regarding daily newspaper-radio combinations could be found in the pleadings.

8. *Legal authority.* The *Further Notice* (at para. 48) invited comments or legal briefs on the Commission's authority to adopt the proposed rules. Several parties responded to this invitation concisely or at length. We have concluded that we have authority to adopt the rules both as proposed and as promulgated by the present document. A discussion of this subject follows.

9. The Commission has authority to adopt rules governing the issuance of broadcast licenses which would prohibit cross-ownership of newspapers and broadcast stations in the same area in furtherance of our long standing policy of promoting diversification of ownership of the electronic mass communications media. Statutory authority is found in Sections 2(a), 4(i), 4(j), 301, 303, and 309(a) of the Communications Act of 1934, as amended. Section 309(a) specifically requires the Commission to find that the granting of a license serves the public interest, convenience, and necessity. The term public interest encompasses many factors including "the widest possible dissemination of information from diverse and antagonistic sources." *Associated Press* v. *United States*, 326 U.S. 1, 20 (1945).

10. Our diversification policy is derived from both First Amendment and anti-trust policy sources. See, e.g., *Associated Press* v. *United States*, 326 U.S. 1 (1945), *supra*, affirming 52 F. Supp. 362 (S.D.N.Y. 1943) (L. Hand, J.); *Citizens Committee to Save WEFM* v. *FCC*, ____ F. 2d ____, (D.C. Cir., Oct. 4, 1974), (concurring opinion of Bazelon, C.J. at 6). The Federal Courts have consistently upheld our use of these grounds in efforts to promote diversity of control over the electronic media of mass communications. In its earliest opinions construing the Communications Act, the Supreme Court recognized that regulation of broadcasting was designed to preserve competition and prevent monopoly. *F.C.C.* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 137 (1940); *F.C.C.* v. *Sanders Bros. Radio Station*, 309 U.S. 470, 474–76 (1940). The Supreme Court said in *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390: "It is the purpose of the First Amendment to preserve an uninhibited market place of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee". The Court then concluded: "It is the right of the public to receive suitable access to social, political, aesthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC." 395 U.S. at p. 390. In *Mt. Mansfield TV Inc.* v. *FCC*, 442 F. 2d 470 (2nd Cir. 1971) the Court upheld our prime time access rule as being consistent with our obligations under the First Amendment to promote diversity of program sources.

11. Although the Commission is not empowered to enforce the anti-trust laws, it may properly take cognizance of anti-trust violations and anti-trust policy in performing its public interest licensing function. *United States* v. *RCA*, 358 U.S. 334 (1954). In expanding on this point in RCA, the Supreme Court said in dicta:

> Moreover, in a given case the Commission might find that anti-trust considerations alone would keep the statutory standard from being met, as when the publisher of the sole newspaper in an area applies for a license for the only available radio and television facilities, which, if granted, would give him a monopoly of that area's major media of mass communication. See 98 Cong. Rec. 7399; *Mansfield Journal Co.* v. *FCC*, 86 U.S. App. D.C. 102, 107, 108; 180 F. 2d 28, 33, 34.

Anti-trust policy has been recognized as a correlative source of authority for our diversification policy because requiring competition in the market place of ideas is, in theory, the best way to assure a multiplicity of voices. However, these two sources of our diversification policy are not always present to the same extent nor do they apply with equal force in every case. Our prospectively-applicable rule with respect to future newspaper-broadcast combinations in the same city draws its support principally from our First Amendment concern. Our divestiture order applied to "egregious" cases in which the only newspaper and the only broadcast station in a city are co-owned is founded upon both concerns. While we have proceeded by a different course than one based strictly on a market analysis, the fact is we have in effect used a geographic market in writing our new rules and have considered daily newspapers and stations as part of the same product market.

12. In November 1953 we adopted rules limiting the number of broadcast stations a person could own to five VHF television stations and seven AM and FM stations. We asserted authority to make regulations limiting concentration of stations under the same control. The United States Supreme Court upheld these regulations in *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956).

13. In recent rule making proceedings the Commission has adopted rules prohibiting networks from having any cable interests and telephone companies from owning cable systems in their service areas. The Courts accepted our action in both instances. *Iacopi* v. *F.P.C.*, 451 F. 2d 1142 (9th Cir., 1971); *General Telephone Co. of the Southwest* v. *U.S.*, 449 F. 2d 846 (5th Cir., 1971).[3]

14. The sound public policy of placing into many, rather than a few hands, the control of the broadcast medium guides us in the licensing of the use of the radio spectrum. This basic principle, enforceable in *ad hoc* proceedings or through rule making, applies to the judgment of whether an individual application should be granted as well as to the comparison of competing applicants. *United States* v. *Storer Broadcasting Co.*, *supra*; *Clarksburg Publishing Co.* v. *F.C.C.*, 96 U.S. App. D.C. 211, 225 F. 2d 511 (1955); *Scripps-Howard Radio, Inc.* v. *F.C.C.*, 89 U.S. App. D.C. 13, 189 F. 2d 677 (1951), *Cert. den.* 342 U.S. 830; *Plains Radio Broadcasting Co.* v. *FCC*, 85 U.S. App. D.C. 48, 175 F. 2d 359 (1949). It is the policy behind our one-to-a-market rules adopted in the *First Report and Order, Multiple Ownership of Standard, FM and TV Broadcast Stations*, 22 F.C.C. 2d 306 (1970). The significance of ownership from the standpoint of "the widest possible dissemination of information" lies in the fact that ownership carries with it the power to select, to edit, and to choose the methods, manner and emphasis of presentation, all of which are a critical aspect of the Commission's concern with the public interest.

15. Despite the overwhelming authority supporting our proposed action, numerous parties have challenged our jurisdiction to take any action interfering with the rights of newspapers to own broadcast stations. The American Newspaper Publisher's Association (ANPA) advanced the major legal arguments against such a rule in their exhaustive and comprehensive filings with the Commission.

16. They first challenge our authority on constitutional grounds citing the First and Fifth Amendments to the United States Constitution. ANPA claims we are attempting to inhibit a newspaper owners' freedom to publish by preventing him from having an interest in broadcast stations. This argument fails for two reasons. First, the Commission is following the long established policy of promoting the widest possible dissemination of information from diverse and antagonistic sources . . ." *Associated Press* v. *United*

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[3] The issue in *Iacopi* was whether a divestiture plan complied with our rules rather than a direct attack on the validity of the rule itself. However, the Court did say: "The Commission has determined that network divestiture of CATV and syndication interests will increase competition and foster independent sources of TV programming. We defer to that interpretation." 451 F. 2d at 1147. See also the concurring statement of Judge Tamm of the United States Court of Appeals for the District of Columbia. "The pending rule making proceedings (Docket No. 18110) offer some hope that the Commission will finally come to grips with the grave problem inherent in the rising concentration of ownership in the mass media." *Hale* v. *F.C.C.*, 425 F. 2d 556, 566 (D.C. Cir. 1970).

States, 326 U.S. 1, 20 (1945). Second, the First Amendment does not protect business relations that are either unlawful or not in the public interest. Finally, we believe the opponents overstate their case in this and in the other arguments. The Commission has never proposed and is not now proposing to prohibit someone from owning a newspaper and a television station. It is plain that what we are doing is grandfathering present newspaper-television owner combinations; we are only requiring divestiture in egregious cases (see Appendix D and paras. 112–122, *infra.*) These divestitures are to take place over a five-year period and in order to avoid any possible future harm, we shall entertain waiver petitions.

17. ANPA contends such rules violate the Fifth Amendment because we are discriminating against a class. Rules that treat in an equal manner all parties whose activities raise similar public interest problems are not discriminatory. Since broadcast licenses confer no property rights, the Commission may cancel them provided it affords due process to the licensee. *Radio Commission* v. *Nelson Bros. Radio*, 289 U.S. 266 (1933). Discrimination is by definition, the arbitrary and capricious classification of entities by irrelevant standards. *Bolling* v. *Sharpe*, 347 U.S. 497 (1954). We need not confer licenses on a carefully defined class provided that we determine our action is consistent with the public interest.

18. The ANPA brief also cites an opinion by former General Counsel Hampson Gary, written in 1937, purporting to hold the Commission cannot deny a broadcast license to someone solely on the ground they published a newspaper. That opinion is not relevant to the consideration of Docket No. 18110 for four reasons. First, it was written in the context of a comparative proceeding. Second, it dealt with the broader question of *any* newspaper as opposed to the more limited consideration of one city. Third, prior statements by a regulatory agency as to its jurisdiction are not determinative of the legality of subsequent efforts to assert the same jurisdiction.[4] Finally, the problems of cross ownership and concentration of media ownership are much different in 1974 than in 1937.

19. The opponents of the adoption of the rules have called to our attention several attempts by Congress in the early fifties to prohibit the Commission from "discriminating" against newspaper owners in license proceedings. They contend Congress failed to enact legislation because of assurances by the Commission that it had no intention of "discriminating."

20. The opponents are apparently referring to then Chairman Hyde's testimony during hearings on the 1952 Amendments to the Communications Act. In view of the fact that the Commission prior to this testimony had taken newspaper ownership into account in denying applications, *Scripps-Howard Radio, Inc.* v. *FCC, supra* and *Plains Radio Broadcasting Co.* v. *FCC, supra,* the then Chairman's testimony could not have reasonably been taken as an indication that newspaper ownership by a potential licensee was of no concern to the Commission. It is also clear that an agency's view of the extent to which its public interest mandate requires it to take newspaper ownership into account can change over the years. Thus, the Chairman's testimony in 1952 concerning the Commission's views on what policy best serves the public interest does not mean that the agency is excused from its continuing responsibility to seek to further the public interest which may cause it to reach a different conclusion twenty-two years later. Finally, it should be noted that our proposed action does not bar newspapers as a class from becoming licensees. We merely propose to prevent common ownership in the same area. Thus, we believe it is impossible to discern any mandate from either Congress' action or inaction.

21. Several Court cases are cited in support of our lack of authority to promulgate these rules. In *Tri-State Broadcasting Co.* v. *FCC*, 95 F. 2d 564 (D.C. Cir. 1938) the court stated it knew of no rule or statute prohibiting a newspaper from owning a radio station. We fail to see how this justifies a ban on our promulgating such a rule. ANPA relies most heavily on *Stahlman* v. *FCC*, 126 F. 2d 124 (D.C. Cir., 1942). That case upheld our authority to issue a subpoena as part of our investigatory powers. It also contained considerable dicta such as "there is nothing in the Act which either prevents or prejudices the right of a newspaper, as such to apply for and receive a license to operate a radio broadcast station." 126 F. 2d at 127. This statement deals with newspaper owners in general and is not related to the issues in this proceeding. Judge Edgerton noted in a concurring opinion that the court was not deciding the issue of cross-ownership.

22. ANPA also cites the case of *McClatchy Broadcasting Co.* v. *FCC*, 239 F. 2d 15 (D.C. Cir. 1956), *cert. denied*, 353 U.S. 918 (1957) where a newspaper owner seeking a television station in the same city lost in a comparative proceeding. The Court said newspaper ownership was not a *disqualifying* factor standing alone but the case did not deal with that issue in a rulemaking proceeding.

23. Finally, the opponents have said we do not have authority to order immediate divestiture and that even if we did, such a remedy is so harsh it should be sparingly used. This argument begs the question. The Commission has a very unusual licensing scheme in that, unlike other agencies, we must re-evaluate each license every three years. We cannot renew a license unless we determine that to do so is in the public interest. In this connection we have determined that in certain egregiously concentrated markets the public interest requires divestiture. However, we have applied the divestiture over a five-year period in order to minimize disruption.

Common Ownership Not Involving Newspapers[5]

24. *The Arguments.* Most of what little discussion there was on the subject of common ownership of broadcast stations in the same market was opposed to prohibitions on AM–FM combinations or divesting any existing radio-television combinations.

25. Because of the Commission's decision to focus on the subject of newspaper-television combinations at the oral argument, most of the parties gave little attention in their recent filings to the other matters which had been included for consideration in the proceeding. A number did mention their agreement with the Commission's decision to give principal attention to the subject of newspaper - television combinations. Many thought that, in addition to not posing problems from a diversification point of view, existing radio-television combinations or AM–FM combinations served an important function. Particularly emphasized was the need of an FM station to rely on an existing AM station in order to underwrite the losses which were sustained while the companion FM station was being established. A similar point was made regarding the cash flow radio stations generate which could be relied upon by a fledgling UHF television station. From a philosophical point of view, too, there was support for permitting such combinations. The main thrust in that regard was that there was no basis for believing that coownership of radio and television stations in a locality was detrimental to the public interest. In effect, these parties took the position that absent a persuasive showing of harm, there was no reason for the Commission to act to terminate such common ownership. Overall the networks pointed to the importance of the owned and operated stations to the network operations. ABC and CBS stressed the importance of permitting existing radio ownership to continue, particularly in terms of the negative impact on network radio operations that a splitting of common ownership would have. NBC asserted that existing radio-television combinations should be transferable jointly.

26. A notably different point of view was expressed in the joint filing on behalf of the Civil Liberties Union of Alabama and The Selma Project. Quoting the Commission to the effect that a public interest basis need be shown in order to overcome the importance of diversification which would otherwise call for separate ownership, this pleading urges the separation of AM and FM station ownership. They see no basis for giving different treatment to ownership of an AM and an FM station in a locality from that

[4] See e.g., *U.S.* v. *Southwestern Cable Co.*, 392 U.S. 157, 169–170 (1968). The Commission once had doubts about its own jurisdiction in the field of CATV but changed its position in the mid-sixties.

[5] A few parties mentioned radio-television as well as AM–FM combinations and their comments are included in this section.

given ownership of two AM or two FM stations there. While acknowledging the advantage that increased non-duplication (as proposed by the Commission) would have in terms of ending waste of spectrum space, they nevertheless insist that two, separately programmed, stations under common ownership do not advance the cause of diversity. In their view, diversity is most important in the smallest of communities where the non-duplication rule may not even be applied, for it is there that choices are usually most limited. Nor do they find persuasive the argument that there would be a resultant diminution in the quality of radio programs if ownership of AM and FM stations were separated. Not only do they believe that independent FM stations could do just as well, they discount the notion that much current programming has any real merit. Finally, they contend that continuation of AM–FM combinations would effectively preclude minority group ownership.

27. Westinghouse believes that newspaper-television ownerships are a more significant problem than aural-visual ownerships, and that aural-visual separation would disrupt and downgrade service. Cosmos Broadcasting Corp. agrees with the view that there is no need for divestiture of commonly owned radio and television stations and that TV-newspaper ownerships are the more significant aspect of the diversity problem, because other broadcast services are "substantially less significant" sources of news and public affairs information.

28. Affected parties argue that broadcast stations in Alaska are in a unique economic situation which is caused by the isolation and distance of Alaska from the mainland of the U.S., the limited and sparse population of the State and the need for quality service. In addition, they assert that the operating costs of Alaskan stations are higher because all supplies must be shipped a long distance from the lower 48 states and that living costs in Alaska are also much higher than the average in the U.S., resulting in higher wages and salaries, the single highest expense item in operating a broadcast station. TV Broadcast Financial Data for the year 1973 for the city of Anchorage (the only Alaskan city covered by the reports) show that the figures for the three television stations showed an operating loss of $718,673. Similarly, the FCC data on AM and FM stations indicate that in 1972 Alaska was the only state where the radio stations as a whole reported a loss for the year.

29. Not only Alaska but stations in Montana should also be exempt from the proposed divestiture rules we are told. The argument is that Montana is a large, sparsely populated State with a depressed economy which, nevertheless, has to absorb costs of construction and operation which are as high in Montana communities as those in larger markets. Thus, it is asserted, being able to split the costs between television and radio stations contributes to profitability and stability. Divestiture, it is said, would not necessarily increase diversity, for in one particular market one of three assigned VHF channels is inactive, one of three FM channels is inactive and both assigned UHF channels are inactive.

30. *Conclusions.* The issues presented by joint ownership of radio and television facilities in a given market have already been partially resolved. The present rules adopted in an earlier phase of this proceeding bar the creation of such combinations but they do not require separation of existing ownership except through sale to separate owners when they are in fact sold. We were offered no basis for taking any action to divest any existing combination, nor do we see any such basis for requiring divestiture in the larger markets. Moreover, we do not believe that we need to follow the policy of separating ownership in smaller markets as we have been urged to do. In reaching our decision in this regard we examined all cases where one party owned the only television and the only radio stations in a community. In all instances[6] save one, there was at least one city-grade signal from outside that encompassed the city. Separately owned daily newspapers also served some of the communities. As with the newspaper aspect of this proceeding, we considered this sufficient to demonstrate the presence of a full-fledged competitor and hence that no divestiture was required. As to the remaining case, Zanesville, Ohio, where there is no encompassment, the licensee has sold its daily newspaper and it too faces a full-fledged competitor. Accordingly, we shall not make any change in the standards applicable to this aspect of multiple ownership.

31. While it was not the principal focus of the current section of this proceeding, the subject of AM–FM combination ownership is properly before us and in need of resolution. Three major avenues are open. We could act to bar only future combinations, could seek to end existing combinations as well or could act instead through a non-ownership method. There can be no question that wholesale disruption would attend any effort at divestiture. Even if it could be demonstrated (and this record in no way does so) that this would not be an insuperable obstacle, other impediments remain. The state of FM has indeed improved over the years, but much has been due to the pioneering efforts of AM licensees who were encouraged by us to enter the FM market. More than this, it is by no means clear that FM stations can yet be expected to stand on their own.[7] Some of course do but many cannot. Unlike the program duplication question addressed later, separation of ownership ends all economies of scale.[8] Whether prospective or retrospective, we do not believe that a separation of ownership is consonant with the current state of the medium. Divestiture could silence a number of stations or leave them too financially weak to offer full service. Even prospective rules could slow growth in FM broadcasting. This is not to say that the idea of diversification is of no importance, but it does not depend on such a barrier to all combinations. Rather, if a license for an unused FM channel is worth seeking, others besides AM licensees will step forward, and under our 1965 Policy Statement on comparative hearings, diversification is the most important single issue governing the choice of who is to succeed in a hearing. Thus, the new, non-multiple owner, entrant has a real advantage. On the other hand, where none steps forward, there is a real reason to doubt that the situation would be different if a prospective barrier existed. Thus, the major effect of any such rule would be to stunt growth where it is most needed and only an AM licensee is ready to proceed or to do the really unnecessary where others already have an interest and a distinct advantage in a hearing. With this in mind, we put the issue to rest and shall not adopt rules in this area.[9]

32. What then of the "single aural service" concept? Does the above discussion portend a change in the Commission's view? The answer is no. The fact that we are not proceeding now to divorce AM and FM ownership does not indicate that other appropriate steps to further our policy goals are not warranted. Just as we have taken the presence or absence of FM station coverage into account in the new AM allocation rules,[10] so can we proceed in furtherance of the policy in the area of program non-duplication. We have expressed the view that simultaneous presentation of identical programs on two stations in a community is wasteful of scarce spectrum space. Even if separation is not feasible, extension of non-duplication restrictions may well be. Clearly, if this is done, more program choices will be available to the listener. While no decisions have yet been made on how to resolve the issues raised in the non-duplication proceeding, it is clear that such action as is appropriate in the area of AM–FM combinations should come through such means. Therefore, we shall not adopt rules to bar future AM–FM combinations when the result would be to affect, in many instances, the

[6] In our view the situation in Alaska is unique and we agree with the arguments expressed earlier on the need to exempt stations there. Also, the list of monopolies excludes satellite stations as they are not full-fledged stations themselves and are vulnerable to challenge by a party wishing to operate independently. The very fact they are not now independent suggests that the locality cannot support competing services.

[7] In the non-duplication notice of proposed rule making (mentioned at the end of footnote 2) we reported on our observations regarding recent developments in the economic position of FM stations. In essence, the data support the idea of separation of programming but fall short of demonstrating that all FM stations can stand on their own.

[8] E.g., use of common studio, same staff, side mounting of FM antenna on AM tower.

[9] Since such a conclusion must as always rest on the facts then obtaining, it does not necessarily follow that there never would be a time when separation is necessary. If such a time occurs, we can act; it is clearly not now.

[10] 39 F.C.C. 2d 645 (1973).

places where separate FM operation is least likely. Unless there were wholesale divestiture of existing AM–FM combinations, a future prohibition would only require separate ownership of the channels least likely to be viable under separate operation. Only extensive divestiture would provide for separate ownership of just those channels most likely to be worthwhile separately. Even if this makes sense theoretically, the cost would be too high, the cure worse than the disease.

NEWSPAPER OWNERSHIP—ECONOMIC CONSEQUENCES

33. Much of the discussion relating to daily newspaper-television station common ownership in the pleadings was approached from the point of view of anti-trust considerations. To aid in understanding the nature of the questions thus presented the succeeding paragraphs in part follow an anti-trust oriented arrangement. In addition, a number of pleadings were directed to the question of diversity of viewpoints as it related to newspaper-broadcasting common ownership. These arguments will be discussed separately.

34. *Relevant Product Market.* When the possibility of garnering too large a share of the market suggests that an anti-trust issue may be raised, there are two initial aspects to consider. The first is the product line or the line of commerce in an economic sense. Sometimes there are difficulties in establishing what is the market because of the dispute which exists regarding the substitutability of products. To give an example: if a steel company seeks to acquire an aluminum company, does this constitute a form of horizontal integration leading perhaps to impermissible oligopolistic concentration? To answer the question requires among other things a determination of the relevant product market, and, in this example, a knowledge about the conditions under which aluminum or steel could be used as substitutes for one another, either generally or in some particular uses. Establishing the relevant product market or line of commerce is one of the most intricate areas of anti-trust law to apply.

35. The dispute here centers on whether newspapers and television stations are part of the same product market, or in other words are competitors.[11] In anti-trust terms this is a basic question, for if they are not, then the cross ownership which exists does not suggest that owning both would lead to owning a larger share of the same market. According to the Department of Justice, newspapers and television stations are in many ways engaged in the same business, namely attracting audiences and selling them to advertisers. While it does acknowledge that the two are not interchangeable for all advertisers, it asserts that the two are far more alike than they are different. It also contends that there is a public interest in preserving competition between products which are physically distinct but are commercially substitutable for certain classes of customers. Since Justice sees newspaper and television advertising as interchangeable, it would define the product market so as to include newspapers and television stations.

36. A number of other parties have expressed a contrary view on the subject. It is their reading of pertinent cases that newspapers and television stations constitute separate lines of commerce. The principal distinction mentioned by these parties seems to be based on differences in the kind of advertising carried by each—the newspaper being mostly a vehicle for local advertising with television stations carrying mostly national (or at least regional) advertising. They also mention a distinction in usage, with television being capable of conveying motion, activity and emotional ambience and newspapers being needed for the presentation of extensive factual information that television can present only in fragmentary pieces or for uses that do not extend beyond a simple brief exposure.

37. *Relevant Geographic Market.* To evaluate the economic implications of the situation requires knowledge not only of the product line but of the geographic confines involved as well. Depending on where the geographical line is drawn, the situation could be much altered. Generally speaking, as the area enlarges, the part of the market belonging to the company in question drops as other economic entities are included in the market share calculations. The subject is not the simple one it may seem, as there are a number of ways to go about the determination. Thus, as parties have pointed out, even the Commission has approached the subject differently at different times. In the *Frontier* case,[12] The Commission dealt with the question through the use of the city and environs as the relevant geographic market rather than the much larger Grade B coverage area of the television station in question. Later, when considering the *Chronicle* case,[13] the Commission used the station's Grade B contour.

38. As might be expected, the parties favoring divestiture urge a narrower geographic confine for use in a Commission determination, and those opposing divestiture urge a broader one employing Grade B coverage or ADI for the television station and for newspapers the similarly extensive primary market area or the city and retail trade zone. In the Department of Justice filings against the renewal applications for several stations, the thrust of its pleading here has been followed, with use of a market in no case larger than the equivalent of a city and its suburbs.[14]

Conversely, the opposing parties urge the Commission to apply its own standards and to reject as artificially contrived the market concepts of the Department of Justice.

39. *Market Share of Newspaper-Television Station Combinations.* Certain facts mentioned by the parties are not in dispute. Daily newspapers tend to be much larger enterprises than television stations. Radio stations are significantly smaller than either. Moreover, few cities have competing daily newspapers, so that from the point of view of advertising revenues, a daily newspaper-television station combination would inevitably garner a sizeable portion of the total local advertising revenues. The dispute, then, centers on the importance of these economic facts in terms of Commission policy goals. Also, to what extent should the Commission take into account the multiplicity of media exposures from magazines and other sources, in determining the degree of concentration? The Department of Justice points to a Roper study that indicated that the public principally relied on newspapers and television stations for their news. On this basis they would give little weight to other media sources. Justice then goes on to compare the local market shares of the newspaper and television station combinations with Clayton Act Section 7 merger guidelines. Simply put, in an oligopolistic situation the acquisition of even small shares of the market can conflict with these guidelines. However, as a number of parties point out, the prohibition in Section 7 applies to acquisitions, not to internal growth, as was the case with the creation of most newspaper-television combinations. Instead, these parties point out that the Sherman Act prohibitions on monopolization apply. In such instances, Section 2 of the Act requires a showing of action of the entity in question to set prices or otherwise restrict competition. They contend that no showing has been made that establishes anything resembling such economic power. According to these parties, even the Rosse, Owen, Grey study[15] purporting to show higher rates being charged by newspaper-owned television stations, to which the Department of Justice refers, is subject to many doubts, so that even the Department does not vouch for its methodology or conclusions. The conclusion that a 15% price increase differential is available to newspaper-owned TV stations is directly refuted in two industry studies which point out that the other study did not take audience figures into account in relation to prices charged. Our own examination does not substantiate the findings of the Rosse study.

40. It is clear that by any standard, market differences do exist, and that the extent of economic power, whether exercised or not, varies. When this proceeding began, there were 19 instances (now

[11] A similar comparison is made between newspapers and radio stations.

[12] 21 F.C.C. 2d 570 (1970); 23 F.C.C. 2d 316 (1970); 27 F.C.C. 2d 486 (1971); 29 F.C.C. 2d 480 (1970); 35 F.C.C. 2d 875 (1972).

[13] 16 F.C.C. 2d 882 (1969); 20 F.C.C. 2d 903 (1969); 40 F.C.C. 2d 775 (1973).

[14] Separately from the anti-trust based market concepts is the alternative suggestion from Justice to divest wherever the Grade B television signal encompasses the SMSA of the newspaper community.

[15] *Empirical Results on the Price Effects of Joint Ownership in the Mass Media* (1970). See para. 96, *infra*, and Appendix B, p. 1.

fewer) in which the owner of the only local daily newspaper also was connected to the only television station licensed to the community. From a concentration point of view, these would seem to present the most severe cases, but even in these instances, the industry did not agree that action by this agency was appropriate. They say also that from a diversity point of view even in these communities there is a plethora of media voices originating in or entering the market. While the overall industry view is that there is no need for any divestiture, at least one broadcast filing (that of the Post Company, of Idaho Falls, Idaho) seems to indicate that presumptively in these cases of one-owner markets, there is a condition of inadequate diversity. The Post Company prefers a rule to an *ad hoc* approach or if that fails to be adopted, a policy statement. Either, it argues, would be preferable in terms of industry stability because it would give advance notice, simplify administration and reduce uncertainty.

41. *Audience Share of the Market.* The National Citizens Committee for Broadcasting ("NCCB") would follow the approach of the de Jonckheere study[14] on market share and give appropriate market-share weights on a scale of 100, divided 40 to daily newspapers, 40 to television stations, and 20 to radio stations. Each entity would be given its circulation share (or be evenly divided for radio stations) and the market share thus be derived. Although NCCB would not include weekly newspapers, it says if they are to be included, they should be given 1/7 the weight of a daily newspaper. To the figures on market share thus obtained NCCB would apply both *per se* and *prima facie* limits. If a single owner had a 30% share it would be considered *per se* objectionable; 20% to 30% would constitute a *prima facie* showing of concentration that a party could offer to rebut. NCCB would have the Commission ignore a less than 20% market share absent an allegation of abuse. According to NCCB, its plan avoids the pitfalls of a mandatory across-the-board ban which by its nature could not take into account differences in individual markets. Likewise, it sees this approach as being preferable to the haphazard methods involved in a totally *ad hoc* procedure.

42. *The Place of Anti-Trust Considerations in Commission Determinations.* No one has argued that anti-trust considerations are totally inapplicable to the media, rather the dispute centers on the importance of anti-trust considerations to the resolution of the public interest issues now before the Commission. The Department of Justice points to its own responsibility for the enforcement of the anti-trust laws and for the preservation and enhancement of commercial competition as the basis for its filing here. Its view is that the Commission should act itself based on the anti-trust arguments which have been made. In particular, Justice says that there is too much concentration of ownership which in turn has caused a curtailment of the options open to advertisers. Throughout, the Justice filings proceed from economic premises having principally to do with economic competition for advertising. It is not that diversity of viewpoint is not dealt with; it is. Rather, it is a question of the orientation, of views expressed in competitive terms, views it feels the Commission is obliged to consider.

NEWSPAPER OWNERSHIP — DIVERSITY OF PROGRAM AND SERVICE VIEWPOINTS

43. The preceding discussion has focused on the economic significance of combinations. The other side is the impact on the dissemination of ideas in a democratic society if there is a combination of media holdings held by a single entity. At what point, if any, is there a lack of diversity of viewpoints and programming or if such diversity at some level exists does that end the need to consider the size or market share of the entity in question? These are the kinds of questions to consider.

44. Opponents of the proposal have argued that the proposal rests on the false premises that current diversity is inadequate and that 51 voices are necessarily better than 50. However, they assert, if the forced transfer of a station to the 51st voice results in the station's news operation's being reduced to "rip and read", the addition of the 51st voice would not have been beneficial.

45. *Do They Speak With One Voice.* Opponents contend that cross ownership of newspapers and broadcast stations does not mean that both entities speak with the same voice. Most of the parties state that their broadcast stations and newspapers have separate management, facilities, and staff, including news and advertising staffs (which compete with each other for advertising), and do not have joint advertising rates. Some even claim that because they have separate editorial boards they present editorials in one outlet which are opposed in the other. We are told that there are other built-in protections against commonly owned newspapers and station's offering the same viewpoint and information. These parties point to the professionalism in journalism and the development of industry practices and codes of ethics which transcends employee-employer loyalties and result in highly independent staffs operating even common owned media. Also, the technology which requires specialized and separate management teams for various media holdings is said to limit the influence of the common owner. Finally, we are assured, there is protection because of existing diversity, so that in major markets it would not be possible to control the informational output of the communications media or to prevent a significant point of view from reaching the public. These parties assert that if abuses of this nature were occurring, there would be outcries from the public and other local competitive media. They believe that the absence of such complaints is the most telling argument against the need for the proposed rules and that in smaller markets economic considerations may inhibit the financial separation of different media.

46. Supporters, on the other hand, argue that a so-called separation cannot be considered as equivalent to separate ownership. They fear conscious or unconscious decision making protective of the other entity and even more the possible inhibition in the operation of each without regard to the consequences on the other. They urge separate ownership as the only way to have truly diverse and antagonistic voices.

47. *Adequacy of Current Diversity.* Opponents point out that there has been a long term trend of increasing diversity of media ownership with many more broadcast stations operating now than formerly was the case. According to NAB, in the top 100 markets (based on size of SMSA's) the total number of media outlets has increased markedly. From 1922 to 1967 the number of broadcast outlets increased 968%. While the number of daily newspapers has remained about constant, they say that there has been considerable growth in circulation, particularly in smaller cities. This leads these parties to conclude that in most major markets the addition of one more media owner would have a minimal effect on the amount of diversity in that market as there will continue to be a large number of media owners even if the proposed rules are not adopted.

48. More specifically, many parties referred to the Seiden study submitted by NAB to show that there is ample diversity in their own markets. The Seiden study listed all media available in each market in various categories, including those originating within and outside the market. Unlike the premises under which this study was done, the Justice Department would only include local television and newspapers in evaluating diversity since in its view these are the only effective competitors for local advertising. Weekly newspapers and other periodicals as well as broadcast signals originating outside the market on this basis should therefore not be counted. Opponents of the proposed rule and of the Justice viewpoint recommended that national media be considered in addition to local media because they reach substantial numbers of people to provide diverse information sources. Further, they urge that the fact that the public favored one medium or one newspaper or broadcast outlet rather than another should not be taken as indicating a lessening of the diversity of available media. They thought it should be irrelevant for the purpose of the Commission's proposal that the circulation bases differed so markedly.

49. At the time the proceeding began there were ninety-four (94) TV stations which were affiliated with local newspapers. The Seiden study purported to show that there is abundant diversity in these communities as well as elsewhere—that there is abundant diversity in every TV market. In New York City, we were

[14] *Monopoly in the Media*, by Terrall M. de Jonckheere. See Appendix B, p. 2.

told, there were 610 media with 434 owners. Even in Zanesville, Ohio, the then most concentrated market, there were 49 media with 39 owners. Of these, four media were considered local, and were held by two owners. In Glendive, Montana, the smallest market, there were 36 media with 30 owners. Of these, five media with four owners were local. The average for the top 50 markets was 317 media, owned by 170 different groups. Of these, 139 originated in the market and were held by 111 different owners.

50. The American Newspaper Publishers Association ("ANPA") says that the number of newspaper-owned TV stations has decreased since 1948, when 48% were owned by newspapers, to 14% in 1969, and there has been an absolute as well as proportional decrease in newspaper-owned stations since 1955. The NAB says that newspaper ownership of all broadcast outlets is less than 7%. The Udell study submitted by the ANPA showed that in 78 markets with newspaper owned TV stations, 143 TV stations commenced operation after the newspaper owned station, and 131 of these new operations were started by non-newspaper interests. This to them shows that newspaper owned TV stations have not discouraged others from entering the field. Udell found that although often the newspaper-owned TV station dominated its market, there were many cases in which it was not the dominant station.

51. Opponents assure us that the Fairness Doctrine, Section 315 of the Communications Act, and the developing body of law falling under the category of "access to media" ensure that stations will not present only one viewpoint. Moreover, we should take into account, they insist, the fact that the public's increased awareness of its stake in the free flow of information has caused an increase in the filing of petitions to protect that interest and this too helps to ensure diversity of viewpoints. They conclude that not only do we have enough diversity, in fact modern technology has brought society to the point of information overkill, where the individual is paralyzed by the sheer volume of information and available choices.

52. Supporters of Commission action do not accept any such view. Instead they see a growing diminution in major media choices particularly newspapers and they assert that the Seiden approach uses numbers to obscure the situation by the faulty means of equating media regardless of subject or circulation.

Newspaper Ownership—Specific Arguments

53. *The Commission Should Proceed on an Ad Hoc Basis Rather Than By Rule Making.* The parties who oppose adoption of the rules contend that as to newspaper ownership the Commission should continue to use the *ad hoc* approach as it has in the past rather than proceed on a rule making basis. The Commission, it is said, has greater flexibility in attacking situations where specific abuse may occur by the *ad hoc* approach rather than by seeking an across-the-board solution by means of a rule. They insist that both the Commission and the Department of Justice have the tools and the authority to reach any situations with the potential for abuse so that wholesale divestiture without regard to the facts of each particular situation is simply not warranted. Each market, they say, has its own characteristics and each differs from every other market; a rule would not take these differences into account nor would it make provision for those individual situations where there is no question that the cross-ownership has resulted in superior service. Opponents further argue that the proposed rules reflect only one component of the public interest, i.e., diversity, and ignore other important elements such as the costs and detrimental effects of forced separation.

54. The rule making approach, opponents charge, represents a blunderbuss policy in place of precise and carefully fashioned judgments based on facts in each individual situation. They assert that if the Commission were to continue to attack the problem on a case-by-case basis, it could root out those situations which threaten injury to the public interest without itself inflicting injury on the public interest by requiring the divestiture of a cross-owned station where there has not been so much as a suggestion of impropriety. The Commission should, it is asserted, consider, in each individual situation, such factors as the extent of interdependence of the cross-owned media in a particular market; whether the market is metropolitan, regional or local; the prospects for financial independence; and the extent of the possible disruption of service to the community. Factors such as these, they say, do not lend themselves to consolidation in a rule. Finally, the opponents argue that, in order to warrant an industry-wide approach such as that represented by a rule making proceeding, the Commission must, at the very least, indicate that the problem which it seeks to attack is so widespread as to require such an approach. This they charge the Commission has not done.

55. Supporters urge us to act through rule making rather than *ad hoc* procedures as in keeping with our stated intentions in this regard and with other approaches taken in the area of concentration. Moreover, we are told, such an *ad hoc* procedure could introduce uncertainty to the detriment of the industry and public alike.

56. *Divestiture Would Not Necessarily Accomplish the Desired Ends, and Might Produce Harmful Results.* Opponents have asserted that if any divestiture were to be accomplished through the trading of broadcast properties between newspaper publishers, there would be no overall decrease in concentration of control nor any increase in the total number of available voices. Thus, they insist, no real benefit would be brought about by divestiture, but real detriment would. An economic study offers the view that it is easier to operate a broadcast station within your home market, so that a station outside the home market would bring a lesser price. Further, a publisher accustomed to operating a station at home might be unwilling to undertake a similar operation in some other city, with the attendant increases in costs and additional control and managerial problems.

57. The economic studies further contend that by the very fact that many stations would be put on the market, the value of those stations would be reduced. However, in spite of this reduction of the price of stations, it is asserted that in many instances the price will remain too high to service the debt capital necessary to purchase a station. Under these circumstances, they expect that many of the available stations would be purchased by multiple owners or nationwide conglomerates, with the result that the divestiture requirement would not increase the overall diversity of voices, and it may in fact decrease the number of available voices. Supporters point out that as to the community in question, they nonetheless would represent a new choice.

58. Some parties assert that there is a correlation between newspaper ownership and high quality news and public affairs programming. Others contend that economies of scale can be achieved with cooperative news gathering facilities. In both instances, we are told, divestiture would result in a loss of these benefits, perhaps causing a reduction in the quality of program offerings, because owners could no longer rely on these resources. However, on the other side it has been alleged that there is no correspondence between the quality of news carried on a television station and that contained in a commonly owned newspaper. In addition, proponents of the rule contend that there has been no showing that economies of scale exist or if they do exist, they charge that they are products of an oligopolistic situation which has resulted in higher advertising prices on jointly owned facilities. Post-Newsweek asserts in its study that it is not common ownership but other factors [17] which account for higher advertising rates, and various parties point out the study showing higher television rates failed to take size of audience into account.

59. *The Proposed Rule Assumes a Similarity in Cross-Ownership Situations.* According to various opponents the approach we contemplate fails to recognize the differences between UHF and VHF, between radio and television, and between markets of different sizes, subordinates the public interest to administrative convenience and will have lasting deleterious effects on the industry. Thus they say we should observe these distinctions and recognize that a rule requiring divestiture for radio-newspaper combinations is not necessary because in most large markets an individual radio station does not have significant market power. However, it is

[17] The four are: being the first station on air in market, being a CBS affiliate, operating on a low-band VHF channel or lowest channel in market, and having the highest audience share.

said, in smaller markets (below the top 100) individual radio stations may be significant competitive factors. Therefore, we are urged to review radio-newspaper combinations in markets below the top 100 on a case-by-case basis and require divestiture where necessary. Others urge the adoption of specific rules for smaller markets.

60. Licensees in smaller markets generally believe the Commission's concern should be with larger markets and exemptions should be provided for smaller markets. They point to the smaller size of these combinations, arguing that as a result there is less cause for concern about detrimental impact and more about disruption. However, licensees in large markets believe the serious problem exists only in those markets where there is only one daily newspaper and only one television station. These parties place their stress on the number of direct competitors in the market.

61. *Unique Situations*—Several parties argue that "unique" situations in particular markets require that the proposed rules not be applied in those cases. For example, the licensee of a Class A FM station in Santa Monica, California, and publisher of an evening newspaper in Santa Monica argues that his holdings constitute a minute fraction of the total mass media in the market. Santa Monica, a suburb of Los Angeles, is said to be saturated with broadcast service, receiving primary signals from 10 AM, numerous FM and 11 commercial and one educational television stations. Similar arguments have been made that other communities are overshadowed by nearby cities of much greater size, and we have been told that in such communities, UHF and FM stations might not have survived without newspaper ownership.

62. *Jointly Owned Broadcast Stations and Newspapers in the Same Market Can Give Better Service.* One frequent argument is that joint ownership of newspapers and broadcast stations made possible the early development of FM and TV service even though these pioneering stations often had to be operated at a loss. This leads these opponents to conclude that had the resources of newspapers not been available, the public would have been without such service for a long period of time.

63. In addition to the historical argument, these parties offer arguments supporting the view that benefits would continue to accrue. According to the exponents of this view the public would lose more than it would gain if those of the journalistic tradition are excluded from broadcasting. They argue that newspaper owners, coming from a tradition of journalism rather than entertainment, have set high standards of emphasis upon informative broadcasting with extensive news staffs and upon dedication to meeting community needs and advancing community projects. In fact, former Chairman Newton N. Minow has suggested that the public interest might better be served if, contrary to the thrust of our proposal, more newspapers were given the opportunity to operate TV outlets in their communities. He also suggested that the tradition of professional journalism offered by the newspapers greatly enhanced their ability to offer programs in the public interest.

64. The argument has been made that integrating broadcast and newspaper operations enables the licensee to provide service in the public interest which could not be provided if the operations were conducted independently and under separate ownership. Combined ownership is said to permit experimentation, innovation, minority programming, more effective dissemination of news and public information, independence from advertisers, lower advertising costs, financial stability, and otherwise contributes to diversity. They argue that because of the combination, many efficiencies and economies of operation can be effectuated, such as economies in buying and maintaining equipment, the joint use of buildings and office space, the common staff of program, technical and administrative personnel, etc.

65. Many have asserted that newspaper-owned broadcast licensees have a record of public service which is among the highest in broadcasting. Their contributions to the public interest constitutes in the view of these parties a tangible benefit which cannot be sacrificed for the theoretical benefits which the Commission has assumed will result from the proposed divestiture. They assert that newspapers owning broadcast stations in the same community are doubly conscious of their responsibilities to the public and have a greater knowledge of and immersion in the community's needs and problems than do non-newspaper owners. Local newspapers are said to often be locally owned by people who have long been directly involved in the community and in community service, particularly as an outlet for public expression. They insist that newspaper ownership of broadcast stations is more stable than that of other entities and that newspaper owners do not traffic. Continuity of ownership of broadcast stations we are assured would avoid the weaknesses inherent in stations which change hands frequently. We are told that the long term owner is continuously aware of community problems and by so doing can maintain a long range effort to deal with those problems.

66. Conversely, the argument is made that the existing owner takes the community for granted, and assumes too much in connection with ascertaining community problems. A newcomer, the view goes, would gain fresh insights since it would have to ascertain without presumption based on past history. Thus, the argument goes, service could actually improve.

67. In connection with radio stations in particular, opponents of the proposal see real benefits in newspaper ownership. They say that there are many situations where a radio station could only survive economically because of the support provided by a co-owned newspaper in the same market. If this were precluded, they feel the community would have fewer voices. They also assert that such a combination could provide higher quality programming than could normally be expected from singly owned stations. Moreover, the programming of newspaper owned stations is said to function as a counter-balance to national network dominance.

68. *Broadcast Media and Newspapers Are Not Comparable.* Although opponents of the current proposal acknowledge that newspapers and TV are the public's primary source of news, they contend that there is a radical difference between them, both in method and scope. They are seen as complementary, not competing, sources of news. In their view the Commission's statement that newspaper ownership of a co-located TV station directly parallels joint ownership of two TV stations in the same community, ignores many salient differences. For example: (a) the broadcast media bring the public only the headlines whereas newspapers provide the details and background; (b) the broadcast media devote no more than 10% to 12% of their time to news whereas newspapers devote 100% of their non-advertising space of journalistic function; (c) broadcasting is basically an entertainment medium whereas a newspaper is primarily a news medium; (d) a newspaper is a recorder of events whereas the broadcast media are not; (e) newspapers provide a permanent record for future reference whereas the broadcast media do not; (f) the types of advertising and the products advertised through the two media differ; (g) the two media do not necessarily encompass the same market; (h) the persons who use TV as their primary source of communication do not necessarily subscribe to newspapers; and (i) the broadcast media are inherently incapable of providing on a day-to-day basis in-depth local reporting whereas a newspaper has such capability. Pointing to the Commission's *Further Notice* in this proceeding (at para. 29), where it was indicated that studies showed that persons relying most heavily upon newspapers as a source of information are those identified as leaders or opinion molders, the opponents state that the joint ownership of a newspaper or TV station is likely to make no difference to these people since the nature of the newspaper analysis of a news event varies so greatly from the most abbreviated form of news which appears on TV. Further, we are assured, these persons are unlikely to rely on a single source of information for their news.

69. The point is also made that the two media function quite differently in the manner in which they cover the news, thus reflecting not only the innate differences between the media but differences in coverage as well. These factors are said to ensure that the public receives the benefits of separate news sources, which do, in fact, even if they are commonly owned offer divergent

viewpoints and approaches to issues of public concern. Editorial practice we are told, is a far more significant facet of diversity than is ownership. Accordingly, they would reject what they see as the Commission's assumption that cross-ownership causes newspapers to speak and write with one voice. Not all parties, of course, find these distinctions particularly important as they continue to see the two as parallel entities.

70. *The Rules Would be Contrary to Past Policies and Pronouncements That Led to the Development of the Present Broadcast Services and are Inequitable to Those Who Acted in Reliance on Those Policies.* The various parties presenting this argument submit that the present structure of the broadcast industry has been created by the Commission which has licensed each station in question, at times after a comparative hearing, and repeatedly renewed those licenses after finding that the renewal would be in the public interest, convenience and necessity. These parties contend that it would be a breach of faith for the Commission to now reverse these prior decisions and ban the cross ownership which was previously approved.[18]

71. They assert that diversity is one of several fundamental criteria considered by the Commission in granting broadcast licenses, and the Commission has considered these other criteria, including local ownership, integration of ownership and management and experience, in finding that a grant of a broadcast license to a newspaper or existing broadcast licensee would serve the public interest. Instances of such actions they point to include the licensing of the AM and FM stations in Elyria, Ohio, to Elyria-Lorain Broadcasting Co., the publisher of the local newspaper; the assignment of KOA–AM–FM and TV, Denver, Colorado, to a single party; and the grant of the application of Paducah Newspapers, Inc. for WPSD–TV in Paducah, Kentucky. They also mention *Orlando Daily Newspaper, Inc.*, 11 F.C.C. 760 (1946) and the *Policy Statement on Newspaper Ownership*, 9 R.R. 702 (1944). Based on their reading of these precedents the current proposal would without valid basis, they aver, summarily reverse the ongoing practice of years standing.

72. On the other hand, supporters of Commission action assert that while the economic and technical considerations of the 1940's and 1950's justified a more lenient Commission policy toward cross ownership, those prior considerations are no longer operative. Under present conditions, they think it is unlikely that the number of newspapers and broadcast stations will significantly increase in the foreseeable future, and the Commission is therefore justified in taking a more restrictive approach (see footnote 18).

[18] In part, this is in response to the Commission's statement in the *First Report and Order* (in particular in para. 22) that changed circumstances necessitated that a different view now be taken regarding such combinations.

73. *Great and Irreversible Damage Would Result To Media and To Individual Stations and Newspapers.* Opponents insist that no matter how economically strong, no industry can absorb unlimited burdens. At some point they say, there is a limit, which once exceeded, leads to a collapse of that industry. They assert that quite a number of burdens have been imposed on broadcasters so that the point is nearing when the ability of the industry to respond may be impaired. As examples of such burdens they mention a series of recent Commission actions such as increased fees, new renewal procedures and prime-time access as well as the more frequent occurrence of petitions to deny and increased costs. The point is that whatever the source, whatever the legitimacy of the justification, the unavoidable impact on the broadcaster is a burden that can lead to a driving out of needed capital as well as a pushing away of fresh talent and creativity. Opponents argue that too much of a good thing can be fatal and that the price paid would be in lessened diversity, which is the opposite of the hoped-for result. Supporters assert that we should question these dire predictions. These, for the most part, are seen as greatly exaggerated. Such validity as is accepted is said to exist in only some individual circumstances.

74. The proposed rules would also have adverse economic consequences for newspapers we are advised by opponents. Divestiture could impair the revenues of newspapers and result in the decline in their value. Moreover, they contend that to the extent owners decide to keep their broadcast stations and divest their newspapers, there would be a decline in the value of newspapers with potential for forcing marginal operations out of business. They also suggest that the proposed rules would threaten the balance reached by the Congress in the Newspaper Preservation Act between the public interest in competition and the public interest in continued financial viability of newspapers and their editorial independence. Finally, they express a concern that adopting rules might limit the ability of publishers to enter into electronic newspaper distribution in the future. They feel that for newspapers to remain viable it may be necessary for them to be able to use something other than the present modes of newspaper production and distribution which may become too slow or expensive.

75. Divestiture, opponents assert, also raises questions concerning the continued viability of special format daily newspapers. For example, the licensee of an AM and FM station in New York City also publishes a daily Yiddish-language newspaper. The paper operates with an annual deficit which in part is offset by an annual profit from the radio stations. The licensee contends that funds from the radio stations are necessary to provide for continued publication of the paper.

76. Finally, a particular danger is said to be involved in divestiture because the results would be permanent and irreversible. They assert that the genius of the administrative process is its ability to be flexible and to consider matters in the light of changed circumstances, attributes which could not be brought to bear for there is no way to return to the *status quo ante* if the results are not what were intended. They argue that since there is no way to return the outlets to their original holders if the action proves improvident, the risk is so great that any cause for concern is sufficient to establish that the step should not be taken unless there is clear proof of harm from the existing circumstances.

THE RULES WOULD DISCOURAGE RISK CAPITAL IN BROADCASTING AND IMPOSE HIGH COSTS OF OPERATION CONTRARY TO THE PUBLIC INTEREST

77. This argument, made by several broadcast interests, is that divestiture would result in a drastic alteration of the industry structure and breed economic instability. This they say would come about because the new owners of divested stations would face significant economic burdens, principally as a result of paying high prices for broadcast properties that have appreciated greatly over the years. Because of high interest rates, the cost of debt service will reduce the working capital and profit accumulation which would otherwise be available for programming including news and public affairs. Beyond these economic factors, various other burdens are mentioned as being placed on broadcasters, and the fear is expressed that this could be a last straw. The continuing infusion of capital, energy, and creativity needed to properly nourish the industry in their view may be stymied because of the economic burdens, the governmental interventions and restrictions imposed. The NAB sees this proceeding as one in which adoption of the rules would give just such a negative signal to those now involved or who would become involved in broadcasting; results clearly detrimental to the public interest. Supporters say they cannot agree that an industry they see as characterized by extraordinarily high profits would somehow become anathema to investors.

THE PROPOSED RULE AMOUNTS TO THE VIRTUAL ABANDONMENT OF THE COMMISSION'S POLICY FAVORING LOCAL OWNERSHIP

78. Opponents charge that the divestiture provision of the rule would frustrate the Commission's policy favoring local ownership which has long been considered conducive to programming responsive to local needs and interests. This they say can be seen in the Commission prediction that many licensees will simply trade stations with other licensees, thereby achieving divestiture without significant upheaval in the identity of the media ownership. They argue that this trading of broadcast properties would result in absentee ownership. However they do not think such ownership is desirable, particularly where a broadcast station is traded

away from a newspaper with local ownership and strong community ties. Rather, they believe that the strong affiliation between a newspaper and its community often results in programming on a commonly owned television station which is particularly responsive to the needs and interests of the community. They think an absentee owner, with less contact with the community might be less concerned with the public interest and more concerned with the balance sheet, and the divestiture may result in the fragmentation of professional staffs which have been built up over the years to provide the best possible service to the public. This leads them to conclude that the absentee ownership resulting from divestiture would therefore result in a loss of service to the public.

79. Opponents have rejected suggestions that the first opportunity to purchase a station be given to a local group or that more than one potential purchaser be submitted to the Commission as unworkable and contrary to Section 310(b) of the Communications Act. They assert that such courses of action would interfere with existing interests and equities and jeopardize existing service. Proponents, on the other hand, asserted that any resulting reduction in local ownership should not be used to justify and maintain a monopoly situation, and they urge the Commission to proceed with divestiture. In their view, local ownership as a goal necessarily pales in comparison with providing needed diversity.

NEWSPAPER OWNERSHIP—MISCELLANEOUS ARGUMENTS

80. Parties opposing the Commission's proposal have offered several procedural or jurisdictional objections. Several have taken the view that the proposal represents such a fundamental policy shift that the Commission should not act without Congressional mandate. It was their view that this subject should be considered at Congressional hearings from which policy guidelines would emerge. The Commission is urged not to proceed without such guidance from the Congress.

81. Two other procedural objections to implementation of the proposed rules have been interposed, both relying on the view that a hearing would be required beforehand. One asserted that the Commission should not proceed without holding oral argument on the proposal [29] and the other insisted that any affected party would be entitled to a full evidentiary hearing before it could be required to divest.

82. Progressive Broadcasting Corporation is licensee of Stations WHOM–AM and FM and is commonly owned with a daily newspaper. It wonders if the rule would apply to it and asserts that if it would special recognition is required of its unusual situation. It argues that a rule should not apply to it since the radio stations are essential Spanish language and the daily newspaper, even if it is circulated generally, reaches only an audience that reads Italian. Moreover, it asserts that the Spanish speaking audience for the stations does not much overlap with the readers of *Il Progresso Italo-Americano*. Aside from the divergence in audience, Progressive contends that neither has the broad general appeal and impact that seemed to be the cause of the Commission's concern. For itself and others similarly situated Progressive asks that any rule which might be adopted not be considered applicable to such situations.

83. The Illini Publishing Company, a not-for-profit corporation at the University of Illinois, owns the daily student newspaper, an FM station, and the yearbook. It stated that it would not comment on the desirability of cross-ownership for commercial properties but that cross-ownership in its situation is a guarantee of finanial and therefore editorial independence from the University administration, the student government, or any other potential pressure group. It has never accepted student fees but has depended on the sale of advertising and circulation, and in various years one or the other of the three media was supported by its fellows.

84. The Forward Association publisher of *The Jewish Daily Forward* and licensee of New York City Stations WEVD–AM and FM says it is not clear whether the rule would apply to foreign language newspapers. The Association says it should not, but if it did, the Commission should hold an evidentiary hearing in each case to determine whether divestiture should be required.

85. The Oklahoma Press Association in opposing the proposal notes that some universities have both newspapers and television stations. While educational broadcast stations are exempted from the duopoly rules, it points out that it is not clear where the proposal leaves Notre Dame University and the University of Missouri, both of which operate *commercial* television stations (WNDU–TV and KOMU–TV, respectively).

86. Finally, several parties wonder how many papers per week a newspaper must publish to be defined as a daily? Is a paper that publishes three days a week a weekly and one that publishes four days a week a daily? They also suggest that if the proposed rule is adopted, it could be circumvented by publishing six different weekly publications, each on a separate day.

DIVESTITURE WOULD CONSTITUTE AN UNPRECEDENTED GOVERNMENTAL INTRUSION

87. The NAB and others insist that there is no precedent for the action proposed here. Never before in the history of the FCC or any other governmental agency, they assert, has a proposal of this magnitude ever been implemented. In strictly legal terms, the charge is that no agency has ever so proceeded without basing its action on a proven law violation and in furtherance of an express statutory authorization. Here neither is said to be present and this makes it all too clear how drastic and extreme the proposal really is. The closest example, that of the 1943 FCC action affecting radio duopoly cannot, it is said, be considered analogous. In that situation, we are told, relatively few stations were affected and the economic impact was notably smaller than that which would be anticipated here.

DIVESTITURE WOULD HAVE A "CHILLING" EFFECT AND INHIBIT FREE SPEECH AND PRESS

88. The charge is made by the NAB that already extensive regulation exists and unwarranted extension of such regulation could only have harmful results. Inevitably, they feel, a fear would be created that governmental action could be invoked as a means of expressing displeasure at a course of conduct, not because it is unlawful but because it is contrary to governmental preference. Even if the current proposal in itself did not bring the weight of government to bear in such a manner, they believe that the fear would be created that it could happen in the future. The net effect they foresee would be a restriction on free speech, a curtailment of creative journalism, affecting newspapers as well as stations. Thus, the NAB states, in a democracy, it is the power of the government, not that of the press that is to be feared. Especially in the current political climate, the action here proposed is bound to be interpreted as a governmental assault on the free press, it is argued.

89. The lesson of history in this regard is said to be clear: there is no such thing as compulsory freedom. Just so, there can be no compulsory diversity. The greatness of this country's press, print and broadcast, we are told is the product of the lack of governmental intrusion. It is its freedom of operation that has and will continue to offer a continuation of the situation in which American diversity exceeds that of any country. The Commission is urged not to yield to temptation by following the restrictive paths traveled by other countries. Rather, the Commission should follow the path of freedom and non-intervention. Supporters assert that the structured approach involved here is a lesser danger in free speech terms than Commission intervention in programming as could happen in fairness cases.

IF ANY RULE IS ADOPTED, EXISTING INTERESTS SHOULD BE GRANDFATHERED

90. This view which is in direct conflict with the divestiture proposal was expressed by Duhamel Broadcasting Enterprises, Inc., and Paducah Newspapers, Inc. Divestiture, Paducah says, would be disruptive, counter-productive, unfair, oppressive, etc., and should not be ordered in the absence of a showing of specific harm. Although cast somewhat differently, the point is essentially the same as that presented by many other parties and which has been discussed previously.

PROPOSAL TOO RIGID

91. Several points are subsumed under this heading. One concerns the view expressed by several parties that an ex-

[29] This, of course, has taken place.

emption for UHF stations is an economic necessity. At most, they argue, these situations should be considered on a case-by-case basis. Another party takes the view that in certain markets, a weekly newspaper can be the more powerful medium, not the daily, and the rule would give no recognition to such a situation.

THE COMMISSION SHOULD ADOPT SPECIFIC RULES TO DEAL WITH POTENTIAL ABUSES

92. Several parties suggest that if the Commission can identify evils which could occur in cross-ownership situations, such as preferential advertising rates for purchase of both newspaper space and broadcast commercial time, it should regulate such practices by specific rules. The Commission's response to the payola scandals—sponsorship identification requirements of Section 73.119 and 73.654—is said to be a good example of selective rule making.

93. According to various parties, the objective of achieving maximum diversification of media ownership is not in and of itself determinative of where the public interest lies. This is said to be evidenced by the numerous cases in which the Commission has granted, in comparative proceedings, applications resulting in a greater concentration of media control. They take the view that the Commission's proposal would establish an irrebuttable presumption that any legally qualified applicant unconnected with a newspaper will serve the public better than a station owned by a company which also publishes a local newspaper. A complete prohibition of common ownership is said to risk the exclusion of the best available interested party to the community which in some cases might lead to the exclusion of the only applicant. In sum, the view is that the single most critical factor in governing the extent to which the public interest will be served is the licensee's motivation and interest in serving the community. According to many affected parties the common owner of co-located newspaper and broadcast facilities is often the only one in the community so motivated. On this basis, they assert that the proposed rules would work to the detriment of the public, and thus they urge rejection of such a rule. Supporters see things quite differently, questioning whether such a grant could really add anything worth the cost of possibly forever excluding another party which might step forward in the future.

MAJOR STUDIES SUBMITTED

94. A number of studies have been submitted, including some by parties not associated with the newspaper or broadcast industries. The studies cover four major topics. Some studies treat more than one topic, but are listed only once in the summary which follows. A list of these studies is contained in Appendix B.

95. *Economic Consequences of Divestiture.* Both the Frazier, Gross study and the First National City Bank study indicate that combination owners will most likely transfer their TV stations rather than their newspapers. First National is extremely pessimistic about the financial outcome for sellers of TV stations, under divestiture market conditions. Frazier's judgment is that TV stations will sell at 10% to 20% below true value if all affected stations were to be divested. Our own evaluation is that the concern may be exaggerated.

96. *Effect of Common Ownership on Competition.* No claims were made that newspaper-television station owners have committed any specific non-competitive acts as such, but Rosse et al. attempt to show that, all other things held constant, newspaper-owned TV stations charge their advertisers higher prices than other TV stations, and that this is probably due to the monopoly effect. Their calculations show that newspaper-owned TV stations charge about 15% higher rates. The NAB and ANPA statisticians see a conceptual error in Rosse's model—audience was omitted as one explanatory variable, and when the error was corrected, the difference in prices between newspaper-owned TV stations and others was not statistically significant. The Post-Newsweek study also covered this point. The Commission's own examination of the point fails to show an effect on rates attributable to newspaper ownership. Levin uses past TV station sales prices as a measure of whether newspapers have been subsidizing their owned TV stations. He finds they have not.

97. *Effect of Common Ownership on Station Performance.* Both the Student Group and Levin did empirical analyses to determine if newspaper-owned TV stations differ from other TV stations in the quantities of news, public affairs, local programming, etc., they present, and Levin also studied possible differences in diversity. Levin's findings appear to be inconclusive. The Student Group finds that there is no significant difference in the performance, between TV stations owned by local newspapers and other TV stations. Although the NAB findings use different methodology with the Student Group data, the results are essentially the same—no significant differences. A Commission staff study on this topic is attached as Appendix C. When the earlier submissions were prepared, the Annual Programming Reports for television stations had not yet become available. The Commission's study is the first to use this data. The American Institute conducted a study of public attitudes, behavior and knowledge of current events in two similar cities, to determine if media monopoly (Zanesville, Ohio) results in a less informed public than competitive media (York, Pennsylvania). The York population sample was found to be significantly more knowledgeable on current events, and this was attributed to the fact that the only newspaper, TV station and AM/FM radio station in Zanesville were then controlled by a single owner. J. Anderson attempts to discover whether the informational content of the news broadcasts and daily papers of co-owned media show a greater correspondence than do media separately owned. He finds that TV-newspaper combinations and radio-newspaper combinations do not result in a monolithic presentation of information, in the many sample cities studied. Cox Broadcasting's two studies result in similar findings for two specific markets where they own newspapers and broadcast stations—Atlanta and Dayton.

98. *Multiplicity and Diversity of the Media.* Sterling shows that the number and proportion of newspaper-owned broadcast stations has been on the decline since 1950. Udell says that newspaper-owned TV stations have declined from 29% (of all TV stations) in 1955 to 14% in 1969. He also points out that there has been growth in the TV industry in spite of newspaper ownership in many markets. The ANPA staff study presents tabulations that confirm the downward trend and they also show that the total media voices (including magazines and other publications) is extremely high in most markets (e.g. 660 in Washington, D.C.). Seiden's study, counting all the media voices in the ADI counties of each market, also presents high figures (e.g. 98 in San Diego; 610 in New York City). Wilcox in his submission seems to suggest that newspapers and broadcasters are not instrumental in shaping public opinion, and that with the enormous volume and contradictory viewpoints presented, people are overwhelmed and reject everything. The Commission does not believe that "counts" as such add much to our knowledge as they fail to consider the particular characteristics that assume considerable significance in many situations.

CONCLUSIONS

99. *Introduction.* It has become clear in reviewing the record of this proceeding that additional public interest considerations need to be applied in judging the public interest consequences of present as distinguished from future common ownership interests in co-located newspapers and stations. Put otherwise, the idea of divestiture, implicit in retrospective rules, requires a demonstration of more than just theory or a resting on narrowly drawn balances. Rather, we must consider the impact that divestiture would have, taking into account factors not present in connection with prospective rules, matters which must be examined if fairness is to be achieved. Before we proceed with our discussion of these two aspects separately, there are a number of general observations to be made about the public policy on which Commission action is based. The multiple ownership rules rest on two foundations: the twin goals of diversity of viewpoints and economic competition. The Commission has a responsibility to consider various aspects of the qualifications of licensees or applicants, among them the question of multiple ownership. In so doing, the Commission acts in individual cases or through rule making. Early in its history, the Commission acted to adopt rules to end common ownership of stations in the same service serving substantially the

same area. Needless to say, such commonly owned stations could neither be true competitors nor could they offer true diversity. Since then the multiple ownership rules have been extended in a number of respects to better serve one of both of the above goals. As to competition in particular, the national public policy (expressed in anti-trust laws and elsewhere) in favor of competition and against actions which would curtail it, finds a reflection in the actions of the Commission. Sometimes, this policy will yield, however, to the even higher goals of diversity and the delivery of quality broadcasting service to the American people. This is a vitally important matter, for it is essential to a democracy that its electorate be informed and have access to divergent viewpoints on controversial issues. Needless to say, thought had to be given to how much diversity to seek in terms of providing the best practicable service to the American public.[20]

100. *Prospective Rules.* While there can be no doubt that newspapers brought a pioneering spirit to broadcasting, first in radio and then in television, it does not necessarily follow that new co-located coownership always would serve the public interest in the same way. In no way does this suggest a lack of recognition of the efforts made by the pioneers. Rather, it speaks to the issues raised when possible new entrants step forward. Now, unlike then, the broadcast medium has matured. While not all have made profits, for the most part, it is the particular market situation, or the newness of the operation that is the cause. Thus, the special reason for encouraging newspaper ownership, even at the cost of a lessened diversity, is no longer generally operative in the way it once was. Nor are newspapers the sole reservoir of experience on which reliance has to be placed. To the extent that TV (or radio) facilities are worth applying for, qualified and experienced applicants can be expected to step forward. Newspapers are not the only interested parties. The Commission is obliged to give recognition to the changes which have taken place and see to it that its rules adequately reflect the situation as it is, not was.

101. The thrust of recent rule changes in the area of multiple ownership as well as the underlying principles go in the direction of increased diversity. It appears that the licensing of a newspaper applicant for a new station in the same city as that in which the paper is published is not going to add to already existing choices, is not going to enhance diversity. In fact, since the number of channels open for filing has vastly diminished, the channel in question may be the last or one of the last available for the community. All this leads us to conclude that steps need to be taken in this regard. We think that any new licensing should be expected to add to local diversity. Accordingly, the rules will bar combinations that would not do so. Not all print media are equal or are generally circulated. Thus, we do not believe that weekly newspapers or specialized publications (including foreign language dailies) need to be included in the prohibitions we are adopting. Their situation would be different, for much of the audience of a station owned by such an entity would receive that entity's views for the first time. Each such publication is a relatively unimportant fraction of the media mix in a particular area. For this reason and because of the sheer size of daily newspapers, we shall limit the rule to daily[21] newspapers of general circulation. For the purpose of this rule, collegiate papers, even if dailies, are not considered to be circulated generally.

102. Since there is no basis in fact or law for finding newspaper owners unqualified as a group for future broadcast ownership, some limit needs to be placed on the geographic effect of the rule. We have decided to follow the parallel of the multiple ownership rule already adopted in this proceeding which bars new TV-radio combinations within certain specified contours, namely Grade A for television, 2 mV/m for AM and 1 mV/m for FM.[22] The rule would bar newspaper ownership if the predicted contours encompassed the city in which the daily newspaper is published.[23]

103. The rule will apply to new ownership patterns however created, whether by initial application and construction or by acquisition. In fact, the latter category is perhaps an even greater cause for concern since there would be a loss of an already existing separate voice if a separately owned station were acquired by a paper. In addition, once a sale is to take place the rule would require a split in an existing combination. No divestiture would be effected nor hardship created since this is a voluntary action by the seller. Thus the rule will apply to all applications for assignment or transfer other than those to heirs or legatees or those for *pro-forma* changes in ownership.[24] In addition to barring daily newspapers from acquiring a station if any of the above-mentioned contours encompass the newspaper community, we shall prohibit grant of a renewal to any station which acquires such a newspaper.[25]

104. The new rule will apply to radio, as well as television applications. While on the one hand it could be argued that the larger number of radio facilities means there already is more diversity than in television, the fact is that we wish to encourage still greater diversity. This to us is a worthwhile goal which does not depend on its being urgent to be justified. Since diversity can be fostered through prospective rules without the fundamental disruption that would occur with altering all current ownership patterns, even a smaller gain is worth pursuing. Also this is the same approach we took in regard to radio-TV combinations, where it, too, could be argued that the numbers suggested no need for concern if a television station acquired a radio station. The effect of the new rule could also be expected to enhance at least to some degree competition in the media.

105. The portion of the multiple ownership rules being amended today has come to be known as the "duopoly" portion of those rules (as contrasted with the seven-station portion). Originally, the duopoly rules proscribed common ownership, operation, or control of two broadcast stations in the same broadcast service serving substantially the same area. Later the proscription was changed to proscribe common ownership, operation or control of two stations in the same broadcast service if specified contours of the stations overlapped (Grade B for television, 1 mV/m for AM and for FM). Then, at an earlier stage of this proceeding, the duopoly rules were amended to cut across broadcast service lines, namely, VHF television and radio. Today they are further amended to include daily newspapers.

106. In discussing duopoly in the preceding parts of this document we have, for the sake of convenience, spoken solely of common ownership of media. However, it is necessary to take cognizance of the other terms in the duopoly rule as well, since not only common ownership is proscribed, but also common

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[20] Sometimes there can be a clash between the goals of diversity and competition. Such is the situation in *Carroll* cases where we consider whether the addition of a station in a locality would damage an existing station's ability to program in the public interest, and whether the proposed station would function as a substitute for it. Leaving aside the quantum of proof required, at their core these cases say that the loss to the public is of such importance that even the goal of competition must take second place. It should be noted that the Commission's function is not to protect stations from competition and the public interest is not disserved even at a station's demise, so long as another takes it place in providing public service programming.

[21] For this purpose we are using the print media definition of a daily, i.e., published 4 times a week or more, in contrast to weekly, semi-weekly, or tri-weekly publications.

[22] For an explanation of this rule, see para. 3 and footnote 2, *supra*.

[23] Any concern that this restriction could be avoided by simply proposing facilities sufficiently limited to prevent encompassment can be resolved when it is recognized that the Commission has already designated applications for hearing on "307(b) efficiency" issues when this happened in connection with the current multiple ownership rules. If the multiple ownership situation arguably would lead to artificial restrictions on station facilities, such matters could be explored in hearing.

[24] Parties believing that survival of both entities depends on their joint sale may make such an argument in seeking waiver of this requirement.

[25] As proposed in the *Further Notice*, if a broadcast station licensee were to purchase one or more daily newspapers in the same market, it would be required to dispose of its stations there within 1 year or by the time of its next renewal date, whichever is longer. If the newspaper is purchased less than a year from the expiration of the license, the renewal application may be filed, but it will be deferred pending sale of the station, if necessary, until the year has expired.

operation or control. It is clear that under the original rule, a party owning 100% of an AM station was prevented from owning 100% of another AM station serving substantially the same area. However, what if he owned 100% of one station and although having no ownership interest in the other he was a director or an officer thereof? Did such a position constitute "control" of the other station so that the proscription of the rule applied? What if a party had no ownership interest in either station but was a director of each, or was an officer of one and general manager of the other? What if he had a minority stock interest in one and was an officer of the other? Was this proscribed? The Commission, by ruling on such questions on a case-by-case basis over the years, has developed policy concerning them. In the earlier stages of this proceeding we indicated that the policy as originally developed for stations in the same broadcast service would be carried over and applied to such cross-interests in VHF and radio stations (22 F.C.C. 2d 306 at 324–5; 28 F.C.C. 2d 662 at 669–670). In the *Further Notice* (22 F.C.C. 2d 339 at 349) we proposed to apply the policy to any new rules that might be adopted herein with regard to newspapers and invited comments on the subject. Nothing filed in response to this invitation suggests a need for different treatment, and we shall therefore adhere to the policy in administering the new rules adopted today.

107. The Commission's present rules proscribing acquisition of common ownership of stations in different services in the same market apply with full force to VHF television stations. However, as to UHF stations, the prohibitions do not apply. Instead, a case-by-case approach is followed. After careful consideration we have decided not to follow this distinction in connection with newspaper-television common ownership. Arguably, some of the same reasons which applied previously and upon which the distinction was created might be said to be present here. Admittedly, there is some commonality in the two areas of the rules in terms of how we should treat UHF stations, but we see even more that is distinctive. Thus, the level of concern over common ownership of an FM station and a UHF television station (a matter handled on a case-by-case basis) is not the same as with a daily newspaper and UHF stations. The latter combination results in a much more imposing entity in most cases. Sometimes, of course, the broadcast-broadcast common ownership situation would raise a problem; hence we provide for treatment of these cases on an *ad hoc* basis. Here the reverse of the broadcast-broadcast combination situation is to be expected. Presumptively, the creation of new television station-daily newspaper combinations or a sale of an existing combination raises a problem. This may not always be the case, but since parties can seek waiver, there is a protection in the event that in a particular case our approach could be unduly harsh. We wish to act to encourage even greater diversity than we now have and think therefore that UHF should not be exempted as a matter of course. As to the view to be taken regarding the significance of operation on a UHF channel as it relates to the question of possible divestiture, discussed below, we believe that the cases need to be judged on their own terms and not based on any assumption that stations on UHF channels have an inferior position in the market. In only one of the cases where the question of possible divestiture exists does this apply, and from the information now before us, exemption on this basis would not appear to be warranted.

108. *Divestiture.* We now turn to the most difficult of the questions before us: should divestiture be required? and if so, to what extent? We have been told by some parties that common ownership of a daily newspaper and a broadcast station raises such a problem as to require divestiture wherever the two entities are co-located. To some extent, in making this argument, reliance is placed on the economic strength of the combination, in terms of their revenues or the percentage of the market advertising revenues the two control. Others place reliance on circulation figures to show the power of the combination. In either instance, we are asked to require the current owner to divest in the hope or expectation that a change in ownership would bring public benefits. The principal benefit mentioned by others is the gain in diversity which the new owner would bring. Still others recognizing that disruption would attend the implementation of any such requirement urge it only in egregious cases. In part this is seen as a matter of fairness, in part it rests on the view that the need is not so great in other cases. We remain no less convinced than before of the importance of diversity, but this is not the only point to consider. Our examination of the situation leads us to conclude that we may have given too little weight to the consequences which could be expected to attend a focus on the abstract goal alone. There are a number of public interest consequences which form the basis of our concern. Requiring divestiture could reduce local ownership as well as the involvement of owners in management as many sales would have to be outside interests. The continuity of operation would be broken as the new owner would lack the long knowledge of the community and would have to begin raw. Local economic dislocations are also possible as a result of the vast demand for equity capital and wide-scale divestiture could increase interest rates and affect selling price too. None of these points was given consideration when we spoke in more sweeping terms at an earlier stage of this proceeding.

109. In our view, stability and continuity of ownership do serve important public purposes. Traditions of service were established and have been continued. Entrance and exit from broadcast ownership by these parties are determined by factors other than just profit maximization. Many began operation long before there was hope of profit and were it not for their efforts service would have been much delayed in many areas. Particularly in connection with a number of entities, there is a long record of service to the public.[28] Under what circumstances then, should such ownership be disturbed? We have concluded that a mere hoped for gain in diversity is not enough. Unlike for prospective rules, divestiture introduces the possibility of disruption for the industry and hardship for individual owners.

110. We agree with the Justice Department that the Commission, like any other regulatory agency, must consider the anti-trust implications of its actions. Indeed, the relationship between antitrust law and administrative law is necessarily a complementary one in which "the basic goal of direct governmental regulation through administrative bodies and the goal of indirect governmental regulation in the form of the anti-trust law is the same." *Northern Natural Gas Co.* v. *F.P.C.*, 399 F. 2d 953 at 959 (D.C. Cir. 1968). On the other hand, as Judge Wright succinctly stated in *Northern Natural Gas Co., supra,* 399 F. 2d at 960–961:

> This is not to suggest, however, that regulatory agencies have jurisdiction to determine violations of the antitrust laws. See *People of the State of California* v. *F.P.C., supra,* 369 U.S. at 490, 82 S. Ct. 901; *United States* v. *Radio Corporation of America, supra,* 358 U.S. at 350, n. 18, 79 S. Ct. 457; *National Broadcasting Co.* v. *United States,* 319 U.S. 190, 223–224, 73 S. Ct. 990 (1943); *Mansfield Journal Co.* v. *FCC,* 86 U.S. App. D.C. 102, 107, 180 F. 2d 23, 33 (1950). Nor are the agencies strictly bound by the dictates of these laws, for they can and do approve actions which violate antitrust policies where other economic, social and political considerations are found to be of overriding importance. In short, the antitrust laws are merely another tool which a regulatory agency employs to a greater or lesser degree to give "understandable content to the broad statutory concept of the 'public interest'." *F.M.C.* v. *Aktiebolaget Sevenska Amerika Linien, supra,* 390 U.S. at 244, 88 S. Ct. at 1009.

Accordingly, we have analyzed the basic media ownership questions in terms of this agency's primary concern—diversity in ownership as a means of enhancing diversity in programming service to the public—rather than in terms of a strictly antitrust approach. Indeed, we have taken into consideration such matters such as potential disruption of the

[28] A careful comparison has been made by the Commission's staff between like television stations differing only in whether or not they were owned by newspapers. The findings, attached hereto as Appendix C, show an undramatic but nonetheless statistically significant superiority in newspaper owned television stations in a number of program particulars. This material is derived from material contained in the first annual program report.

broadcast industry which may not have been relevant from an antitrust analysis, but are intimately involved with important public interest considerations which this agency cannot ignore.

111. The distinction between our approach and the Justice Department's is best put this way. Justice and others applying traditional antitrust criteria are primarily interested in preserving competition in advertisting.[27] They place a greater emphasis on public policies underlying the need to preserve competition than on diversity aspects and for their arguments they use analytic tools taken from economic studies of market share and the like. Conversely, the diversity approach would examine the number of voices available to the people of a given area.[28] The premise is that a democratic society cannot function without the clash of divergent views. It is clear to us that the idea of diversity of viewpoints from antagonistic sources is at the heart of the Commission's licensing responsibility. If our democratic society is to function, nothing can be more important that insuring that there is a free flow of information from as many divergent sources as possible. This is not a reflection on the efforts of combination owners in diligently serving the public interest. Rather, it is a recognition that it is unrealistic to expect true diversity from a commonly owned station-newspaper combination. The divergency of their viewpoints cannot be expected to be the same as if they were antagonistically run.

112. Having said that our primary concern is diversity in programming service, we have analyzed the question of requiring full-scale divestiture under standards and with regard for considerations which are relevant under our broad public interest mandate. This does not mean that the Justice Department's concern for economic competition is irrelevant; only that it is of secondary concern under the Commission's regulatory responsibilities.[29] After reviewing the record in this context, we believe that because of the disruption and losses which could be expected to attend divestiture—resulting in losses or diminution of service to the public—divestiture should be limited to use in only the most egregious cases.[30] We have examined instances where there is co-located common ownership of a daily newspaper and a television and/or radio station to see which situations, if any, required action. In doing so we had to select some standards. As in all such efforts, the standards are not necessarily the only ones that could have been selected. We think the ones we have chosen are suitable and in fact preferable to other possible formulations. Nevertheless, we recognize that others would have preferred more or less stringent standards. A choice had to be made, and it had to rest on a valid and comprehensive foundation. We think it does, even if it is not the only possible formulation or does not represent the only point at which a balance could be struck. Before describing the standards it might be helpful to explain the criteria we used. We were greatly concerned about a lack of diversity that reaches a point sufficient to constitute an effective monopoly in the marketplace of ideas as well as economically. This did not mean, for example, that no magazines or other periodicals entered the market, or that no other radio or television station could be received there. Aside from the fact that such media outlets often had only a tiny fraction in the market, they were not given real weight since they often dealt exclusively with regional or national issues and ignored local issues. If they did deal with locally oriented issues, it was their own locality that was the focus. Such a situation does not bespeak a real diversity on vital issues of local concern. In fact, it is local issues on which so much decision making by the electorate is required, and on which the level of diversity provided by incoming media is lowest. Accordingly, we made an effort to determine whether diversity, real community-wide diversity, was present on such topics of local concern. As to prospective interests, we concluded that we were free to act to foster diversity without being concerned about negative impact from our action. As to interests already in existence, however, we concluded that a recognition needed to be given to such concerns and we used as a guideline whether a single full-fledged choice was available. We thought it would suffice, provided it was one which could be expected to deal with matters of local concern. In such cases there would not be such an unacceptable level of undue concentration. We looked then to incoming signals as a basis for exemption from divestiture.[31]

113. We examined all the instances known to us [32] of common ownership of the only daily newspaper with the only local radio or television station. Not all, it turned out, represented true monopoly situations, and stations were removed from the list if a direct competitor was found. In some of these instances, although only one station might be licensed to a city (such as Norfolk, Virginia) the truth is that the industry and local residents alike perceive the other stations licensed to other cities in the area (in that case Tidewater, Virginia which includes the cities of Hampton, Portsmouth and Newport News) as local, and they so function in terms of responding to local problems. In such cases, there is true (even if not unlimited) diversity. Sometimes, the situations were not so clear-cut.

114. Ascertaining and endeavoring to serve local needs was the key point, and some standard had to be developed to indicate where this was a reasonable expectation and where it was not. We did not believe that determining that a signal (regardless of whether it was city-grade, Grade A or Grade B) could be received, would suffice. We drew the line so as to require encompassment of the newspaper locality [33] by the city-grade signal [34] of another commercial television (or radio) station.[35] There are two reasons for selecting this standard. First of all, dependable coverage of the community in question would be provided, but even more importantly, because of the proximity of the station to the city in question, such stations could be expected to serve the needs of the newspaper locality as well as their own. While it is true that another signal level could have been used if we were only concerned with reception of the station, we do not believe that this would have been satisfactory. We think the focus properly belongs on the responsiveness of the outside station to local problems and needs. While the entertainment offerings of more distant stations garner many viewers, such is not the expectation for public affairs programs. Even if many did watch, little of this material could be expected to deal with problems of the newspaper community. It is unrealistic to imagine that these outside stations, not providing a city-grade signal, would be able to give meaningful responses to the needs of the distant newspaper locality, a nd it would be unfair to impose any such burden on them to attempt it. It is for these reasons that we cannot base our decision on overall viewing patterns as such. Rather, it must be on whether an outside station can be expected to provide meaningful attention to local problems and issues. Some would argue, no doubt, that all of these monopoly situations require divestiture even if a city-grade signal of an outside station encompasses the city in question. We see several problems with such an approach. First, some of these cases are labeled monopolies arbitrarily because only one channel is licensed to a particular city even though others are licensed to cities which together are part of a hyphenated market. Sometimes the residents of the individual communities themselves think of the area as joined together in the sense that local problems and their solutions transcend the borders of the separate cities involved. In such situations, the other stations in the market do direct themselves to the problems faced in common. In fact a question might well be raised in such situations if they did not do so. Even in situations where the communities involved are not so tightly bound, we believe that the attention to local problems outside stations could be expected to provide is sufficient to demonstrate the existence of adequate diversity. This is premised on the efforts of these stations to ascertain and endeavor to serve the needs of a

[27] This is not to suggest that we agree that any showing of higher prices has been made. The point was simply that Justice has applied a traditional competitive view whereas the Commission needs to look to other, even more vital, concerns as well. So it is too with the de Jonckheere approach to examining market concentration that does not give adequate attention to the core concern: diversity of programming service to the public.

[28] The Seiden approach is totally unrealistic in its inclusion of any publication or station that reaches even a small fragment of the market and moreover deals not at all with local issues.

See footnotes at end of document.

monopoly community which they encompass with a city-grade signal [36], efforts which need be undertaken. Although we continue to believe that divestiture is a harsh remedy, one to be reserved only where the need is overwhelming and the evidence unambiguous, it is equally clear that in some circumstances, no other answer can be given. We believe such to be the case where two city-grade signals are not present that offer an effective juxtaposing of views on local issues. In our view, this country can ill afford a monopoly on the expression of views of issues of local concern. This basis for divestiture, however, is a far cry from one based only on some theoretical increase in already existing diversity which might follow from such action and would ignore the ramifications of such a step. Accordingly, we do not believe that further divestiture can be defended.

115. Up to this point we have not attempted to distinguish radio stations from television stations in terms of the need for divestiture or to indicate the reasoning underlying our views on each. As will be clear from the discussion which follows, we are applying the same standards to a radio monopoly co-owned with a monopoly newspaper as we have to a television monopoly with a newspaper connection. Radio and television are given parallel treatment, based on encompassment by a city-grade signal. We are not unaware of the fact that in the cases where the television station and newspaper are the only ones of each in the locality, a city-grade radio signal may very well encompass the city.[37] This fact, in our view, is not sufficient to change matters. Realistically, a radio station cannot be considered the equal of either the paper or the television station in any sense, least of all in terms of being a source for news or for being the medium turned to for discussion of matters of local concern. When the weight of a daily newspaper and the commonly owned television station (perhaps with a radio station or even an AM–FM combination under common control) are combined, the radio station standing by itself cannot be considered as providing significant diversity or as constituting a meaningful competitior at all. Accordingly, the rule shall not provide an exemption based on encompassment of the monopoly television-newspaper community by a radio station as would be the case for encompassment by a television station. Weekly newspapers, likewise, have too small an impact in comparison to the daily newspaper-television station combination to provide a basis for an exception.

116. As to the situations where there is no local TV station and the only radio stations are owned in common with the only daily newspaper, we are of the view that the combined importance of the daily newspaper and the radio station(s)[38] is akin to that of a television-newspaper combination in the television cities. It must be remembered in this connection that there is no local television station to which the local residents can turn and in most cases no incoming city-grade television signal from another community. (In one case, that of Miles City, Montana, there is a television station licensed to serve that community, and we believe this fact sufficient to demonstrate adequate diversity.) Also, because of the much greater number of licensed radio stations, the expectation would be that a choice of signals would be the norm. Thus, the places lacking any other city-grade radio signal [39] could be viewed as isolated. In the smaller non-television communities, radio stations play a truly vital part in local affairs and their efforts and importance can exceed the level reachable by television stations in large markets. These media outlets are a much more central focus in these smaller communities. Even if a television city-grade signal encompasses the newspaper-radio monopoly community it does not follow that the station would provide effective diversity in that community. The outside television station would not be expected to be attuned to meeting the local problems, needs, and interests of these smaller newspaper-radio communities.

117. The rules we have fashioned will prohibit the monopoly situations described above and will require divestiture no later than January 1, 1980.[40] In the case of newspaper-television station monopolies either property could be sold.[41] In the case of radio-newspaper monopolies either the newspaper or a radio station would have to be sold, so if there were an AM–FM combination involved, the affected party need only dispose of one of the stations.[42] Since AM–FM combinations are not precluded by the rules, the AM–FM combination could be sold together.[43] Our goal, the creation of a competing source of news and public affairs programming attentive to the needs of the locality, could be thwarted if appropriate protections were not included to insure compliance with the requirements of the new rules. Thus, for example, there is a need to protect against a station's being offered for sale at a price out of keeping with its true value so that the owners could seek waiver on the basis of the inability to dispose of the station. We expect the parties involved to proceed in good faith. In connection with any attempt to show the inability to dispose of an interest to conform to the rules, we shall not give any weight to a showing that does not include a full description of the effort made to sell that interest, the price at which it was listed and a certification of a station (or if it applies, newspaper) broker that in his view this price is consistent with the fair market value of the station (or newspaper) in question.

118. We anticipate a number of waiver requests. The following discussion sets forth some of the circumstances in which waivers, either permanent or temporary, might be granted.[44]

119. It is not our intention that the rules should work a forfeiture.[45] The rules are not in the least premised on the existence of improprieties in the operation of the media holdings. Thus, only a sale, not a loss is contemplated. For this reason, inability to sell the station would be a basis for waiver. Otherwise a refusal to grant a further renewal of license to the present licensee would work a forfeiture, a result contrary to our intent. We would take a similar view if the only sale possible would have to be at an artificially depressed price.[46] Likewise, if it could be shown that separate ownership and operation of the newspaper and station cannot be supported in the locality, waiver might well be appropriate. In any of these instances we contemplate waivers of reasonable duration, so that we shall not always be bound by a result based on outdated information. Finally, if it could be shown for whatever reason [47] that the purposes of the rule would be disserved by divestiture, if the rule, in other words, would be better served by continuation of the current ownership pattern, then waiver would be warranted. However, we would not be favorably inclined to grant any request premised on views rejected when the rule was adopted, as we do not intend to relitigate resolved issues.

120. On our own motion, in two cases we are exempting stations from divestiture because it is clear that for each case a waiver would be warranted. At Hickory, North Carolina, the television station operates on a UHF channel with highly limited facilities and without a network affiliation. Whether by net weekly circulation or any other measure, the station, its audience and hence its impact, is minor. Consequently, there appears to be little basis for expecting any interest to be shown in acquiring this station. With Brookfield, Missouri, in the radio station list, it is equally clear that it is not on equal footing with the others in the group. By various indicia, both the station and the community are significantly different from the others. To neither of the above licensees would it be fair to insist that they go to the expense of filing a waiver request when the outcome is clear. Therefore we shall act now.

121. As to others desiring waiver we wish to make it clear that we do not contemplate holding evidentiary hearings on the individual waiver requests unless there are substantial issues of fact to be resolved. Legal, as distinguished from factual issues, can just as well if not better be resolved without the need for an evidentiary hearing. An evidentiary hearing on the other hand could only cause delay and unnecessary expense to all concerned. There is no requirement for the holding of an evidentiary hearing imposed by law absent the raising of substantial factual issues and we shall not take on a pointless task.

122. The current state of the economy may suggest to some that any station sales could only be at a depressed price, but as pointed out previously, there is no need to sell now if it is more advantageous to wait. With a 5-year grace period for compliance, particular market conditions or even an overall market down turn would not provide a basis for obviating the divestiture requirement, unless such a condition were to last the

See footnotes at end of document.

full five-year period. Such a turn of events does not seem plausible, but even if we thought it were, any action on this basis would have to await future happenings. In the meantime, we expect that parties wishing to seek waiver of the divestiture requirement will file their requests within 6 months of the publication of this document in the FEDERAL REGISTER. This should be sufficient time to properly assay the applicable circumstances and to prepare even a lengthy request. We are not prepared to consider late-filed requests unless based on changed circumstances which would not have been anticipated.

123. *Miscellaneous Matters Relating to New Rules.* We have been urged to exempt Puerto Rico from any rules we might adopt. Whatever action might have been required if any divestiture were to take place there, the fact is that no divestiture is required. The arguments we have been offered dealt mostly with existing and not future ownership combinations. In our view, the need for diversity is no less great in Puerto Rico than elsewhere, and we see no less need to apply the prospective rules there. To the extent a prospective applicant believes that special circumstances warrant deviation from the new requirements, it is at liberty to seek waiver to permit acceptance of a non-conforming application.

124. The suggestion has been made that we should act to help insure that ownership of any divested station should pass to minority group ownership. Secondarily we were urged to act similarly to encourage assignment to local (preferably minority) owners. The trouble with this request is that it appears to run afoul of Section 310(b) of the Communications Act of 1934, as amended. That provision specifically bars the Commission from considering whether the public interest would be served by transferring ownership to a party other than the one proposed in the application filed with the Commission. We inquired of the party urging this approach how it could be done consistent with Section 310(b) and were not offered any persuasive basis for believing it could be done. Accordingly, we shall not adopt such a requirement even obliquely as we were urged through requiring the assignor/transferor to attempt to find a buyer in keeping with the priorities urged by NCCB. However, it is clear that few stations are licensed to minority group owners. Divestiture might be an occasion for affected parties to consider this fact in reaching their decisions, but no requirement to this effect will be adopted.

125. *Impact on comparative hearings involving regular renewal applicants.* Under the rules adopted herein, only a small number of co-owned broadcast-newspaper combinations are required to divest and no co-owned TV-radio combinations must do so. This raises a question as to the effect our action taken today will have on comparative renewal proceedings when licensees not required to divest apply for renewal of license and are challenged by a competing applicant. The answer to that question lies in the following discussion of our 1970 "Policy Statement Concerning Comparative Hearings Involving Regular Renewal Applicants" (22 F.C.C. 2d 424).

126. In that statement we attempted to balance the benefits received by the public from the statutory spur inherent in the fact that there can be a challenge at renewal time against the value of not undermining predictability and stability of broadcast operation. The balance was struck by adopting a policy which provided that if a renewal applicant could show in a hearing with a competing applicant that its program service during the preceding license term had substantially met the needs and interests of its area (and that the operation of the station had not been characterized by serious deficiencies) the renewal applicant was given a controlling preference over the new applicant. In adopting this policy, we stated that as to the Commission's rules and policies governing diversification of the media of mass communications, where a renewal applicant with other media interests had in the past been awarded a grant as consistent with those rules and policies and thereafter rendered service that substantially met the needs and interests of its area it would be unfair and unsound to permit him to be ousted on the basis of a comparative demerit because of his media holdings. Our position was that as a general matter the renewal process is not an appropriate way to restructure the broadcast industry. Rather, we stated, this should be done in rule making proceedings.

127. The 1970 Policy Statement was struck down by the Court in Citizens Communications Center v. F.C.C., 447 F. 2d 1201 (1971). The basis of the Court's action was that in a comparative hearing involving a regular renewal applicant, the Communications Act and Ashbacker Radio Corp. v. F.C.C., 326 U.S. 327 (1945), require a single full hearing in which the parties may produce evidence and be judged on the basis of all relevant criteria. It was the view of the court that the 1970 Policy Statement provided for a full comparison of the renewal applicant and the challenger only in cases where in the initial stage of the hearing the incumbent could not show a past record of substantial service without serious deficiencies. In other cases, the Court said, the challenger was given no hearing at all.

128. In ruling the 1970 Policy Statement illegal, the Court said (at fn. 33):

> Thus, without impinging at all upon the Commission's substantive discretion in weighing factors and granting licenses, our holding today merely requires the Commission to adhere to the comparative hearing procedure which it has followed without fail since Ashbacker and which has rightly come to be accepted by observers as a part of the due process owned to all mutually exclusive applications.

However, in such a single full comparative renewal hearing the Court observed that superior performance by an incumbent licensee should be a plus of major significance. This is because "[t]he court recognizes that the public itself will suffer if incumbent licensees cannot reasonably expect renewal when they have rendered superior service." (At fn. 35.) Nonetheless, it was the Court's view that "[d]iversification is a factor properly to be weighed and balanced with other important factors, including the renewal applicant's prior record, at a renewal hearing." (At fn. 36.)

129. After the decision in Citizens Communications Center, the Commission (noting the doubts expressed by the Court as to procedures made by the Commission in adopting the 1970 Policy Statement) issued a Further Notice of Inquiry in Docket No. 19154 (31 F.C.C. 2d 443 (1971))* inviting views of interested parties on the formulation of policy in this area that would be consistent with the Court's holding that a full hearing is required. That proceeding is still pending. The Commission has recently announced its intention to consider in the near future what its policy should be in this regard, but has not yet resolved the point. In the light of Citizens Communications Center, whatever policy is developed will take into account diversification as a factor that must be considered in a comparative renewal hearing. Also in the light of that case, the weighing of factors lies within the substantive discretion of the Commission, and the weight to be given the factor of diversity in comparative renewal hearings remains to be determined. Until such time as a new policy is formulated in Docket No. 19154, of necessity, under Citizens Communications Center, the factor of diversification must be considered in comparative renewal hearings, but the weight to be given that factor will be a matter within the discretion of the Commission. In connection with both any policy that may be developed and with comparative renewal proceedings that may occur before the development of such policy, we reiterate what we have said on another occasion (31 F.C.C. 2d 443 at 445), that we do not believe the Court in Citizens Communications Center is seeking to have the ownership patterns of the broadcast industry restructured through the renewal process; that, rather, any overall restructuring should be done in a rule making proceeding. And what we consider to be the necessary overall restructuring has been done today.

130. During the pendency of this proceeding, in situations involving petitions to deny renewal applications, the Court has approved our policy of refusing to consider questions of concentration of control unless specific abuses are shown. (Hale v. F.C.C. 425 F. 2d 556 (D.C. Cir. 1970); *Stone* v. *F.C.C.* 466 F. 2d 316 (D.C. Cir. 1972); Columbus Broadcasting Coalition v. F.C.C., —— F. 2d —— (D.C. Cir. 1974.)) Parties as of now may raise concentration issues in connection with such petitions. However, absent a showing of economic monopolization that

See footnotes at end of document.

might warrant actions under the Sherman Act, it would not be our view that such arguments would raise valid issues necessitating the designation of renewal applications for hearing. (See fn. 29, supra.) We should make clear at this time that since the stations which are subject to the divestiture provision are in effect under an order to terminate their present cross-ownership there would be no point in conducting protracted comparative hearings concerning those facilities during the interim period. Our finding that divestiture is required would obviously weaken their position in a comparative proceeding, but since we have determined that their present operations should be divested without regard to the quality of their service, as a means of improving the pattern of ownership, we think it would be inequitable to subject them in their present posture to competitive challenge. Furthermore, any comparative hearings at renewal time would probably run through the date when divestiture must be accomplished; this would create a chaotic situation. In view of these considerations, interested parties should be advised that we do not contemplate conducting comparative hearings in the usual course when these licenses come up for renewal.

131. *Policy Regarding Non-Divestiture Combinations.* As we had occasion to observe in the earlier discussion of the comments, a number of parties argued for (or suggested as a substitute for a separation in ownership) requirements to insure separate operation of jointly owned media entities. Although we were not persuaded that their arguments offered a valid basis for obviating the need for divestiture, or for requiring separation in ownership on a prospective basis, we are persuaded that valid points exist in this argument. Various combination owners have stressed that their two media interests—print and broadcast—are operated separately. Even if separate operation cannot be equated with separate ownership, it is nonetheless an important point. Were it otherwise and the two operated jointly, it might have been necessary for the Commission to act to require divestiture in many more situations. If the power of the print-broadcast combination were exercised monolithically or if the print and media outlets were mirror images of one another, speaking with one voice, we would have to be concerned.

In the divestiture cases, we held that even in the absence of specific abuses, the need to provide at least minimal diversity required action. As to the remaining instances of combination ownership, we believe some clarification in our expectations is required.

132. Many of the parties owning newspapers and broadcast stations in the same locality described how the two entities—print and broadcast—were separately operated. We were told that separate editorial and reportorial staffs were utilized. Many pointed to a separation in sales staff and an emphasis on competition between media. We endorse such efforts to insure a maximum of diversity and competition possible under the circumstances of common ownership and we commend those conscientious owners for their efforts.[49]

133. Based on the foregoing discussion, *it is ordered*, Pursuant to the authority contained in sections 4(i) and (j) and 303 of the Communications Act of 1934, as amended, That §§ 73.35, 73.240 and 73.636 of the Commission's rules and regulations are amended as set forth in Appendix F, effective February 12, 1975, the date of publication of this document in the Federal Register. All applications not granted by that date shall be subject to the new rules. Since these rules embody important new policy having widespread effect, we believe that it is in the public interest to make the effective date February 12, 1975, rather than to delay the effective date to a time at least 30 days after publication in the FEDERAL REGISTER. 5 U.S.C. 553(d)(3).

134. *It is further ordered*, That the provisions of newly adopted Section 73.35 (c) barring common ownership of the only AM station and a daily newspaper, and Section 73.636(c) barring common ownership of the only television station and daily newspaper ARE WAIVED insofar as they apply to such existing newspaper-broadcast combinations in Brookfield, Missouri, and Hickory, North Carolina.

135. *It is further ordered*, That this proceeding IS TERMINATED.

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

Adopted: January 28, 1975.

Released: January 31, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[50]
VINCENT J. MULLINS,
Secretary.

APPENDIX A

PARTIES FILING COMMENTS AND REPLY COMMENTS IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULE MAKING IN DOCKET NO. 18110

Advance Publications.
The Alexandria Gazette.
All Channel Television Society.
Allied Daily Newspapers of Washington.
American Broadcasting Companies, Inc.
American Institute for Political Communication.
American Newspaper Publishers Association.
Argus-Press Company.
Arkansas Democrat Company.
Arkansas Television Company.
Auburn Publishing Company.
Baton Rouge Broadcasting Co., Inc.
A. H. Belo Corporation.
Robert W. Bennett.
Joseph F. Biddle Publishing Company.
Broadcast-Plaza, Inc.
Broadcasting and Film Commission, National Council of the Churches of Christ in the U.S.A.
Brockway Company.
Buffalo Evening News, Inc., et al.
Bulletin Company.
Canton Daily Ledger.
Capitol Broadcasting Company.
Capitol Broadcasting Company, Inc.
Carter Publications, Inc.
Cedar Rapids Television Company.
Channel 6, Inc.
Chronicle Publishing Company, et al.
Coffeyville Publishing Company, Inc.
Columbia Broadcasting System, Inc.
Columbus Broadcasting Company, Inc.
Cosmos Broadcasting Corporation.
Cox Broadcasting Corporation.
Daily News.
Daily News-Tribune.
Daily Pantagraph.
Daily Press, Inc.
Daily Record.
The Day.
Denton Record Chronicle.
Dodge City Broadcasting Co., Inc.
Duhamel Broadcasting Enterprises.
Easton Publishing Company.
Elyria-Lorain Broadcasting Co.
Enterprise Publishing Company.
Evening News Association.
Evening Star Newspaper Company.
Express Communications, Inc.
Finley Broadcasting Company, et al.
Fisher's Blend Station, Inc.
Florida Publishing Company.
Helene R. Foellinger.
Fort Myers Broadcasting Company.
Forum Publishing Company, et al.
Forward Association.
Forward Communications Corporation.
C. D. Funk.
Galesburg Broadcasting Company.
Gazette Printing Company, et al.
Gazette Publishing Company.
General Electric Broadcasting Company, Inc.
Richard Gilkey.
Gray Communications Systems, Inc.
Green Bay Newspaper Company.
Grit Publishing Co.
Guaranty Broadcasting Corporation.
Guy Gannett Publishing Co., et al.
Ethel C. Hale, et al.
Hearst Corporation.
Herald Association, Inc.
Herald Corporation.
Houston Post Company, et al.
William F. Huffman Radio, Inc.
HUSE Publishing Company, et al.
Illini Publishing Company.
Illinois Broadcasting Company, et al.
International Broadcasting Corp., et al.
Jacksonville Journal Courier Co.
Jefferson Standard Broadcasting Co.
Jet Broadcasting Co., Inc.
Terrall M. de Jonckheere.
Journal Company.
Journal Review.
Kansas State Network, Inc.
Kenosha News.
Kid Broadcasting Corporation.
KMSO–TV, Inc., et al.
KGVO Broadcasters, Inc. and KMSO–TV, Inc.
KSLA–TV, Inc.
KUTV Inc., et al.
Lawrence Daily Journal-World.
Harvey J. Levin.
Lexington Heraldleader Co.
Ed Livermore.
Macomb Daily Journal.
Marshfield News-Herald.
McClatchy Newspapers.
McClure Newspapers, Inc.
Medford Daily Mercury.
Medford Mail Tribune.
Meyer Broadcasting Company.
Michigan Press Association.
Mickelson Media, Inc., et al.
Midcontinent Broadcasting Company.
Midnight Sun Broadcasters, Inc.
Midwest Radio-Television, Inc.
Midwestern Broadcasting Company.
Minneapolis Star and Tribune Company.
Mississippi Publishers Corporation.
The Monitor.
Multimedia, Inc.
National Association of Broadcasters; Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E.
National Broadcasting Company, Inc.
National Newspaper Association.
Nebraska Broadcasters Association.
New England Daily Newspaper Association.
Newhouse Broadcasting Corporation.

The New Mexican.
New York News, et al.
North Carolina Association of Broadcasters.
North Carolina Television, Inc.
Ogden Newspapers.
Ohio Newspaper Association.
Oklahoma Broadcasters Association.
Oklahoma Press Association.
Owensboro Publishing Company.
Paducah Newspapers, Inc.
R. W. Page Corporation.
Palestine Herald-Press Company.
Palmer Broadcasting Company, et al.
Palmetto Radio Corporation.
Peninsula Newspapers Incorporated.
Pioneer Valley Broadcasting Co., et al.
The Post Company.
Pottsville Republican.
Progress Broadcasting Corporation.
Progressive Publishing Company, Inc.
Pulitzer Publishing Company.
Quality Broadcasting Corporation.
Quincy Newspapers, Inc., et al.
Radio Medford, Inc.
Reporter Printing Company.
Ridder Publications, Inc.
Rock Island Broadcasting Company, et al.
James N. Rosse.
Salina Radio, Inc.
Santa Barbara News-Press.
Sarkes Tarzian, Inc.
John C. Schmarkey.
Scottsbluff Daily Star-Herald.
Scranton Times.
Scripps-Howard Broadcasting Company, et al.
South Bend Tribune.
Southern Minnesota Broadcasting Company.
Stanford University, Research Center in Economic Growth.
Stauffer Publications.
Students' F.C.C. Study Group.
Summit Radio Corporation.
Telegraph-Bulletin.
Telemundo, Inc., et al.
The Times Company.
Times Herald Printing Company.
Triangle Broadcasting Corporation.
Tribune Company, et al.
Tribune Publishing Company.
Truth Publishing Company, Inc., et al.
United States Department of Justice.
Vindicator Printing Company, et al.
George R. Walker.
Washington Post Company, et al.
WBNS-TV, Inc., et al.
WEEU Broadcasting Company.
Westinghouse Broadcasting Company, Inc.
West Virginia Radio Corporation.
WFLA, Inc.
WGAL Television, Inc., et al.
WHAS, Inc.
Wichita Falls Times, et al.
Williamson County Sun.
Wisconsin Daily Newspaper League.
WJAC, Incorporated, et al.
WKBN Broadcasting Corporation.
WKRG-TV, Inc.
The Woonsocket Call.
World Publishing Company.
WSM, Incorporated.

PARTIES FILING REPLY COMMENTS

American Newspaper Publishers Association.
Stephen R. Barnett.
City Club of New York.
Donrey, Inc.
Alfred H. Hemingway, Jr.
Dr. Harvey J. Levin.
McClatchy Newspapers.
National Association of Broadcasters.
National Newspaper Association.
Tribune Company, et al.
WGAL Television, Inc., et al.

PARTIES FILING COMMENTS IN RESPONSE TO MEMORANDUM OPINION AND ORDER ANNOUNCING ORAL ARGUMENT

American Broadcasting Companies, Inc.
American Newspaper Publishers Association.
Les Anderson.
Charles A. Baer.
Buffalo Evening News, Inc. and WBEN, Inc.
Center for Policy Research, Inc.
Channel Two Television, Inc.
Chronicle Publishing Company and Chronicle Broadcasting Co.
Civil Liberties Union of Alabama and The Selma Project.
Columbia Broadcasting System, Inc.
Cox Broadcasting Corporation.
Donrey, Inc.
Duhamel Broadcasting Enterprises, Inc.
Effingham Broadcasting Company.
Evening News Association, Lee Enterprises, Incorporated, and WKY Television System, Inc.
Gardner Advertising Company, Inc.
Houston Post Company (see Channel Two Television, Inc.).
Huntingdon Broadcasters, Inc.
Illinois Broadcasting Co., Inc. and Lindsay-Schaub Newspapers, Inc.
Justice, U.S. Department of.
KCEN-TV (Channel 6, Inc.).
KSL, Incorporated.
Labor Union News, Inc.
McClatchy Newspapers.
McKenna, Wilkinson & Kittner.
Metromedia, Inc.
Midwest Radio-Television (WCCO).
Minneapolis Star and Tribune Company.
National Association of Broadcasters.
National Broadcasting Company.
National Citizens Committee for Broadcasting.
National Newspaper Association.
Omaha World Herald.
The Post Company.
Post-Newsweek Stations, Capital Area, Inc.
Progressive Publishing Company and Clearfield Broadcasters, Inc.
Pulitzer Publishing Company and KSD/KSD-TV, Inc.
Rocky Mountain Broadcasters Association.
Summitt Radio Corporation.
Telemundo, Inc. et al.
UHF Television Stations.
George R. Walker.
WJAG, Inc.
WKRG-TV, Inc.
WTMJ.

PARTIES FILING REPLY COMMENTS IN RESPONSE TO MEMORANDUM OPINION AND ORDER ANNOUNCING ORAL ARGUMENT

American Newspaper Publishers Association.
Buffalo Evening News, Inc. and WBEN, Inc.
Center for Governmental Responsibility.
KSL, Incorporated.
KUTV, Inc. et al.
The Post Company.
Post Newsweek Stations, Capital Area, Inc.

APPENDIX B

MAJOR STUDIES SUBMITTED IN DOCKET NO. 18110 IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULE MAKING

Economic consequences of divestiture

ANPA Comments, Volume II:

(a) Study A—Frazier, Gross Associates *Valuation of Newspaper Owned TV and Radio Stations.*

(b) Study B—First National City Bank, *Financial and Investment Issues of Forced Divestiture*

Effects of common ownership on competition

J. Rosse, B. Owen, D. Grey, *Economic Issues in Joint Ownership of Newspaper and TV Media* (Stanford University Research Center in Economic Growth Memorandum No. 97).

(a) See especially Appendix 1: B. Owen, *Empirical Results on the Price Effects of Joint Ownership in the Mass Media. . . .*

J. Rosse, *Credible and Incredible Economic Evidence* (Reply Comments).

NAB Comments, Exhibit B (Revised): A. Lago and D. Osborne, *A Quantitative Analysis of the Price Effects of Joint Mass Communication Media Ownership.*

NAB Reply Comments:

(a) Appendix C: Addendum to Lago and Osborne (Exhibit B of NAB comments).

(b) Appendix D: Note by NAB Research Staff re: regression analysis of audience effects on price.

Appendix Note to Dr. Harvey Levin's reply comments.

Effects of common ownership on station performance

Students' FCC Study Group, Comments filed by Albert Kramer, May 1971.

H. Levin, *The Policy on Joint Ownership of Newspapers and Television Stations: Some Assumptions, Objectives, Effects.*

H. Levin, Reply Comments.

ANPA Reply Comments, Appendix C: J. Udell, *Critique of Harvey Levin's Comments.*

NAB Reply Comments, Appendix B—on Levin's statement.

The American Institute for Political Communication, Washington, D.C., 1971, *The Effects of Local Media Monopoly on the Mass Mind.*

NAB Comments, Exhibit E: J. Anderson, *The Problem of Information Control: A Content Analysis of Local News Publication.*

Cox Broadcasting Corporation Comments:

(a) Appendix A: W. McDougald and E. Sasser, et al., *Atlanta Market News and Editorial Research Study.*

(b) Appendix B: J. Anderson and D. O. McDaniel, et al., *Two Studies: A Historical Analysis and Content Comparison of Cox Broadcasting Corporation's Affiliated News Media in Dayton, Ohio.*

Multiplicity and diversity of media

NAB Comments, Exhibit C: C. Sterling, *Ownership Characteristics of Broadcasting Stations and Newspapers in the Top 100 Markets: 1922–1967.*

Study E—Staff Study by ANPA.

Study E—J. Udell, *Economic Consequences of FCC Proposal and Critique of Relevant Literature.*

NAB Comments, Exhibit A: M. Seiden, *Mass Communications in the United States, 1970 and Reply Comments of Stephen R. Barnett.*

ANPA Comments, Volume II, Study C: W. Wilcox, *Newspaper Journalism, Broadcast Journalism and the Community.*

Monopoly in the Media, by Terrall M. deJonckheere.

FURTHER STUDIES SUBMITTED IN DOCKET NO. 18110 IN RESPONSE TO MEMORANDUM OPINION AND ORDER ANNOUNCING ORAL ARGUMENT

Economic consequences of divestiture

No further empirical studies.

Effects of common ownership on competition

Comments of Buffalo Evening News and WBEN—Exhibit VIII.

Comments of Post-Newsweek Stations.

Supplementary Comments of Professor Harvey Levin.

Effects of common ownership on station performance

Supplementary Comments of Professor Harvey Levin.

Multiplicity and diversity of media

Comments of Metromedia (Attachments A–D).

Supplemental Comments of the Chronicle Publishing Co. and Chronicle Broadcasting Co. Volume 1.

Supplement to National Association of Broadcasters Exhibit C Regarding Cross-Ownership of Broadcasting Stations and Newspaper; Supplemental Statement of NAB; Exhibit F Aegarding Recent Transfer of Broadcast Stations (Revised).

Comments of Buffalo Evening News and WBEN Exhibit VII.

APPENDIX C

STAFF STUDY OF 1973 TELEVISION STATION ANNUAL PROGRAMMING REPORTS [1]

Summary

It was found that on the average, co-located newspaper-owned TV stations programmed 6% more local news, 9% more local non-entertainment, and 12% more total local including entertainment than do other TV stations. A regression analysis technique was used which holds constant the effects of the following factors: network affiliation, UHF or VHF, group ownership, revenue size, total minutes broadcast during the week and number of commercial stations in market. In each case these differences were statistically significant.

Prepared by: Research & Education Division of the Broadcast Bureau.

Staff Study of 1973 TV Station Annual Programming Reports

One of the questions raised in the current cross-ownership inquiry, is whether newspaper owned co-located TV stations program differently than other TV stations, with respect to news, public affairs or other non-entertainment programs, other factors being equal. In order to investigate this question the staff has studied the 1973 Annual Programming Reports, specifically the 18 program categories and day parts shown in Table 1. We find that for the sample composite week reported by the TV stations on their annual report, those stations owned by co-located newspapers broadcast significantly more minutes in several categories of local programming.

Methodology

A reduced form station model of local and public service programming was specified and then regression analysis was used to evaluate the model with each of the eighteen program categories as dependent variables. This method permits one to "hold constant" the other factors in the relationship.

The programming model was specified as:

$$P=b_0+b_1X_1+b_2X_2+b_3X_3+b_4X_4+b_5X_5+b_6X_6+b_7X_7+b_8X_8+e$$

where

P=minutes of program category broadcast during the 1972–1973 composite week.

X_1=Channel type (VHF or UHF; VHF=1).

X_2=CBS affiliation (Dummy variable, CBS=1).

X_3=NBC affiliation (Dummy variable, NBC=1).[1a]

X_4=Newspaper joint ownership in same market (Dummy variable =1 if joint owned).

X_5=Group ownership (Dummy variable =1 if group owned).

X_6=Station revenue in thousands of dollars.

X_7=Number of commercial stations in station's market.

X_8=Total minutes broadcast (6 A.M.–Midnight during the composite week).

e=Disturbance factor (assumed normally distributed with mean of zero and variance is σ^2).

In evaluating the model, the object was to test the relationship between X_4 (newspaper joint ownership) and P (minutes of program category) for each of the eighteen programs categories.[2] The null hypothesis for each of the eighteen program categories was that the newspaper joint ownership coefficient (b_4) is not significantly different from zero.[3]

Data

Data on the observations included in the study were drawn from a number of sources. Table 2 shows the source of data for each variable in the study.

In general, the analysis included observations from all network affiliates. Independent stations were not included because the number of co-located independent station-newspaper combinations was very small, and their programming patterns were different from affiliated stations. In addition, three other classes of stations were excluded: (1) stations outside the continental U.S., (2) satellite stations, and (3) stations in the top seven markets.[4] The stations in the top seven markets were omitted because previous work by the staff indicated that the stations in these markets behave somewhat differently than stations in other markets and would weigh the results because of their large size. In any case, there were only two newspaper-TV co-located combinations in the top seven markets.

Findings

Table 3 shows the regression results for each of the eighteen programming categories. This table reports the coefficient (b), standard error of the coefficient (S_b) and t statistic for each of the eight independent variables across all eighteen program categories.

Hypothesis tests on the coefficient b_4 indicate that the quantitative effect of newspaper ownership on public service and local programming is not significantly different than zero in all but these three categories:

1. 6 A.M.–Midnight, local sources only, news, public affairs and "other" (ALNPO).

2. 6 A.M.–Midnight, local sources only, news (ALN).

3. 6 A.M.–Midnight, local sources only, all programming, including entertainment (ALNPOE).

Table 3 shows that all three of these coefficients are positive. Thus newspaper joint ownership tends to be associated with increased amounts of program time devoted to ALNPO, ALN, and ALNPOE. The amount of increase for each category is:

1. 6 A.M.–Midnight, local sources only, news, public affairs and "other"—55.74 minutes per week (9.0% over the mean of 614.76 minutes).

2. 6 A.M.–Midnight, local sources only, news—21.94 minutes per week (6.3% over the mean of 344.75 minutes).

3. 6 A.M.–Midnight, local sources only, all programming, including entertainment—94.78 minutes per week (12.5% over the mean of 757.10 minutes).

The conclusion is that television stations under joint ownership with a co-located newspaper quantitatively perform at least as well as other stations in the areas covered by this study; however these jointly owned stations broadcast significantly more minutes than other stations in several categories of local programming, other important factors being equal.

TABLE 1—PROGRAM CATEGORIES AND DAY PARTS

6 a.m.–midnight, all sources:
1. News, public affairs, and "other".
2. News and public affairs.
3. News.
4. Public affairs.

6 a.m.–midnight, local sources only:
1. News, public affairs, "other", and entertainment.
2. News, public affairs, and "other".
3. News and public affairs.
4. News.
5. Public affairs.

Prime time (6 p.m.–11 p.m.), all sources:
1. News, public affairs, and "other".
2. News and public affairs.
3. News.
4. Public affairs.

Prime time (6 p.m.–11 p.m.), local sources only:
1. News, public affairs, "other", and entertainment.
2. News, public affairs, and "other".
3. News and public affairs.
4. News.
5. Public affairs.

TABLE 2—PROGRAM CATEGORIES AND DAY PARTS

6 a.m.–midnight, all sources:	
1. News, public affairs, and "other".	ANPO
2. News and public affairs	ANP
3. News	AN
4. Public affairs	AP
6 a.m.–midnight, local sources only:	
1. News, public affairs, "other", and entertainment.	ALNPOE
2. News, public affairs, and "other".	ALNPO
3. News and public affairs	ALNP
4. News	ALN
5. Public affairs	ALP
Prime time (6 p.m.–11 p.m.), all sources:	
1. News, public affairs, and "other".	PNPO
2. News and public affairs	PNP
3. News	PN
4. Public affairs	PP
Prime time (6 p.m.–11 p.m.) local sources only:	
1. News, public affairs, "other", and entertainment.	PLNPOE
2. News, public affairs, and "other".	PLNPO
3. News and public affairs	PLP
4. News	PLNP
5. Public affairs	PLN

NOTE.—Codes in right column are abbreviations used in table 3.

[1] None of the previous studies submitted by the parties had these reports yet available to them when they were prepared. Thus, Levin used data taken from *TV Guide* for his studies.

[1a] The effect of ABC affiliation is captured in the intercept term.

[2] It should be noted that the coefficients associated with the independent variables were not expected to remain constant across all programming categories. For example, the network terms were expected to be larger and more significant for categories that include all program sources than for categories that include local program sources only.

[3] Although the results show other significant relationships, this study was confined to the newspaper ownership factors.

[4] The top seven markets were defined according to 1972 ARB ADI TV households rank; New York, Chicago, Los Angeles, Philadelphia, San Francisco, Boston, and Detroit.

TABLE 3

DEP. VARS. IND. VARS.	ALNPO $\bar{y}$=614.76 R^2=.369	ALP $\bar{y}$=462.41 R^2=.424	ALN $\bar{y}$=344.75 R^2=.477	ALP $\bar{y}$=117.65 R^2=.130	PLNPO $\bar{y}$=156.62 R^2=.264	PLNP $\bar{y}$=148.96 R^2=.292
Channel type: (VHF=1, dummy variable):						
B	59.78	53.07	54.80	−1.23	8.12	12.61
S	25.32	10.89	10.97	11.27	8.07	7.53
t	*2.36	**3.15	**4.95	−.11	1.13	1.68
CBS:						
B	−25.87	11.32	8.24	3.09	30.34	38.48
S	24.47	16.30	10.60	10.89	7.80	7.27
t	−1.06	.70	.78	.28	**5.05	**5.29
NBC:						
B	5.61	21.79	31.60	−9.80	51.47	46.00
S	23.81	10.96	10.31	10.59	7.59	7.03
t	.24	1.37	**3.06	−.93	**6.79	**6.50
Newspaper joint ownership:						
B	35.74	14.60	21.94	−7.34	2.73	4.40
S	25.85	17.22	11.20	11.50	8.24	7.68
t	*2.16	.85	*1.96	−.64	.38	.57
Group ownership:						
B	−23.15	−16.26	−7.54	−8.72	−5.71	−3.23
S	19.87	13.24	8.61	8.84	6.33	5.91
t	−1.17	−1.23	−.88	−.99	−.90	−.55
REY (X000): $\bar{X}$=2,359.49:						
B	.04072	.03633	.02342	.01291	.01162	.01187
S	.00499	.00326	.00212	.00218	.00156	.00146
t	**8.31	**11.13	**11.03	**5.92	**7.44	**8.15
Number of commercial stations: $\bar{X}$=3.13:						
B	15.29	3.59	1.54	2.05	−1.48	−1.24
S	4.12	2.74	1.78	1.83	1.31	1.22
t	**3.71	1.31	.86	1.11	−1.13	−1.01
Total broadcast minutes:						
B	.15373	.06277	.06681	.02646	.01657	.01468
S	.02614	.01741	.01132	.01163	.00833	.00777
t	**5.88	**5.36	**5.85	*2.28	*1.99	1.89

Footnotes at end of table.

	PLN $\bar{y}$=127.36 R^2=.267	PLP $\bar{y}$=21.62 R^2=.057	ALNPOE $\bar{y}$=757.10 R^2=.207	PLNPOE $\bar{y}$=196.09 R^2=.138	ANPO $\bar{y}$=1644.04 R^2=.464	ANP $\bar{y}$=995.65 R^2=.582
Channel type: (VHF=1, dummy variable):						
B	13.59	−0.97	−30.51	−14.36	99.46	56.20
S	6.73	3.38	43.33	13.63	35.23	21.77
t	*2.02	−.29	−.70	−1.05	**2.82	**2.58
CBS:						
B	33.25	5.22	−65.60	28.62	344.97	227.50
S	6.51	3.26	41.88	13.19	34.05	21.04
t	**5.11	1.60	−1.57	*2.17	**10.13	**10.81
NBC:						
B	39.61	6.38	−21.06	53.67	185.74	241.22
S	6.33	3.17	46.74	12.82	33.13	20.47
t	**6.26	*2.01	−.52	**4.19	**5.61	**11.78
Newspaper joint ownership:						
B	6.33	−1.95	94.78	24.26	35.40	7.10
S	6.87	3.43	44.23	13.92	35.97	22.23
t	.92	−.57	*2.14	1.74	.98	.32
Group ownership:						
B	−3.36	N/S	−59.29	−18.46	−35.74	−16.12
S	5.29		34.01	10.70	27.65	17.09
t	−.64		−1.74	−1.73	−1.29	−.97
REY (X000): $\bar{X}$=2,359.49:						
B	.00909	.00279	.04924	.01226	.03841	.03219
S	.00310	.00084	.00839	.00264	.00632	.00421
t	**6.98	**4.34	**5.87	**4.64	**4.90	**7.64
Number of commercial stations: $\bar{X}$=3.13:						
B	−.80	−.43	14.29	.66	12.23	2.15
S	1.10	.55	7.05	2.22	5.73	3.54
t	−.73	−.78	*2.03	.30	*2.13	.61
Total broadcast minutes:						
B	.01383	.00087	.23302	.03527	.28940	.17428
S	.00695	.00346	.04473	.01407	.03637	.02247
t	*1.99	.25	**5.21	*2.51	**7.96	**7.75

	AN $\bar{y}$=670.46 R^2=.645	AP $\bar{y}$=325.19 R^2=.150	PNPO $\bar{y}$=413.34 R^2=.279	PNP $\bar{y}$=381.04 R^2=.369	PN $\bar{y}$=264.34 R^2=	PP $\bar{y}$=116.70 R^2=
Channel type: (VHF=1, dummy variable):						
B	61.61	−5.41	6.74	5.07	6.72	−1.65
S	14.55	14.52	11.82	10.27	8.34	6.04
t	**4.24	−.37	.57	.49	.81	−.27
CBS:						
B	225.29	2.21	82.63	82.04	70.80	11.24
S	14.06	14.04	11.43	9.92	8.06	5.88
t	**16.02	.16	**7.23	**8.27	**8.78	1.93
NBC:						
B	259.73	−28.51	−38.78	−46.78	67.01	−113.80
S	13.68	13.68	11.12	9.06	7.85	5.68
t	**18.99	−1.36	**−3.48	**−4.85	**8.54	**−20.25
Newspaper joint ownership:						
B	23.26	−16.13	6.16	12.78	5.63	7.15
S	14.85	14.82	12.07	10.45	8.52	6.16
t	1.57	−1.09	.51	1.22	.66	1.16
Group ownership:						
B	−13.27	−2.35	−8.19	−2.78	−1.14	−1.64
S	11.41	11.40	9.26	8.06	6.55	4.74
t	−1.62	−.29	−.86	−.35	−.13	−.35
REY (X000): $\bar{X}$=2,359.49:						
B	.01451	.01768	.01408	.01229	.00849	.00380
S	.00282	.00281	.00229	.00199	.00161	.00117
t	**5.15	**6.29	**6.15	**6.16	**5.28	**3.25
Number of commercial stations: $\bar{X}$=3.13:						
B	2.54	−.39	−2.45	−2.27	−.16	−2.11
S	2.37	2.26	1.92	1.67	1.26	.98
t	1.07	−.17	−1.28	−1.36	−.12	**−2.15
Total broadcast minutes:						
B	.12758	.04670	−.02119	.00641	.01362	−.00721
S	.01502	.01499	.01221	.01060	.00861	.00623
t	**8.50	**3.12	−1.74	.61	1.58	−1.16

*Significant at the 5 percent level.
**Significant at the 1 percent level.
N/S not significant (the explanatory power of this variable was so low that the computer did not include it in the analysis).
See table 2 for key to abbreviations.

APPENDIX D

TV STATION MONOPOLIES—DIVESTITURE REQUIRED

City and state:	TV call letters
Alabama: Anniston	WMMA
Georgia: Albany	WALB
Iowa: Mason City	KGLO
Mississippi: Meridian [1]	WTOK
New York: Watertown	WWNY
Texas: Texarkana	KTAL
West Virginia: Bluefield	WHIS

[1] WHTV, a satellite of Tupelo station WTWV, provides city-grade coverage but has no studio in Meridian.

APPENDIX E.—*AM and FM station monopolies—divestiture required*

City, State	AM call letters	FM call letters
Arkansas: Hope	KXAR	
Illinois:		
Effingham	WCRA	WCRA-FM
Macomb	WKAI	WKAI-FM
Kansas: Arkansas City	KSOK	
Michigan: Owosso	WOAP	WOAP-FM
Nebraska: Norfolk	WJAG	WJAG-FM
Ohio: Findlay	WFIN	WFIN-FM
Pennsylvania: DuBois	WCED	WCED-FM
Wisconsin: Janesville	WCLO	WJVL

APPENDIX F

1. Section 73.35 of the Commission's rules and regulations is amended to read as follows:

§ 73.35 Multiple ownership.

(a) No license for a standard broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls: one or more standard broadcast stations and the grant of such license will result in any overlap of the predicted or measured 1 mV/m groundwave contours of the existing and proposed stations, computed in accordance with § 73.183 or § 73.186; or one or more television broadcast stations and the grant of such license will result in the predicted or measured 2 mV/m groundwave contour of the proposed station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community of license of one of the television broadcast stations or will result in the Grade A contour(s) of the television broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the proposed station; or a daily newspaper and the grant of such license will result in the predicted or measured 2 mV/m contour, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published.

(b) No license for a standard broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other standard broadcast station if the grant of such license would result in a concentration of control of standard broadcasting in a manner inconsistent with public interest,

See footnotes at end of document.

convenience, or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, classes of stations involved and the extent of other competitive service to the areas in question. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven standard broadcast stations.

(c) No renewal of license shall be granted for a term extending beyond January 1, 1980, to any party that as of January 1, 1975, directly or indirectly owns, operates or controls the only daily newspaper published in a community and also as of January 1, 1975, directly or indirectly owns, operates or controls the only commercial aural station or stations which place(s) a city-grade signal over the community during daytime hours. The provisions of this paragraph shall not require divestiture of any interest not in conformity with its provisions earlier than January 1, 1980. Divestiture is not required if there is a separately owned, operated or controlled television broadcast station licensed to serve the community.

NOTE 1.—The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2.—In applying the provisions of paragraphs (a), and (c) of this section, partial (as well as total) ownership interests in corporate broadcast licensees and corporate daily newspapers represented by ownership of voting stock of such corporations will be considered.

NOTE 3.—Except as provided in Note 4 of this section, in applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4.—In applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, an investment company as defined in 15 U.S.C. section 80a-3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated.

NOTE 5.—In calculating the percentage of ownership of voting stock under the provisions of Note 4, if an investment company directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of the outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company need not be considered under the 3-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

NOTE 6.—In applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, a bank holding stock through its trust department in trust accounts need be considered only if such bank directly or indirectly owns 5 percent or more of the outstanding voting stock: *Provided*, The bank files a disclaimer of intent to control the management or policies of the broadcast or newspaper corporation. Holdings by banks shall be aggregated if the bank has any right to determine how the stock will be voted.

NOTE 7.—In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has more than 50 voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

NOTE 8.—Paragraph (a) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities. Said paragraph will not apply to applications for increased power for Class IV stations; to applications for assignment of license or transfer of control filed in accordance with § 1.540 (b) or § 1.541 (b) of this chapter, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled standard broadcast stations and if no new encompassment of communities proscribed in paragraph (a) of this section as to commonly owned, operated, or controlled standard broadcast stations and television broadcast stations or daily newspapers would result. Said paragraph will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of standard broadcast stations with each other no greater than already existing. (The resulting areas of overlap of contours of standard broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) Paragraph (a) of this section will not apply to any application by a party who directly or indirectly owns, operates, or controls a UHF television broadcast station where grant of such application would result in the Grade A contour of the UHF station encompassing the entire community of license of a commonly owned, operated, or controlled standard broadcast station or would result in the entire community of license of such UHF station being encompassed by the 2 mV/m contour of such standard broadcast station. Such community encompassment cases will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by paragraph (a) of this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a commonly owned, operated or controlled standard broadcast station and daily newspaper fall within the encompassing proscription of paragraph (a) of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

NOTE 9.—Paragraph (a) of this section will not be applied to cases involving television stations which are primarily "satellite" operations. Such cases will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Whether or not a particular television broadcast station which does not present a substantial amount of locally originated programming is primarily a "satellite" operation will be determined on the facts of the particular case. An authorized and operating "satellite" television station the Grade A contour of which completely encompasses the community of license of a commonly owned, operated, or controlled standard broadcast station, or the community of license of which is completely encompassed by the 2 mV/m contour of such standard broadcast station may subsequently become a "non-satellite" station with local studios and locally originated programming. However, such commonly owned, operated, or controlled standard and "non-satellite" television stations may not be transferred or assigned to a single person, group, or entity except as provided in Note 8.

NOTE 10.—For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

2. Section 73.240 of the Commission's rules and regulations is amended to read as follows:

§ 73.240 Multiple ownership.

(a) (1) No license for an FM broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls: one or more FM broadcast stations and the grant of such license will result in any overlap of the predicted 1 mV/m contours of the existing and proposed stations, computed in accordance with § 73.313; or one or more television broadcast stations and the grant of such license will result in the predicted 1 mV/m contour of the proposed station, computed in accordance with § 73.313, encompassing the entire community of license of one of the television broadcast stations or will result in the Grade A contour(s) of the television broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the proposed station; or a daily newspaper

See footnotes at end of document.

and the grant of such license will result in the predicted 1 mV/m contour, computed in accordance with § 73.313, encompassing the entire community in which such newspaper is published.

(2) No license for an FM broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other FM broadcast station in the grant of such license would result in a concentration of control of FM broadcasting in a manner inconsistent with the public interest convenience, or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, classes of stations involved and the extent of other competitive service to the areas in question. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven FM broadcast stations.

(b) Paragraphs (a) and (c) of this section are not applicable to noncommercial educational FM stations.

(c) No renewal of license shall be granted for a term extending beyond January 1, 1980, to any party that as of January 1, 1975, directly or indirectly owns, operates or controls the only daily newspaper published in a community and also as of January 1, 1975, directly or indirectly owns, operates or controls the only commercial aural station or stations which place(s) a city-grade signal over the community during daytime hours. The provisions of this paragraph shall not require divestiture of any interest not in conformity with its provisions earlier than January 1, 1980. Divestiture is not required if there is a separately owned, operated or controlled television broadcast station licensed to serve the community.

NOTE 1.—The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2.—In applying the provisions of paragraphs (a)(1) and (c) of this section, partial (as well as total) ownership interests in corporate broadcast licensees and corporate daily newspapers represented by ownership of voting stock of such corporations will be considered.

NOTE 3.—Except as provided in Note 4 of this section, in applying the provisions of paragraph (a)(1), (a)(2), and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4.—In applying the provisions of paragraphs (a)(1) and (a)(2) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, an investment company as defined in 15 U.S.C. section 80a–3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated.

NOTE 5.—In calculating the percentage of ownership of voting stock under the provisions of Note 4, if an investment company directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper, as it owns of the outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company need not be considered under the 3-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

NOTE 6.—In applying the provisions of paragraphs (a)(1), (a)(2), and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, a bank holding stock through its trust department in trust accounts need be considered only if such bank directly or indirectly owns 5 percent or more of the outstanding voting stock: *Provided*, The bank files a disclaimer of intent to control the management or policies of the broadcast or newspaper corporation. Holdings by banks shall be aggregated if the bank has any right to determine how the stock will be voted.

NOTE 7.—In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has more than 50 voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

NOTE 8.—Paragraph (a)(1) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities. Said paragraph will not apply to applications for assignment of license or transfer of control filed in accordance with § 1.540(b) or § 1.541(b) of this chapter, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled FM broadcast stations and if no new encompassment of communities proscribed in paragraph (a)(1) of this section as to commonly owned, operated, or controlled FM broadcast stations and television broadcast stations or daily newspapers would result. Said paragraph will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of FM broadcast stations with each other no greater than already existing. (The resulting areas of overlap of contours of FM broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) Paragraph (a)(1) of this section will not apply to any application by a party who directly or indirectly owns, operates or controls a UHF television broadcast station where grant of such application would result in the Grade A contour of the UHF station encompassing the entire community of license of a commonly owned, operated, or controlled FM broadcast station or would result in the entire community of license of such UHF station being encompassed by the 1 mV/m contour of such FM broadcast station. Such community encompassment cases will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by paragraph (a)(1) of this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a commonly owned, operated or controlled FM broadcast station and daily newspaper fall within the encompassing proscription of sub-paragraph (a)(1) of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

NOTE 9.—Paragraph (a)(1) of this section will not be applied to cases involving television stations which are primarily "satellite" operations. Such cases will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Whether or not a particular television broadcast station which does not present a substantial amount of locally originated programming is primarily a "satellite" operation will be determined on the facts of the particular case. An authorized and operating "satellite" television station the Grade A contour of which completely encompasses the community of license of a commonly owned, operated or controlled FM broadcast station, or the community of license which is completely encompassed by the 1 mV/m contour of such a FM broadcast station may subsequently become a "non-satellite" station with local studios and locally originated programming. However, such commonly owned, operated, or controlled FM and "non-satellite" television stations may not be transferred or assigned to a single person, group, or entity except as provided in Note 8.

NOTE 10.—For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

3. Section 73.636 of the Commission's rules and regulations is amended to read as follows:

§ 73.636 Multiple ownership.

(a)(1) No license for a television broadcast station shall be granted to any party (including all parties under common control) if such party directly or

See footnotes at end of document.

indirectly owns, operates, or controls: one or more television broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations, computed in accordance with § 73.-684; or one or more standard broadcast stations and the grant of such license will result in the Grade A contour of the proposed station, computed in accordance with § 73.684, encompassing the entire community of license of one of the standard broadcast stations, or will result in the predicted or measured 2 mV/m groundwave contour(s) of the standard broadcast station(s), computed in accordance with § 73.183 or § 73.186, encompassing the entire community of license of the proposed station, or one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed station, computed in accordance with § 73.-684, encompassing the entire community of license of one of the FM broadcast stations, or will result in the predicted 1 mV/m contour(s) of the FM broadcast station(s), computed in accordance with § 73.313, encompassing the entire community of license of the proposed station; or a daily newspaper and the grant of such license will result in the Grade A contour, computed in accordance with § 73.684, encompassing the entire community in which such newspaper is published.

(2) No license for a television broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other television broadcast station if the grant of such license would result in a concentration of control of television broadcasting in a manner inconsistent with public interest, convenience, or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, and the extent of other competitive service to the areas in question. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven television broadcast stations, no more than five of which may be in the VHF band.

(b) Paragraphs (a) and (c) of this section are not applicable to noncommercial educational television stations.

(c) No renewal of license shall be granted for a term extending beyond January 1, 1980, to any party that as of January 1, 1975, directly or indirectly owns, operates or controls the only daily newspaper published in a community and also as of January 1, 1975, directly or indirectly owns, operates or controls the only commercial television station which places a city-grade signal over the community. The provisions of this paragraph shall not require divestiture of any interest not in conformity with its provisions earlier than January 1, 1980.

NOTE 1.—The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2.—In applying the provisions of paragraphs (a)(1) and (c) of this section, partial (as well as total) ownership interests in corporate broadcast licensees and corporate daily newspapers represented by ownership of voting stock of such corporations will be considered.

NOTE 3.—Except as provided in Note 4 of this section, in applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4.—In applying the provisions of paragraphs (a)(1), (a)(2) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, an investment company as defined in 15 U.S.C. section 80a–3 (commonly called a mutual fund), need be considered only if it directly or indirectly owns 3 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. Holdings by investment companies under common management shall be aggregated.

NOTE 5.—In calculating the percentage of ownership of voting stock under the provisions of Note 4, if an investment company directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of the outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company need not be considered under the 3-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company.

NOTE 6.—In applying the provisions of paragraphs (a)(1), (a)(2), and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, a bank holding stock through its trust department in trust accounts need be considered only if such bank directly or indirectly owns 5 percent or more of the outstanding voting stock: *Provided*, The bank files a disclaimer of intent to control the management or policies of the broadcast or newspaper corporation. Holdings by banks shall be aggregated if the bank has any right to determine how the stock will be voted.

NOTE 7.—In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has more than 50 voting stock holders are not indentical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street name for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

NOTE 8.—Paragraph (a)(1) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities. Said paragraph will not apply to applications for assignment of license or transfer of control filed in accordance with § 1.540(b) or § 1.541(b) of this chapter, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled television broadcast stations and if no new encompassment of communities proscribed in paragraph (a)(1) of this section as to commonly owned, operated, or controlled television broadcast stations and standard or FM broadcast stations or daily newspapers would result. Said paragraph will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of television broadcast stations with each other no greater than already existing. (The resulting areas of overlap of contours of television broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) Paragraph (a)(1) of this section will not apply to major changes in UHF television broadcast stations authorized as of September 30, 1964, which will result in Grade B overlap with another television broadcast station that was commonly owned, operated, or controlled as of September 30, 1964; or to any application concerning a UHF television broadcast station which would result in the Grade A contour of the UHF station encompassing the entire community of license of a commonly owned, operated, or controlled standard or FM broadcast station or which would result in the entire community of license of such UHF station being encompassed by the 2 mV/m or 1 mV/m contours of such standard or FM broadcast stations, respectively. Such UHF overlap or community encompassment cases will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest.

Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by paragraph (a)(1) of this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a community owned, operated or controlled television broadcast station and daily newspaper fall within the encompassing proscription of subparagraph (a)(1) of this section, the station may not be assigned to a single person, group, or entity if the newspaper is being simultaneously sold to such single person, group or entity.

See footnotes at end of document.

NOTE 9.—Paragraph (a)(1) of this section will not be applied to cases involving television stations which are primarily "satellite" operations. Such cases will be considered on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest. Whether or not a particular television broadcast station which does not present a substantial amount of locally originated programming is primarily a "satellite" operation will be determined on the facts of the particular case. An authorized and operating "satellite" television station the Grade B contour of which overlaps that of a commonly owned, operated, or controlled "non-satellite" parent television broadcast station, or the Grade A contour of which completely encompasses the community of publication of a commonly owned, operated or controlled daily newspaper or the community of license of a commonly owned, operated or controlled standard or FM broadcast station, or the community of license of which is completely encompassed by the 2 mV/m contour of such a standard broadcast station or the 1 mV/m contour of such an FM station may subsequently become a "non-satellite" station with local studios and locally originated programming. However, such commonly owned, operated, or controlled "non-satellite" television stations with Grade B overlap or such commonly owned, operated, or controlled non-satellite television stations and standard or FM stations with the aforementioned community encompassment, may not be transferred or assigned to a single person, group, or entity except as provided in Note 8. Nor shall any application for assignment or transfer concerning such non-satellite stations be granted if the assignment or transfer would be to the same person, group or entity to which the commonly owned, operated or controlled newspaper is proposed to be transferred, except as provided in Note 8.

NOTE 10.—For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

APPENDIX G

SUMMARY OF ACTIONS TAKEN

I. *Previous Rules Continued in Effect.*

(a) *TV-radio combinations.* No divestiture of existing combinations is required. The present rules governing such combinations which were adopted in an earlier phase of this proceeding remain in effect. This means that a licensee of a VHF television station may not build or acquire a radio station(s) (AM, FM, or AM–FM) in the same market; and that the licensee of an AM station, an FM station, or an AM–FM combination may not build or acquire a VHF station in the same market. Although existing combinations are not required to divest, if the owner of a VHF-radio combination sells, he must sell the TV and the radio station(s) to different parties. Applications involving UHF TV stations and radio stations are handled on a case-by-case basis. VHF television stations and AM stations are considered to be in the same market if the Grade A contour of the TV station completely encompasses the community of license of the AM station, or if the 2 mV/m contour of the AM station completely encompasses the community of license of the TV station. A similar market concept holds for FM stations and TV stations except that the critical contour for the FM station is 1 mV/m.

(b) *AM–FM combinations.* Existing rules governing such combinations continue in effect. No divestiture is required. This means that the licensee of an AM station may build or acquire an FM station in the same market and vice versa. Moreover, such a combination may be sold to a single party. The matter of whether the present rules governing duplication of programming by AM–FM combinations should be amended will be pursued in pending Docket No. 20016 (39 Fed. Reg. 14228 (1974)).

II. *New Rules Adopted.*

(a) *Radio-newspaper combinations.* Divestiture is required by January 1, 1980, if the only daily newspaper of general circulation published in a community and the only radio station(s) placing a city-grade signal over the entire community in daytime hours are under common ownership. The owner of such a newspaper-AM-FM combination may satisfy the divestiture requirement by selling the newspaper, the AM–FM, the AM, or the FM. Waivers will be granted on a proper showing. The formation of new radio-newspaper combinations in the same market is barred. They are considered to be in the same market if the 2 mV/m contour of an AM station or the 1 mV/m contour of an FM station completely encompasses the community in which the newspaper is published. If an existing radio station licensee acquires a daily newspaper in the same market, he is given until the date of expiration of license of the radio station, or one year, whichever is longer, in which to divest of one of the two properties. Newspaper-radio combinations which are in the same market but which do not fall within the divestiture requirement previously mentioned need not divest. However, if such combinations are sold the newspaper and the radio station(s) must be sold to different parties.

(b) *TV-newspaper combinations.* Divestiture is required by January 1, 1980, if the only daily newspaper of general circulation published in a community and the only TV station placing a city-grade signal over the entire community are under common ownership. The divestiture requirement may be satisfied by selling either the newspaper or the TV station. The divestiture requirement applies whether the TV station is UHF or VHF. Waivers will be granted on a proper showing. The formation of new TV-newspaper combinations in the same market is barred. (The proscription against formation of new TV-newspaper combinations applies whether the TV station is UHF or VHF.) They are considered to be in the same market if the Grade A contour of the TV station completely encompasses the community in which the newspaper is published. If an existing TV licensee acquires a daily newspaper in the same market, he is given until the date of expiration of the TV license, or one year, whichever is longer, in which to divest. Newspaper-TV combinations which are in the same market but which do not fall within the divestiture requirement previously mentioned need not divest. However, if such combinations are sold the newspaper and the TV station must be sold to different parties.

III. *Policy as to cross-interests in newspaper-broadcast combinations.*

The policy heretofore applied to cross-interests in broadcast stations serving substantially the same area will be applied to newspaper-broadcast combinations falling within the ambit of the newly adopted rules.

FOOTNOTES

[39] We shall examine allegations of economic monopolization which might warrant actions under the Sherman Act on an ad hoc basis in the future in those remaining circumstances where monopolization arguments might still be raised. (See para. 130, infra.) Moreover, we note that the Department of Justice, rather than submit data upon which industry-wide divestiture could be based, has offered general observations regarding the need for media competition and its concern about daily newspaper-VHF television combinations. Other parties have not had a proper opportunity to address the Department's separate filings with respect to the renewal applications for several stations and we doubt, in any event, that they would provide an appropriate basis for formulation of a general standard. Action on these pleadings will be taken in connection with the renewal applications in question. The Department has not offered us specific data in this proceeding on which to rely in applying anti-trust standards. Instead, it says that we are under an obligation to consider the competitive principles underlying the anti-trust laws. While we agree fully, we do not find that the data before us provide a footing for more severe action than we are taking. Divestiture has a substantial impact, and should be required only when we can determine that it is required by the public interest. We agree that it is not necessary to have proof of abuses before we can act, and we recognize that trading of stations would tend to lessen concern based on financial losses or investment uncertainty. However, we do not think that these considerations are a substitute for the requirement of a stronger showing than we have of the need for such a severe remedy on a broader basis. Even if some disruption occurs, we have acted to divest where competition and diversity are absent. Extending this to apply to all newspaper-television combinations, regardless of competition, is not warranted on the record before us and would cause serious public injury. We cannot rest upon an assertion that pricing may not be as competitive simply on the basis that it is "reasonable to assume" so. Merely stating that all daily newspaper-VHF television combinations are inconsistent with the public interest and the anti-trust laws is not enough. The Department urges that the degree of concentration is striking, but at present, 79 television stations are owned partly or wholly in common with daily newspapers published in the same locality. This number represents about 10.4% of the 757 commercial television stations on the air. If newspaper stations elsewhere are included the figure nears 14%, which is far below the 48% figure that obtained in 1948. A similar pattern of a continuing separation of daily newspapers and television stations in the same locality can be observed during the period of this proceeding. Thus, the 1970 figure of 96 co-located newspaper-television combinations dropped to 94 the next year and to 83 by April of 1974. By July of 1974 the figure had dropped still further to 79. Further reduction will take place as a result of our action here and through continuation of already begun changes in patterns of station ownership. We have drawn a line that is based on competition as well as diversity of voices and our experience suggests that there is neither need nor wisdom in going beyond it.

[40] There is another point, too, that with prospective rules as is the case with new applicants, even a small gain in diversity can be the basis for the requirement. Far more must be shown to warrant forcing an

entity to dispose of its interest, and many cases lack any such urgency.

[31] Of course a daily newspaper competitor would equally well suffice to remove the combination from the ambit of the rules, but in these cases none were found.

[32] While we are reasonably sure about the information in question, absolute certainty is not possible. Neither at the Commission nor in any trade publication (print or broadcast) is there a definitive list of these common ownership situations. This information is called for only indirectly in station ownership reports and they are at best only a partial source of information. As a result we contemplate a change in the ownership reports to have specific disclosure of all media ownership.

[33] Although the rule does not rest on this premise, in each instance the location is identical to that of the co-owned station's community of license.

[34] For AM and FM, the city-grade signal levels are 5 mV/m and 3.16 mV/m, respectively. For all stations, encompassment by a city-grade signal means the same as encompassment by a principal community contour.

[35] The question immediately arises of what to do about translators and satellites. As to the former, little could be expected in terms of coverage of diversity. The station whose signal is translated is often quite far away and the existence of a translator has no bearing on the stations' obligation regarding ascertainment of community problems. In effect then, even if the translator provides a dependable signal throughout the monopoly community, it cannot be relied upon to bring in a service attuned to the needs of the monopoly community. Satellites present a more difficult problem as they do operate with more substantial facilities and the primary station is obliged to carry some programming attuned to the needs of the satellite community. We do not believe that this is sufficient to demonstrate diversity unless the satellite has a local studio from which public affairs and news programs can and do originate. Such a station (in effect a semi-satellite) would suffice to demonstrate diversity. Educational stations are not under an obligation to provide the full range of responsive programming as are commercial stations, and we cannot ignore their specialization. It is more than lack of commercials that sets them apart. Since they cannot be equated with commercial stations, we shall not exempt based on encompassment by an educational station. So too with foreign stations which have no obligation to serve the needs of their American audiences or to deal with issues of concern to them.

[36] Stations have a secondary obligation to provide service to areas outside their city of license. In a number of instances stations which place city-grade signals over monopoly communities are addressing themselves to the problems, needs and interests of those communities. Stations in a similar posture should recognize and undertake to serve, on a secondary basis, these monopoly communities.

[37] In fact, such ordinarily would be our expectation, as a community large enough to support a television station could be expected to have a number of radio stations, at least one of which would be separately owned from the newspaper.

[38] In some instances AM stations alone, in others AM–FM combinations.

[39] The reference is to daytime coverage, and the reason for this is quite simple: the data on file at the Commission do not suffice to give an accurate current picture of nighttime AM coverage without the most painstaking examination of each case and a total restructuring of the maps and other data submitted by the stations to take into account all subsequent developments.

[40] This period of five years represents to us a proper balance between the private equities involved and the need for such dispatch as circumstances allow.

[41] If the present owner preferred, both the newspaper and the station could be sold but it would have to be to separate buyers.

[42] Some of the affected AM stations are full-time stations; others are daytime only. Compliance may be achieved by divesting either of the stations regardless of its hours of operation, or by divesting both if that is preferred.

[43] We would not consider it compliance if a station were acquired solely to be divested and our expectation is that divestiture of a station not yet on the air would not constitute compliance with the rules.

[44] The stations required to divest are listed in Appendix D and Appendix E to this document. As explained earlier (see fn. 33), the list is not to be taken as definitive. There may be additional stations within the ambit of the rules that do not have city-grade encompassment but nonetheless were not found in our search. Conversely, we may have included stations in the list that do not fit within the ambit—that for one reason or another should not have been included. Licensees of such stations can call such situations to our attention.

[45] Nevertheless, in recognition of the fact that we are requiring divestiture, we shall issue tax certificates to these parties pursuant to 26 U.S.C. 1071. We shall also do so in non-divestiture cases where current combinations are sold to separate owners in order to come into compliance with the new policy underlying the rule. We took this view earlier in this proceeding as to broadcast combinations—see the 1971 Memorandum Opinion and Order (28 F.C.C. 2d 662 at 671) and the Public Notice of July 16, 1970, FCC 70–744.

[46] An appropriate showing would have to be made of the fair value and the inability to obtain such a price. Also, as with inability to sell at all, we do not contemplate permanent waiver, for problems in disposing of these interests would not be expected to endure indefinitely.

[47] Among others that parties may wish to bring to our attention are local access of origination on the community's cable television system or other special circumstances they think have a bearing on the approriateness of granting waiver.

[48] The Commission had previously issued a Notice of Inquiry in that docket (27 F.C.C. 2d 580 (1971)) to explore whether standards of "substantial service" could be developed for television broadcasting.

[49] We do not intend any change in the traditional view taken regarding activities by the media which run afoul of the anti-trust laws. Common ownership in itself does not constitute an abuse. The subject of combination rates and joint sales practices is under consideration in a rule making proceeding in Docket No. 19789.

[50] Commissioners Lee, Reid, and Washburn concurring and issuing statements; Commissioners Hooks and Robinson concurring in part and dissenting in part and issuing statements; Commissioner Quello issuing a separate statement. Statements of Commissioners Lee, Reid, Hooks, Quello, Washburn, and Robinson; filed as part of the original document.

[FR Doc.75–3416 Filed 2–11–75;8:45 am]

[FCC 75–115]

PART 0—COMMISSION ORGANIZATION

Authority Delegation to Chairman

1. The amendment set forth in the attached below delegates authority to the Chairman to settle claims under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 240–243. Claims may be filed under this act by Commission employees who have suffered damage to personal property incident to their agency service; provided, the amount involved does not exceed $6,500, and the employee did not cause the damage through his own negligence.

2. Presently, under § 0.211(d), the Commission has delegated authority to the Chairman to act on tort claims when the amount involved does not exceed $5,000. This amendment would permit the Chairman to settle employee property damage claims filed under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended.

3. Authority for the amendment set out below is found in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r). As the amendment relates to matters of internal Commission organization and procedure, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

4. In view of the foregoing, *It is ordered*, That effective February 12, 1975, Part 0 of the rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 156, 393)

Adopted: January 29, 1975.

Released: February 5, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.211 (d) is amended to read as follows:

§ 0.211(d) Chairman.

* * * * *

(d) To act within the purview of the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, upon tort claims directed against the Commission where the amount of damages does not exceed $5,000; and to act within the purview of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 240–243, to settle claims directed against the United States where the amount of the claim does not exceed $6,500.

* * * * *

[FR Doc.75–3906 Filed 2–11–75;8:45 am]

[Doc. No. 20004; #29907]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

Telemetering of Scientific Data; Correction

In the matter of amendment of Part 2 and Part 5 of the Commission's rules and regulations to provide for the use of frequencies in the bands 40.66–40.70 and 216–220 MHz for the tracking of, and telemetering of scientific data from, ocean buoys and animal wildlife.

In the Report and Order in the above-entitled matter, FCC 75–4, released January 9, 1975, and published in the FEDERAL REGISTER at 40 FR 2815, the text is corrected by inserting February 18, 1975, in § 5.108(a) for "for effective date of the rules"; and February 18, 1976, is inserted in § 5.109 for "one year after effective date of the rules".

Released: January 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-3907 Filed 2-11-75;8:45 am]

[Doc. No. 20118; #29906]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 95—CITIZENS RADIO SERVICE

External Radio Frequency Power Amplifiers; Report and Order; Correction

In the matter of Amendment of Parts 2 and 95 of the Commission's rules to prohibit external radio frequency power amplifiers at Class D Citizens Radio Service stations and to prohibit marketing of external radio frequency power amplifiers capable of operation in the band 26.96–27.26 MHz.

In the Report and Order in the above-entitled matter, FCC 74–1426, released January 3, 1975, and published in the FEDERAL REGISTER at 40 FR 1246, § 2.815 is corrected by inserting the effective date January 23, 1975, in the first sentence of paragraph (b); and August 12, 1975, in the last sentence in lieu of the words "six months after the effective date."

Released: January 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-3908 Filed 2-11-75;8:45 am]

[Docket No. 20081, RM-2201; FCC 75-111]

PART 73—RADIO BROADCAST SERVICES

FM Stations; Table of Assignments; New York

1. The Commission here considers the notice of proposed rulemaking, adopted June 12, 1974 (39 FR 22438), proposing that the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) be amended by substituting Channel 289 for 288A at Endicott, New York, as petitioned for by January Enterprises, Inc. (January), licensee of Station WMRV(FM) on the channel there. The only comments filed were by the petitioner January, which in essence merely incorporated by reference the petition.[1]

2. Endicott, population 16,556,[2] is located in Broome County, population 221,815. As stated in the Notice, Endicott is one of four communities clustered along a 10-mile section of N.Y. Route 17, approximately seven miles north of the Pennsylvania border. Included are Binghamton (pop. 64,123), Johnson City (pop. 18,025), Endwell (pop. 15,999), and Endicott. Binghamton is the principal city of the Binghamton Standard Metropolitan Statistical Area (SMSA), which consists of Broome and Tioga (pop. 46,573) Counties in New York State and Susquehanna County (pop. 34,344) in Pennsylvania. Aural broadcast service for the Binghamton "market" consists of four unlimited-time AM stations (WENE, WKOP, WNBF, and WINR), three FM stations (WMRV, WAAL, and WQYT), and noncommercial educational FM Station WHRW. Stations WMRV and WENE are licensed to the petitioner at Endicott; the other stations are licensed to Binghamton.

3. In support of its petition, January urges that the proposed change of assignments would produce certain desirable results. Station WMRV would be able to upgrade its facilities to serve about an additional 140,000 persons within its predicted 1 mV/m contour, eliminate intermixture of FM assignments in the market (thus enabling January to compete equally with the Binghamton FM stations operating on Class B channels), and there would be a more efficient use of spectrum. In the latter respect, the engineering data submitted by January clearly establish that the proposed substitution would have no preclusionary effect and that Channel 289 could be sited in a restricted area in and around Endicott, Binghamton, Johnson City, and Endwell. While January cites a number of precedents as to upgrading and the desirability of channel change(s) to avoid intermixture, we wish to make it clear that in reaching our decision here, our primary concern is that of effective spectrum management. In this respect, unless Channel 289 is assigned to Endicott it may not be used elsewhere in the vicinity because of the present assignment of Channel 288A to that community. As in other similar instances, irrespective of other reasons urged by petitioner, we find that the public interest, convenience, and necessity would be served by the substitution of Class B Channel 289 for 288A at Endicott in such circumstances.[3] Pursuant to the Working Arrangement under the Canada-United States FM Agreement of 1947, the Canadian Department of Communications has agreed to this change.

4. In view of the foregoing, and pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, *It is ordered,* That, effective March 14, 1975, the FM Table of Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows for the city listed below:

§ 73.202 Table of Assignments.

* * * * *

(b) * * *

City:	*Channel No.*
Endicott, New York	289

* * * * *

5. *It is further ordered,* That an application for renewal of the license of Station WMRV(FM), Endicott, New York, shall specify operation on Channel 289 instead of Channel 288A. If the license of January Enterprises, Inc. for Station WMRV(FM) is renewed, the station may continue to operate on Channel 288A until it is ready to operate on Channel 289 or the Commission sooner directs; operation on Channel 289 is subject to the following conditions:

(a) At least 30 days before it wishes to commence operation on Channel 289, or within 30 days after it receives notification from the Commission if the Commission sooner directs change, the licensee of Station WMRV(FM) shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 289 at Endicott, New York; and

(b) At least 10 days prior to commencing operation on Channel 289, the licensee shall submit the measurement data normally required of an applicant for an FM broadcast station license.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: January 28, 1975.

Released: February 5, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-3909 Filed 2-11-75;8:45 am]

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[1] Comments were also filed by WUNI, Inc., and January filed reply comments thereto. However, no discussion of these pleadings is necessary since WUNI withdrew its comments.

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

[3] See and compare Gilroy, California, 50 F.C.C. 2d (1974); Pensacola, Florida, 44 F.C.C. 2d 1056, 1061 (1974); Marion, Illinois, 42 F.C.C. 2d 546, 547 (1973); and Hattiesburg, Mississippi, 37 F.C.C. 2d 54, 55 (1972).

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Federal Energy Administration

Section 213.3388 is amended to show that one position of Staff Assistant to the Special Assistant, Congressional Affairs, is excepted under Schedule C.

Effective February 12, 1975, § 213.3388 (d)(3) is added as set out below.

§ 213.3388 Federal Energy Administration.

* * * * *

(d) *Office of Congressional Affairs.*

* * *

(3) One Staff Assistant to the Special Assistant, Congressional Affairs.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3941 Filed 2-11-75;8:45 am]

PART 213—EXCEPTED SERVICE

Interior Department

Section 213.3312 is amended to show that one position of Deputy Director of Communications is excepted under Schedule C.

Effective February 12, 1975, § 213.3312 (a)(43) is added as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(43) One Deputy Director of Communications.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3942 Filed 2-11-75;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—WAREHOUSE REGULATIONS

PART 106—DRY BEAN WAREHOUSES

Licensing of Inspectors Otherwise Licensed and Exemption From License Fees

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Agricultural Marketing Service, pursuant to the authority conferred by section 28 of the U.S. Warehouse Act (7 U.S.C. 268) is amending warehouse regulations appearing in Part 106 (dry beans) of Subchapter E of Chapter I in Title 7 of the Code of Federal Regulations to issue licenses under the U.S. Warehouse Act to inspectors who hold licenses under another Federal act and to exempt such inspectors from the required license fee.

Under grain warehouse regulations, any person who holds a valid license as a grain inspector under the U.S. Grain Standards Act is granted an inspectors license under the U.S. Warehouse Act and is exempt from payment of the licence fee required under such Act. Inspectors (agricultural commodity graders) of dry beans are licensed under the authority of the Agricultural Marketing Act of 1946 rather than under the U.S. Grain Standards Act. Such inspectors have not been granted licenses without show of evidence that they can correctly grade beans and have not been exempt from fee payment under the U.S. Warehouse Act.

The Agricultural Marketing Service is hereby amending the Regulations for Dry Bean Warehouses to grant inspectors' licenses under the U.S. Warehouse Act to applicants who show satisfactory evidence that they hold an effective license under the Agricultural Marketing Act of 1946 and to exempt such inspectors from payment of the specified fee of $6. These changes follow the precedent set for U.S. Grain Standards Act inspectors under existing regulations. No prior notices or public procedures are being given because they would be impractical, unnecessary and contrary to the public interest and because the amended regulation grants an exemption and relieves a former restriction.

Said regulations therefore are amended to read:

§ 106.55 Warehouse licenses fees.

There shall be charged and collected a fee of $20 for each original warehouseman's license applied for by a warehouseman, and a fee of $6 for each license issued to an inspector or weigher except that no fee shall be charged for issuance of a license to an inspector who holds an unsuspended and unrevoked license under the Agricultural Marketing Act of 1946 and regulations thereunder to inspect and grade any beans and to certificate the grade thereof.

* * * * *

Paragraph (e) is added and will read:

§ 106.59 Inspectors and weighers applications.

* * * * *

(e) In lieu of compliance with the requirements of paragraph (b) of this section, the license applied for may be granted whenever such applicant furnishes satisfactory evidence that he holds an effective license under the Agricultural Marketing Act of 1946 and regulations thereunder, to inspect and grade such beans and to certificate the grade thereof.

* * * * *

These amendments shall become effective on February 12, 1975.

Done at Washington, D.C., February 6, 1975.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.75-3898 Filed 2-11-75;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 726—BURLEY TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

BASIS AND PURPOSE

Correction

In FR Doc. 75-2941 in the issue for Friday, January 31, 1975, appearing at page 4633, make the following changes:

1. On page 4633, in the third column, the fifth paragraph should read as follows:

Section 726.11 is revised to read as follows:

DETERMINATIONS AND ANNOUNCEMENTS—1973–74 MARKETING YEAR

§ 726.11 Burley tobacco.

2. On page 4633, the last line of the third column should read "year beginning October 1, 1975, is hereby"

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations; Suspension of Certain Provisions

Notice of a proposal to suspend the operation of subparagraphs (5) and (7) of § 981.441(d) of the administrative rules and regulations (Subpart—Administrative Rules and Regulations: 7 CFR 981.441–981.482; 39 FR 23239; 39258; 40 FR 3005; 4416) for the 1974–75 crop year was published in the January 14, 1975, issue of the FEDERAL REGISTER (40 FR 2589). That crop year ends June 30, 1975.

The marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulate the handling of almonds grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was based on a unanimous recommendation of the Almond Control Board.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal; none were received.

Section 981.441(d)(5) allows a handler credit for his paid media advertising that promotes almonds and almond products through his own retail store. The credit, however, is limited to the percentage which his sales of almonds and

almond products were to the total sales through the retail store in the previous crop year. Paragraph (d)(5) has been operative since July 1, 1974 (39 FR 23239). It now appears that the subparagraph will sharply reduce the credits some handlers formerly received for promoting almonds and almond products sold through their retail stores for more than anticipated at the time the regulation was made effective, and therefore may serve to reduce local promotions of almonds and almond products. Any reduction in the number of these promotions would be inconsistent with the intent of paragraph (d)(5). The Control Board has indicated that a thorough review of this matter is necessary before any changes in the provisions of paragraph (d)(5) can be proposed.

Section 981.441(d)(7) also has been operative since July 1, 1974. It allows a handler credit for his paid media advertising that promotes almonds and almond products through the handler's mail order offer which also mentions the handler's retail store selling almonds and almond products and the handler's catalog. Credit for that promotion expense is based, in part, on the percentage calculated for the handler pursuant to paragraph (d)(5). Since paid media advertising under paragraph (d)(7) must mention the handler's retail store selling almonds and almond products, and since suspension of paragraph (d)(5) affects the method of computing the credit allowable pursuant to paragraph (d)(7), it was also proposed that paragraph (d)(7) be suspended for the 1974–75 crop year.

Therefore, after consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is found that to suspend the operation of paragraphs (d) (5) and (7) of § 981.441(d) of the administrative rules and regulations for the 1974–75 crop year will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making it effective at the time hereinafter provided in that: (1) This action relieves restrictions on handlers; (2) this action should be made effective as soon as possible so as to enable handlers to obtain maximum benefit from it; (3) handlers are aware of this action and require no advance preparation to comply therewith; and (4) no useful purpose would be served by postponing its effective time beyond that hereinafter provided.

It is therefore, ordered, That the operation of paragraphs (d) (5) and (7) of § 981.441 of the administrative rules and regulations (Subpart—Administrative Rules and Regulations; 7 CFR 981.441—981.482; 39 FR 23239; 39258; 40 FR 3005; 4416) be suspended for the 1974–75 crop year.

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

Dated: February 6, 1975, to become effective February 14, 1975.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.75-3899 Filed 2-11-75;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS, ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

Correction

In FR Doc. 74-30055, appearing at page 44712 in the issue for Friday, December 27, 1974, make the following changes:

On page 44721 in paragraph (d) of § 113.145, the reference to "(c)(1)" in line seven should read: "(d)(1)". Also on page 44721 in paragraph (d) of § 113.145 the reference to "(c)(1)" in line eight should read "(d)(1)".

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Grant and Loan Program

Part 309 of Chapter III of Title 13 of the Code of Federal Regulations is hereby amended.

In that the material contained herein is a matter relating to the grant and loan program of the Economic Development Administration and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 533) requiring notice of proposed rulemaking and opportunity for public participation are inapplicable.

The purpose of this amendment is to make a technical change concerning the employment of expediters.

1. Section 309.7 is revised by amending paragraph (a) to read as follows:

§ 309.7 Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants.

(a) No application or plan for financial assistance shall be approved by EDA under sections 101, 201, 202, 301, 302, 403, or 903 of the Act unless the applicant:

* * * * *

(Sec. 701, Pub. L. 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4, April 1, 1970 (35 FR 5970))

Effective date: This amendment becomes effective on March 7, 1975.

Dated: February 5, 1975.

D. JEFF CAHILL,
Acting Assistant Secretary for Economic Development.

[FR Doc.75-3919 Filed 2-11-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2577]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE ACTIONS

American Roofing and Remodeling Co.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73–92 Truth in Lending Act; § 13.155 *Prices;* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—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; § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions;* 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, 1601–1605))

[Cease and desist order, American Roofing and Remodeling Co., Newark, Calif., Docket C-2577, Oct. 16, 1974]

In the matter of Richard A. Edson, an individual trading and doing business as American Roofing and Remodeling Company.

Consent order requiring a Newark, Calif., home improvement contracting firm, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered, That respondent Richard A. Edson, an individual trading and doing business as American Roofing and Remodeling Co., or under any other name or names, and respondent's agents, representatives, and employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321

[1] Copies of the complaint and decision and order filed with the original document.

(15 U.S.C. 1601 et seq)), do forthwith cease and desist from:

1. Failing to disclose the date on which the finance charge begins to accrue when different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z.

2. Failing to disclose the term "annual percentage rate", using that term, in credit transactions where finance charges are imposed, as required by § 226.6(b)(2) of Regulation Z.

3. Failing to disclose the sum of all payments required, and describe that sum as the "total of payments," as required by § 226.8(b)(3) of Regulation Z.

4. Failing to provide a description of the type of any security interest held or to be retained or acquired by the creditor in connection with the transaction, as required by § 226.8(b)(5) of Regulation Z.

5. Failing to identify the method of computing any unearned portion of the finance charge in the event of pre-payment of the obligation, as required by § 226.8(b)(7) of Regulation Z.

6. Failing to use the term "cash price", as defined in § 226.2(i) of Regulation Z, to describe the purchase price of the transaction, as required by § 226.8(c)(1) of Regulation Z.

7. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the transaction, as required by § 226.8(c)(2) of Regulation Z.

8. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c)(3) of Regulation Z.

9. Failing to disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by § 226.8(c)(4) of Regulation Z.

10. Failing to disclose the sum of the unpaid balance of cash price and all other charges and describe that sum as the "unpaid balance", as required by § 226.8(c)(5) of Regulation Z.

11. Failing to use the term "amount financed" to describe the amount of credit extended as required by § 226.8(c)(7) of Regulation Z.

12. Failing to disclose the "finance charge", using that term, as required by § 226.8(c)(8)(i) of Regulation Z.

13. Failing to disclose the sum of the cash price, all charges which are not included in the amount financed but which are not a part of the finance charge, and describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

14. Failing, in any transaction in which respondent retains or acquired a security interest in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with notice of the right to rescind in the manner and form specified in §§ 226.9(b) and 226.9(f) of Regulation Z, prior to consummation of the transaction.

15. Failing in any consumer credit transaction or advertisement to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form, and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in his business organization such as dissolution, assignment, incorporation, partnership, sale or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That respondent deliver a copy of this order to cease and desist to each of his operating divisions and to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business address or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent herein within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

The Decision and Order was issued by the Commission, October 16, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-3840 Filed 2-11-75;8:45 am]

[Docket C-2557]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Union Carbide Corp.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.20 *Comparative data or merits;* § 13.135 *Nature of product or service;* § 13.170 *Qualities or properties of product or service;* 13.170–46 Insecticidal or repellant; § 13.195 *Safety;* 13.195–60 Product; § 13.205 *Scientific or other relevant facts.* Subpart—Corrective actions and/or requirements: § 13.533 *Corrective actions and/or requirements;* 13.533–20 Disclosures. Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 *Comparative data or merits;* § 13.1685 *Nature;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1870 *Nature;* § 13.1890 *Safety;* § 13.1895 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)) [Cease and desist order, Union Carbide Corporation, New York, N.Y., Docket C-2557, Oct. 4, 1974]

In the matter of Union Carbide Corporation, a corporation. Consent order requiring a New York City formulator and distributor of carbaryl insecticide, among other things to cease claiming that its agricultural insecticides are absolutely safe to use or absolutely safe to man or the environment. Further, respondent must place in all promotional material expressing or implying safety claims about agricultural insecticides, a statement reminding users that all pesticides are harmful if misused, and that they should only be used as directed.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

I. *It is ordered*, That respondent, Union Carbide Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of any insecticide product with precautionary labeling which contains any active insecticidal ingredient(s) presently marketed by respondent or currently being field tested by respondent and which is intended for use by custom applicators and commercial growers to protect animals or food, forage, field or fiber crops by virtue of the capacity of its active ingredient(s) to kill insects (sometimes referred to hereinafter as "such products"), do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely or unqualifiedly safe, non-toxic or free of hazard for any use registered under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (hereinafter FIFRA) or any other approved use based upon evidence filed in connection with registration under FIFRA.

B. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are qualifiedly safe, non-toxic or free of hazard for any use registered under FIFRA or any other approved use based upon evidence filed in connection with registration under FIFRA; *Provided however*, That factual statements about such products regarding any use registered under FIFRA, any other approved use based upon evidence filed under FIFRA, the level of hazard or toxicity to products or species treated in accordance with such use(s) or residues resulting from such use(s) shall not be prohibited if:

(1) Respondent prominently and in close conjunction thereto, includes a statement (except in broadcast advertisements not more than 30 seconds in length) denoting the existence of any

[1] Copies of the complaint and decision and order filed with the original document.

specific caution or category thereof, other than directions for use (e.g., "Do not apply within 7 days of harvest"), which appears on such product's labels, including but not limited to limitations on application due to regional or climatic variations; restrictions on subsequent use of treated crops, animals, or lands; and limitations due to consequent injury of specific species, e.g., crop(s), animal(s), fish, bird(s), or beneficial insect(s); where such specific caution is relevant and material and without notice of which said factual statements would be untrue or misleading; and

(2) At the time of such representations, (1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or (2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this Order; and

(3) Such factual statements do not use the word "safe," or any form thereof.

C. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are relatively or comparatively safe, less toxic or freer of hazard, for any use registered under FIFRA, or any other approved use based upon evidence filed in connection with registration under FIFRA: *Provided however*, That comparative factual statements about such products regarding any use registered under FIFRA, any other approved use based upon evidence filed under FIFRA, the level of hazard or toxicity to products or species treated in accordance with such use(s) or residues resulting from such use(s) shall not be prohibited if:

(1) Such factual statements compare the promoted insecticide with a specifically identifiable insecticide product, product form, or product group; and

(2) Respondent prominently and in close conjunction thereto, includes a statement (except in broadcast advertisements not more than 30 seconds in length) denoting the existence of any specific caution or category thereof, other than directions for use (e.g., "Do not apply within 7 days of harvest"), which appears on such product's labels, including but not limited to limitations on application due to regional or climatic variations; restrictions on subsequent use of treated crops, animals, or lands; and limitations due to consequent injury of specific species, e.g., crop(s), animal(s), fish, bird(s), or beneficial insect(s); where such specific caution is relevant and material and without notice of which said factual statements would be untrue or misleading; and

(3) At the time of such representations, (1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or (2) in the case of other statements not currently rejected as unsubstantiated in connection wtih registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this Order; and

(4) Such factual statements do not use the word "safe," or any form thereof.

II. With respect to representations not covered by the provisions of section I of this Order, *It is ordered*, That Union Carbide Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products, do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely safe, nontoxic or free of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment:

B. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are qualifiedly safe, nontoxic or free of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment; *Provided however*, That factual statements which (i) describe physical, chemical, biological or toxicological characteristics of the promoted insecticide, or (ii) discuss the aforesaid characteristics and their effects on the environment, human beings, warm-blooded animals, fish, birds, or beneficial insects shall not be prohibited if:

(1) The label(s) for such product(s) contains no relevant and required general or specific warning or caution regarding such characteristics or any effect caused by such characteristics; *Provided*, That nothing in this subsection shall prohibit:

(a) The dissemination of instructions for the proper use of such product(s); or

(b) Factual statements which reproduce or discuss the substance of or reason(s) for any statement, warning or caution or direction for use found on the label of the promoted product(s) and are consistent with such statements, warnings, cautions, or directions for use; or

(c) Factual statements regarding such characteristics or characteristics and their effects of insecticides in other than toxicity category I or toxicity category II; *Provided further*, that factual statements regarding the effects of any such characteristics, without an accompanying description of such characteristics, shall not be prohibited if: (i) the label(s) for such product(s) contains no relevant and required general or specific warning or caution regarding such characteristic(s) or effect(s) and (ii) the causal relationship between such characteristic(s) and the described effect(s) has not been substantiated by competent scientific tests or other objective materials known, or which through the exercise of reasonable diligence should be known, to respondent; and

(2) Such factual statements are true and not misleading under normal circumstances and conditions under which the product could be expected to be used, *Provided further*, That, if, circumstances and conditions of normal use exist in which said factual statements are untrue or misleading, respondent must describe, prominently and in close conjunction with said factual statements, specific circumstances and conditions for use in which said factual statements are true and not misleading; and

(3) At the time of such representations, (1) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or (2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this Order; and

(4) Respondent discloses, prominently and in close conjunction with any such factual statements concerning human safety (except in broadcast advertisements not more than 30 seconds in length), any toxicological characteristics relating to human safety which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(5) Respondent discloses, prominently and in close conjunction with any other such factual statements (except in broadcast advertisements not more than 30 seconds in length), any hazardous collateral effects which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(6) Such factual statements do not use the word "safe," or any form thereof.

C. Representing, directly or by implication, by print or broadcast advertising or by other promotional material, that such products are relatively or comparatively more safe, less toxic or freer of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment than any other insecticide product(s); *Provided however*, That comparative factual statements which (i) describe physical, chemical, biological or toxicological characteristics of the promoted insecticide or (ii) in the case of insecticides in toxicity category I or toxicity category II, discuss the aforesaid characteristics and their effect on the environment, human beings, warm-blooded animals, fish, birds, or beneficial

insects or (iii) in the case of insecticides in other than toxicity category I or toxicity category II, discuss the effect of such products on the environment, human beings, warm-blooded animals, fish, birds, or beneficial insects shall not be prohibited if:

(1) Such factual statements compare the promoted insecticide with a specifically identifiable insecticide product, product form, or product group; and

(2) Such factual statements are true and not misleading under normal circumstances and conditions under which the product could be expected to be used, *Provided further*, That if circumstances and conditions of normal use exist in which said factual statements are untrue or misleading, respondent must describe, prominently and in close conjunction with said factual statements, specific circumstances and conditions of use in which said factual statements are true and not misleading; and

(3) At the time of such representations, (i) such statements do not differ in substance from claims accepted in connection with registration under FIFRA, or (2) in the case of other statements not currently rejected as unsubstantiated in connection with registration under FIFRA, such other statements are substantiated by competent scientific tests or other objective materials which provide a reasonable basis for the representation(s) made, and the substantiation materials are either (i) available for public inspection or (ii) otherwise available to the FTC to determine compliance with this Order; and

(4) Respondent discloses, prominently and in close conjunction with any such factual statements concerning human safety (except in broadcast advertisements not more than 30 seconds in length), any toxicological characteristics relating to human safety in regard to which the promoted product is the more toxic and which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(5) Respondent discloses, prominently and in close conjunction with any other such factual statement (except in broadcast advertisements not more than 30 seconds in length), any hazardous collateral effects in regard to which the promoted product is the more hazardous and which are relevant and material and without the disclosure of which said factual statements would be untrue or misleading; and

(6) Such factual statements do not use the word "safe," or any form thereof.

III. *It is further ordered*, That respondent Union Carbide Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products do forthwith cease and desist from making any representations, directly or by implication, or omitting any representations, by print or broadcast advertising or by other promotional material, which contradict, are inconsistent with, or detract from the effectiveness of any warning, caution or direction for use required to be set forth on the label of such product. *Provided*, That if any representations directly or by implication, made by respondent, or the omission of representations by respondent, are in accord with the provisions of Sections I, II, and IV of this Order, they shall be considered as being in compliance with this Section of the Order.

IV. *It is further ordered*, That respondent, Union Carbide Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products do forthwith cease and desist from disseminating or causing the dissemination of:

A. Any print advertising or print promotional material which contains claims covered by Section I or II for any such product unless it clearly and conspicuously includes in such print advertisement or print promotional material the following statement:

Stop! All pesticides can be harmful to health and the environment if misused. Read the label carefully and use only as directed.

B. Any broadcast advertisement more than 30 seconds in length for any such product which contains claims covered by Sections I or II unless it clearly and conspicuously includes the following statement:

All pesticides can be harmful to health and the environment if misused. Read the label carefully and use only as directed.

C. Any broadcast advertisement not more than 30 seconds in length for any such product which contains claims covered by Sections I or II unless it clearly and conspicuously includes the following statement:

All pesticides can be harmful. Read the label. Use as directed.

Provided, That in television advertisements not more than 10 seconds in length which contain no direct representations concerning product safety, the requirements of the term "clearly and conspicuously" shall in all cases be met by including the above statement in the video portion of the advertisement.

V. Nothing in this Order shall be construed to apply to scientific articles published in recognized scientific or agricultural journals or government publications, or reprints thereof, or representations (other than print advertising or other promotional material) before public or governmental forums such as public hearings, scientific meetings, or to governmental agencies, agents, or employees responsible for the regulation or dissemination of information concerning insecticide products covered by this Order.

VI. *It is further ordered*, That nothing in this Order shall prohibit the dissemination of product labels (as defined by section 2(p)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended), or reproductions thereof.

VII. For purposes of determining compliance with sections I.B.(1), I.C.(2), II.B.(1), and III of this Order, the term "label" shall include all written, printed, or graphic matter on, or attached to, an insecticide product subject to this Order. In the event general or specific warnings or cautions or directions for use required pursuant to registration under FIFRA do not appear on the label as defined in the preceding sentence, the term "label" shall also include the other "labeling" as defined by section 2(p)(2) of FIFRA where said required general or specific warnings or cautions or directions for use do in fact appear. It is recognized that other matter, typically promotional material, will on occasion constitute "labeling" as defined by section 2(p)(2) of FIFRA. Although such material may be subject to various Sections of this Order, it shall not be deemed to be "label" as used in sections I.B.(1), I.C.(2), II.B.(1), and III of this Order.

VIII. *It is further ordered*, That for purposes of Section II.B. and section II.C. of this Order the terms "toxicity category I" and "toxicity category II" shall mean respectively the most toxic and next most toxic categories defined by Environmental Protection Agency Interpretation 18 of the regulations for the enforcement of FIFRA, 40 CFR 162.116 (b), in effect on April 1, 1973.

IX. *It is further ordered*, That this Order shall become effective upon service, except that sections I.B., I.C., II.B., II.C., and III of this Order shall become effective at such time as and to the extent that a Trade Regulation Rule covering the advertising and promotion of products subject to this Order, and containing terms at least as onerous as this Order, becomes final and effective. *Provided*, That at all times subsequent to the date this Order is served, claims which would be governed by Sections I.B., I.C., II.B., or II.C., if said sections were in effect, shall be deemed to be "claims covered by sections I or II" for purposes of section IV of this Order.

X. *It is further ordered*, That should the Federal Trade Commission promulgate a Trade Regulation Rule or Industry Guide governing the advertising or promotion of products subject to this Order, then any pertinent less comprehensive or less restrictive provisions of such Rule or Guide shall automatically replace any comparable provisions set forth herein which are effective on the date that such Rule or Guide becomes effective.

XI. *It is further ordered*, That the respondent forthwith distribute a copy of this Order to each of its operating divisions engaged in the manufacture, sale, advertising, promotion or distribution of products subject to this Order, and to all present and future employees of respondent responsible for the advertising, promotion, distribution or sale of such products.

XII. *It is further ordered*, That the respondent notify the Commission at

least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of this Order.

XIII. *It is further ordered,* That respondent corporation shall, within sixty (60) days after service upon it of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order, except that such report shall in the case of sections I.B., I.C., II.B., II.C., and III be filed within sixty (60) days after their becoming effective against respondent corporation.

The Decision and Order was issued by the Commission, October 4, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-3844 Filed 2-11-75;8:45 am]

[Docket C-2570]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Turkey Mountain Estates, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* 13.10–1 Availablity of merchandise, services and/or facilities; § 13.73 *Formal regulatory and statutory requirements;* 13.73–92 Truth in Lending Act; § 13.155 *Prices;* 13.155–10 Bait; 13.155–25 Coupon, certificate, check, credit voucher, etc., values; 13.155–35 Discount savings; 13.155–80 Retail as cost, wholesale, discounted, etc. 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; § 13.160 *Promotional sales plans;* § 13.205 *Scientific or other relevant facts.* Subpart—Disparaging products, merchandise, services, etc.: § 13.1042 *Disparaging products, merchandise, services, etc.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1572 *Availability of advertised merchandise, services and/or facilities;* § 13.1740 *Scientific or other relevant facts;* § 13.1760 *Terms and conditions;* 13.1760–50 Sales contract.

—Prices: § 13.1779 *Bait;* § 13.1790 *Coupons, credit vouchers, etc., of specified value;* § 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; § 13.1892 *Sales contract, right-to-cancel provision.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1925 *Coupon, certificate, check, credit voucher, etc., deductions in price;* § 13.2063 *Scientific or other relevant facts;* § 13.2070 *Special or trial offers, savings and discounts.*

(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, 1601–1605))

[Cease and desist order, Turkey Mountain Estates, Inc., et al, Shell Knob, Mo., Docket C–2570, Oct. 8, 1974.]

In the matter of Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; Tomahawk Developers, Inc., a corporation; and E. C. Shafer, individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc.

Consent order requiring four affiliated Shell Knob, Mo., developers of recreational or retirement home sites, among other things to cease using bait advertising and other deceptive selling practices, and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

I. *It is ordered,* That respondents Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; and Tomahawk Developers, Inc., a corporation; and their successors and assigns and their officers and E. C. Shafer, individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc., respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the extension of consumer credit or advertisements to aid, promote or assist, directly or indirectly, in the extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to accurately disclose the date on which the finance charge begins to accrue, as required by § 226.8(b)(1) of Regulation Z.

2. Failing to disclose the "total of payments", as required by § 226.8(b)(3) of Regulation Z.

3. Failing to accurately disclose the number, amount and due dates or periods of payment scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

4. Failing to state the "cash price", and failing to state the "cash downpayment", and failing to state the "unpaid balance of cash price", as required by §§ 226.8(c)(1), 226.8(c)(2), and 226.8(c)(3) of Regulation Z.

5. Failing to use the term "unpaid balance of cash price" to describe the difference between cash price and the total downpayment, and failing to use the terms "cash price" and "cash downpayment", as required by §§ 226.8(c)(1), 226.8(c)(2), and 226.8(c)(3).

6. Failing to disclose the "finance charge", as required by § 226.8(c)(8)(i) of Regulation Z.

7. Failing to disclose the "deferred payment price", as required by § 226.8(c)(8)(ii) of Regulation Z.

8. Failing to use the term "deferred payment price", as required by § 226.8(c)(8)(ii) of Regulation Z.

9. Failing, in any transaction arising in the future in which a customer has the right to rescind, as provided in § 226.9 of Regulation Z, to provide the customer with the notice of right to rescind, in the form and manner provided in that Section prior to consummation of the transaction, and in connection therewith to provide a question seeking a statement in writing, on a separate form, designating whether or not said customer expects to use the lot as his principal place of residence, at that time or in the future.

10. Failing to describe the amount on any "balloon payment" and failing to use the term "balloon payment", as required by § 226.8(b)(3) of Regulation Z.

11. Failing to disclose the identity of the creditor on the instrument or statement on which required disclosures are made, as required by Section 226.8(a) of Regulation Z.

12. Failing to disclose the annual percentage rate and the period in which payment must be made to avoid late charges on any periodic statement and failing to transmit such a statement in a form which the customer may retain, as required by § 226.8(n) of Regulation Z.

13. Failing to disclose discount for prompt payment and related disclosures, as required by § 226.8(o) of Regulation Z.

14. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by §§ 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

15. Stating in any advertisement the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof.

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount and due dates or periods of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

II. *It is ordered,* That respondents Turkey Mountain Estates, Inc., a corporation; Central Crossing Developers, Inc., a corporation; Lakeside Investment Company, Inc., a corporation; and Tomahawk Developers, Inc., a corporation, and

[1] Copies of the complaint and decision and order filed with the original document.

their successors and assigns and their officers and E. C. Shafer individually and as an officer of said corporations; and J. B. Gum, individually and as an officer of said corporations, with the exception of Central Crossing Developers, Inc., respondents' agents, representatives and employees, directly or through any corporation, subisidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of recreational or retirement home sites or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations designed to obtain leads or prospects for the sale of other real property.

2. Discouraging the purchase of, disparaging in any manner or refusing to sell, any real property advertised by respondents.

3. Advertising or offering any property or products for sale for the purpose of obtaining leads or prospects for the sale of different property or products unless the respondents maintain an adequate and readily available stock of said property or products.

4. Representing, directly or indirectly, that any real property or services are offered for sale when such is not a bona fide offer to sell said real property or services.

5. Representing, directly or indirectly, that an advertising allowance voucher or discount is offered on the purchase of any real property unless such an allowance is actually a reduction in the advertising cost of the respondents.

6. Representing, directly or indirectly, or by implication, in any form of advertisement that a prospective purchaser may purchase an "advertising lot", or other section of land at a discounted or reduced price, unless in immediate connection with such representations respondents clearly and conspicuously disclose the improvements or benefits included in the price of such lots, or the lack thereof, if such improvements or benefits differ in any respect with the improvements or benefits which are advertised in connection with the remainder of the lots in the land developments.

7. Misrepresenting, directly or indirectly, or by implication, the purpose or effect of any provision in the contract for sale, or other forms, completed at the time of sale or thereafter, whereby the purchasers are required to declare their intention as to establishing a permanent or principal place of residence on the land.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or sale of any real property, or any aspect of preparation, creation or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Decision and order was issued by the Commission Oct. 8, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-3843 Filed 2-11-75; 8:45 am]

[Docket C-2584]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Authorized TV Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.155 *Prices;* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—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;* 13.1905-60 Truth in Lending Act.

(Sec. 6, 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, 1601-1605))

[Cease and desist order, Authorized TV Inc., et al., Seattle, Wash., Docket C-2584, Oct. 22, 1974]

In the matter of Authorized TV, Inc., a corporation doing business as Schoenfeld's Muntz TV and as Stereo Mart, and Alvin E. Schoenfeld, individually and as an officer of said corporation, and Frank A. Besancon, an individual doing business as TV Mart North.

Consent order requiring Seattle, Wash., retailers of television sets, record players and stereophonic components, and supplies among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered, That respondents Authorized TV, Inc., a corporation doing business as Schoenfeld's Muntz TV and as Stereo Mart, or under any other name or names, and its officers, and Alvin E. Schoenfeld, individually and as an officer of said corporation, and Frank A. Besancon, an individual doing business as TV Mart North, or under any other name or names, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, (15 U.S.C. 1601 et seq.)), do forthwith cease and desist from:

1. Stating, in any such advertisement, the rate of any finance charge unless the rate of the finance charge is expressed as an "annual percentage rate," using that term, as required by § 226.10(d)(1) of Regulation Z.

2. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

a. The cash price;

b. The amount of the downpayment required or that no downpayment is required, as applicable;

c. The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

d. The amount of the finance charge expressed as an annual percentage rate; and

e. The deferred payment price.

3. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer

[1] Copies of the complaint and decision and order filed with the original document.

credit, or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

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

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Decision and Order issued by the Commission Oct. 22, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-3841 Filed 2-11-75;8:45 am]

[Docket C-2586]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

C. Itoh & Co. (America) Inc.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods;* 13.30–75 Textile Fiber Products Identification Act; 13.30–100 Wool Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements;* 13.73–70 Wool Products Labeling Act. Subpart—Corrective actions and/or requirements: § 13.533 *Corrective actions and/or requirements;* 13.533–20 Disclosures. Subpart—Importing, manufacturing, selling or transporting flammable wear or other merchandise: § 13.1060 *Importing, manufacturing, selling or transporting flammable wear or other merchandise.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* 13.1108–80 Textile Fiber Products Identification Act; 13.1108–90 Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition;* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements;* 13.1212–90 Wool Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition;* 13–1590–70 Textile Fiber Products Identification Act; 13.1590–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130, 72 Stat. 1717 (15 U.S.C. 45, 70, 68)) [Cease and desist order, C. Itoh & Co. (America) Inc. New York City, Docket C–2586, Oct. 22, 1974]

In the matter of C. Itoh & Co. (America) Inc., a corporation. Consent order requiring a New York City importer and distributor of fabrics, among other things to cease misbranding and falsely labeling its products and misrepresenting the fiber content of its goods. Further, respondent is required to bond its imported wool products for twice their value, with the bond subject to forfeiture should applicable legal requirements not be complied with.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

It is ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, as the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wood Products Labeling Act of 1939.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of fabrics or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the amount of constituent fibers contained in such products through stamping, tagging, labeling, advertising, or otherwise identifying such products as to the character and amount of constituent fibers contained therein.

It is further ordered, That respondent notify, by delivery of a copy of this order by registered mail, each of its customers that purchased the products which gave rise to this complaint of the fact that such products were misbranded.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

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

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist contained herein.

[1] Copies of the complaint and decision and order filed with the original document.

Decision and order issued by the Commission October 22, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-3842 Filed 2-11-75;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5558, 34-11198, AS-169]

LIFO INVENTORY METHOD OF ACCOUNTING

Disclosure Problems Relating to Its Adoption

In the matter of Part 211 Interpretative Releases Relating to Accounting Matters (Accounting Series Releases), Part 231 Interpretative Releases Relating to the Securities Act of 1933 and General Rules and Regulations Thereunder and Part 241 Interpretative Releases Relating to the Securities Exchange Act of 1934 and General Rules and Regulations thereunder.

The Commission today authorized the issuance of the following exchange of correspondence between its Chief Accountant and the Internal Revenue Service relating to discussions held in regard to financial disclosure problems arising from the adoption of LIFO accounting by many registrants and the book-tax conformity requirements of the Internal Revenue Code.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 23, 1975.

JANUARY 20, 1975.

MR. LAWRENCE B. GIBBS, *Assistant Commissioner (Technical), Internal Revenue Service, Room 3042, 1111 Constitution Avenue NW., Washington, D.C. 20224.*

DEAR MR. GIBBS: As we discussed, this letter sets forth my understanding of the solutions agreed upon to prevent possible conflicts between financial disclosure principles and Revenue Ruling 74-586.

The Commission's Accounting Series Release No. 159 requires a public company to include "Management's Discussion and Analysis of the Summary of Earnings" in filings with the Commission. The same analysis must be included in the annual report to stockholders, although its format may vary somewhat from that used in filings on Form 10-K or in registration statements. The purpose of requiring this analysis, which under the rules would include a statement explaining "changes in accounting principles or in the method of their application that have a material effect on net income as reported," is to provide investors with a summary in one place of the most significant elements of reported results.

In the case of companies which have changed to LIFO accounting for inventories, an explanation of the change and its effect is called for by Accounting Series Release No. 159. My understanding of our agreement on Acounting Series Release No. 159 reporting is that the Service would not terminate a LIFO election if the same language used in the financial statements footnote to disclose the effect of the change to LIFO is repeated in management's analysis of operations. This is true whether such analysis is included as a separate narrative or as a part of the president's letter. You are agreeable to this position because the change to LIFO would only be made where that method is preferable to the one previously used. Thus the description of the change would state the effect on income but would be written in a manner which conveys the message that a summary of operations using the LIFO method for the current year is more meaningful in understanding the company's results of operations.

A typical example relating to the impact on earnings might read as follows:

FOOTNOTE A.—The company has changed its method of accounting for inventories to Last-in, First-out (LIFO) method. This was done because the rapid increase in prices during the year would result in an overstatement of profits if use of the First-in, First-out (FIFO) method were continued since inventories sold were replaced at substantially higher prices. The effect on reported earnings for the year was a decrease of $XXX,-XXX, or $X.XX per share.

Excerpt from Management's Analysis of Summary of Earnings:

In order not to overstate reported profits as a result of inflation during the year, the company changed its method of accounting for inventory from First-in, First-out to Last-in, First-out. This was necessary because of the rapid increase in prices in 197X which caused inventories sold to be replaced at substantially higher prices. The effect of the change was to decrease reported earnings by $XXX,XXX, or $X.XX per share.

Your Rev. Proc. 73-37 has previously stated that a company which changed to LIFO may make any disclosure which is required by Accounting Principles Board Opinion No. 20 in its financial statements for the year of the change without causing the Service to terminate the LIFO election. I understand that consistent with this position and in recognition of new financial disclosure principles, the Service will amplify Rev. Proc. 73-37 to allow the disclosures required by Accounting Principles Board Opinion No. 28 and financial Acounting Standards Board Statement No. 3 in addition to the disclosure required in Acounting Series Release No. 159. The amplified Revenue Proccdure also would provide that the above disclcsures could be made in news releases, etc., in the year of election.

We believe that Rev. Proc. 73-37 amplified as discussed above will satisfactorily solve the problem of permitting necessary disclosures in the year in which a change to LIFO is made. The disclosures required to be made under our present rules and the other authoritative sources cited above are limited to the income effects of the specific changes made during the year and therefore would only cover any segment of an inventory for which a change was made. If part of the inventory was changed to LIFO in one year and another segment was changed in the next, the disclosures in the second year would only relate to the effect on overall earnings of the segment changed in that year and not to the effect of a different inventory method on the inventory previously changed to LIFO.

Rule 3-07 of Regulation S-X requires that the disclosure made in the year of change be repeated at any time the financial statements for that year are subsequently reported. Instructions to registration statements and annual reports filed with the Commission require a summary of operations which includes information or explanation of material significance, including accounting changes. Securities Exchange Act of 1934 Release No. 11079 requires that a five year summary of operations be included in the annual reports to shareholders. We understand that such a repetition of previously made disclosure will not cause conformity problems. Our rules and the relevant authoritative literature do not presently require that any disclosure be made of the effect of using an alternative calculation of cost of sales covering periods subsequent to the year in which the change to LIFO is made. We do encourage but do not require registrants to make disclosure of the proforma effect on income if the LIFO system had been used in the year prior to its adoption, but we understand that this disclosure would cause no conformity problems since the registrant was not using the LIFO method for tax purposes in such previous year.

We also considered Rev. Rul. 73-66 which was issued in part as a result of the 1972 amendments on Regulation S-X which require (in Rule 5-02-6(b)) that registrants using the LIFO method disclose "the excess of replacement or current cost over stated LIFO value" if material, either parenthetically in the balance sheet or in a note to the financial statements. The ruling presently provides that a footnote or parenthetical statement to the balance sheet could state the excess of FIFO over LIFO cost. We understand that the Service will amplify Rev. Rul. 73-66 so that the use of replacement or current cost (which normally would not differ significantly from FIFO) also would be permitted in this note or parenthetically in the financial statements.

Sincerely,

JOHN C. BURTON,
Chief Accountant.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JANUARY 23, 1975.

MR. JOHN C. BURTON,
Chief Accountant,
Securities and Exchange Commission,
Washington, D.C. 20549.

DEAR MR. BURTON: I have received your letter dated January 20, 1975.

Your letter is consistent with my understanding and the position of the Internal Revenue Service, as set forth in Revenue Procedure 75-10, 1975-7 I.R.B. dated February 18, 1975, and Rev. Rul. 75-50, 1975-7 I.R.B., to be announced today in Technical Information Releases, copies of which are enclosed for your information.

It is also my understanding that the above mentioned letter and this letter are being published concurrently by the Securities and Exchange Commission and the Internal Revenue Service today.

Sincerely yours,

LAWRENCE B. GIBBS,
Assistant Commissioner (Technical).

Enclosures.

[FR Doc.75-3931 Filed 2-11-75;8:45 am]

[Release Nos. 33-5564, 34-11219, 35-18793]

INTERPRETATIVE RELEASES

Natural Gas Reserve Estimates

In the Matter of Part 231 Interpretative Release Relating to the Securities Act of 1933 and General Rules and Regulations thereunder, Part 241 Interpretative Release Relating to the Securities Exchange Act of 1934 and General Rules and Regulations thereunder and Part 251 Interpretative Release Relating to the Public Utility Holding Company Act

of 1935 and General Rules and Regulations thereunder.

In the interest of informing registrants and the investing public, the Securities and Exchange Commission has issued this release describing certain practices in processing filings under the Securities Act of 1933 (Securities Act) and Securities Exchange Act of 1934 (Exchange Act).

On June 14, 1974 the Commission issued Securities Act of 1933 Release No. 5504 (39 FR 27556) which described certain practices of the Division of Corporation Finance in connection with processing filings which include natural gas reserves. That release indicated that the Division would continue to follow its practice of submitting copies of prospectuses filed by registrants subject to the jurisdiction of the Federal Power Commission (FPC) to that agency for any comments it desired to make. The release also indicated that appropriate technical personnel, designated by the FPC, would be invited to attend conferences where supplemental natural gas reserve information was submitted to the Division in connection with its review of natural gas reserve estimates.

In furtherance of these practices, which it intends to continue, the Division has been authorized by the Commission to provide copies of letters of comments on filings which include natural gas reserve estimates and any written responses and communications in connection therewith to the FPC. The Commission's present rules[1] provide that such letters of comment and the responses thereto are non-public, although the Commission may determine to make them public. Accordingly, the letters of comment furnished to the FPC and any written responses and communications with respect thereto will be furnished to the FPC with the understanding that they will remain non-public unless and until the Commission determines otherwise.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 31, 1975.[1]

[FR Doc.75-3929 Filed 2-11-75;8:45 am]

[Securities Act Release No. 5560]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Exemption for Closely Held Issuers

The Securities and Exchange Commission today announced the adoption of Rule 240 (17 CFR 230.240) and related Form 240 (17 CFR 239.240) under the Securities Act of 1933 ("Act"), "Exemption of Certain Limited Offers and Sales by Closely Held Issuers," which provides an exemption from registration for limited offers and sales of small dollar amounts of securities by an issuer that before and after the transaction pursuant to the rule has a limited number (100) of beneficial owners of its securities. The purpose of the rule is to provide an exemption from the registration but not the anti-fraud or other provisions of the Act for offers and sales that take place in the raising of capital by small businesses where, because of the small size and the limited character of the offering, the public benefits of registration are too remote. The rule is available for issuers only; it is not available for resales of securities by affiliates of the issuer or other persons. Generally speaking, Form 240 is a notice to be filed not more than once in each calendar year with the Commission's Regional Office for the region in which the issuer's principal business operations are conducted reporting that a sale has been made in reliance on the rule. In connection with adoption of Rule 240 and Form 240, the Commission also adopted an amendment to Rule 144 (17 CFR 230.144) under the Act which specifies that securities sold pursuant to Rule 240 would be deemed to be "restricted securities" for the purpose of Rule 144 and could, therefore, be resold pursuant to its provisions.

The Commission proposed Rule 240, Form 240 and the amendment to Rule 144 for comment in June 1974 (Securities Act Release No. 5499, June 3, 1974) (39 FR 20609) and received approximately thirty letters of comment thereon. Most commentators supported the concept of the proposed rule but suggested certain modifications. The rule as adopted differs in several ways from that proposed. Among the revisions are the deletion of the prohibition on use of the rule by limited partnerships; the addition of a prohibition on use of the rule by investment companies registered or required to be registered under the Investment Company Act of 1940; the elimination of the limitation on the number of purchasers (but not the number of beneficial owners); the increase in the limitation on the number of beneficial owners from fifty to one hundred; the change in the period for calculating the aggregate amount that can be sold in reliance on the rule from a consecutive twelve month period to the twelve months preceding each sale; and the broadening of the exclusions in calculating such aggregate amount. These and other revisions from the proposed rule are discussed under the appropriate paragraph in the synopsis of the rule that follows. The Commission finds that these changes have already generally been the subject of comment or are technical in nature and that republication for comment is not required under the Administrative Procedure Act.

RULE 240 AND FORM 240

This release contains a general discussion of the background, purpose and general effect of the rule to assist in a better understanding of its provisions. A brief synopsis of each paragraph of the rule is also included. However, attention is directed to the rule itself for a more complete understanding.

BACKGROUND AND PURPOSE

Congress, in enacting the federal securities laws, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission, in administering and implementing these laws, has sought to coordinate this disclosure system with the exemptive provisions provided by such laws. Rule 240 is a further effort in this direction.

The legislative history of the Securities Act of 1933 indicates that the main concern of Congress was to provide full and fair disclosure in connection with the offer and sale of securities. Congress recognized, however, that there were certain situations in which the protections afforded by the registration provisions of the Act were not necessary. Concerning those specified exemptions from the Act, the House Report stated that "The Act carefully exempts from its application certain types of * * * securities transactions where there is no practical need for its application or where the public benefits are too remote."[1]

Section 3(b) of the Act provides that the Commission may by rules, and subject to such terms and conditions as it may prescribe, "add any class of securities to the securities exempted as provided in this section (section 3 of the Act), if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering." The Commission believes that offers and sales of securities by an issuer pursuant to the rule are of such limited character and of such small amount that enforcement of the registration provisions of the Act with respect to such transactions is not necessary in the public interest or for the protection of investors. Notwithstanding the exemption from registration, however, the anti-fraud provisions of the federal securities laws, and the state securities laws, continue to apply to such transactions.

GENERAL DESCRIPTION

In summary, the rule provides that offers and sales of securities of the issuer by the issuer are exempt from registration if all the conditions of the rule are met. These conditions impose limitations on the manner of offering, the number of beneficial owners and the aggregate sales price of securities of the issuer, and resales of the securities. Other conditions prohibit payments for solicitation of buyers or in connection with sales and require the filing of a notice of sales. The conditions are intended to assure that

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[1] 17 CFR 200.80(c)(4). On January 27, 1975 the Commission announced proposals to repeal this subparagraph (c)(4) of rule 200.80 and to adopt a proposed Rule 17 CFR 200.83 to the fullest extent possible permitted by law to permit persons to request and obtain confidential treatment of information supplied to the Commission other than in formal filings. Securities Act Release No. 5561.

[1] H.R. Rep. No. 85, 73d Cong., 1st Sess. 5(1933).

the offering is one in which the dollar amount involved is small and the offering is limited in character.

The rule is only available to issuers of securities other than investment companies registered or required to register under the Investment Company Act of 1940 and is not available to affiliates of the issuer or other persons for sale of the issuer's securities. The rule provides an exemption for the issuer transaction only, not for the securities themselves. Persons who acquire securities from issuers in a transaction complying with the rule acquire securities that are unregistered and that are deemed to have the same status as if such securities were acquired in a transaction exempt from registration under section 4(2) of the Act; such securities can only be reoffered or resold if registered or, if available, pursuant to an exemption from the registration provisions of the Act such as section 4(1) of the Act or Rule 237 (17 CFR 230.237) thereunder. In this connection, the amendment to Rule 144 makes Rule 144 available for resales of securities acquired pursuant to Rule 240, provided that all the conditions of Rule 144 are met.

SYNOPSIS OF THE PROVISIONS OF RULE 240

Preliminary notes. The first preliminary note reminds issuers that Rule 240 provides an exemption from registration only, and not from the anti-fraud or other provisions of the federal securities laws. The second note reminds issuers that state law also applies to transactions under the rule and that the rule does not relieve the issuer from compliance with such law. A new third note has been added to make it clear that purported reliance on the rule is not an election and that the issuer can rely on any exemption that is otherwise available for the transaction. The fourth note makes it clear that the rule is available to issuers only and is a transactional exemption, and is not available for resales of securities. The fifth note restates the Commission's position as with respect to Rules 144, 146 (17 CFR 230.146) and 147 (17 CFR 230.-147), that the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. For example, if an issuer liquidates and forms a new corporation for purposes of repeated use of the rule, the exemption provided by the rule would be unavailable. In such cases, registration pursuant to the Act is required.

A new sixth note outlines the relationship of offers and sales pursuant to the rule to offers and sales in reliance upon other exemptions. In determining the availability of such other exemptions, offers and sales pursuant to the rule must be given due consideration when applying the traditional integration guidelines set forth in Securities Act Release No. 4552 (27 FR 11316). For example, while a transaction may be exempt pursuant to Rule 240, the same transaction may be part of a larger issue of securities and affect, for example, the availability of an exemption under Regulation A, section 3(a)(11) or section 4(2) for other transactions which are part of such larger issue.

Definitions: securities of the issuer: Rule 240(a)(1). The term "securities of the issuer" is defined for purposes of the rule to mean all securities of the issuer and its affiliates. Thus, securities of all classes of the issuer, as well as securities of affiliated corporations or other entities, would be considered in applying the conditions of the rule. The definition has been expanded from that proposed to make explicit that securities issued by partnerships with the same or affiliated general partners and fractional undivided interests in oil or gas rights created by the same or affiliated persons would be included within the meaning of the term "securities of the issuer."

Definitions: affiliate: Rule 240(a)(2). The term "affiliate" or affiliated" with a person is defined to be a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such person.

Definitions: executive officer: Rule 240(a)(3). A definition of "executive officer" identical to that in the proxy rules and in Form 10-K has been added since that term is used in paragraph (e) in identifying persons whose transactions are excludable from the calculation of the aggregate sales price of securities sold if such transactions are made in reliance on an exemption other than the rule.

Definitions: deletion of proposed rule 240(a)(3): Definition of predecessor. The definition of the term "predecessor" has been deleted since the term no longer appears in the rule. The Commission believes that the inclusion of predecessors in calculating the aggregate sales price and number of beneficial owners would be unduly restrictive in view of the purpose of the rule and the other conditions on the availability of the rule. However, if, for example, an issuer liquidates and forms a new corporation for the purposes of repeated use of the rule, the exemption provided by the rule would be unavailable. (See preliminary note 5.)

Definitions: promoter: Rule 240(a)(4). A definition of "promoter" based on that in Rule 251 of Regulation A under the Act has been added to the rule since the term "promoter" is now used in paragraph (e) in identifying persons whose transactions are excludable from the calculation of the aggregate sales price of securities sold if such transactions are made in reliance on an exemption other than the rule.

Deletion of proposed rule 240(b): use of the rule. Paragraph (b) of the rule as proposed provided that the rule would not be available for the offer or sale of interests in limited partnerships, whether such offers or sales were made prior or subsequent to the formation of the partnership. The Commission has decided that it should not single out this one form of business organization, and therefore has revised the rule to make it available to all issuers of securities other than investment companies registered or required to be registered under the Investment Company Act of 1940. However, the rule makes it clear, in its definition of "securities of the issuer," that interest in partnerships with the same or affiliated general partners and that fractional undivided interests in oil or gas rights created by the same or affiliated persons would be considered to be securities of the same issuer. All sales by such partnerships or entities would therefore be aggregated in determining the amount sold and all purchasers of interests in these partnerships or entities must be considered in calculating the number of beneficial owners. This is intended to avoid repeated use of the rule by the same or related persons for a series of offerings.

Conditions to be met: Rule 240(b). This paragraph provides that transactions by an issuer involving the offer or sale of its securities in accordance with all the terms and conditions of the rule will be exempt from the registration provisions of the Act provided, however, that the issuer is not an investment company registered or required to be registered under the Investment Company Act of 1940. The rule has been made unavailable to such investment companies in light of the similar restrictions in Regulation A under the Act and on the availability to investment companies of section 3(a)(11) of the Act. A note has been added to this paragraph to indicate that each individual transaction effected in reliance on the rule must meet all the terms and conditions of the rule; the availability of the rule will not be affected by other transactions effected in reliance on the rule but which do not meet all its terms and conditions. However, all such transactions must be considered in determining the availability of other exemptions for other offers or sales of unregistered securities. (See preliminary note 6.) A second note has been added to emphasize that the rule is available only to issuers for offers and sales of their securities.

Limitation on manner of offering: Rule 240(c). The rule provides that the securities shall not be offered or sold by any means of general advertising or general solicitation. Offers and sales in reliance on the rule cannot be made through newspapers, advertisements or other means of general advertising. Where such means are used, an exemption cannot be justified on the basis of the "limited character" of the offering pursuant to the rule.

Prohibition of remuneration paid for solicitation or for sales: Rule 240(d). The rule also provides that no commission or similar remuneration may be paid for solicitation of prospective buyers or in connection with sales of securities. This provision is based on similar ones in certain state securities statutes and is intended to assure that securities are not offered or sold using high pressure tactics or otherwise through organized securities distribution media.

Limitation on aggregate sales price: Rule 240(e). In order to assure that only a limited dollar amount of securities is sold, the rule provides that the aggregate sales price of all sales of securities of the issuer as defined in subparagraph (a)(1) of the rule in reliance on the rule or otherwise without registration under the Act within the preceding twelve months shall not exceed $100,000. Three notes have been added to this paragraph to explain and illustrate the calculation of the aggregate sales price.

The rule specifically excludes from the computation of the dollar amount the following: (1) all securities of the issuer registered or exempt from registration under the Act if such securities were sold prior to the effective date of the rule; and (2) the following securities if sold in reliance on an exemption other than the rule: (i) nonconvertible notes or similar evidences of indebtedness (1) representing a purchase money mortgage or (2) issued to banks, savings institutions, trust companies, insurance companies, investment companies registered under the Investment Company Act of 1940, Small Business Investment Companies or Minortiy Enterprise Small Business Investment Companies licensed by the U.S. Small Business Administration, or pension or profit sharing trusts, and (ii) securities sold to promoters, directors, executive officers, or full-time employees of the issuer. It should be noted that the persons described in subparagraph (e)(2)(ii), but not the institutional lenders described in subparagraph (e)(2)(i), count as beneficial owners even in the event that the securities sold to such persons are not includable in calculating the aggregate sales price of securities of the issuer. In addition, nonconvertible notes must be included in the computation of the aggregate sales price when such notes have been issued with warrants or other rights enabling the purchaser to acquire an equity interest in the issuer.

The rule, as proposed, included a limitation on the aggregate dollar amount of securities that could be sold within any consecutive twelve month period. Upon reconsideration of this limitation, the Commission has determined that reliance on a consecutive twelve month period is unnecessarily confusing and it has therefore changed the calculation period to the twelve months preceding each sale.

Deletion of proposed rule 240(f): number of purchasers. The proposed rule contained a limitation on the number of persons who could purchase securities (other than registered securities) from the issuer, its predecessors or any affiliated issuers in a twelve month period in order to assure the limited character of any offering. As proposed, the rule limited the number of such purchasers to twenty-five in any consecutive twelve month period, with special provisions for computing the number of purchasers. The Commission has determined that the limitation on the number of purchasers in a twelve month period is not necessary in the context of the rule because of the overall limitation on the number (100) of beneficial owners of securities of the issuer as that term is defined in subparagraph (a)(1) of the rule. Accordingly, the Commission has deleted the limitation on the number of purchasers.

Limitation on the number of beneficial owners: Rule 240(f). The rule provides that both immediately before and after any transaction in reliance on the rule, the issuer shall, after reasonable inquiry, have reasonable grounds to believe, and shall believe that the securities of the issuer as defined in subparagraph (a)(1) of the rule are beneficially owned by 100 or fewer persons. As proposed, the rule was limited to issuers with 50 or fewer beneficial owners and contained no provisions for a reasonable inquiry or for reasonable grounds for the issuer's belief concerning the number of beneficial owners of its securities. Upon reconsideration of this limitation, the Commission has determined that a limit of 100 beneficial owners would be consistent with the purposes of the rule and of section 3(b) of the Act.

The rule contains special provisions for computing the number of beneficial owners where family relationships are involved or where the purchaser is a corporation or trust. In addition, banks and other institutional-type lenders described in subparagraph (e)(2)(i) that purchase or hold only nonconvertible notes or similar evidences of indebtedness of the issuer would be excluded. The purpose of this condition is to make the rule available only where the public interest in registration appears remote due to the limited number of beneficial owners involved. Notes to this paragraph of the rule have been added to remind issuers that purchasers of nonconvertible notes with warrants attached and persons described in subparagraph (e)(2)(ii) count in computing the number of beneficial owners.

Limitation on resale: Rule 240(g). The condition relating to resale has been revised to make clear that the securities acquired pursuant to the rule are unregistered securities and that they are deemed to have the same statues as if they were securities acquired in a transaction pursuant to section 4(2) under the Act.

The rule requires the issuer to exercise reasonable care to assure that purchasers are not acting as underwriters, which reasonable care includes at least making reasonable inquiry to determine if the purchaser is buying for himself or others, informing the purchaser of the restrictions on resale,[2] and legending of the certificates.

In connection with such restrictions, the Commission is amending Rule 144 to include within the definition of "restricted securities" those securities acquired from the issuer in a transaction in reliance on Rule 240 under the Act or which were issued by an issuer in a transaction in reliance on Rule 240 and were acquired in a transaction or chain of transactions not involving any public offering. Thus, Rule 144 would be available for resales of securities acquired pursuant to Rule 240.

Notice of sales: Rule 240(h). The rule requires that during each calendar year an issuer which sells securities in reliance on the rule must file a notice on Form 240 with the Commission's Regional Office for the region in which the issuer's principal business operations are conducted within ten days after the close of the first month in which a sale in reliance on the rule is made. As proposed, the form would have had to be filed prior to the first sale. The Commission has concluded that issuers may have found it difficult to comply with an advance filing requirement and that a filing after the first sale would be satisfactory. Although many commentators objected to the filing requirement, the Commission believes that the filing requirement is presently justified in light of the experimental nature of the rule and the creation of a new exemption.

It should be noted, however, that the exemption provided by the rule will be available for the first $100,000 of the securities of the issuer sold by the issuer if the sale of such securities complied with all the conditions of the rule other than the notice requirement. However, the exemption provided by the rule will not be available for any subsequent sale of securities by such issuer unless such issuer files: (a) prior to such subsequent sale in reliance on this rule a notice on Form 240 covering the prior sale of all securities for which reliance on this rules is claimed; and (b) a notice on Form 240 covering such subsequent sale.

FORM 240

Form 240 is a notice to be filed with the Commission's Regional Office for the region in which the issuer's principal business operations are conducted reporting that a sale(s) has been made pursuant to the rule. The Form is brief and requires information about the issuer, its officers, directors, principal stockholders and promoters, the aggregate sales price of unregistered securities, and the number of beneficial owners. It need only be filed once in each calendar year, within ten days after the close of the month in which the first sale(s) is made in reliance on the rule. The Form will be publicly available immediately in the regional office at which it is filed.

OPERATION OF RULE 240

The rule will operate prospectively only since there is now no similar exemption under section 3(b). The staff will issue interpretative letters to assist persons in complying with the rule but will not issue no-action letters dealing with Rule 240. As to resales of securities,

[2] In this regard see Securities Act Release No. 5226 (January 10, 1972) (37 FR 600) relating to the applicability of the antifraud provisions of the securities laws to disclosure of the restrictions on resale of securities offered pursuant to section 4(2) of the Act.

the staff will continue its present policy of not issuing no-action letters in section 4(1) situations with respect to securities acquired on or after April 15, 1972, as set forth in the release accompanying the adoption of Rule 144 (Securities Act Release No. 5223, January 11, 1972) (37 FR 590, 4329).

In view of the objectives and policies underlying the Act, the rule is not available to any issuer with respect to any transaction which, although in technical compliance with the provisions of the rule, is part of a plan or scheme to evade the registration provisions of the Act. In such cases, registration is required.

Rule 240 relates only to transactions exempted by the rule from the registration provisions of the Act. It does not provide an exemption from the anti-fraud or other provisions of the federal securities laws or from provisions of state securities laws.

The rule is available only to the issuer of the securities and not to affiliates or other persons proposing to resell securities of the issuer. Such resale must be made in compliance with the registration provisions of the Act unless an exemption from such provisions is available. Also, the rule does not relieve issuers of their obligations under relevant state laws.

The Commission hereby adopts Rule 240 and Form 240 pursuant to sections 3(b) and 19(a) of the Act, as amended, and amends Rule 144 under the Act pursuant to sections 4(1) and 19(a) of the Act. The Commission finds that republication for comment of Rule 240, Form 240 and the amendment to Rule 144 is not necessary under the Administrative Procedure Act because the revisions made from the rule, form and amendment, as proposed, have already been the subject of public comment or are technical in nature. The text of Rule 240, Form 240 and of the amendment to Rule 144 is set forth below. These actions are effective on and after March 15, 1975.

(Secs. 3(b), 4(1), 19(a), 48 Stat. 75, 77, 85; Sec. 209, 48 Stat. 908; 59 Stat. 167; Sec. 12, 78 Stat. 580; 84 Stat. 1480; 15 U.S.C. 77c(b), 77d(1), 77s(a))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 24, 1975.

Parts 230 and 239 of the Code of Federal Regulations are amended by (1) adding thereunder new § 230.240, (2) amending § 230.144(a)(3), and (3) adding new § 239.240, as follows

§ 230.240 Exemption of certain limited offers and sales by closely held issuers.

PRELIMINARY NOTES

1. Rule 240 relates to transactions exempted only from section 5 of the Act by section 3(b) of the Act. It does not provide an exemption from the anti-fraud provisions of the federal securities laws or from the civil liability provisions of Section 12(2) of the Act or other provisions of the federal securities laws.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Purported reliance on this rule does not act as an election; the issuer can also claim the availability of any other applicable exemption.

4. The rule is available only to the issuer of the securities and is not available to affiliates or other persons for resales of the issuer's securities. The rule provides an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves. The securities acquired in a transaction effected in reliance on the rule are unregistered securities and are deemed to have the same status as if they were acquired in a transaction pursuant to section 4(2) of the Act.

5. In view of the objectives of the rule and the purpose and policies underlying the Act, the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

6. While a transaction may be exempt pursuant to Rule 240, the same transaction may be part of a larger issue of securities and may affect the availability of a different exemption for other transactions which are a part of such larger issue. See Securities Act Release No. 4552 (November 6, 1962) (27 FR 11316) concerning the integration of transactions.

(a) *Definitions.* For purposes of the rule only, the following definitions shall apply.

(1) *Securities of the issuer.* The term "securities of the issuer" shall include all securities issued by the issuer and by any affiliate of the issuer. Securities issued by partnerships with the same or affiliated general partners and fractional undivided interests in oil or gas rights created by the same or affiliated persons shall be deemed to be included as "securities of the issuer."

(2) *Affiliate.* The term "affiliate" of or "affiliated" with a person means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such person.

(3) *Executive officer.* The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy-making functions for the issuer.

(4) *Promoter.* The term "promoter" includes: (i) any person who, acting alone or in conjunction with one or more persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; or (ii) any person who, in connection with the founding or organizing of the business or enterprise of the issuer, directly or indirectly receives in consideration of services or property 10 percent or more of the proceeds from the sale of any class of securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

NOTE: Commissions may not be paid or given for soliciting buyers or in connection with sales of securities pursuant to the rule. See paragraph (d).

(b) *Conditions to be met.* Transactions by an issuer involving the offer and sale of its securities in accordance with all terms and conditions of this rule shall be exempt only from the provisions of section 5 of the Act pursuant to section 3(b) of the Act; provided, however, that the issuer is not an investment company registered or required to be registered under the Investment Company Act of 1940.

NOTES: 1. Each individual transaction effected in reliance on the rule must meet all the terms and conditions of the rule; the availability of the rule will not be affected by other transactions effected in reliance upon the rule but which do not meet all its terms and conditions.

2. This rule is available only for offers and sales by issuers of their securities. See Preliminary Note 4.

(c) *Limitation on manner of offering.* The securities shall not be offered, offered for sale or sold in reliance on this rule by any means of general advertising or general solicitation.

(d) *Prohibition of remuneration paid for solicitation or for sales.* No commission or similar remuneration shall be paid or given directly or indirectly for soliciting any prospective buyer or in connection with sales of the securities in reliance on this rule.

(e) *Limitation on aggregate sales price.* The aggregate sales price of all sales of securities of the issuer as defined in subparagraph (a)(1) in reliance on this rule or otherwise without registration under the Act within the twelve months preceding the point in time immediately after the last such sale shall not exceed $100,000.

NOTES: 1. The calculation of the aggregate sales price may be illustrated as follows: If an issuer sold $50,000 of its securities on June 1, 1975 in reliance on the rule, and an additional $25,000 on September 1, 1975, the issuer would be permitted to sell only $25,000 more until June 1, 1976 since until that date the issuer must count both prior sales toward the $100,000 limit. However, if the issuer made its third sale on June 1, 1976, the issuer could sell $75,000 of its securities since the June 1, 1975 sale would not be within the preceding twelve months.

2. If a transaction relying on the rule fails to meet the limitation on the aggregate sales price, it does not affect the availability of the rule for the other transactions considered in applying such limitation. For example, if the issuer in the prior note made its third sale on May 31, 1976 in the amount of $30,000, the rule would not be available for that sale; but the exemption for the prior two sales would be unaffected.

3. The calculation of the aggregate sales price would include all consideration received for the issuance of securities of the issuer, including cash, services, property, notes, or other consideration.

For purposes of computing the dollar amount of securities sold, the following shall be excluded:

(a) All securities of the issuer registered or exempt from registration under the Act, if such securities were sold prior to the effective date of this rule.

(b) The following securities if sold in reliance on an exemption from registration other than this rule:

(i) Nonconvertible notes or similar evidences of indebtedness (1) representing a purchase money mortgage or (2) issued to a bank, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, Small Business Investment Company or Minority Enterprise Small Business Investment Company licensed by the U.S. Small Business Administration, or pension or profit sharing trust; or

NOTE: The exclusion set forth in this subparagraph does not apply to arrangements where nonconvertible notes are issued with warrants or other rights enabling the purchaser to acquire an equity interest in the issuer.

(ii) Securities sold to any promoter, director, executive officer, or full-time employee.

NOTE: It should be noted that this subparagraph (ii) only provides an exclusion for the computation of the aggregate dollar amount of securities sold; persons named in this subparagraph are not excluded from the computation of the number of beneficial owners in paragraph (f).

(f) *Limitation on Number of Beneficial Owners.* Both immediately before and immediately after any transaction in reliance on this rule, the issuer shall, after reasonable inquiry, have reasonable grounds to believe, and shall believe, that the securities of the issuer as defined in subparagraph (a)(1) are beneficially owned by 100 or fewer persons. For purposes of this provision:

(1) the following shall be deemed the same and not a separate beneficial owner:

(i) Any relative or spouse of a beneficial owner and any relative of such spouse, who has the same home as such beneficial owner;

(ii) Any trust or estate in which a beneficial owner or any of the persons related to him as specified in subparagraphs (f)(1)(i) or (iii) collectively have 100 percent of the beneficial interest (excluding contingent interests); and

(iii) Any corporation or other organization of which a beneficial owner or any of the persons related to him as specified in subparagraphs (f)(1)(i) or (ii) collectively are the beneficial owners of all of the equity securities (excluding directors' qualifying shares) or equity interests;

(2) there shall be counted as one beneficial owner any corporation or other organization, except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interest or equity securities in such entity shall count as a separate beneficial owner; and

(3) there shall be excluded from the computation any owner of only a purchase money mortgage and any bank, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, Small Business Investment Company or Minority Enterprise Small Business Investment Company licensed by the U.S. Small Business Administration, or pension or profit sharing trust which purchases or holds only nonconvertible notes or similar evidences of indebtedness of the issuer.

NOTES: 1. The exclusion set forth in this subparagraph does not apply to arrangements where nonconvertible notes are issued with warrants or other rights enabling the purchaser to acquire an equity interest in the issuer.

2. It should be noted that subparagraph (e)(2)(ii) only provides an exclusion for the computation of the aggregate dollar amount of securities sold; persons named in that subparagraph are not excluded from the computation of the number of beneficial owners.

(g) *Limitation on resale.* In determining the availability of an exemption from registration for resale of securities acquired in a transaction effected in reliance on this rule, such securities shall be deemed to have the same status as if they had been acquired in a transaction pursuant to section 4(2) of the Act and they cannot be resold without registration under the Act or exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Act, which reasonable care shall include, but not necessarily be limited to:

(1) making reasonable inquiry to determine if the purchaser is acquiring the securities for his own account or on behalf of other persons;

(2) informing the purchaser of the restrictions on resale; and

(3) placing a legend on the certificate or other document evidencing the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities.

(h) *Filing of notice of sales.* (1) During each calendar year, within ten days after the close of the first month in which a sale in reliance on this rule is made, the issuer shall file with the Regional Office of the Commission for the region in which the issuer's principal business operations are conducted three copies of a notice on Form 240 which shall be signed by a duly authorized officer of the issuer or by a person acting in a similar capacity for a noncorporate issuer.

(2) Notwithstanding the foregoing, the exemption provided by this rule will be available for the first $100,000 of the securities of the issuer as defined in subparagraph (a)(1) sold by the issuer if the sale of such securities complied with all the conditions of this rule other than the notice requirement. However, the exemption provided by this rule will not be available for any subsequent sale of securities by such issuer unless such issuer files:

(i) prior to such subsequent sale in reliance on this rule, a notice on Form 240 covering the prior sale of all securities for which reliance on this rule is claimed; and

(ii) a notice on Form 240 covering such subsequent sale.

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * * *

(a) * * *

(3) The term "restricted securities" means securities acquired directly or indirectly from the issuer thereof, or from an affiliate of such issuer, in a transaction or chain of transactions not involving any public offering or from the issuer in a transaction in reliance on Rule 240 under the Act or which were issued by an issuer in a transaction in reliance on Rule 240 and were acquired in a transaction or chain of transactions not involving any public offering.

* * * * * *

§ 239.240 Form 240, report by issuer of sales of securities pursuant to § 230.240 of this chapter.

This form shall be filed with the appropriate Regional Office of the Commission not more than 10 days after the close of the first month during the calendar year in which a sale is made in reliance on the rule.

NOTE: Copies of Form 240 have been filed with the Office of the Federal Register as part of this document. Additional copies will be available on request from the Securities and Exchange Commission, Washington, D.C. 20549.

* * * * * *

[FR Doc.75-3930 Filed 2-11-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DELEGATIONS OF AUTHORITY TO THE COMMISSIONER

The Commissioner of Food and Drugs is amending "Part 2—Administrative Functions, Practices, and Procedures" (21 CFR Part 2) to include new and revised delegations of authority from the Assistant Secretary for Health. The authorities were delegated by memorandum effective December 6, 1974, and included expanded authorities relating to quarantine and inspection and new authorities relating to holding health conferences and acceptance of gifts under the Public Health Service Act. Other delegations were reissued to correct section references which were recodified by an amendment to the act. All authorities may be redelegated.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2 is amended in § 2.120 by revising paragraph (a)(2), (4), (5) and (15), and by

adding paragraph (a) (19), (20), and (21) as follows:

§ 2.120 Delegations from the Secretary and Assistant Secretary.

(a) * * *

(2) Functions vested in the Secretary under section 301 (Research and Investigation); section 307 (International Cooperation); section 310 (Health Education and Information); section 311 (Federal-State Cooperation); and section 314(f) (Interchange of Personnel with States) of the Public Health Service Act (42 U.S.C. 241, 242l, 242o, 243, 246(f)) which relate to the functions of the Food and Drug Administration.

* * * * *

(4) Functions vested in the Secretary under section 361 of the Public Health Service Act (42 U.S.C. 264) which relate to the law enforcement functions of the Food and Drug Administration concerning the following products and activities: biologicals (including blood and blood products); interstate travel sanitation (except interstate transportation of etiological agents under 42 CFR 72.25); food (including milk and food service sanitation and shellfish sanitation); and drugs, devices, cosmetics, and electronic products, and other items or products regulated by the Food and Drug Administration.

(5) Functions vested in the Secretary under sections 351 and 352 of the Public Health Service Act (42 U.S.C. 262 and 263) which relate to biological products.

* * * * *

(15) Function of issuing all regulations of the Food and Drug Administration. The reservation of authority contained in Chapter 2-000 of the Department Organization Manual shall not apply.

* * * * *

(19) Functions vested in the Secretary under the second sentence of section 309 (Health Conferences) of the Public Health Service Act (42 U.S.C. 242n) to call for a conference and invite as many health authorities and officials of State or local public or private agencies or organizations as deemed necessary or proper on subjects related to the functions of the Food and Drug Administration.

(20) Functions vested in the Secretary under section 501 (Gifts) of the Public Health Service Act (42 U.S.C. 219) to accept offers of unconditional gifts, of other than real property, provided such gifts are of $1,000 value or less and the total costs associated with acceptance of property will not exceed the cost of purchasing a similar item and the cost of normal care and maintenance.

(21) Functions vested in the Secretary under section 362 of the Public Health Service Act (42 U.S.C. 265) which relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health when such functions relate to the law enforcement functions of the Food and Drug Administration.

* * * * *

Effective date. This order shall be effective February 12, 1975.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))

Dated: February 5, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-3888 Filed 2-11-75;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ACRYLONITRILE/STYRENE COPOLYMER

The Food and Drug Administration is issuing this regulation to provide for the use of a polymeric substance in the production of bottles, taking into consideration a proposed interim food additive regulation and an FDA environmental impact statement now under consideration.

As published in the FEDERAL REGISTER of November 4, 1974 (39 FR 38907), a proposal discussed a previously unknown migration problem of acrylonitrile monomer which may be common to many food-contact articles containing acrylonitrile copolymers, and also discussed the absence of toxicological data to establish a definitive "no-effect" level for acrylonitrile monomer. The proposal would define the prior sanctions for acrylonitrile copolymers under a new § 121.2010 (21 CFR 121.2010), and it would establish an interim food additive regulation § 121.4010 (21 CFR 121.4010) for such copolymers to allow their continued use for a limited period of time while the questions raised are being resolved by further study. The proposed regulation includes a tolerance of 0.3 part per million (ppm) as the maximum amount of acrylonitrile monomer which can migrate from the food-contact article, and it requires the submission of certain chemical and toxicological data. The proposed interim regulation is intended to apply to all food additive uses of acrylonitrile copolymers.

The Commissioner of Food and Drugs, having evaluated the data in a petition (5B3056) filed by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63166, publish in the FEDERAL REGISTER of December 12, 1974 (39 FR 43323), and other relevant material, concludes that the food additive regulations (21 CFR Part 121) should be amended, as set forth in § 121.2629 below, to provide for the safe use of an acrylonitrile/styrene copolymer in the manufacture of bottles intended to hold soft drinks. Furthermore, the Commissioner concludes that the copolymers described in § 121.2629 will meet the 0.3 ppm extractives limitation of the proposed interim food additive regulation when used within the prescribed restrictions. Upon adoption of the proposed § 121.4010 interim regulation, § 121.2629 will be amended to cross-reference the requirements of § 121.4010.

An environmental impact analysis report for the acrylonitrile/styrene copolymer has been submitted by the Monsanto Co., and is being evaluated as part of an overall consideration by the FDA of the environmental impact of all plastic bottles for carbonated beverages and beer use pursuant to the notice published in the FEDERAL REGISTER of September 7, 1973 (38 FR 24391). The FDA is preparing a draft environmental impact statement for FDA actions on all substances used or intended for use in the fabrication of plastic bottles for carbonated beverages and beer use, which will apply to acrylonitrile/styrene copolymer.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2629 Acrylonitrile/styrene copolymer.

Acrylonitrile/styrene copolymer identified in this section may be safely used as a component of packing materials intended for use with foods identified in table 1 of § 121.2526(c) as type VI–B under conditions of use described in C, D, E, F or G of table 2 of § 121.2526(c).

(a) *Identity.* For purposes of this section acrylonitrile/styrene copolymer consists of the copolymer produced by polymerization of 66–72 parts by weight of acrylonitrile and 28–34 parts by weight of styrene.

(b) *Adjuvants.* The copolymer identified in paragraph (a) of this section may contain adjuvant substances required in its production with the exception that it shall not contain mercaptans or other substances which form reversible complexes with acrylonitrile monomer. Permissible adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and the following:

Substances:	*Limitations*
Condensation polymer of toluene, sulmonamide and formaldehyde.	0.15 percent maximum.

(c) *Specifications.* (1) Nitrogen content of the copolymer is in the range of 17.4–19.0 percent.

(2) Minimum number average molecular weight of the copolymer is 30,000 as determined by a method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF-330), 200 C St. SW., Washington, D.C. 20204.

(3) Residual acrylonitrile monomer content of the finished food contact article is not more than 80 parts per million as determined by a gas chromatographic method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives.

(d) *Extractive limitations.* (1) Total nonvolatile extractives not to exceed 0.01 milligram per square inch surface area of the food contact article when exposed to distilled water and 3 percent acetic acid for 10 days at 150° F.

(2) The extracted copolymer shall not exceed 0.001 milligram per square inch surface area of the food contact article when exposed to distilled water and 3 percent acetic acid for 10 days at 150° F as determined by a method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives.

Any person who will be adversely affected by the foregoing order may at any time on or before March 14, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective February 12, 1975.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371 (a)))

Dated: February 5, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-3891 Filed 2-11-75;8:45 am]

PART 146b—CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS FOR VETERINARY USE

PART 151c—CHLORAMPHENICOL FOR VETERINARY USE

CFR Corrections

The following are corrections to errors made in Title 21, Parts 141 to 599, revised as of June 1, 1974.

1. In § 146.104 appearing on page 73, an amendment to paragraph (c) (4) was inadvertently omitted. As corrected, § 146b.104(c) (4) reads as follows:

§ 146b.104 Streptomycin tablets, veterinary; dihydrostreptomycin tablets, veterinary.

* * * * * * *

(c) * * *

(4) If it is intended for use in animals raised for food production, it shall be used in accordance with §135c.15, §135c.44, or § 135c.114 of this chapter.

2. In § 151c.16(a), appearing on page 115, the last two words in the last line were inadvertently omitted. The last line of § 151c.16(a) should read "(1) of this chapter, except safety."

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Monensin, Zinc Bacitracin

An order was published in the FEDERAL REGISTER of December 17, 1974 (39 FR 43628) amending the table in § 135e.50(f) by revising items 6 and 7. A subsequent order inadvertently published out of sequence on December 18, 1974 (39 FR 43718) revised the table in § 135e.50(f) and thereby vacated the amendment established by the December 17 order.

This order reinstates the amendment of items 6 and 7 in the table in § 135e.50(f).

Therefore, the table in § 135e.50(f), as amended in the order of December 17, 1974, is republished in its entirety as follows:

§ 135c.50 Monensin.

* * * * * * *

(f) * * *

Principal ingredient	Grams per ton	Combined with	Grams per ton	Limitations	Indications for use
1. Monensin	90–110			For broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 72 hours before slaughter; as monensin or monensin sodium	As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
2. Monensin	90–110	3-nitro-4-hydroxyphenylarsonic acid.	45.4 (0.005%)	For broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin or monensin sodium.	Growth promotion and feed efficiency, improving pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
3. Monensin	90–110	Lincomycin	2	For floor-raised broiler chickens; do not feed to laying chickens; to be fed as a sole ration; withdraw 72 hours before slaughter; as monensin sodium.	For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
4. Monensin	90–110	Lincomycin and 3-nitro-4-hydroxyphenylarsonic acid.	2 55–45	For floor-rasied broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter as sole source of organic arsenic; as 3-nitro-4-hydroxyphenyl arsonic acid provided by code No. 031, § 135.501(c) of this chapter; as monensin sodium provided by code No. 614, § 135.501(c) of this chapter; as lincomycin provided by code No. 037, § 135.501(c) of this chapter; as a combination provided by code No. 037, § 135.501(c) of this chapter.	For increase in rate of weight gain; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
5. Monensin	90–110	Bacitracin	5–10	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin methylene disalicylate provided by code No. 028 § 135.501(c) chapter; as monensin sodium.	For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
6. Monensin	90–110	do	10	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as zinc bacitracin as provided by code No. 009, § 135.501(c) of this chapter; as monensin sodium.	As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati, E. maxima;* for increased rate of weight gain and improved feed efficiency.
7. Monensin	90–110	do	10–30	do	As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* for improved feed efficiency.

Effective date. This order shall become effective February 12, 1975.

Dated: February 4, 1975.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.75-3748 Filed 2-11-75;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 630—PRECONSTRUCTION PROCEDURES

Subpart C of Part 630 of Title 23 of the Code of Federal Regulations is, effective on the date of issuance shown below, amended by revising § 630.302(h) to read as follows:

§ 630.302 Definitions.

* * * * * *

(h) The term "liquidated damages" means the daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by a State highway agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of all daily amounts deducted under the terms of a particular contract.

* * * * * *

The subpart is further revised, effective on the date of issuance shown below, by changing the citation in paragraph 9 of Appendix A thereto from "23 U.S.C. 301(c)" to "23 U.S.C. 307(c)."

Issued on February 6, 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.75-3973 Filed 2-11-75;8:45 am]

Title 24—Housing and Urban Development

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

[Docket No. R-75-285]

PART 20—CONTRACT APPEALS

Board of Contract Appeals and Rules of the Board

On August 26, 1974, at 39 FR 30920, the Department issued an interim rule with respect to Part 20, which established a Board of Contract Appeals and prescribed rules of procedure to be followed in proceedings before the Board. The interim rule provided opportunity for the filing of public comments and as a result the Department received two comments which have been carefully reviewed.

One comment advocated clarifying language with respect to the role and powers of the Board under § 20.4(b) and urged provision for the Board to adopt its own procedures. The comment also criticized what it termed the "unreasonable limited use of depositions" and suggested that § 20.4(c) authorize parties to arrange for depositions or for the Board to order depositions where the parties cannot agree. In addition, the comment urged that the Secretary's subpoena power be delegated to the Board and it recommended that the Department establish procedures for handling small claims. HUD is adopting the comment regarding liberalized deposition powers (Sec. 20.40(c)), delegation of subpoena powers (§ 20.4(e)), and the institution of small claims procedures (§ 20.50(m)). The Department believes, on the other hand, that the power to direct that the Board withhold exercise of its authority prior to hearing in appropriate cases and permit the Secretary to render decisions directly is necessary to allow administrative flexibility with respect not only to contract appeal cases but other matters before the Department that involve hearing. Accordingly, the powers of the Board have not been modified with respect to intermediate opinion and direct decision by the Secretary. Moreover, HUD believes that existing procedures for intradepartmental policy clearances provide adequate safeguards for changes in the Board's various procedures; and formalizing these administrative safeguards in Part 20 might only raise an unintended question regarding the applicability of such safeguards to other policy decisions.

The second comment which was framed as an inquiry rather than an affirmative recommendation asked whether the Board might include members who were not "attorneys selected by the General Counsel." Section 20.3 "Membership of the Board" now clarifies that Board members shall be attorneys admitted to practice before the highest court of any state or the District of Columbia.

In addition, certain other changes have been adopted at the Department's own discretion. Specifically, § 20.4(f) "Disclosure of Information" now provides that relevant facts within a party's knowledge or control shall be fully disclosed prior to hearing, or in the alternative, before the rendering of a final decision. This change has been adopted so as to clarify the Board's discovery policy and is consistent with rules and current practice with other Contract Appeal agencies. Certain language changes have been made to clarify possible areas of ambiguity. Section 20.4(a) has been revised to clarify that the Board's jurisdiction pertains only to procurement actions unless the Secretary refers other matters to it. Sections 20.10(a) and 20.20 have been revised to better explain the concept of "filing." Section 20.10(d) "Duties of the Contracting Officer" includes certain technical revisions. In addition, we have modified § 20.40(a)(2) to clarify discovery procedures.

Accordingly, Title 24 is amended by adding a new Part 20, which reads as follows:

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

Sec.
20.1 Scope of part.
20.2 Organization of the Board.
20.3 Membership of the Board.
20.4 Authority and jurisdiction of the Board.
20.5 Rules.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

Sec.
20.10 Notice of appeal.
20.20 Pleadings.
20.30 Motions.
20.40 Discovery.
20.50 Hearing.

Subpart A—Department of Housing and Urban Development Board of Contract Appeals

§ 20.1 Scope of part.

This part sets forth policies and procedures regarding matters to be considered by a Board of Contract Appeals, and prescribes the rules of the Board.

§ 20.2 Organization of the Board.

There is hereby established in the Office of the Secretary a Board of Contract Appeals (the Board).

§ 20.3 Membership of the Board.

The Board shall consist of a Chairman who shall be a Department of Housing and Urban Development (HUD) employee and such other members as may be designated to assist the Chairman as needed to hear, consider, and determine appeals as stated in Section 20.4. A member, other than the Chairman, assigned to an appeal may be either an employee of HUD (or another Government agency serving on a detail) or a special Government employee. The Chairman and each member shall be attorneys who have been admitted to practice before the highest court of any state or the District of Columbia.

§ 20.4 Authority and jurisdiction of the Board.

The Board shall have the following power and authority and shall exercise the following jurisdiction:

(a) *General.* Except as stated in paragraph (b) of this section, the Board shall hear, consider, and determine appeals from decisions of contracting officers arising under or growing out of or in connection with the administration or performance of contracts entered into by HUD and subject to the Federal Procurement Regulations, and as otherwise authorized by the Secretary. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Secretary himself.

(b) *Secretary's decision.* The Secretary reserves the right to direct, prior to any submission or hearing, that the authority of the Board shall not be exercised where he may desire or be required to render a decision on a matter in dispute. In such instances, the Secretary may request the Board to submit findings and recommendations.

(c) *Board powers.* The Board shall have all powers necessary and incident to the proper performance of its duties assigned herein. Subject to the approval of the Secretary, the Board shall adopt its own methods of procedure and rules and regulations for its conduct and for

the preparation and prosecution of appeals.

(d) *Final decision.* In each case, the Board shall make a final decision which is impartial, fair, and just to the parties and is supported by the record of the case and the law. The member or members assigned to consider an appeal have authority to act for the Board in all matters with respect to such appeal. No member may act for the Board or participate in a decision if he has participated directly in any aspect of the award or administration of the contract involved. There shall be no communication between any party to an appeal and a Board member or Board employee concerning the merits of the appeal, unless such communication (if written) is also furnished to the other party to the appeal or (if oral) is made in the presence of the other party. The Board also shall exercise care to avoid receiving, except as part of the formally established appeal record, any information having a substantial bearing upon an appeal from persons who do not represent a party in the appeal, but nonetheless have an interest in the decision to be rendered.

(e) *Subpoena power.* Pursuant to 5 USC 304, any Board member presiding over an appeal under § 20.4(a) may request the appropriate United States District Court for the issuance of subpoenas for witnesses or documents relating to that appeal.

(f) *Disclosure of information.* Full disclosure of relevant and material facts within a party's knowledge or control shall be required prior to a hearing, if any, or the rendering of a final decision.

§ 20.5 Rules.

Appeals referred to the Board will be handled in accordance with the rules of the Board. The provisions of 60 Stat. 237, formerly the Administrative Procedure Act, 5 U.S.C. 551–559, are inapplicable to proceedings before the Board. The Board rules will be interpreted so as to secure a just, speedy, and inexpensive determination of appeals without unnecessary delay.

(a) *Time extensions.* Each time limit specified shall be a maximum and a party shall make every reasonable effort to accomplish the action described in a shorter period. The Board may extend any time limitation only upon a showing of good cause therefor.

(b) *Computation of time.* Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(c) *Service of documents.* Except where the Board rules specifically provide for service of documents by the Board, all motions, answers, briefs, notices, and all other papers filed with the Board shall be served by the filing party on the opposing party. Service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy of the document to the opposing party or its counsel. There shall be attached to the original of each document filed with the Board a certificate of service signed by the filing party stating that service has been made.

Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

§ 20.10 Notice of appeal.

(a) *Filing.* The original Notice of Appeal together with two copies, addressed to the Secretary, shall be filed with the officer from whose decision the appeal is taken. The notice of appeal may be filed by mail or other means. The notice of appeal must be filed within the time specified therefor in the contract or as allowed by applicable provision of directive or law.

(b) *Contents.* A Notice of Appeal shall indicate that an appeal is thereby intended, identify the decision, and the date thereof, from which the appeal is taken and the HUD service or staff office cognizant of the dispute, and furnish the number of the contract in dispute. The notice of appeal shall be signed personally by the appellant or by an officer of the appellant corporation, or member of the appellant firm, or by the appellant's duly authorized representative or attorney. The complaint referred to in § 20.20 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

(c) *Forwarding and acknowledgment of appeals.* When a notice of appeal in any form has been received by the officer from whose decision the appeal is taken, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 5 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the appellant will be promptly advised of its receipt and will be furnished a copy of these rules. The Board will simultaneously transmit copies of appropriate documents to the contracting officer, the HUD service or staff office concerned, and the HUD Office of the General Counsel (OGC).

(d) *Duties of the contracting officer.* Following receipt of a notice of appeal, or advice that an appeal has been filed, the Contracting Officer shall promptly compile and forward no later than 30 days from the notice of appeal to OGC copies of the documents listed below. OGC shall promptly review the file and transmit to the Board all documents pertinent to the appeal, including the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letter or letters of other documents of claim in response to which the decision was issued;

(2) The contract, and pertinent plans, specifications, amendments, and change orders;

(3) Correspondence between the parties pertaining to the claim and other data pertinent to the appeal;

(4) Transcripts of any testimony and any exhibits taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(5) Such additional information as may be considered material.

Upon completion of the foregoing compilation, the Contracting Officer shall notify the appellant, provide him with a listing of its contents, and afford him an opportunity to examine the complete compilation at the office of the Contracting Officer, or at the office of the Board for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed pertinent to the appeal. Following receipt of the foregoing compilation as it may be augmented at the time of receipt, the parties will be so advised by the Board.

§ 20.20 Pleadings.

(a) *Complaint.* Unless he elects to have an appeal considered on the record, the appellant shall within 30 days after receipt of notice of docketing of the appeal, file with the Board by mail or other means, an original and two copies of a complaint setting forth simple, concise, and direct statements of each of his claims alleging the basis with appropriate reference to contract provisions for each claim, the dollar amount claimed for each claim and the error or errors in the final decision. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Board shall serve a copy upon the OGC. Should the complaint not be actually received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth his complaint and the OGC shall be so notified.

(b) *Answer.* Within 30 days from receipt of said complaint, or the aforesaid notice from the Board, OGC shall file with the Board an original and two copies of an Answer thereto, setting forth simple, concise, and direct statements of HUD's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims, as appropriate. If the answer is not filed within 30 days, the Board may, in its discretion, enter a general denial on behalf of HUD, and the appellant shall be so notified.

(c) *Amendments of pleadings or record.* (1) The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a

more definite statement of the complaint or answer, or to reply to an answer.

(2 The Board, may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in § 20.10(d) are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances motions to amend the pleadings to conform to the proof may be entertained, but are not required. If evidence is objected to at a hearing solely on the ground that it is not within the issues raised by the § 20.10(d) documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted, provided, however, that the objecting party may be granted a continuance if necessary to enable him to respond to such evidence.

§ 20.30 Motions.

(a) *General.* The Board may entertain any timely motion:

(1) For extension of time or to cure defaults;

(2) To require that a pleading be made more definite and certain, or for leave to amend a pleading;

(3) To dismiss a claim for lack of jurisdiction; to dismiss a claim for failure to prosecute; or to grant summary relief;

(4) For resolution of disputed discovery matters;

(5) To grant the appeal for failure of the Government to prosecute its defense;

(6) To reopen a hearing; or to reconsider a decision; or

(7) For any other appropriate order.

The Board may, on its own motion, initiate any such action by notice to the parties. Unless otherwise specified by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board may require the presentation of briefs or arguments. The Board shall make an order on each motion that is appropriate and just to the parties, and upon conditions that will promote efficiency in disposing of the appeal. Motions to reconsider a decision must be made within 30 days after the date of receipt of the decision.

(b) *For summary decision.* (1) Any party may, after commencement of the proceeding and at least 30 days before the date fixed for the hearing, move with or without supporting affidavits for a summary decision in his favor of all or any part of the proceeding. Any other party may, within 15 days after service of the motion, serve opposing affidavits or countermove for summary decision.

(2) The Board may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise, or matters officially noticed, show that there is no genuine issue as to any material fact and that a party is entitled to summary decision.

(3) Affidavits shall set forth such facts as would be admissible in evidence and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this rule, a party opposing the motion may not rest upon the mere allegations or denials of his pleading; his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(4) Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justfy his opposition, the Board may deny the motion for summary decision or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

§ 20.40 Discovery.

(a) *General.* (1) Schedules and time periods for the parties to pursue the means of discovery each may select will be established by the Board with due consideration to the regular order of appeals, to the desires of the parties, to the requirement for just, speedy, and inexpensive determination of appeals without unnecessary delay, and to other pertinent factors.

(2) Subject to the provisions of paragraphs (c), (d), (e), and (f) of this section, after an appeal has been docketed, pleadings filed, and an initial prehearing conference held, any party upon giving reasonable notice to the other party may pursue such discovery as it selects for purposes of obtaining relevant, unprivileged information or evidence. If no initial prehearing conference occurs within sixty days after pleadings are filed, the parties may then proceed with discovery as necessary.

(3) Upon motion by a party or person from whom discovery is sought, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(4) In the absence of agreement between the parties as to the time, place, and manner of obtaining discovery, discovery shall be governed by those terms and conditions which the Board may order.

(b) *Prehearing or presubmission conference.* The Board may upon its own initiative or upon application of either party, call upon the parties to appear before a member of the Board for a conference to consider:

(1) The simplification or clarification of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(3) The limitation of the number of expert witnesses, or avoidance of other cumulative evidence, if the case is to be heard;

(4) The possibility of agreement disposing of all or any of the issues in dispute;

(5) The exchange of exhibits and lists of witnesses;

(6) Such other matters as may aid in the disposition of the appeal. The results of the conference shall be reduced to writing by the Board and this writing shall thereafter constitute part of the record. Additional conferences may be held at the discretion of the Board.

(c) *Depositions.* (1) The parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. In order to avoid undue expense and delay, requests for the taking of depositions will not be routinely granted and will require a substantial showing of good cause. The deposition of a HUD employee shall be permitted ordinarily only when the information or evidence sought to be elicited is not discoverable by alternative means.

(2) No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instance, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases otherwise heard on the record, the Board may, on motion of either party and in its discretion, receive depositions as evidence in supplementation of that record.

(3) All expenses of taking the deposition of any person shall be borne by the party taking that deposition, except that the other party shall be entitled to copies of the transcript of the deposition only upon paying therefor.

(d) *Interrogatories to parties.* After an appeal has been docketed either party may serve written interrogatories upon the opposing party to be answered fully and separately in writing under oath and to be returned within 15 days of receipt thereof.

(e) *Inspection of documents.* After an appeal has been docketed either party may request a party to produce and permit inspection and copying or photographing of designated documents relevant to the appeal.

(f) *Admission of facts.* After an appeal has been docketed either party may serve on the opposing party a request for admission of facts to be answered fully and separately in writing, under oath and to be returned within 15 days of receipt thereof.

§ 20.50 Hearing.

(a) *Election.* Upon receipt of respondent's answer or the notice referred to in the last sentence of § 20.20(b) above, appellant shall advise the Board whether

he desires a hearing, as prescribed herein or whether in the alternative he elects to submit his case on the record without a hearing, as prescribed in § 20.50(c).

(b) *Pre-hearing briefs.* Based on an examination of the documentation described in § 20.10(d), the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may in its discretion require the parties to submit pre-hearing briefs in any case in which a hearing has been elected pursuant to § 20.50(a). In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a pre-hearing brief to the Board. In any case where a pre-hearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party.

(c) *Submission without a hearing.* Either party may elect to waive a hearing and to submit his case upon the Board record, as settled pursuant to § 20.50(d). In the event of such election to submit, the submission may be supplemented by oral argument (transcribed if requested), or briefs, or both, in accordance with § 20.50(1). Where neither party desires a hearing, and the Board does not require one, the Board's decision will be based upon the available record as furnished by the parties.

(d) *Settling of the record.* (1) A case submitted on the record pursuant to § 20.50(d) shall be ready for decision when the parties are so notified by the Board. A case which is heard shall be ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted. At any time prior to the date that a case is ready for decision, either party, upon notice to the other, may supplement the record with documents and exhibits deemed relevant and material by the Board. The Board upon its own initiative may call upon either party, with appropriate notice to the other, for evidence deemed by it to be relevant and material. The weight to be attached to any evidence of record will rest within the sound discretion of the Board.

(2) The Board record shall consist of documentation described in § 20.10 and any additional material, pleadings, pre-hearing briefs, record of pre-hearing or pre-submission conferences, depositions, interrogatories, admissions, transcripts of hearing, hearing exhibits, and post-hearing briefs, as may thereafter be developed pursuant to these rules.

(3) This record will at all times be available for inspection by the parties at the office of the Board. In the interest of convenience prior arrangements for inspection of the file should be made with the Board. Copies of material in the record may, if practicable, be furnished to a party at the cost of reproduction.

(e) *Notice of hearings; where and when held.* Hearings will ordinarily be held in Washington, D.C., except that upon request seasonably made and upon good cause shown, the Board may in its discretion set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, to the desires of the parties, to the requirement for just, speedy, and inexpensive determination of appeals without unnecessary delay, and to other pertinent factors. The parties shall be given at least 15 days notice of the time and place set for hearings. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have submitted his case upon the Board record as provided in § 20.50(c).

(f) *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 20.50(c).

(g) *Nature of hearings.* Hearings will be as informal as reasonably permissible, and will seek to provide the Board with the pertinent facts and the positions of the parties as a basis for the Board's decision or recommendation. The parties may offer such relevant evidence or argument as they deem appropriate, subject, however, to the exercise of reasonable discretion by the presiding member of the Board in supervising the extent and manner of presenting such evidence. In general, admissibility will hinge on relevancy and materiality. The weight to be attached to any stipulations or evidence presented will be determined by the Board. The Board may in any case require evidence in addition to that offered by the parties.

(h) *Examination of witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member shall otherwise order. If the testimony of a witness is not given under oath the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

(i) *Transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by contract between the Board and the independent reporter.

(j) *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

(k) *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any party thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

(l) *Post-hearing submissions.* Unless otherwise directed by the Board, the parties will submit simultaneous briefs within 30 days of the receipt of the transcript, and reply briefs within 15 days of the initial briefs.

(m) *Decisions.* (1) Decisions of the Board will be made in writing and shall be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions will be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made upon the record.

(2) *Accelerated procedure.* In the event an appeal involves twenty-five thousand dollars ($25,000) or less, the Board will undertake to issue a decision on the appeal on an expedited basis, without regard to its normal position on the docket. Under this accelerated procedure, the case will be further expedited if the parties elect to waive pleadings or elect to waive the hearing and submit on the record. In all other respects, these rules will apply.

(n) *Remands from courts.* Whenever any matter is remanded to the Board from any court for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board, recommending procedures to be followed in order to comply with the court's order. The Board will review the reports and enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, such orders will conform to these rules.

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

Effective date. This Part 20 is effective as of March 14, 1975.

JAMES T. LYNN,
Secretary of the Department of Housing and Urban Development.

[FR Doc.75-3961 Filed 2-11-75;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 596-75]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Freedom of Information Act Requests Procedure and Policy

These amendments revise Department of Justice regulations in the light of past

experience under the Freedom of Information Act and conform the regulations to the requirements of the Act as amended by Pub. L. 93–502, 88 Stat. 1561. On 13 January 1975, the Department published in the FEDERAL REGISTER (40 FR 2443) proposed fee regulations and that subject is therefore not covered by these amendments.

Present system. The present system of processing Freedom of Information requests furnishes the framework on which the amendments build. Under existing regulations requests for records are sent to the Deputy Attorney General (except that requests for records of the Immigration and Naturalization Service, the Bureau of Prisons, and the Board of Immigration Appeals are sent directly to those divisions). The Deputy Attorney General then sends the requests to the division which has primary concern with the records requested. (The term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney, and Federal Prisons Industries except as otherwise provided.) That division then responds by either granting the request, denying it, or granting and denying it in part. There is a ten-day period for this initial response, with provision for extension of time. The Deputy Attorney General is specifically charged with insuring timely response and may be petitioned when a request is not answered within the applicable time limit.

Denials of initial requests may be appealed to the Attorney General within thirty days of receipt by the requester. The Attorney General then has twenty days to act on the appeal unless the time is extended. The Deputy Attorney General maintains files on all requests for information (except for requests directed to the Immigration and Naturalization Service, the Bureau of Prisons, and the Board of Immigration Appeals), and on all appeals. There is a provision for classification review of national security information more than ten years old.

Amended regulations. Discussed below are the major changes made by these amendments. There are additional minor changes, not discussed, which are either necessary under the amended Act, or are desirable in light of the experience of the Department with the present regulations.

The amended regulations establish in the Office of the Deputy Attorney General a new unit, designated the Freedom of Information Appeals Unit, which will assist the Attorney General in processing administrative appeals of initial denials of requests under the Freedom of Information Act. This assistance was formerly provided by the Office of Legal Counsel. The organizational location of this new unit is consistent with the overall responsibility of the Deputy Attorney General to supervise the processing of Freedom of Information requests. The Office of Legal Counsel will continue to process appeals in cases where the Deputy Attorney General has participated in the initial denial, and will continue its function of providing requested guidance to all divisions of the Department on difficult issues of law associated with Freedom of Information requests.

The amended regulations, while maintaining the same general system as presently exists, establish more specific requirements for the making and processing of requests. Most of these requirements are intended to insure compliance with the new time limits imposed by the amendments to the Act. Thus, the amended regulations require that requests under the Act be clearly marked, so as to enable prompt processing by the Department. The burden of forwarding misdirected requests to the appropriate office ordinarily the Office of the Deputy Attorney General) is placed on Department personnel; but time limits do not commence to run on such requests until they have been so delivered or, with the exercise of due diligence, should have been.

The amended regulations make clear that authority to deny a request lies only in the division head unless otherwise specified by regulation. Allowing delegation of this authority by regulation permits divisions with widely scattered components to decentralize the initial decision authority in order to meet the time limits of the Act.

Authority to extend (in increments of five working days) is limited to division heads. It was felt that limiting this authority still further—to the Attorney General and the Deputy Attorney General—would entail more delay than the time limits of the Act permit, while placing the authority in officials lower than division heads would not be consistent with the strict control that is necessary. This procedure may result in the use of the entire ten-day extension time at the division level, but in view of the shorter standard period available at that level this appears to be the most appropriate policy. Where the extension authority is abused, the Deputy Attorney General may remove it.

The Office of the Deputy Attorney General is required to keep records of all time extensions taken. This serves the dual purpose of insuring that time requirements are met and of monitoring extensions so that the ten-day extension limit in the Act is not exceeded.

The amended regulations provide that when the time for initial reply, including any extensions, has expired and no determination has been made, the requester must be informed that he may deem this a denial and appeal to the Attorney General. This provision assures the preservation of the twenty-day period alloted to the Attorney General for appeals. In cases of unavoidable delay such as that occasioned by requests for voluminous records, a requester may be asked to defer appeal so long as the division is making diligent efforts to process the request. When a requester who accepts such a disposition believes that a division is not making diligent efforts, immediate appeal to the Attorney General provides the opportunity for relief. For this reason, provisions in the present regulations allowing petition to the Deputy Attorney General to complain of delay are eliminated as unnecessary.

The section on responses by the divisions is amended to require the letter denying a request to include the name and title or position of the person responsible for the denial. This person would be the division head or other person authorized by regulation to issue final denials. It is possible, however, that a person from another agency or division may share that status—under the regulations and the Act—if the denial is made at the instance of that person, out of regard for the primary interest or expertise of his agency or division, and with notice to him that his judgment will be relied on.

Two new paragraphs are added to the section dealing with appeals to the Attorney General, covering extensions of time and the handling of appeals where the time limits have been exhausted. In the latter case the requester will be informed of his right to treat the failure to complete administrative review as an exhaustion of administrative remedies, enabling immediate suit for judicial review. He will also be advised, however, of the reason for the delay and of the date by which a response may be expected. When the delay is unavoidable, it is anticipated the requester will avoid unnecessary litigation expenses by foregoing judicial review until the Department completes processing of the request, since a court may and presumably would grant an extension in such circumstances. No appeal to the Attorney General is provided with respect to denials by the Special Prosecutor, who is authorized, if he wishes, to establish an appeals procedure within his Office.

Extensive changes are made in Department procedures regarding the processing of requests for classified records. The present regulations provide for classification review of records only when they are over ten years old. The amended regulations require that in all cases of requests for records classified pursuant to Executive Order 11652 or its predecessors, the Department must review the information to determine if it continues to warrant classification. This requirement applies whenever classified matter is requested, even if other exemptions are also to be asserted. Because under Executive Order 11652 national security material can ordinarily be declassified only by the originating agency, documents classified by another agency are to be treated as records of that agency for purposes of FOIA decisionmaking authority; requests pertaining to such documents are to be referred to such agency for disposition (not only as to the classified information exemption but as to all other exemptions which might be asserted); the requester is to be informed that this referral has occurred and that he may expect a reply from that other agency.

The Appeals Unit will refer classified material included in an appeal to the Attorney General to the Departmental Review Committee, established

under part 17 of chapter I. The Committee will complete its review in ten working days unless that time is extended by the Deputy Attorney General.

Because the amendments pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. In addition, since many of these changes are necessary to achieve compliance with the amendments to the Freedom of Information Act (5 U.S.C. 552) which become effective on February 19, 1975, there is not sufficient time to receive and evaluate public comment. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments on these amendments to the Office of Legal Counsel, Department of Justice, Washington, D.C. 20530, no later than March 19, 1975. Comments should identify this order (596–75). Arrangements to inspect copies of written comments may be made by calling the Office of Robert Saloschin, Chairman, Freedom of Information Committee, Department of Justice at 202–739–2069. All comments received in this manner will be evaluated and acted upon in the same manner as if this document were a proposal.

In consideration of the above, Title 28, chapter I, parts 0 and 16 are amended as set forth below.

Effective date. These amendments become effective on February 19, 1975.

EDWARD H. LEVI,
Attorney General.

1. Section 0.18 is added to read as follows:

§ 0.18 Freedom of Information Appeals Unit.

The Freedom of Information Appeals Unit is established in the Office of the Deputy Attorney General, under the supervision of the Deputy Attorney General, to assist the Attorney General in acting on Freedom of Information appeals under § 16.7 of this chapter, except that in the case of appeals from initial decisions in which the Deputy Attorney participated this assistance shall be provided by the Office of Legal Counsel.

2. The last sentence of § 16.2 is revised to read as follows:

§ 16.2 Public reference facilities.

* * * * *

Each of these public reference facilities will maintain, make available for public inspection and copying, and publish quarterly (unless the applicable division determines by order published in the Federal Register that the publication would be unnecessary or impracticable), a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

3. Section 16.3 is amended by revoking paragraph (e) and by revising paragraphs (a), (b) and (d) as follows:

§ 16.3 Requests for identifiable records and copies.

(a) *How made and addressed.* A request for a record of the Department which is not customarily made available and which is not available in a public reference facility as described in § 16.2, shall be made in writing, with the envelope and the letter clearly marked "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." All such requests shall be addressed to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530, except that requests for records of the following divisions shall be addressed as follows:

Bureau of Prisons (including Federal Prison Industries)—Director, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Board of Immigration Appeals—Chairman, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.

Law Enforcement Assistance Administration—Administrator, Law Enforcement Assistance Administration, 633 Indiana Ave. NW., Washington, D.C. 20531.

Immigration and Naturalization Service—As set forth in 8 CFR Part 103.

Any request for information not marked and addressed as specified in this paragraph will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the appropriate office as specified above. A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(i) until forwarding to the appropriate office has been effected, or until such forwarding would have been effected with the exercise of due diligence by Department personnel. On receipt of an improperly addressed request forwarded as set forth above to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run.

(b) *Request should reasonably describe the records sought.* A request for access to records should sufficiently identify the records requested to enable Department personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

* * * * *

(d) *Categorical Requests*—(1) *Records must be reasonably described.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Department operations.

(2) *Assistance in reformulating nonconforming requests.* If it is determined that a request does not reasonably describe the records sought, as specified in paragraph (d)(1) of this section, the response denying the request on that ground shall specify the reasons why the request failed to meet the requirements of paragraph (d)(1) of this section and shall extend to the requester an opportunity to confer with Department personnel in order to attempt to reformulate the request in a manner which will meet the needs of the requester and the requirements of paragraph (d)(1) of this section.

(e) [Revoked]

4. Section 16.4 is revised to read as follows:

§ 16.4 Requests referred to division primarily concerned.

(a) *Referral to responsible division.* The Deputy Attorney General shall, promptly upon receipt of a request for Department records, forward the request to the division of the Department which has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries, except as otherwise expressly provided. As used in this subpart, the term "responsible division" means, with respect to a particular request, the division to which the Deputy Attorney General forwards the request pursuant to this paragraph or, if the request is not one which is to be addressed to the Deputy Attorney General under § 16.3(a), the division to which the request is properly addressed thereunder.

(b) *Deputy Attorney General shall assure timely response.* The Deputy Attorney General shall periodically review the practices of the divisions in meeting the time requirements set out in § 16.5, including the granting of extensions of time, and shall take such action to promote timely responses as he deems appropriate. Such action may include, but is not limited to, removal from a division of a request or class of requests or removal of the authority of a division to grant extensions, as specified in § 16.5(f).

(c) *Records to be kept by Deputy Attorney General.* The Deputy Attorney General shall retain or be furnished with a file copy of each request which is required to be addressed to him pursuant to § 16.3(a). With respect to such requests he shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of receipt by the appropriate office after forwarding pursuant to § 16.3(a)), the responsible division to which it was forwarded under this section, and the date of such forwarding. The Board of Immigration Appeals, the Bureau of Prisons, the Immigration and Naturalization Service and the Law Enforcement Assistance Administration, respectively, shall retain or be furnished with file copies of requests required to be addressed to them

pursuant to § 16.3(a), and shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of receipt by the appropriate office after forwarding pursuant to § 16.3(a)).

5. Section 16.5 is revised to read as follows:

§ 16.5 Prompt response by responsible division.

(a) *Response within ten days.* Within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request by the Department (or, in the case of an improperly addressed request, of its receipt by the appropriate office after forwarding pursuant to § 16.3(a)) the responsible division shall determine whether to comply with or to deny such request and dispatch such determination to the requester unless an extension is made under paragraph (c) of this section.

(b) *Authority to deny request.* Unless otherwise specified by division regulation, only the head of a division may deny a request, and is the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a). When a denial is made at the request of another agency or division, and out of regard for its primary interest or expertise, the person in that agency or division responsible for the request to deny may also be a "person responsible for the denial" if, before his final recommendation is accepted, he is advised that he will be so designated under § 16.6(b)(2).

(c) *Extension of time.* In unusual circumstances as specified in this paragraph, the head of a division may extend the time for initial determination on requests up to a total of ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among two or more components of the responsible division having substantial subject matter interest therein.

(d) *Treatment of delay as a denial.* If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal in accordance with § 16.7. When no determination can be dispatched within the applicable time limit, the responsible division shall nevertheless continue to process the request; on expiration of the time limit it shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Attorney General in accordance with § 16.7; and it may ask the requester to forego appeal until a determination is made.

(e) *Copies of extension notices and delay advisories maintained by Deputy Attorney General.* Copies of all extension notices issued under paragraph (c) of this section and delay advisories issued under paragraph (d) of this section shall be supplied to and maintained by the Deputy Attorney General.

(f) *Removal by Deputy Attorney General.* The Deputy Attorney General may remove any request or class of requests from the division to which it is referable under this part. The Deputy Attorney General may remove from a division the authority to grant extensions of time under this section. In event of such action the Deputy Attorney General shall perform the functions of the head of that division with respect to the removed requests or authority.

6. Section 16.6 is amended by revising paragraphs (b) and (d) as follows:

§ 16.6 Responses by divisions: Form and content.

* * * * *

(b) *Form of denial.* A reply denying a written request for a record shall be in writing, signed by the head of the responsible division (or other person authorized by regulation to deny requests) and shall include:

(1) *Exemption category.* A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record. a brief explanation of how the exemption applies to the record withheld, and, where relevant, a brief statement of why a discretionary release is not appropriate; and

(2) *Person responsible.* The name and title or position of the person or persons responsible for the denial under § 16.5 (b), provided, that no person not an employee of the responsible division shall be so designated unless he has been advised that he will be so designated before his final recommendation is accepted; and

(3) *Administrative appeal and judicial review.* A statement that the denial may be appealed under § 16.7(a) within thirty days by writing to the Attorney General (Attention: Freedom of Information Appeals Unit), Department of Justice, Washington, D.C. 20530, that the envelope and letter should be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL," and that judicial review will thereafter be available in the district in which the requester resides or has his principal place of business or the district in which the agency records are situated or the District of Columbia. Provided, however, that a denial by the Office of the Watergate Special Prosecution Force shall instead of the foregoing describe any internal appeals procedure which it may establish or, in absence of such procedure, advise the requester that judicial review is available in the districts set forth above.

* * * * *

(d) *Copy of response to Deputy Attorney General.* The Deputy Attorney General shall be provided and shall maintain a copy of each denial letter; each notification under paragraph (c) of this section; and each letter advising the requester of the determination to grant the request, except such grant letters issued by the Board of Immigration Appeals, the Bureau of Prisons, the Immigration and Naturalization Service, and the Law Enforcement Assistance Administration.

7. Section 16.7 is revised as follows:

§ 16.7 Appeals to the Attorney General from initial denials.

(a) *Appeals to the Attorney General.* When a request for records has been denied in whole or in part by a head of a division or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Attorney General; except that no appeal to the Attorney General shall lie from a denial of a request for records of the Office of the Watergate Special Prosecution Force, which is hereby authorized to establish an internal appeals procedure. Appeal to the Attorney General shall be in writing, addressed to the Attorney General (Attention: Freedom of Information Appeals Unit), Department of Justice, Washington, D.C. 20530, and both the envelope and the letter shall be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL." An appeal not so addressed and marked will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the Freedom of Information Appeals Unit. An appeal improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(ii) and for purposes of paragraph (b) of this section until the Appeals Unit receives the request or would have done so with the exercise of due diligence by Department personnel.

(b) *Action within twenty working days.* The Attorney General will act upon the appeal within twenty days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension is made under paragraph (c) of this section.

(c) *Extension of time.* In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays, and legal

public holidays) minus any extension granted at the initial request level pursuant to § 16.5(c). Such extension shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination o fthe request or the need for consultatio namong two or more components of the responsible division having substantial subject matter interest therein.

(d) *Treatment of delay as a denial.* If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Department records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(e) *Form of action on appeal.* The Attorney General's determination on appeal shall be in writing. An affirmance in whole or in part of a denial on appeal shall include (1) a reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld, and, where relevant, a brief statement of why a discretionary release is not appropriate; and (2) a statement that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated or the District of Columbia.

(f) *Copies to Deputy Attorney General.* Copies of all appeals, all actions on appeal, all extension notices issued under paragraph (c) of this section, and all delay advisories issued under paragraph (d) of this section shall be supplied to and maintained by the Deputy Attorney General.

8. Section 16.8(c) is revised to read as follows:

§ 16.8 Maintenance of files.

* * * * *

(c) *Protection of privacy.* Where the release of the identity of a requester, or other identifying details related to a request, would constitute a clearly unwarranted invasion of personal privacy, the Deputy Attorney General shall delete identifying details from the copies of documents maintained in the public file established under paragraph (b) of this section.

9. Section 16.10(b) is revised to read as follows:

§ 16.10 Exemptions.

* * * * *

(b)(1) In processing requests for information classified pursuant to Executive Order 11652, the responsible division shall review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D), and (E) of the Executive Order. Information which no longer warrants classification under these criteria shall be declassified and shall not be withheld on the basis of 5 U.S.C. 552(b)(1). No record remaining classified after such review shall be withheld by a division on the basis of any exemption other than 5 U.S.C. 552(b)(1) unless in addition to such other exemption it is also asserted that the record is exempt under 5 U.S.C. 552(b)(1).

(2) The Freedom of Information Appeals Unit shall, upon receipt of any appeal from an initial denial based in whole or in part upon 5 U.S.C. 552(b)(1), refer to the Departmental Review Committee, established in Part 17 of this chapter, any portion of the request as to which that exemption was asserted at the initial level. Within ten days (excluding Saturdays, Sundays and legal public holidays) of receipt of such referral (unless such period is extended by the Deputy Attorney General), the Committee shall advise the Appeals Unit whether all or any portion of the material referred warrants continued classification under the criteria of Executive Order 11652.

(3) When a request for Department records encompasses information classified by another agency, or by a division of the Department other than the responsible division, the responsible division shall refer that portion of the request to the originating agency or division for determination as to all issues in accordance with the Freedom of Information Act. In the case of a referral to another agency under this paragraph, the requester shall be notified that such portion of his request has been so referred and that he may expect a determination from that agency. In the case of a referral to another division under this paragraph, the requester need not be notified, the original date of receipt of the request as established under this section shall continue to govern for purposes of all time limits, and the originating division shall advise the division receiving the request of its determination.

(5 U.S.C. 301; 5 U.S.C. 552 as amended by Public Law 93-502, 88 Stat. 1561)

[FR Doc.75-4043 Filed 2-10-75;12:38 pm]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Rule Making

In the FEDERAL REGISTER of January 3, 1975, at page 786, as corrected in the FEDERAL REGISTER of January 15, 1975, at page 2694, there was published a notice of proposed rule making to amend 31 CFR Part 223 (also appearing as Department Circular 297), governing surety companies doing business with the United States. Interested parties were given 30 days, ending on or before February 3, 1975, in which to submit written views or comments with regard to those amendments. As no written views or comments, requiring changes, were received during the 30 day period, the Department finds that there is no good cause to postpone the proposed amendments' stated effective date. Accordingly, the proposed amendments, as corrected, are hereby adopted, effective February 10, 1975.

In addition the Department finds it necessary to amend 31 CFR 223.12(b) by amending "(Chief Auditor)" to read "for Auditing". This change was inadvertently omitted from the Department's miscellaneous amendments to title 31 of the CFR, published at 39 FR 20964 on June 17, 1974, in accordance with the Fiscal Service reorganization as mandated by Treasury Department Orders No. 229 and 229-1, appearing at 39 FR 2280 and 39 FR 10454 respectively. The Department further finds that notice and public procedure respecting the amendment to 31 CFR 223.12(b) is not appropriate or necessary as it is essentially procedural and has minimal public effect.

Dated: February 6, 1975.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

Accordingly, notice is hereby given pursuant to 5 U.S.C. 553, that the Secretary of the Treasury is adopting, under authority of 5 U.S.C. 301 and 31 U.S.C. 453a, the following revisions to Part 223 of Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations.

§ 223.22 [Amended]

1. In § 223.22: Amend "Fees shall be imposed and collected for the following services performed by the Treasury Department, whether the action requested

is granted or denied, effective with requests submitted as of January 20, 1972" to read "The fees specified below shall be imposed and collected for services performed by the Treasury Department, whether the action requested is granted or denied, effective February 10, 1975."

2. Section 223.22 is amended by revising paragraphs (a) and (c) to read as follows:

(a) For examining a company's application for a certificate of authority as an acceptable surety on Federal bonds, or for examining a company's application for a certificate of authority as an acceptable reinsuring company on such bonds: $720 (see § 223.2).

* * * * *

(c) For determining the continuing qualifications for annual renewal of a company's certificate of authority: $495 (see § 223.3).

* * * * *

§ 223.1 [Amended]

3. In § 223.1: Amend "sureties on recognizances," to read "sureties on, or reinsurers, of recognizances".

§ 223.2 [Amended]

4. In § 223.2: Amend "A fee of $550 shall be transmitted" to read "A fee shall be transmitted".

§ 223.3 [Amended]

5. In § 223.3: Amend "the fee of $365 as prescribed" to read "the fee as prescribed", and add the paragraph designation "(a)" at the beginning of the text.

6. Section 223.3 is further amended by adding a new paragraph "(b)" at the end thereof which reads:

(b) If a company meets the requirements for a certificate of authority as an acceptable surety on Federal bonds in all respects except that it is a United States branch of a company not incorporated under the laws of the United States or of any State, or it is limited by its articles of incorporation or corporate charter to reinsurance business only, it may be issued a certificate of authority as a reinsuring company on Federal bonds. The fees for initial application and renewal of a certificate as a reinsuring company shall be the same as the fees for a certificate of authority as an acceptable surety on Federal bonds.

7. Section 223.5 is revised to read:

§ 223.5 Business.

(a) The company must engage in the business of suretyship whether or not also making contracts in other classes of insurance, but shall not be engaged in any type or class of business not authorized by its charter or the laws of the State in which the company is incorporated. It must be the intention of the company to engage actively in the execution of surety bonds in favor of the United States.

(b) No bond is acceptable if it has been executed (signed and/or otherwise validated) by a company or its agent in a State where it has not obtained that State's license to do surety business. Although a company must be licensed in the State or other area in which it executes a bond, it need not be licensed in the State or other area in which the principal resides or where the contract is to be performed. The term "other area" includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§ 223.11 [Amended]

8. Section 223.11(b)(2)(iii) is amended by deleting the period at the end thereof and by inserting ", or" in its stead.

9. Section 223.11(b)(2) is further amended by adding a new subdivision (iv) at the end thereof which reads:

(iv) An instrumentality or agency of the United States which is permitted by Federal law or regulation to execute reinsurance contracts.

§ 223.12 [Amended]

10. In § 223.12(a): Amend "the fee of $50 prescribed by" to read "the fee prescribed by".

11. In § 223.12(b): Amend "the fee of $50 prescribed by" to read "the fee prescribed by".

12. In § 223.12(c): Amend "A fee of $25 shall be transmitted" to read "A fee shall be transmitted".

§ 223.16 [Amended]

13. In § 223.16: Amend "(Chief Auditor)" to read "for Auditing".

Prior to adoption of the proposed amendments, consideration will be given to written views or arguments submitted to the Commissioner, Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226, and received on or before February 3, 1975. Pursuant to 31 CFR 1.4(h), comments submitted in response to this notice of proposed rule making are available to the public upon request, unless confidential status for the submission has been requested and approved.

(5 U.S.C. 301, 31 U.S.C. 483a (6 U.S.C. 6–13))

[FR Doc.75-3964 Filed 2-11-75;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 880—MEDICAL, DENTAL, AND VETERINARY CARE FROM CIVILIAN SOURCES

Miscellaneous Amendments

These amendments provide that health professionals applying for a commission in the USAF Medical Service may obtain physical examinations from a civilian source where no adequate military examining facility is available; eliminate the requirement for a "Certification of Duty Status" if the medical or dental care was obtained by the member after July 1, 1973; add procedure to be followed in obtaining spectacles when an eye refraction is obtained from a civilian source; and make other minor changes to update the Part.

Part 880, Subchapter I of Chapter VII of title 32 of the Code of Federal Regulations is amended as follows:

§ 880.0 [Amended]

1. Section 880.0(b) is amended by removing the phrase "active duty and retired uniformed service members and NATO Air Force members who are" and by substituting the phrase "eligible patients".

2. Section 880.0(c) is amended by removing the phrase "when Government veterinary services is unavailable".

3. In § 880.2 paragraph (f) is amended by adding the phrase "and loss of body tissue" at the end of the sentence, paragraph (g) is amended by removing the phrase "hemorrhoid-ectomies," and substituting the phrase "sterilization procedures, nontherapeutic abortions,", paragraph (i) is revised and paragraphs (m), (n), (o), and (p) are added as set forth below:

* * * * *

§ 880.2 Definitions.

* * * * *

(i) *Uniformed services.* The Air Force, Army, Navy, Marine Corps, Coast Guard (including uniformed service Academy Cadets and Midshipmen), the Commissioned Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

6. Section 880.2(k) is amended by removing the phrase "North Atlantic Treaty" and substituting the phrase "NATO Status of Forces Agreement" and by removing "Iceland" from the list of nations.

* * * * *

(m) *Immediate nonemergency care.* Medical, surgical, or dental care for other than an emergency condition, which is necessary at the time and place for the health and well being of the member.

(n) *Deferred nonemergency care.* Medical or dental care such as eye refractions, immunizations, dental prophylaxis, and so forth.

(o) *United States.* The 50 states and the District of Columbia.

(p) OCHAMPUSEUR. The Executive Director, OCHAMPUSEUR, U.S. Army Command, Europe, APO New York 09403.

4. In § 880.4 paragraph (b) is amended by substituting paragraph (k) for paragraph (j), paragraph (c) is amended by removing "(Uniformed Services Health Benefits Program in Areas Other than the United States, Puerto Rico, Canada, Mexico, and Countries Within the U.S. European Command)" and substituting "(Health Benefits for Eligible Air Force Beneficiaries in Overseas Areas)", paragraph (e) is amended by adding the phrase "and are not itemized on the statement" after the phrase "When charges appear excessive", paragraph (f) is amended by removing subparagraphs (1) and (2) and substituting "(1) USAF

Members—AFMPC/DPMDRM, Randolph Air Force Base, Texas 78148" and by renumbering subparagraph (3) to make it subparagraph (2), and paragraph (d) is revised to read as set forth below:

§ 880.4 Policy.

* * * * *

(d) *Payment to civilian agencies.* Statements of charges for medical or dental care from civilian agencies are normally received by the Air Force medical facility nearest the civilian agency providing the medical or dental care, and processed for payment through the local accounting and finance office. However, if the statement of charges is initially received by another Air Force medical facility and sufficient information to process the account is available or readily obtainable, the account will be processed for payment there. Statements are not to be forwarded to another medical facility except under unusual circumstances and the civilian agency must be notified of the referral. In these cases, a letter of transmittal will be sent that will list the reason(s) why the statement could not be processed for payment. Statements will not be forwarded because the service member is not assigned to the base initially receiving the statement. In no instance will a statement for civilian medical or dental care provided in the United States be sent to an overseas installation for payment.

NOTE.—OCHAMPUSEUR pays for civilian medical care provided to active duty Air Force personnel in countries within the U.S. European Command, Africa, the Middle East, and the Malagasy Republic.

5. In § 880.6, paragraph (c) is amended by removing the sentences beginning with "An Air Force member * * *" and "Return to military control * * *" and paragraph (d) is added to read as follows:

§ 880.6 Care authorized from civilian sources.

* * * * *

(d) The services of chiropractors are not authorized.

6. Section 880.8 is amended by revising paragraph (a) and adding new paragraph (f) as set forth below:

§ 880.8 For whom authorized.

* * * * *

(a) Active duty Air Force personnel, including Air Force cadets, and NATO Air Force personnel listed in § 880.2(k).

* * * * *

(f) Health professionals applying for a commission in the USAF Medical Service may be provided physical examinations by qualified civilian physicians where no adequate military examining facility is available. Payment is made from funds available to the local USAF Recruiting Service.

7. Section 880.10 is revised to read as follows:

§ 880.10 Who authorizes.

Approval of civilian medical and dental attendance at Air Force expense is the responsibility of:

(a) *Emergency inpatient care.* The commander of the Air Force base, or his authorized representative, nearest the civilian medical facility providing the care. Emergency care will not be delayed pending approval (§ 880.14).

(b) *Emergency outpatient and immediate nonemergency care.* Advance approval is not required (§ 880.14).

(c) *Deferred nonemergency care.* The Air Force base commander, or his authorized representative, under whose jurisdiction the member is assigned; or the commander of the unit to which a member is assigned in cases where the member's organization is not at an Air Force base.

(d) *Supplemental care.* The director of base medical services.

8. Section 880.12 is revised to read as follows:

§ 880.12 When not authorized.

Civilian medical or dental care at Air Force expense is not authorized for:

(a) Elective treatment unless explicitly approved in advance by HQ, USAF/SG and the member's commander.

(b) Treatment when adequate medical or dental service is available from an Air Force or other Government medical or dental facility in the vicinity.

(c) Discharged members of the Air Force. When a discharged member received medical care for an illness or injury incurred while on active duty, he may apply for a correction of records to change his discharge date as provided by Part 865 of this chapter.

(d) Persons other than those stated in § 880.8. (For dependents and retired members see AFRs 168–9 and 168–4.)

(e) Air Force military personnel absent without leave (AWOL) prior to July 1, 1973, or in desertion status.

NOTE.—Effective July 1, 1973, charges for medical care received from civilian sources by a member in AWOL status may be paid from Air Force funds. Charges incurred while in AWOL status prior to July 1, 1973, remain the responsibility of the member. However, charges for medical care provided after return of the individual to military control may be made from Air Force funds. For the purpose of this part, return to military control may be actual (see Part 889 of this chapter) or constructive. Constructive return is effected when military authorities are notified of the presence of the individual in a civilian medical facility and action is taken regarding the disposition of the member, such as investigation of his condition or making a medical decision regarding disposition and treatment.

9. Section 880.14 is revised to read as follows:

§ 880.14 Emergencies.

Emergency and immediate nonemergency medical or dental care at Air Force expense may be obtained from a civilian source without advance authorization by or in behalf of Air Force members authorized in § 880.8. Emergency dental care is limited to treatment for the relief of pain and to prevent loss of oral tissue, treatment of acute septic conditions, essential correction of dental injuries, or damage to dental prostheses requiring immediate attention.

§ 880.16 [Amended]

10. Section 880.16(a) is amended by adding "Air Force" after "NATO" and by changing "AFR 160–19" to read "AFR 160–31".

§ 880.18 [Amended]

11. Section 880.18(c)(2) is amended by removing the word "Any" and substituting the word "Deferred".

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

STANLEY L. ROBERTS,
Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.75-3835 Filed 2-11-75;8:45 am]

Title 32A—National Defense Appendix

CHAPTER VI—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

[DMS Reg. 1, Amdt. 2]

DMS REG. 1—BASIC RULES OF THE DEFENSE MATERIALS SYSTEM

Change in Schedule II, Authorized Program Identifications and Claimant and Sub-Claimant Agencies

SUMMARY STATEMENT

Amend Schedule II to DMS Reg. 1 to provide program identification symbol F-2 which has been authorized for certain items by the Federal Energy Administration for and related to development of Alaskan North Slope oil resources.

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended (50 U.S.C. App. 2154). In the formulation of this amendment, consultation with industry has been rendered impracticable because this amendment applies to numerous trades and industries.

This amendment affects DMS Regulation 1 as revised July 1, 1974 (39 FR 23008) as amended (39 FR 36480) by inserting in Schedule II to DMS Regulation 1 the program identification F-2 which has been authorized for certain items sponsored by the Federal Energy Administration for and related to the development of Alaskan North Slope oil resources pursuant to the joint order dated September 23, 1974 (39 FR 34688) and joint notice dated December 30, 1974 (40 FR 26) as amended January 31, 1975 (40 FR 5409), issued by the Director, Office of Preparedness, General Services Administration and the Administrator, Federal Energy Administration.

Accordingly, Schedule II to DMS Regulation 1 is hereby amended to read as follows:

SCHEDULE II TO DMS REG. 1—AUTHORIZED PROGRAM IDENTIFICATIONS AND CLAIMANT AND SUB-CLAIMANT AGENCIES

(See sections 2(e), 2(f), 4(a), 5(a), and 14(b)).

The program identifications listed in this schedule have equal preferential status and are the only ones authorized under the Defense Materials System and the Defense Priorities System and must be used in accordance with this regulation, DPS Reg. 1 and other applicable regulations and orders of BDC.

The identifications are not listed in alphabetical or numerical sequence but are grouped by Claimant Agencies and Sub-Claimant Agencies. Within each group, the Claimant and Sub-Claimant Agencies listed in Column 3 are authorized to employ the program identifications listed in Column 1 in support of the programs listed in Column 2.

The full names of the Claimant Agencies and Sub-Claimant Agencies shown by initials in Column 3 are:

AEC—Atomic Energy Commission.
BDC—Bureau of Domestic Commerce.
CIA—Central Intelligence Agency.
FAA—Federal Aviation Administration.
NASA—National Aeronautics and Space Administration.

Col. 1—Program identification	Col. 2—Program	Col. 3	
		Claimant agency	Subclaimant agency
For Department of Defense and associated programs:			
A-1	Aircraft	Department of Defense.	Army, Navy (including Coast Guard), Air Force, Defense Supply Agency, Central Intelligence Agency, Federal Aviation Administration, and National Aeronautics and Space Administration.
A-2	Missiles		
A-3	Ships		
A-4	Tank-automotive		
A-5	Weapons		
A-6	Ammunition		
A-7	Electronic and communications equipment		
B-1	Military building supplies		
B-8	Production equipment (for defense contractor's account).		
B-9	Production equipment (Government-owned)		
C-2	Department of Defense construction		
C-3	Maintenance, repair and operating supplies (MRO) for Department of Defense facilities.		
C-8	Controlled materials for Defense Industrial Supply Center (DISC).		
C-9	Miscellaneous		
For Atomic Energy Commission programs:			
E-1	Construction	Atomic Energy Commission.	
E-2	Operations—including maintenance, repair, and operating supplies (MRO).		
E-3	Privately owned facilities		
For other Defense, Atomic Energy, and related programs:			
B-5	Certain self-authorizing consumers (see sec. 8(d) of DMS Reg. 1).	Bureau of Domestic Commerce.	
C-4	Certain munitions items purchased by friendly foreign governments through domestic commercial channels for export.		
C-5	Canadian military programs		
C-6	Certain direct defense needs of friendly foreign governments other than Canada.		
D-1	Controlled materials producers		
D-2[1]	Approved State and local civil defense programs		
D-3	Further converters (steel)		
D-4	Private domestic production		
D-5	Private domestic construction		
D-6	Canadian production and construction		
D-7	Friendly foreign nations (other than Canada) production and construction.		
D-8	Distributors of controlled materials		
D-9	Maintenance, repair and operating supplies (MRO) (see Dir. 1 to DMS Reg. 1).		
E-4	Canadian atomic energy program		
K-1	General Services Administration's supply distribution facility program.		
AM	Aluminum controlled materials producers		
AM-9000	Aluminum controlled materials distributors		
FC	Further converters (steel and nickel alloys)		
F-1	Certain items sponsored by the Federal Energy Administration for and related to construction of the Trans-Alaska pipeline.	Department of Interior.[2]	
F-2	Certain items sponsored by the Federal Energy Administration for and related to the development of Alaskan North Slope oil resources.		

[1] State and local governments will be authorized to use the program identification D-2 only upon application to the Defense Civil Preparedness Agency of the Department of Defense, sponsorship by the Office of the Assistant Secretary of Defense (Installations and Logistics) and specific approval by Bureau of Domestic Commerce.

[2] Bureau of Domestic Commerce will administer these programs. (See paragraph 2 of joint order, dated Sept. 23, 1974, 39 F.R. 34608 and paragraph 5 of joint notice, dated Dec. 30, 1974, 40 F.R. 26, issued by the Director, Office of Preparedness, General Services Administration and the Administrator, Federal Energy Administration.)

(Joint order, dated September 23, 1974, (39 FR 34608) and joint notice dated December 30, 1974 (40 FR 26) as amended January 31, 1975 (40 FR 5409) issued by the Director, Office of Preparedness, General Services Administration, and the Administrator, Federal Energy Administration, Defense Production Act of 1950, as amended, (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949–1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10–3, 38 FR 33624, and 40–1, 39 FR 1871; Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41–1, as amended, 39 FR 2780, 39 FR 18490, 45–1, 39 FR 18489, and 45–2, 39 FR 18489.)

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,
JOHN P. HEARNEY,
Acting Deputy Assistant Secretary for Domestic Commerce.

FEBRUARY 5, 1975.

[FR Doc.75-3718 Filed 2-11-75;8:45 am]

CHAPTER VI—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

[DPS REG. 1, Amdt. 3]

DPS REG. 1—BASIC RULES OF THE DEFENSE PRIORITIES SYSTEM

Change in Schedule I—Authorized Program Identifications and Defense Agencies

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended (50 U.S.C. App. 2154). In the formulation of this amendment consultation with industry has been rendered impracticable because this amendment applies to numerous trades and industries.

This amendment affects DPS Regulation 1, as revised July 1, 1974, (39 FR 23022) as amended, (39 FR 36480; 39 FR 41529) by inserting in Schedule I to DPS Regulation 1, the program identification F-2 which has been authorized for certain items sponsored by the Federal Energy Administration for and related to the development of Alaskan North Slope oil resources pursuant to the joint order, dated September 23, 1974 (39 FR 34608) and joint notice dated December 30, 1974 (40 FR 26) as amended January 31, 1975 (40 FR 5409) issued by the Director, Office of Preparedness, General Services Administration and the Administrator, Federal Energy Administration.

Accordingly, Schedule I to DPS Regulation 1 is hereby amended to read as follows:

SCHEDULE I TO DPS REG. 1—AUTHORIZED PROGRAM IDENTIFICATIONS AND DEFENSE AGENCIES

(See sections 2(1), 4(a), 12(a), and 12(b)).

The program identifications listed in this schedule have equal preferential status and are the only ones authorized under the Defense Priorities System and the Defense Materials System and must be used in accordance with this regulation, DMS Reg. 1 and other applicable regulations and orders of BDC.

The identifications are not listed in alphabetical or numerical sequence but are grouped by Defense Agencies. Within each group, the Defense Agencies listed in Column 3 are authorized to employ the program identifications listed in Column 1 in support of the programs listed in Column 2.

The full names of the Defense Agencies shown by initials in Column 3 are:

AEC—Atomic Energy Commission.
BDC—Bureau of Domestic Commerce.
CIA—Central Intelligence Agency.
FAA—Federal Aviation Administration.
NASA—National Aeronautics and Space Administration.

Col. 1—Program identification	Col. 2—Program	Col. 3—Defense agency
For Department of Defense and associated programs:		
A-1	Aircraft	Department of Defense: Army, Navy (including Coast Guard), Air Force, Defense Supply Agency, associated agencies of Department of Defense: Central Intelligence Agency, Federal Aviation Administration, and National Aeronautics and Space Administration.
A-2	Missiles	
A-3	Ships	
A-4	Tank—automotive	
A-5	Weapons	
A-6	Ammunition	
A-7	Electronic and communications equipment	
B-1	Military building supplies	
B-8	Production equipment (for defense contractor's account)	
B-9	Production equipment (Government-owned)	
C-2	Department of Defense construction	
C-3	Maintenance, repair, and operating supplies (MRO) for Department of Defense facilities	
C-8	Controlled materials for Defense Industrial Supply Center (DISC)	
C-9	Miscellaneous	
For Atomic Energy Commission programs:		
E-1	Construction	Atomic Energy Commission.
E-2	Operations—including maintenance, repair and operating supplies (MRO).	
E-3	Privately owned facilities	
For other Defense, Atomic Energy and related programs:		
B-5	Certain self-authorizing consumers (see sec. 7(d) of DPS Reg. 1)	Bureau of Domestic Commerce.
C-4	Certain munitions items purchased by friendly foreign governments through domestic commercial channels for export	
C-5	Canadian military programs	
C-6	Certain direct defense needs of friendly foreign governments other than Canada.	
D-1	Controlled materials producers	Bureau of Domestic Commerce.
D-2[1]	Approved State and local civil defense programs	
D-3	Further converters (steel)	
D-4	Private domestic production	
D-5	Private domestic construction	
D-6	Canadian production and construction	
D-7	Friendly foreign nations (other than Canada) production and construction	
D-8	Distributors of controlled materials	
D-9	Maintenance, repair and operating supplies (MRO) (see Dir. 1 to DMS Reg. 1)	
E-4	Canadian atomic energy program	
K-1	General Services Administration's supply distribution facility program	
AM	Aluminum controlled materials producers	
AM-9000	Aluminum controlled materials distributors	
FC	Further converters (steel and nickel alloys)	
F-1	Certain items sponsored by the Federal Energy Administration for and related to construction of the Trans-Alaska Pipeline	Department of the Interior.[2]
F-2	Certain items sponsored by the Federal Energy Administration for and related to the development of Alaskan North Slope oil resources	

[1] State and local governments will be authorized to use the program identification D-2 only upon application to the Defense Civil Preparedness Agency of the Department of Defense, sponsorship by the Office of the Assistant Secretary of Defense (Installations and Logistics) and specific approval by Bureau of Domestic Commerce.

[2] Bureau of Domestic Commerce will administer these programs. (See paragraph 2 of joint order, dated Sept. 23, 1974, 39 F.R. 34608 and paragraph 5 of joint notice, dated Dec. 30, 1974, 40 F.R. 24, issued by the Director, Office of Preparedness, General Services Administration and the Administrator, Federal Energy Administration.)

(Joint order, dated September 23, 1974 (39 FR 34608) and joint notice dated December 30, 1974 (40 FR 26) as amended January 31, 1975 (40 FR 5409) issued by the Director, Office of Preparedness, General Services Administration, and the Administrator, Federal Energy Administration, Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949–1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 8400.1, 32A CFR 15; Department of Commerce Organization Order 10–3, 38 FR 33624, and 40–1, 39 FR 1871; Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41–1, as amended, 39 FR 2780, 39 FR 18490, 45–1, 39 FR 18489, and 45–2, 39 FR 18489.)

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,
JOHN P. KEARNEY,
Acting Deputy Assistant Secretary for Domestic Commerce.

FEBRUARY 5, 1975.

[FR Doc.75-3717 Filed 2-11-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Strait of Juan de Fuca, Washington; Correction

In FR Doc. 74-30195 appearing on page 44753 in the issue for Friday, December 27, 1974 the latitude locating the center of the restricted area is incorrect and should read:

§ 204.220 Strait of Juan de Fuca, Washington; air-to-surface weapon range, restricted area.

(a) *The restricted area.* A circular area immediately west of Smith Island with a radius of 1.25 nautical miles having its center at latitude 48°19'11'' North and longitude 122°54'12'' West. * * *

* * * * *

By Authority of the Secretary of the Army:

Dated: February 6, 1975.

FRED R. ZIMMERMAN,
Lt. Colonel, U.S. Army, Chief, Plans Office, TAGO.

[FR Doc.75-3838 Filed 2-11-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 332-8]

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

2,4-D; Correction

In FR Doc. 74-28899 appearing at page 43292 in the issue of Thursday, December 12, 1974, the phrase "to citrus fruits and from the postharvest application of the 2,4-D isopropyl ester" was inadvertently omitted for § 180.142(a) in the paragraph "5 parts per million * * *" in the seventh line after the word "ester". Therefore, the paragraph "5 parts per million * * *" is corrected to read as follows:

§ 180.142 2,4-D; tolerances for residues.

(a) * * *

5 parts per million in or on apples, citrus fruits, pears, and quinces. The tolerance on citrus fruits also includes residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from the preharvest application of 2,4-D isopropyl ester and 2,4-D butoxyethyl ester to citrus fruits and from the postharvest application of the 2,4-D isopropyl ester to lemons.

* * * * *

Dated: February 5, 1975.

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

[FR Doc.75-3827 Filed 2-11-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-32]

PART 101-39—INTERAGENCY MOTOR VEHICLE POOLS

Revised Policy on Providing Agencies With Iinformation Concerning Claim Action on Accidents

This regulation provides revised policy whereby (a) the GSA Regional Counsel no longer will provide copies of legal papers to an agency responsible for investigating an accident in which a party other than the operator of the motor pool system vehicle is at fault, and (b) a specific request from that agency is necessary before the GSA Regional Counsel will provide information concerning claim action.

Section 101–39.805 is revised as follows:

§ 101–39.805 Claims in favor of the Government.

Whenever there is any indication that a party other than the operator of the motor pool system vehicle is a fault, the agency responsible for investigating the accident shall submit all original documents and data pertaining to the accident and its investigation to the GSA Regional Counsel of the region that issued the vehicle. The Regional Counsel will initiate the necessary action to effect recovery of the Government claim. Upon specific request of the using agency, the GSA Regional Counsel will notify that agency of the introduction of the Government claim and provide pertinent information about the claim's progress and final settlement.

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

Effective date. This regulation is effective February 12, 1975.

Dated: February 3, 1975.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.75–3846 Filed 2–11–75;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5487]

[Sacramento 5264]

CALIFORNIA

Withdrawal of National Forest Recreation and Administrative Sites

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the United States mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture for recreation and administrative sites:

KLAMATH NATIONAL FOREST

HUMBOLDT MERIDIAN

Forks of Salmon Fire Station

T. 10 N., R. 7 E. (unsurveyed),
Sec. 13, portion thereof described as:
Beginning at a point located on the down river wing wall of the north abutment to the bridge crossing the North Fork of the Salmon River;
thence north 132 feet;
thence north 60° E., 132 feet;
thence north 50° E., 277.2 feet to an existing telephone pole;
thence east 158.4 feet to the waters edge of the North Fork of the Salmon River;
thence in a southwesterly direction along the river edge to the point of beginning.

MOUNT DIABLO MERIDIAN

Idlewild Campground

T. 40 N., R. 10 W. (unsurveyed),
Sec. 18, portion thereof described as:
Beginning at corner No. 2 of the Herbert Finley Homestead Patent, H.E.S. 44;
thence north 0°47' E., 1320 feet;
thence east 660 feet;
thence south 0°47' W., 660 feet;
thence east 660 feet;
thence south 0°47' W., 1304 feet;
thence south 89°26' W., 329 feet to corner No. 4 H.E.S. 44;
thence north 45° W., 923 feet to corner No. 3 of H.E.S. 44;
thence west 330 feet to point of beginning.

Eddy Gulch Lookout

T. 39 N., R. 11 W. (unsurveyed),
Sec. 15, portion thereof described as:
Beginning at the northwest corner foundation supporting the northwest leg of the existing lookout tower;
thence north 50 feet;
thence west 50 feet;
thence south 300 feet;
thence east 200 feet;
thence north 300 feet;
thence west 150 feet to the point north 50 feet from the northwest foundation.

Sawyers Bar Administrative Site

T. 40 N., R. 11 W.,
Sec. 29;
Beginning at the C.E. 1/16 section corner of sec. 29;
thence south 89°19' W., 949 feet;
thence north 330 feet;
thence north 89°19' E. 949 feet;
thence south 330 feet to the point of beginning.

Bacon Rind Campground

T. 39 N., R. 11 W. (unsurveyed),
Sec. 21, portion thereof described as:
Beginning at a point of the Bacon Rind County Road 2E001, located at the inlet end of the 18'' CMP culvert through which drains the Bacon Rind Stream;
thence north 54.0° E., 97 feet;
thence north 29.5° W., 139 feet;
thence north 47.0° W., 100 feet;
thence north 57.5° W., 200 feet;
thence south 89.0° W., 200 feet;
thence south 9.5° W., 138 feet;
thence south 45.0° E., 248 feet;
thence south 72.0° E., 210 feet;
thence north 69.0° E., 728 feet to the point of beginning.

Blue Ridge Lookout

T. 39 N., R. 12 W. (unsurveyed),
Sec. 11, portion thereof described as:
Beginning at the northeast corner foundation supporting the northeast leg of the existing lookout tower;
thence east 50 feet;
thence north 200 feet;
thence west 300 feet;
thence south 300 feet;
thence east 300 feet;
thence north 100 feet to the point E. 50 feet from the northeast corner foundation.

The areas described aggregate 56.3 acres of land in Siskiyou County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of national forest lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

FEBRUARY 6, 1975.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.75–3849 Filed 2–11–75;8:45 am]

[Public Land Order 5488]

[Sacramento 5337]

CALIFORNIA

Withdrawal for Public Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws for protection of public values in connection with the South Yuba National Recreation Trail area:

MOUNT DIABLO MERIDIAN

T. 17 N., R. 9 E.,
Sec. 19, lots 1 and 2, NE¼, E½NW¼.

The area described aggregates 321.40 acres in Nevada County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. The withdrawal made by this order is subject to the withdrawal made by Powersite Reserve No. 88 of June 25, 1910, and to the provision that any definite plan of recreation development will be submitted to the Federal Power Commission before any structures or improvements are placed on the land.

JACK O. HORTON,
Assistant Secretary of the Interior.

FEBRUARY 6, 1975.

[FR Doc.75–3848 Filed 2–11–75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613 [1]]

PASSENGER AND FREIGHT TARIFFS AND SCHEDULES

Miscellaneous Amendments

Regulations for the Transmission and Furnishing of Tariffs and Schedules to Subscribers and Other Interested Persons

At a General Session of the Interstate Commerce Commission, held at its office

[1] This proceeding embraces certain issues raised in Docket No. 35959, *Investigation of Charges for Furnishing Tariffs by Eastern Railroads*, discontinued February 27, 1974.

in Washington, D.C., on the 30th day of January 1975.

Notice of the institution of this rulemaking proceeding was published in the March 8, 1974, issue of the FEDERAL REGISTER (39 FR 9205). The purpose of this notice was to announce our intention to consider the amendment of Parts 1300, 1303, 1304, 1306, 1307, 1308, and 1309 for the purpose of establishing therein regulations to govern the transmission and furnishing of tariffs and schedules to subscribers and other interested persons. The regulations proposed then would require the transmission by first-class mail of one copy of each new publication to each subscriber thereto not later than the time the copies for official filing are transmitted to the Commission and would require the furnishing without delay of a copy of any tariff or schedule to any person upon reasonable request therefor. A 4-day mailing delay would be permitted to transmit publications filed on less than 10 days' notice. It was proposed that the charge for furnishing the copy could not exceed the cost of mailing the copy by first-class mail.

The participation was very substantial. As the result of the comments received, we conclude that the proposed rules should be modified and the modified ones adopted.

The modified rules will provide that one copy of each new publication must be transmitted to each subscriber thereto by first-class mail (or other means agreed upon writing by subscriber and carrier or agent) not later than the time the copies for official filing are transmitted to the Commission. The 4-day mailing delay has been changed to five for publications filed on less than 10 days' notice. The charge for furnishing the copy would be shared by the subscriber and the carrier or agent, except that this would not apply to participating carriers as to a particular tariff. The modified rules are set forth in appendixes C through K. An interim period of 90 days has been allowed for carrier development of implementation procedures.

It appearing, That the notice of proposed rulemaking in this docket having been published in the March 8, 1974, issue of the FEDERAL REGISTER (39 FR 9205), a full investigation of the matters and things involved in this docket having been made, and the Commission on this date having entered its report setting forth its findings and conclusions, which report is hereby referred to and made a part thereof; therefore:

It is ordered, That Parts 1300, 1303, 1304, 1306, 1307, 1308, and 1309 of Chapter X of Title 49 of the Code of Federal Regulations be and they are hereby, amended as set forth below:

PART 1300—FREIGHT SCHEDULES: RAILROADS

§ 1300.30 [Amended]

1. Section 1300.30 is amended to read as set forth in appendix C. (12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; (49 U.S.C. 12, 304); secs. 5, 6, 24 Stat. 380, as amended, 49 Stat. 560, as amended; (49 U.S.C. 5, 6, 317)).

PART 1303—PASSENGER SERVICE SCHEDULES: RAIL AND WATER CARRIERS

§ 1303.36 [Amended]

2. Section 1303.36 is amended to read as set forth in appendix D. (secs. 5, 6, 12, 24 Stat. 380, 49 Stat. 546, 560; secs. 304, 306, 54 Stat. 933; (49 U.S.C. 5, 6, 12, 304, 317, 906)).

PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

§ 1304.42 [Amended]

3. Section 1304.42 is amended to read as set forth in appendix E. (secs. 12, 24 Stat. 383, as amended, 49 Stat. 546, as amended; (49 U.S.C. 12, 304); secs. 5, 6, 24 Stat. 380, as amended, 49 Stat. 560, as amended; (49 U.S.C. 5, 6, 317)).

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

§ 1306.17 [Amended]

4. Section 1306.17 is amended to read as set forth in appendix F. (secs. 204, 217, 218, 49 Stat. 546, as amended, 560, as amended, 561, as amended; (49 U.S.C. 304, 317, 318)), unless otherwise noted.

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

Subpart A—Schedules of Motor Contract Carriers of Property

§ 1307.14 [Amended]

5. Section 1307.14 is amended to read as set forth in appendix G. (secs. 204, 217, 218, 49 Stat. 546, as amended, 561, as amended, sec. 210a, 52 Stat. 1238, as amended; (49 U.S.C. 304, 317, 318, 310a)), unless otherwise noted. Subpart B—Common Carrier Freight Tariffs and Classifications.

§ 1307.48 [Amended]

6. Section 1307.48 is amended to read as set forth in appendix H. (secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, as amended, 52 Stat. 1238, as amended; (49 U.S.C. 304, 317, 310a)).

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

§ 1308.12 [Amended]

7. Section 1308.12 is amended to read as set forth in appendix I.

§ 1308.109 [Amended]

8. Section 1308.109 is amended to read as set forth in appendix J. (secs. 304, 306, 54 Stat. 933, 935; (49 U.S.C. 904, 906)).

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

§ 1309.5 [Amended]

9. Section 1309.5 is amended to read as set forth in appendix K. (secs. 20, 24 Stat. 386, as amended, secs. 204, as amended, 217, as amended, 19a. as amended, 49 Stat. 546, as amended, 560, as amended, 563, as amended, secs. 403, 405, 413, 56 Stat. 285, 287, 295; (49 U.S.C. 20, 304, 317, 319, 1003, 1005, 1013)).

It is further ordered, That this order shall become effective 90 days from the date of service of this order to afford the carriers an opportunity to develop implementation procedures as explained in the report.

And it is further ordered, That notice of this order be given to the general public by mailing a copy to each party of record in docket No. 35613, to the Governor of every State and to the public utilities commissions or other regulatory commissions or boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

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

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3992 Filed 2-11-75;8:45 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN THE STATE OF WASHINGTON

Proposed Redistricting and Reapportionment of Committee Membership

Consideration is being given to a proposal to redistrict and reapportion membership among districts on the State of Washington Potato Committee. This proposal was recommended by the committee which is the local administrative agency established pursuant to Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR Part 946). This program regulates the handling of Irish potatoes grown in the State of Washington and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Statement of consideration. The order provides in § 946.31 that upon recommendation of the committee the Secretary may reestablish districts within the production area and may reapportion committee membership among various districts.

In recent years potato production in the State of Washington has increased in the Grant County area, due in part to the Columbia Basin Project. The Columbia Basin Project is a large-scale irrigation project being carried out by the U.S. Department of Interior's Bureau of Reclamation. Centered in Grant County, it was begun in the 1940's and currently has facilities completed and water available for over 500,000 acres. Additional land is under investigation for potential development.

The proposed new districts would be defined by county and township lines and the Columbia Basin Project's three irrigation districts with their distinct separation by topography, traffic flow and area awareness. Boundaries of the three irrigation districts are on file with the U.S. Department of the Interior and the local irrigation district offices and are well known to producers in the area. Also, each irrigation district maintains published statistical data showing Irish potato acreage, et cetera, which are not available in Crop Reporting Board releases.

In unanimously recommending redistricting and reapportionment at its September 18, 1974, public meeting, the committee had considered (1) the relative importance of new areas of production, (2) changes in the relative position, with respect to production of existing districts, (3) the geographic location of production areas as it would affect the efficiency of administering the marketing order program and (4) other relevant factors. The committee determined the proposed changes would result in more efficient administration of the program and provide greater equity of representation on the committee.

The proposed reapportionment would adjust producer committeemen from four to three in District No. 1, and from one to two in District No. 2. The remaining three districts' representation would be unchanged, as would the total number of committeemen. Also, handler representation would be unaffected by the reapportionment.

All persons who desire to submit written data, views or arguments in connection with these proposals shall file the same in duplicate with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than February 27, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

1. A new § 946.103 is added to read as follows:

§ 946.103 Reestablishment of districts.

(a) Pursuant to § 946.31, on and after July 1, 1975, (1) the following new districts are established:

(1) District No. 1—the counties of Ferry, Stevens, Pend Oreille, Spokane, Whitman and Lincoln, plus the East Irrigation District of the Columbia Basin Project, plus the area of Grant County not included in either the Quincy or South Irrigation Districts which lies east of township vertical line R27E, plus the area of Adams County not included in either the South or Quincy Irrigation Districts.

(2) District No. 2—the counties of Kittitas, Douglas, Chelan and Okanogan, plus the Quincy Irrigation District of the Columbia Basin Project, plus the area of Grant County not included in the East or South Irrigation Districts which lies west of township line R28E.

(3) District No. 3—the counties of Benton, Klickitat and Yakima.

(4) District No. 4—the counties of Walla Walla, Columbia, Garfield and Asotin, plus the South Irrigation District of the Columbia Basin Project, plus the area of Franklin County not included in the South District.

(b) § 946.104 is revised to read as follows:

§ 946.104 Reapportionment of committee membership.

(a) Pursuant to § 946.25(c), membership representation of the State of Washington Potato Committee shall be reapportioned among the districts of the production area so as to provide the following members and their respective alternates:

(1) District No. 1—Three producer members and two handler members;

(2) District No. 2—Two producer members;

(3) District No. 3—Two producer members and one handler member;

(4) District No. 4—Two producer members and one handler member;

(5) District No. 5—One producer member and one handler member. The producer member and his alternate from District No. 5 shall each be a certified seed producer.

(b) The new districts are established in the current fiscal period only for the purpose of making nominations of committee members for the coming fiscal period. The new districts are to be established as operating entities beginning on July 1, 1975.

(c) The terms used in this section have the same meaning as when used in said marketing agreement and this part.

Dated: February 7, 1975.

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

[FR Doc.75-3900 Filed 2-11-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 220]

CHILD ABUSE AND NEGLECT

Proposed Service Programs and Requirements

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement provisions of Pub. L. 93–247, the Child Abuse Prevention and Treatment Act of January 31, 1974, and add four requirements for State plans for service programs under Title IV, Parts A and B, of the Social Security Act.

The Child Abuse Prevention and Treatment Act authorizes funds for special grants to the States for improving their programs relating to child abuse

and neglect. To obtain the grants, a State must meet ten requirements, pursuant to clauses (A) through (J) of section 4(b)(2). Four of these requirements are applicable to programs under Title IV–A and B of the Social Security Act, pursuant to section 4(b)(3), which reads:

Programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act shall comply with the requirements set forth in clauses (B), (C), (E), and (F) of paragraph (2).

The cited clauses concern reporting of known and suspected instances of child abuse and neglect; prompt investigation and action to protect the child when such reports are received; methods to preserve the confidentiality of records; and cooperation among law enforcement officials, courts, and appropriate State agencies providing human services.

Regulations proposed by the Office of Child Development to implement other provisions of Pub. L. 93–247 were published in the FEDERAL REGISTER on August 28, 1974 (39 FR 31707). Final regulations were published on December 19, 1974 (39 FR 43935).

Consideration will be given to any comments, suggestions, or objections which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013 on or before March 14, 1975. Comments received will be available for public inspection in Room 5326 of the Department's offices at 330 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202–245–0950).

(Sec. 240(c), 81 Stat. 914 (42 U.S.C. 625); sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.707, Child Welfare Services; and 13.754, Public Assistance—Social Services)

Dated: December 30, 1974.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved: January 31, 1975.

CASPAR W. WEINBERGER,
Secretary.

A new § 220.12 is added to Part 220, Chapter II, Title 45 of the Code of Federal Regulations to read as follows:

§ 220.12 Provisions relating to child abuse and child neglect.

(a) A State plan under Title IV–A or IV–B of the Social Security Act must provide that:

(1) The State or local agency administering the program will provide for the reporting of known and suspected instances of child abuse and neglect and will comply with all State laws and legally binding administrative procedures regarding such reporting;

(2) Upon receipt of a report, from any source, of known or suspected instances of child abuse or neglect, the agency will initiate an investigation promptly to substantiate the accuracy of the report; and, upon a finding of abuse or neglect, take immediate steps to protect the health and welfare of the abused or neglected child, and that of any other child under the same care who may be in danger of abuse or neglect.

(3) The State or local agency administering the program will preserve the confidentiality of all records pertaining to known or suspected instances of child abuse or neglect in accordance with § 205.50 of this chapter, in order to protect the rights of the child and of his parents or guardians. For purposes, of this section, the requirements of § 205.50 of this chapter relating to Title IV–A shall also apply to Title IV–B; and

(4) The State or local agency administering the program will have written interagency agreements for cooperation with law enforcement officials, courts of competent jurisdiction, and other appropriate State and local agencies providing human services.

(b) For purposes of this section:

(1) "Child" means a person under the age of eighteen.

(2) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

(3) "Harm or threatened harm to a child's health or welfare" can occur through: non-accidental physical or mental injury; sexual abuse, as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. *Provided, however,* That a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. However, such an exception shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(4) "Person responsible for a child's health or welfare" means the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

[FR Doc.75–3775 Filed 2–11–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 25, 121]

[Docket No. 9611; Notice No. 75–3]

TRANSPORT CATEGORY AIRPLANES

Smoke Emission From Compartment Interior Materials

The Federal Aviation Administration is considering amending Parts 25 and 121 of the Federal Aviation Regulations (FARs) to establish standards for the smoke emission characteristics of compartment interior materials used in transport category airplanes. An advance notice of proposed rule making was published on July 30, 1969 (Notice 69–30; 34 FR 12450), soliciting the views of all interested persons on four questions which the FAA believed would elicit information, in addition to that developed by the FAA, upon which to base a notice of proposed rule making. All comments received have been considered in the formulation of the rules proposed herein.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before May 12, 1975, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons.

E. I. du Pont de Nemours & Co. (du Pont), in a petition for rule making dated June 26, 1968, recommended the adoption of a smoke emission standard that would be based on the National Bureau of Standards (NBS) nonflaming and flaming smoke generation tests. In its petition, du Pont stated that its evaluations supported the conclusion that conditions could exist in which interior materials would be the primary source of smoke in an aircraft cabin. Such a condition could result when burnthrough of the cabin occurs as a result of its exposure to the side of a vertical flame front. In that case little fuel smoke would enter the cabin and the smoke producing energy within the cabin initially would be predominantly radiant energy. The FAA agrees that smoke emission standards for cabin interior materials could enhance safety in those and other circumstances and, by this Notice, is proposing to amend Parts 25 and 121 to adopt smoke emission standards that would be applicable to cabin interior materials used in transport category airplanes. However, the FAA has found that the standard recommended by du Pont, that an optical density of $D_s=16$, as calculated by the NBS, not be exceeded within two minutes, would unnecessarily preclude the use of so many materials that it would place an unreasonable burden on aircraft manufacturers and air carrier operators. Accordingly, different standards are being proposed by this Notice. In order to facilitate consideration and comment on the proposed standards, the comments received in response to the questions asked in Notice 69–30 are discussed below:

Question No. 1 as stated in Notice 69–30:

Are there aircraft interior materials now available that, in like circumstances, emit appreciably less smoke than currently used

materials, but that still meet the flame resistance standards prescribed in § 25.853 of the Federal Aviation Regulations?"

Subsequent to the publication of Notice 69–30, Amendment 25–32 (37 FR 3964) amended § 25.853 by revising the flame resistance standards of that section. The commentators' responses to the question do not contain sufficient detail from which the FAA can evaluate the effects, if any, of that amendment on the currency of those answers. However, the FAA has conducted a survey of the smoke emission characteristics of numerous available cabin materials in nine major categories of use, and has determined that aircraft interior materials are available that emit appreciably less smoke than currently used materials. The FAA believes that the establishment of the proposed smoke emission standards will eliminate those materials that emit appreciably more smoke than the other materials without imposing an undue burden on the industry. It also appears that materials that meet the proposed standards will be available in sufficient quantity and variety to meet reasonable design goals.

Question No. 2 as stated in Notice 69–30:

Are there test methods that can correctly and consistently measure the smoke emission characteristics of aircraft interior materials?

The responsive comments to this question are divided fairly equally between affirmatives and negatives. Those commentators responding in the affirmative generally favored the use of the NBS Smoke Test Apparatus, although a few made reference to the XP–2 Smoke Density Chamber.

Those commentators answering this question in the negative contend, in general, that no known test method correctly measures smoke emission characteristics of materials as they might be related to an aircraft fire. Factors relied upon for these conclusions included the limited dimensions and configuration of samples that could be tested, failure of any of the test methods to account for possible interactions among materials, and the absence of many influences that might be present in an actual aircraft fire. Some of these commentators recommended a full scale model approach to testing. The FAA recognizes the merit of many of the positions taken by the commentators in this regard. However, such a test would not, in all probability, duplicate all or even necessarily any conditions that may occur in the case of an actual crash fire. A smoke emission standard based on one of the known test methods, while it may not eliminate all safety hazards resulting from smoke emission, can enhance safety.

The specimen test conditions used in the NBS Smoke Test Apparatus more closely approximate conditions which might be expected in an aircraft cabin fire than do those of the XP–2 chamber or other available smoke tests. Specimens are exposed to a combination of open flame and radiant heat in a manner in which cabin furnishings might be exposed during an aircraft fire, and the test results yield a cumulative measure of smoke within the test chamber that may be considered representative of the manner in which smoke might accumulate in an aircraft cabin. In this connection, a comment recommended that the allowable smoke contribution of a material should be allocated on the basis of its relation to the cabin interior environment as a whole. The FAA does not agree. The possible complexity of post-crash fires and the many different modes of fire actions that may be involved make it impracticable to determine the relationships between specific materials and the cabin interior environment as a whole during a fire.

Question No. 3 as stated in Notice 69–30:

Would it be feasible to standardize on one of these test methods to determine compliance with a specified smoke emission standard?

The positions taken by commentators on this question generally reflected their positions on question No. 2. Those answering the question affirmatively recommended the test method they felt gave the most correct and consistent results as the test upon which to standardize; those who contended there was no test method that gave correct and consistent results generally advocated further investigation before adoption of a standard. Some comments reflected the commentators belief that the presently known test methods require the use of equipment that is both very costly and in short supply. In this connection it was suggested that any rule incorporating a specific test method as a standard also provide for correlation of test results performed using other equipment. The FAA does not agree. There are more than 50 of the NBS smoke chambers in use; no data have been presented that indicate that the expense involved in its use is unreasonable in view of the safety benefits to be derived; and no data have been presented that indicate that test results achieved by one test method can be correlated with those achieved by another.

Question No. 4 as stated in Notice 69–30:

Using this standard test method, what level of smoke emission performance should be specified?

Those comments that made reference to a specific level focused on achieving critical visibility level of $D_s=16$ in not less than two minutes. It was suggested that such a standard was incompatible with the requirements of § 25.803 that all passengers and crewmembers can be evacuated within 90 seconds. The FAA does not agree. The level of smoke emission allowed during testing is not a prediction of the smoke levels that may exist throughout the aircraft cabin during a fire. In addition, as pointed out in the discussion relating to other questions, there are other factors such as availability of materials that must be considered. The levels proposed herein are based on the present state of the art and on assuring availability of a sufficient variety of materials to allow a reasonable design flexibility while screening out those that contribute great amounts of smoke under test conditions.

Several commentators recommended that any rule adopted by the FAA regarding smoke emission of cabin interior materials also include standards relating to the toxicity of emissions. Some commentators objected to a smoke emission rule not including toxicity standards because they believed toxicity to be a more serious problem than smoke. The National Transportation Safety Board, however, pointing out that asphyxiation by smoke has been a leading cause, and sometimes the only cause, of fatalities in a number of aircraft accidents, recommended the adoption of smoke emission standards. The FAA recognizes that toxic gas emission from burning cabin interior materials can pose grave hazards to the safety of occupants, and, by an advance notice of proposed rule making (Notice 74–38, 39 FR 45044), is instituting rulemaking procedures in that connection.

A number of commentators noted that human ability to see through smoke depends not only on the smoke density but also on the loss of visual acuity resulting from the effects of eye irritants carried in the smoke. It was suggested that the rule account for this eye irritant effect so that the smoke emission standards would realistically relate to cabin visibility. The FAA recognizes that there are a number of variables affecting the ability of an individual to see through smoke and that, of these variables, the effects of irritants on visual acuity are significant although largely unpredictable. However, at the present time, it is beyond the state of the art to formulate a rule relating all the variables in such a way as to predict the actual ability of an individual to see in a smoke filled cabin. The proposed rules, therefore, do not account for the many complex physiological factors involved in determining human visual acuity. Rather the intent is to set forth a repeatable standardized test for measurement of the resistance of smoke to the passage of light so that materials producing an unacceptable amount of smoke may be screened out.

The rules proposed herein would require that certain materials used in each compartment occupied by the crew or passengers meet certain test criteria pertaining to smoke emission. The materials to be tested would be specified either in terms of their use in a compartment or in terms of processes involved in their manufacture. Each subject material would be tested in accordance with National Bureau of Standards Technical Note 708, "Interlaboratory Evaluation of Smoke Density Chamber," issued December, 1971, Appendix II, "Test Method for Measuring the Smoke Generation Characteristics of Solid Material," dated September, 1971. The document may be examined at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

20591, and at FAA Regional Office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division; or in the case of the Europe, Africa, and Middle East Region, the Chief, Aircraft Certification Staff). Copies may be obtained from A165 Instrument Laboratory, National Bureau of Standards, Washington, D.C. 20234, in limited quantities, free of charge, or from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, for a price of $0.75 (SD Catalog No. C 13.46:708). The FAA has found that this test method more closely approximates conditions that might be expected to exist in an aircraft cabin fire than do other known test methods. Furthermore, the FAA has not found that correlation may be established between the selected method and other known test methods. Additions to, or variations in, the NBS test procedure for specific materials would be provided in the rules.

Two commentators, noting that smoke from wire insulation can fill a passenger compartment in cases involving minor fires or even overheated wires without fire, recommended that electrical wiring be included among the materials required to be tested for smoke emission. It was contended that wire and cable insulations are now available that emit appreciably less smoke than many currently used materials and yet meet flame resistance standards. These commentators stated that the NBS chamber could be used for smoke emission testing of wire in a manner similar to that used for compartment interior materials. The FAA agrees that smoke emission standards are appropriate for electrical wire and cable insulation installed in the fuselage area, and, accordingly, the test method and smoke emission limits for such insulation are proposed herein.

The proposed rules would require that all subject materials be tested and, except for textiles, air ducting, thermal insulation and insulation covering, and electrical wire and cable insulation, be shown to produce an optical density (D_s) of not more than 200 within four minutes, except that if the maximum specific optical density is reached within 90 seconds the maximum may not exceed 100, in order to be used in a transport category airplane compartment interior. The limiting optical density for textiles (including draperies and upholsteries), air ducting, and thermal insulation and insulation covering would be 100 within four minutes after start of the test, and for electrical wire and cable insulation would be 15 within 20 minutes after start of the test. The FAA believes that adoption of these limits will screen out the heavy smokers thereby substantially improving safety, in circumstances where smoke from burning compartment interior materials is a hazard, without unduly hampering the achievement of other reasonable design goals.

In addition to the type certification requirements being proposed, the FAA believes that retrofit provisions are necessary to ensure that cabin interiors are upgraded with respect to the smoke emission characteristics of the compartment interior materials. Under present § 121.312, an airplane for which application for type certificate was filed after the effective date of a smoke emission amendment, upon overhaul or refurbishing, would be required to be in compliance with the smoke emission rule under which it was type certificated, while an older airplane would not be required to retrofit to any smoke emission standard. So that airplanes, for which application for certificate was filed prior to the effective date of the smoke emission amendment, may be brought up to a corresponding level it is proposed to require installation of materials meeting smoke emission standards in conjunction with overhaul or refurbishing, but to allow a reasonable time for the development and implementation of a materials replacement schedule. Accordingly, the proposal would require that the retrofit of cabin interior materials to meet smoke emission requirements be completed by no later than the first major overhaul or refurbishing occurring 5 years or more after the effective date of the amendment. However, since electrical wire and cable insulation is not subject to wear and tear and refurbishment in service to the extent that cabin materials are, provision for retrofit of electrical insulation is not being proposed at this time.

The contents of this Notice do not affect items being considered in the 1974–75 FAA Biennial Airworthiness Review Program.

This notice of proposed rule making is issued under the authority of sec. 313 (a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 25 and 121 of the Federal Aviation Regulations as follows:

1. By amending § 25.853 by adding a new paragraph (g) to read as follows:

§ 25.853 Compartment interiors.

* * * * *

(g) Materials listed in this section must be tested for smoke emission in accordance with the applicable portions of Appendix F of this part. The specific optical density, D_s, determined in accordance with the test, may not exceed the following values:

(1) 100 within 4 minutes after start of the test for textiles (including draperies and upholstery), air ducting, and thermal insulation and insulation covering.

(2) 200 within 4 minutes after start of the test, except that if the maximum specific optical density in reached within 90 seconds after start of the test that maximum may not exceed 100, for interior ceiling panels, interior wall panels (including window reveals), partitions, large cabinet walls, materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps), seat cushions, padding, structural flooring, floor covering, transparencies, parts constructed of elastomeric materials, and thermoformed parts.

2. By amending § 25.1359 by adding a new paragraph (e) to read as follows:

§ 25.1359 Electrical system fire and smoke protection.

* * * * *

(e) Insulation on electrical wire and cable installed in any area of the fuselage must be tested for smoke emission in accordance with the applicable portions of Appendix F of this part. The specific optical density, D_s, determined in accordance with the test, may not exceed 15 within 20 minutes after start of the test.

3. By amending Appendix F of Part 25 by adding a new paragraph (i) to read as follows:

Appendix F

* * * * *

(i) *Smoke emission test in compliance with §§ 25.853(g) and 25.1359(e).*

(1) All materials required to be tested for smoke emission must be tested in accordance with the following:

(i) Except as otherwise provided in this Appendix, National Bureau of Standards (NBS) Technical Note 708, "Interlaboratory Evaluation of Smoke Density Chamber," December 1971, Appendix II, "Test Method for Measuring the Smoke Generation Characteristics of Solid Material," dated September 1971, which is incorporated by reference herein in accordance with 5 U.S.C. 552(a)(1). The document may be examined at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591, and at FAA Regional Offices of the Chief, Aircraft Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division; or in the case of the Europe, Africa, and Middle East Region, the Chief, Aircraft Certification Staff). Copies may be obtained from A165 Instrument Laboratory, National Bureau of Standards, Washington, D.C. 20234, in limited quantities, free of charge, or from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, for a price of $0.75 (SD Catalog No. 13.46:708).

(ii) Specimen conditioning for test must be in accordance with paragraph (a) of this Appendix instead of the conditioning specified in NBS Technical Note 708.

(iii) Each test must be conducted with the material in the flaming or non-flaming condition, whichever produces the greater amount of smoke.

(iv) At least 3 specimens of a material must be tested and the results averaged to determine compliance with the applicable smoke emission limit.

(2) For compartment interior materials specified in § 25.853(g), the following additional smoke emission test requirements must be met:

(i) In each test, the specimen surface producing the greatest amount of smoke must be exposed to the heat source.

(ii) Thick foam parts, such as seat cushions, must be tested in ½ inch thickness.

(3) For electrical wire and cable insulation specified in § 25.1359(e), the following additional smoke emission test requirements must be met:

(i) Each specimen tested must consist of a 10-foot length of 20 gage wire or cable, with insulation, of the specification to be qualified for the airplane.

(ii) For testing, each specimen must be wrapped tightly around an open frame metal fixture, Figure 1 of this appendix, designed to form 20 turns of wire on ⅛-inch center spacings with the loose ends of the wire extending into the center opening of the fixture. The open frame containing the wire must be backed by aluminum foil, leaving one side exposed, and placed in the specimen holder with the exposed side facing the heat source.

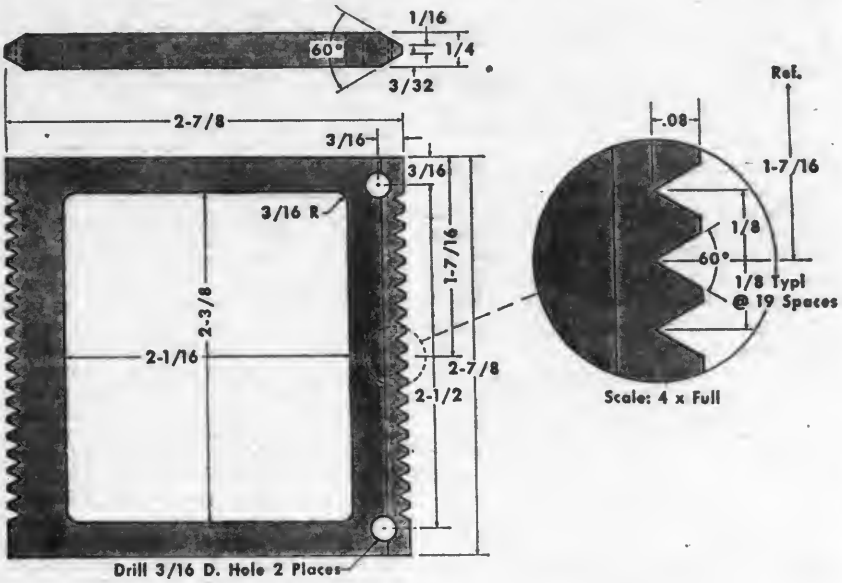

Figure 1

Details of Wire Holding Fixture for Airframe

4. By amending § 121.312 by designating the present text as paragraph (a), redesignating present paragraphs (a) and (b) as subparagraphs (1) and (2) respectively, and adding a new paragraph (b) to read as follows:

§ 121.312 Materials for compartment interiors.

* * * * *

(b) In addition to the requirements of paragraph (a) of this section, for an airplane for which the application for type certificate was filed prior to (the effective date of this amendment), upon the first major overhaul of the airplane cabin or refurbishing of the cabin interior occurring after (the date 5 years after the effective date of this amendment), all materials that do not meet the requirements of § 25.853(g) of this Chapter in effect on (the effective date of this amendment) must be replaced with materials that meet these requirements.

Issued in Washington, D.C., on February 4, 1975.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.75-3726 Filed 2-11-75;8:45 am]

[14 CFR Part 39]

[Docket No. 14306]

ROLLS ROYCE ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Rolls-Royce RB211 engines. There have been reports of high power primary engine surge, caused by high friction loads in the variable inlet guide vanes (VIGV) actuating mechanism, that could result in damage to that mechanism and to compressor rotor blades and stator vanes with corresponding loss of engine thrust. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require modification of the VIGV actuating mechanism, the intermediate pressure compressor inlet guide vanes, and the intermediate compressor stator vanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before March 14, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); and of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

ROLLS ROYCE (1971) LIMITED. Applies to Rolls Royce RB211 series engines, serial numbers 10389 and prior.

Compliance required by December 31, 1975, unless already accomplished.

To prevent high power surge and possible damage to the variable inlet guide vanes (VIGV) actuating mechanism and to rotor blade tips and stator vanes, caused by friction in the VIGV mechanism, accomplish the following:

1. Modify the inlet guide vane spherical trunnions, bearing pads, actuating rings, and bearing support segments in accordance with Rolls-Royce (1971) Limited Service Bulletin RB211-72-3326, dated November 14, 1973, or later CAA-approved revision, or an FAA-approved equivalent.

2. Modify the intermediate pressure (IP) compressor inlet guide vanes in accordance with Rolls-Royce (1971) Limited Service Bulletin RB211-72-3335, Revision 2, dated March 12, 1974, or later CAA-approved revision, or an FAA-approved equivalent.

3. Modify the IP compressor stator vanes in the 4th and 5th stage stator assemblies in accordance with Rolls-Royce (1971) Limited Service Bulletin RB211-72-3482, dated April 9, 1974, or later CAA-approved revision, or an FAA-approved equivalent.

Issued in Washington, D.C. on February 3, 1975.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc. 75-3883 Filed 2-11-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SO-10]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Mayfield, Ky., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 14, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at

the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Mayfield transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mayfield-Graves County Airport (latitude 36°46'03" N., longitude 88°35'05" W.)

The proposed designation is required to provide controlled airspace protection for IFR operations at Mayfield-Graves County Airport. A prescribed instrument approach procedure to this airport, utilizing the Cunningham, Ky. VORTAC, is proposed in conjunction with the designation of this transition area. If the proposed designation is determined acceptable, the airport authorization will be changed from VFR to IFR.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on February 4, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-3884 Filed 2-11-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-NW-27]

VOR FEDERAL AIRWAYS

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would extend several airways in the area of central Idaho via a VOR/DME to be established near Salmon, Idaho, at lat. 45°01'17" N., long. 114°05'00" W.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before March 14, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would:

1. Extend V-113 from Boise, Idaho, to Butte, Mont., via Salmon, Idaho.

2. Extend V-121 from McCall, Idaho, to Dillon, Mont., via Salmon, Idaho.

3. Extend V-231 from Missoula, Mont., to Burley, Idaho, via Salmon, Idaho.

4. Extend V-520 from Lewiston, Idaho, to Jackson, Wyo., via Salmon, Idaho, and Dubois, Idaho.

5. Rescind V-328 from Dubois, Idaho, to Jackson, Wyo. V-520 would overlie this route.

The proposed amendment would provide shorter airways between:

1. Salt Lake City, Utah, and Missoula, Mont.

2. Dubois, Idaho, and Lewiston, Idaho.

3. Butte, Mont., and Boise, Idaho.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 6, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-3885 Filed 2-11-75;8:45 am]

[49 CFR Part 391]

[Docket No. MC-55; Notice No. 75-3]

DRIVERS IN LEASE OR INTERCHANGE SERVICE

Notice of Proposed Rulemaking

In this, the second, notice of proposed rulemaking in this docket, the Director of the Bureau of Motor Carrier Safety is proposing to amend the provisions of the Federal Motor Carrier Safety Regulations relating to use of drivers, other than regularly employed drivers, by commercial motor carriers who operate in interstate or foreign commerce.

On April 11, 1974, the Director issued a notice, inviting interested persons to submit comments on proposed amendments to § 391.65 of the Federal Motor Carrier Safety Regulations (39 FR 13900). Section 391.65 specifies the conditions under which one motor carrier may use a driver furnished, and regularly employed, by another motor carrier without first taking all the steps necessary to ensure that the driver is fully qualified under Part 391 of the Regulations. The purpose of § 391.65 was to make special provision for the common practice of augmenting motor carrier equipment and service by leases and interchanges of equipment. Under lease and interchange arrangements, a motor carrier may contract with another motor carrier for the use of the latter's equipment for a specified period of time. It is common practice for the carrier who furnishes the equipment to supply a driver to operate it. Because the driver's qualifications have been established by the carrier who furnishes the equipment, § 391.65 permits the carrier using the equipment also to use the driver in his service without first going through the procedures to ensure that the driver is fully qualified under Part 391, if the using carrier secures a certificate of qualification from the carrier who regularly employs the driver.

As stated in the Notice, the principal problem addressed by the April 11, 1974, proposal was the practice of issuing permanent qualification certificates to drivers so that they can drive for other motor carriers. Many comments in response to the Notice indicate that the practice of issuing certificates for that purpose is far more widespread than the Bureau had originally assumed. The comments disclosed not only widespread issuance of permanent or semipermanent qualification certificates but also a significant number of instances in which drivers were being employed under § 391.63 in violation of the intent with which that section was authored. Section 391.63 created several exemptions to the usual driver-qualification rules for the purpose of allowing carriers to use drivers on an intermittent, casual, or occasional basis without full compliance with requirements pertaining to investigations and inquiries into the character and background of newly employed drivers. It appears, however, that a number of motor carriers have applied this special exception to virtually all part-time drivers, without regard to whether the use of those drivers is really intermittent, casual, or occasional.

These practices threaten to undermine the primary foundation on which the present driver-qualification system rests: motor carriers are responsible for checking into the qualifications of every person who seeks employment as the driver of a commercial motor vehicle and for ensuring that the person is qualified to drive safely under prescribed criteria before he is permitted to drive a commercial motor vehicle in interstate or foreign commerce. In addition, since a driver may become unqualified or disqualified at any time, the motor carrier who employs a driver is under a continuous duty to monitor the driver's qualifications to ensure that he is not permitted or required to drive while he lacks the requisite qualifications to do so under the driver-qualification rules in Part 391 of the Regulations.

The Regulations do not preclude a driver from driving commercial motor vehicles on behalf of more than one motor carrier. In general, drivers are free to "moonlight" or to find additional employment during vacation times, while they are laid off, or when they are on strike. But when a driver drives for a second carrier, the latter has the same duty to examine and investigate the driver's qualifications as does his principal employer. The only exceptions to this general rule are found in the above-mentioned provisions for intermittent, casual, or occasional drivers and for drivers in lease or interchange service.

The Bureau recognizes that the driver-qualification requirements place substantial impediments in the path of free

mobility of the driver force from one job to another. The Bureau also realizes that compliance with the rules entails paperwork and overhead expense for motor carriers. But the burdens of continuous surveillance of the qualifications of drivers, both at the time they are first employed and thereafter throughout their tenures, are clearly related to fulfilling the statutory mandate to regulate qualifications of drivers as part of the motor carrier safety program. The alternative to the present system, after all, would be a Federal licensing program. Institution of such a program might well entail costs, paperwork and other burdens that far exceed those now in existence. Hence, it is in the best interest of motor carriers and drivers to participate in good faith in the present driver-qualification system.

As noted above, comments to this docket, as well as the Bureau's own investigation, have disclosed the existence of large, and unintended, loopholes in the driver-qualification system. The problems have arisen through misuse of the exemptions found in §§ 391.63 and 391.65. Many carriers have advised the Bureau that they routinely issue qualification certificates to all drivers, effective for the period of time the driver is employed by that carrier. Some carriers issue a certificate to any driver, upon request, so that he can use it to secure another driving job while he is on vacation or laid off. These practices are, as noted above, contrary to the purpose of the Bureau of instituting the special exemption provisions in § 391.65. The purpose of that section was to facilitate lease and interchange operations, not to create a pool of drivers whose qualifications are not the responsibility of any employer.

The April 1974 Notice proposed to attack this practice by restricting the maximum duration of a qualification certificate to a period of 30 days. Comments on that proposal said that such a restriction would be unduly burdensome in the case of a motor carrier engaged in extensive lease and interchange operations. The Director agrees that such may be the case; at the same time he believes that some time limit on the validity of certificates is necessary to prevent their misuse. The Bureau now proposes to require each certificate to bear an expiration date not later than the date on which the driver's current medical examiner's certificate expires.

The proposal would also require the expiration date of the medical certificate to appear on the face of the certificate. This requirement is imposed because, under the revision of § 391.65 under consideration, the using carrier would no longer have to secure, and keep on file, a copy of the medical certificate. Since the carrier that furnishes the driver would be responsible for making the using carrier aware of any facts which may render the driver unqualified during the period he is in the employ of the using carrier, it seems appropriate to require the carrier issuing the qualification certificate to state, on its face, the period during which the driver's current medical certificate will remain in force. Compliance with this requirement will eliminate the need for a copy of the medical certificate to be given to the using carrier, thereby saving paperwork and filing. An additional reason for requiring a statement of the expiration date of the driver's medical certificate is the fact that physicians have in some cases conditioned certification of a driver's medical status on the requirement that he undergo a medical examination more frequently than the biennial period specified as minimal in § 391.45 of the Regulations.

Many of the comments suggested that the driver's social security number should appear on the qualification certificate. The Bureau has no objection to placing that number on the certificate, and the sample certificate included in the proposal contains space for inserting it. However, the Bureau at this time does not intend to make it mandatory for issuing carriers to put the social security number on the certificate.

As noted above, § 391.65 would, under this proposal, be explicitly limited to cover only drivers in lease and interchange service. In all other circumstances, the only basis on which a driver who is regularly employed by one motor carrier could drive for another carrier without first going through full qualification procedures would be under § 391.63, which covers drivers employed on an intermittent, casual, or occasional basis. The Director is proposing to modify § 391.63 also, to ensure that its coverage is restricted to drivers who are truly employed intermittently, casually, or occasionally. Specifically, he proposes to preclude a driver who is regularly employed by the motor carrier, or a driver who has been employed by the carrier to drive on more than 60 days during the preceding year, from classification as an intermittent, casual, or occasional driver. Those drivers would have to be fully qualified before the carrier could use their services.

In consideration of the foregoing, the Director of the Bureau of Motor Carrier Safety proposes to amend §§ 391.51, 391.63, and 391.65 of the Federal Motor Carrier Safety Regulations (Subchapter B of Chapter III in title 49, CFR) as set forth below.

Interested persons are invited to submit written data, views, or arguments relating to the proposed amendments. All comments should refer to the docket number and notice number appearing at the top of this document. Comments should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20590. All comments submitted before the close of business on April 14, 1975, will be considered before further action is taken on the proposed amendments. Comments will be available for examination by any interested person in the public docket of the Bureau of Motor Carrier Safety, Room 3401, 400 Seventh Street SW., Washington, D.C., both before and after the closing date for comments.

This notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on January 31, 1975.

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

I. Paragraph (e) of § 391.51 would be revised to read as follows:

§ 391.51 Driver qualification files.

* * * * *

(e) The qualification file for a driver furnished by another motor carrier incident to a lease or interchange of equipment and employed under the rules in § 391.65 must include a copy of the certificate specified in that section, certifying that the driver is fully qualified to drive a motor vehicle under the rules in this part.

* * * * *

II. Section 391.63 would be revised to read as follows:

§ 391.63 Intermittent, casual, or occasional drivers.

(a) If a motor carrier employs a person to drive a motor vehicle for a single trip or on an intermittent, casual, or occasional basis, the motor carrier must comply with all the rules in this part with respect to the qualifications of that person, except that the motor carrier need not:

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person;

(3) Perform the annual review of the person's driving record required by § 391.25; or

(4) Require the person to furnish a record of violations or a certificate in accordance with § 391.27.

(b) Before a motor carrier permits or requires a person described in paragraph (a) of this section to drive a motor vehicle, the motor carrier must obtain his name, his social security number, and the identification number, type, and issuing State of his motor vehicle operator's license. The motor carrier must retain that information in its files for 3 years after the person's employment by the motor carrier.

(c) A person is employed by a motor carrier to drive a motor vehicle on an intermittent, casual, or occasional basis, as specified in paragraph (a) of this section, if:

(1) The person is not a regularly employed driver (as defined in § 395.2(f) of this subchapter) of that motor carrier; and

(2) The person was employed by the motor carrier to drive a motor vehicle on less than 61 of the preceding 365 days.

III. § 391.65 would be revised to read as follows:

§ 391.65 Drivers furnished by other motor carriers in lease or interchange service.

(a) The rules in this section apply to the use of a driver who is regularly employed by a motor carrier (the "furnishing carrier") and who is employed by another motor carrier (the "using carrier") to drive a motor vehicle incident to a lease or interchange of the motor vehicle between the furnishing carrier and the using carrier.

(b) The using carrier may employ a driver to whom the rules in this section apply without first complying with the rules in subparts A–F of this part with respect to that driver if:

(1) The driver is fully qualified to drive a motor vehicle under the rules in this part; and

(2) Before the driver is employed by the using carrier, the furnishing carrier supplies the using carrier with a certificate of qualification with respect to the driver that conforms to the rules in paragraphs (c) and (d) of this section.

(c) The certificate of qualification must:

(1) Be in substantially the form specified in paragraph (d) of this section;

(2) Be issued by the furnishing carrier and be signed by an authorized officer or employee of that carrier;

(3) State the name of the driver;

(4) Certify that the driver is regularly employed by the furnishing carrier;

(5) Certify that the driver is fully qualified to drive a motor vehicle under the rules in Part 391 of the Federal Motor Carrier Safety Regulations;

(6) State the date upon which the driver's current medical examiner's certificate expires; and

(7) Specify an expiration date for the certificate which shall not be later than the expiration date of the driver's current medical examiner's certificate.

The certificate may also contain the driver's social security number. The certificate may be either a separate document (which the driver may carry), or it may be part of the agreement between the furnishing carrier and the using carrier for lease or interchange of equipment.

(d) Form of certificate of qualification:

CERTIFICATE OF QUALIFICATION

FOR DRIVER IN LEASE OR INTERCHANGE SERVICE

(*name of driver*)

(*social security number*)

I certify that the above-named driver is regularly employed by me and is fully qualified to drive a motor vehicle under Part 391, Federal Motor Carrier Safety Regulations. His current medical examiner's certificate expires on ----------.

(*date*)

This certificate expires:

(*date not later than expiration date of medical certificate*)

Issued on ------ Issued by----------

(*date*) (*name of carrier*)

(*address*)

(*signature*) (*title*)

(e) A using carrier who obtains a certificate of qualification under the rules in this section must retain a copy of the certificate in its files for 3 years from and after the date the certificate was obtained.

(f) A furnishing company who issues a certificate of qualification under the rules in this section must:

(1) Make no false statement or false representation in the certificate; and

(2) Notify a using carrier who holds an unexpired certificate pertaining to a driver of any facts which render the driver unqualified or disqualified under the rules in this part.

[FR Doc.75–3938 Filed 2–11–75;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 372, 373, 378]

[SPDR–41; Docket No. 27480; Dated: February 7, 1975]

OVERSEAS MILITARY PERSONNEL CHARTERS, STUDY GROUP CHARTERS AND CHARTERERS, AND INCLUSIVE TOUR CHARTERS

Notice of Proposed Rule Making

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposal to amend the various parts of its regulations, insofar as they presently permit escrowed charter deposits to be invested in securities publicly traded on an exchange, so as to (1) permit such funds to be invested also in bank certificates of deposit, and (2) revise the method of determining the maximum extent to which escrowed funds may be so invested.

The principal features of the proposed rule are set forth in the attached Explanatory Statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under authority of sections 101(3), 204(a), 401 and 402 of the Federal Aviation Act of 1958, as amended, (72 Stat. 737, 743, 754 and 757, as amended, 49 U.S.C. 1301, 1324, 1371 and 1372).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before March 31, 1975, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination of interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW, Washington, D.C., upon receipt thereof.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding, may do so through submission of comments in letter form to the Docket Section at the above indicated address, without the necessity of filing additional copies thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

Certain of our special regulations governing the operation of various types of charters require their organizers, authorized to act as indirect air carriers, to provide security for safeguarding charter customers' advance payments by either posting a bond, or by an arrangement which involves posting a bond in combination with a bank depository agreement. When the latter type of security arrangement is used, the regulations governing Overseas Military Personnel Charters (Part 372), Study Group Charters (Part 373), and Inclusive Tour Charters (Part 378) permit such escrowed funds to be invested in "Federal, State, or Municipal bonds, or other negotiable securities which are publicly traded on a securities exchange," provided that such "other" securities may be substituted for cash in an amount not greater than 80 percent of their market value at the time of their deposit.[1]

The Board has tentatively concluded that a bank certificate of deposit (CD) should be as suitable for the investment of escrowed funds as are the "other" securities which these regulations currently permit to be substituted for cash in the escrow account. Particularly in light of recent developments in the security markets, there appears to be no adequate basis for regarding CD's, as a class, to be any less stable, secure or liquid than are such "other" securities, as a class. Accordingly, the Board proposes to amend §§ 372.24(a)(2)(ii)(*f*), 373.15(b)(2)(viii) and 378.16(b)(2)(viii) so as to permit investment of escrowed funds in CD's, in the same manner and to the same extent as such funds may be invested in "other" negotiable securities.

The Board also proposes to amend the method of determining the maximum extent to which escrowed funds may be so invested. In lieu of the present method, which limits investments in "other" securities to 80 percent of the value of the securities, we propose instead to permit escrowed funds to be invested in such "other" securities or CD's in an aggregate amount not exceeding 80 percent of the funds in the escrow account, thereby requiring that 20 percent of the funds of the escrow account be retained in cash.

[1] The rules governing Travel Group Charters (Part 372a) have never permitted escrowed funds to be invested, because of our belief that cash should be fully available at any time to meet the needs of participants in charters operated under that rule.

Similarly, we propose to amend the proviso so as to require that, should the value of these securities decrease, from time to time, then additional cash or securities must be deposited in the escrow account.

It should be specifically noted that if the Board determines to adopt the amendments proposed herein, with respect to its rules governing certain existing types of charters, then the same amendments will duly be made upon our adoption of any rulemaking proposals which may be pending at the time the within proceeding is concluded, and which include comparable security provisions.

It is proposed to amend the Board's Special Regulations (14 CFR Parts 372, 373 and 378) as follows:

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

1. Amend § 372.24(a)(2)(ii)(*f*) as follows:

§ 372.24 Surety bond, depository agreement, escrow agreement.

(a) * * *
(2) * * *
(ii) * * *

* * * * *

(*f*) Notwithstanding any provisions above, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of surety bond in the form prescribed herein in excess of the minimum bond required by subdivision (i) of this subparagraph; an escrow with the designated bank of Federal, State, or municipal bonds or other negotiable securities, consisting of bank certificates of deposit or securities which are publicly traded on a securities exchange, such securities to be made payable to the escrow account: *Provided,* That such other negotiable securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: *And provided, further,* That should the market value of such other negotiable securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account, in an amount equal to the amount of such decreased value.

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

2. Amend § 373.15(b)(2)(viii) as follows:

§ 373.15 Surety bond.

* * * * *

(b) * * *
(2) * * *

* * * * *

(viii) Notwithstanding any provisions above, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of surety bond in the form prescribed herein in excess of the minimum bond required by subdivision (i) of this subparagraph; an escrow with the designated bank of Federal, State, or municipal bonds or other negotiable securities, consisting of bank certificates of deposit or securities which are publicly traded on a securities exchange, such securities to be made payable to the escrow account: *Provided,* That such other negotiable securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: *And provided, further,* That should the market value of such other negotiable securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account, in an amount equal to the amount of such decreased value.

PART 378—INCLUSIVE TOUR CHARTERS

3. Amend § 378.16(b)(2)(viii) as follows:

§ 378.16 Surety bond.

* * * * *

(b) * * *
(2) * * *

* * * * *

(viii) Notwithstanding any provisions above, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of surety bond in the form prescribed herein in excess of the minimum bond required by subdivision (i) of this subparagraph; an escrow with the designated bank of Federal, State, or municipal bonds or other negotiable securities, consisting of bank certificates of deposit or securities which are publicly traded on a securities exchange, such securities to be made payable to the escrow account: *Provided,* That such other negotiable securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: *And provided, further,* That should the market value of such other negotiable securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account, in an amount equal to the amount of such decreased value.

[FR Doc.75-3968 Filed 2-11-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20350; FCC 75-125; RM-2345]

TELEVISION SERVICE FOR STATE OF NEW JERSEY

Notice of Inquiry and Proposed Rule Making

In the Matter of petition for inquiry into the need for adequate Television Service for the State of New Jersey.

1. On March 4, 1974, the New Jersey Coalition for Fair Broadcasting (Coalition) filed a petition for inquiry into the need for adequate television service for the State of New Jersey. The petition was assigned rule making number RM-2345 and public notice of its acceptance was made on April 9, 1974. Upon request of the Office of Newark Studies, the time for filing responses was extended to May 31, 1974.

2. In its petition the Coalition asks the Commission to conduct public hearings in New Jersey, either en banc or by designating a single Commissioner to hear witnesses and certify transcripts of the hearing to the full Commission. In the alternative, the Coalition requests that such hearings be held before the Commission en banc or a designated Commissioner, in Washington, or that the Commission take such other actions as may be consistent with and fulfill the objectives of the petition.

3. Section V of the petition proposes three alternative methods that the Commission should investigate for bringing VHF service to New Jersey, as follows:

A. Investigate short spacing new channels as means of providing New Jersey with commercial VHF service.

B. Investigate the reallocation of existing commercial VHF stations to New Jersey.

C. Investigate hyphenated dual-community commercial VHF service between New Jersey and existing out-of-state stations.

4. In short, the Coalition urges the Commission to hold public hearings either in New Jersey or Washington, D.C., or to take whatever other action it sees fit, and it suggests three means of obtaining VHF channel assignments for New Jersey. Two of the three alternatives proposed have serious and complex technical implications which are addressed in the petition only by references to previous Commission actions which may or may not be germane to the actions proposed by petitioner. We therefore must make a determination as to whether all issues can be investigated simultaneously or whether they should be separated and, if separated, their order of priority. In so doing, the matter of timely schedules must be taken into account if indeed public hearings are to be considered. There is the possibility that a public hearing record directed only to the need or lack of need for television service might well be of no practical benefit because of the absence of engineering data which, contrary to some pleadings, must be obtained and evaluated.

5. In view of the foregoing, we have decided to adopt this Notice of Inquiry covering the matters set forth in paragraph 3 above. In this inquiry, parties are expected to specifically address the technical aspects of the alternatives and deal with such problems as what the effects of short-spaced assignments would be, what the effect of reallocation of channels would be, etc. The subject matter of the notice of proposed rulemaking will cover only the second and

third alternatives, namely, the possibility of reallocating existing commercial VHF assignments to the State of New Jersey and of hyphenating channel assignments between communities in New Jersey and communities outside of the State.

6. The Coalition's petition sets forth the propositions that New Jersey constitutes an important and self-contained commercial, political and cultural community with its own particular problems, needs and interests that require specific television broadcast service designed to meet them; that New Jersey residents currently have inadequate television service; that this inadequacy of service is caused by a unique lack of any commercial VHF television allocation, the current disuse of its commercial UHF allocations, the inability of the State's noncommercial allocations to provide all of the services that are provided by commercial outlets; that the commercial VHF channels allocated to neighboring states fail to provide adequate New Jersey-oriented service; and that the Commission has a clear duty to redress such an inequitable distribution of broadcast services. On these matters we invite comments in both the Notice of Inquiry and the Notice of Proposed Rule Making. In addition to comments as to the benefits which might accrue to the people of New Jersey by adoption of the proposals, we invite comments from parties in New York, Pennsylvania and Delaware as to the effect of the proposals, if adopted, on service in those states. The broader issues which have been raised by several of the interested parties are more appropriately addressed in a more general proceeding[1] now under consideration by the Commission.

7. For the information of interested parties, we list below the following documents that were received in response to the public notice of the acceptance of the instant petition (RM-2345) and characterize each filing briefly:

(a) Statement of Group W Westinghouse Broadcasting Company concerning the broadcast service provided by Station KYW-TV (Philadelphia) to the New Jersey portion of its service area.

(b) Opposition to petition for inquiry by Metromedia, Inc. Metromedia urges the Commission to refrain from instituting the inquiry sought by petitioner on the following grounds: The existing scheme of television allocations does not unfairly discriminate against New Jersey viewers; the New Jersey situation is not unique in any meaningful respect; petitioners have understated the level of television service which is available to New Jersey viewers; petitioners suggested remedies ignore economic and engineering realities and petitioners have wholly failed to establish the need for an inquiry into New Jersey television service.

(c) The Association of Maximum Service Telecasters, Inc. (MST), in its comments, states that it does not oppose consideration of the adequacy of New Jersey's television service, but it believes that no consideration should be given to any remedy that entails derogation from the Commission's mileage separation requirements. MST vigorously opposes an alternative which involves short-spacing stating that the Commission has never sanctioned derogations remotely approaching the magnitude of those that would be required to meet petitioners objectives. MST avers that the alternative of reallocating a New York or Philadelphia station to a New Jersey community suggested in the petition could be implemented without moving the transmitter site, or with such a small change in transmitter location that it would not result in any short-spacing. MST does not object to consideration of such a reallocation as long as it does not result in short-spacing. MST feels that hyphenating a New York or Philadelphia station assignment would not involve any derogation from required separations.

(d) The American Broadcasting Companies, Inc. (ABC), states that its New York station WABC-TV has made a sincere and continuing effort to accommodate the needs and interests of its New Jersey viewers in accord with an agreement entered into between WABC-TV and the New Jersey Coalition (May 12, 1972). ABC cites the Sixth Report and Order (paragraph 460) where the Commission, consistent with its distinction between UHF and VHF facilities (St. Louis Telecast, Inc., 12 RR 1289, 1369 (1957)) declined to move a VHF channel from Chicago, Illinois, to Gary, Indiana. Similarly ABC cites St. Louis Telecast, Inc. (12 RR 1369-70) as an articulation of the Commission's policy on the allocation of television facilities to metropolitan areas. It is ABC's belief that it would not be appropriate in an investigative proceeding or hearing, to reconsider such fundamental policy decisions.

(e) Part of the pleadings in this matter is a letter from Joseph Sivo, 1404 Manhattan Avenue, Union City, New Jersey. Mr. Sivo places a complaint against the three major networks CBS, NBC, and ABC, wherein he states the networks failed to cover a musical concert in Union City, New Jersey.

(f) The National Black Media Coalition (NBMC) urges the Commission to immediately assign commercial VHF channels to the state of New Jersey. NBMC seeks a thorough revision of the TV assignment table with a view not to technical priorities but instead to human rights—particularly the right of every American to a community with which he can identify in a meaningful way. It suggests the use of low powered television stations. New York and Philadelphia, according to NBMC, could easily support 2 or 3 times the number of TV stations now on the air. In support of this, NBMC suggests the assignment of 20-30 UHF channels to New York and Los Angeles. NBMC requests the Commission to extend the inquiry requested by petitioner to include an examination of the harm done to residents of large, distinct cities overshadowed by larger ones which contain all the area's TV stations, and that in its initial investigation of the New Jersey case, it include the problems of Delaware. NBMC further requests the appointment of a working task force consisting of and representing members of the general public, for the purpose of studying the nation's television assignments and recommending a new schedule of assignments, and assign this task force appropriate staff and funds with which to accomplish its goal.

(g) The Director of the UCLA Communications Law Program (CLP) notifies the Commission that its extensive Los Angeles television market study has produced data which tend to support the petition of inquiry filed by the New Jersey Coalition. CLP points out that its study of Los Angeles television reveals that the Los Angeles stations fail to provide programming from or about Orange County in a manner similar to that found between New York and Philadelphia stations with regard to programming from or about New Jersey. CLP suggests that while focusing specifically on New Jersey the Commission could well develop data and solutions pertinent to the problem of under-reported areas like Orange County.

(h) Brendan T. Byrne, Governor of the State of New Jersey, filed comments urging the Commission to act favorably on the petition submitted by the New Jersey Coalition for Notice of Inquiry. Governor Byrne contends that New Jersey, sandwiched as it is between two dominant metropolitan centers, is looked upon in the newsrooms more often as a suburban satellite and commuter haven than as a separate, important political and social entity with its own problems and needs. Reference is made to a 1973 study by the Eagleton Institute of Politics showing that New Jersey citizens could recognize the candidates in the New York mayoralty race much more readily than they could recognize the major party New Jersey gubernatorial candidates.

(i) Kenneth Gibson, mayor of the City of Newark, contends that New Jersey, the eighth most populous state, is serviced by six commercial New York stations and three Philadelphia stations yet only about 5 percent (a slightly higher figure in Philadelphia) of the news and public affairs programming relates to New Jersey. Mr. Gibson points to letters of agreement between the New York and Philadelphia stations and the New Jersey Coalition (in particular with the licensee of Channel 13) much of which he claims has been unfulfilled.

(j) Letter comments were received from Roger L. Miller and Constance A. Miller urging that the Commission give the matter the utmost consideration.

(k) Senator Clifford P. Case (N.J.) advised by letter that in his view the petition clearly demonstrates the necessity for a VHF television service geared toward the needs and problems of New Jersey.

8. This notice of inquiry and notice of proposed rulemaking will provide a comment period of sixty days and a

[1] RM-2346.

period for reply comments of thirty days. After the initial comment period the Commission will determine whether to hold public hearings and, if so, the manner in which they will be held.

9. Authority for the adoption of this Notice of Inquiry and notice of proposed rule making is contained in sections 4(i) and (j), 303, 307(b) and 403 of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before April 14, 1975 and reply comments on or before May 14, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

11. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: January 30, 1975.

Released: February 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION [2]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-3910 Filed 2-11-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH-37]

STANDARD FOR EXPOSURE TO INORGANIC ARSENIC

Notice of Proposed Rulemaking

Correction

In FR Doc. 75-1727 appearing at page 3392 in the issue for Tuesday, January 21, 1975, make the following changes:

(1) On page 3399, the first word in the last line of column two should read "lead".

2. On page 3402, § 1910.03(o) (1) (v) the fifth paragraph in the second column should read as follows:

(v) Emergency procedures as required by paragraph (i) of this section; and

3. On page 3403, § 1910.93(t) (the first full paragraph in the second column) should read as follows:

(t) *Effective date.* This standard shall become effective 30 days following publication of the final standard in the FEDERAL REGISTER.

4. On page 3404, in the third column, the last three lines of the fifth paragraph should read "tion of X-rays which shall be given only annually; and annually for all other employees exposed above the action level."

5. On page 3404, in the third column, the eighth paragraph (paragraph 2.) should be transferred down so that it follows paragraph 1. (the last paragraph in the third column.)

[2] Statements of Commissioners Lee and Hooks filed as part of original document.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ART ADVISORY PANEL OF THE COMMISSIONER OF INTERNAL REVENUE

Determination of Necessity for Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776, 5 U.S.C. App. I Supp. II), the Commissioner of Internal Revenue announces the renewal of the following advisory committee:

Title: The Art Advisory Panel of the Commissioner of Internal Revenue.

Purpose: The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954.

It has been determined, that pursuant to section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, all discussions and records of the Panel having to do with the value of a work of art involved in a federal tax return are concerned with matters listed in section 552(b) of Title 5 of the U.S. Code. Consequently, the meetings at which such matters are discussed and the records of such meetings should not be open. This is necessary to protect the confidentiality of tax returns under 26 U.S.C. 6103 and 7213 and the regulations thereunder.

Statement of Public Interest: It is in the public interest to continue the existence of the Art Advisory Panel. The membership of the Panel is balanced between museum directors and art dealers to afford differing points of view in determining fair market value.

Authority for this Panel will expire two years from the date the charter is approved by the Assistant Secretary of the Treasury for Administration and filed with the appropriate congressional committee unless the Commissioner of Internal Revenue formally determines that continuance is in the public interest.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75–3974 Filed 2–11–75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, effective January 5, 1973, notice is hereby given that closed meetings of a Panel of the DIA Scientific Advisory Committee will be held at the Pentagon on:

Friday, 7 March 1975.
Tuesday, 18 March 1975.

The entire meetings commencing at 0830 hrs. are devoted to the discussion of classified information as defined in section 552(b), title 5 of the U.S. Code, therefore will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

FEBRUARY 7, 1975.

[FR Doc.75–3934 Filed 2–11–75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 49444]

WYOMING

Notice of Application

FEBRUARY 5, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 58 N., R. 100 W.,
Sec. 30, lot 4 and SE¼SW¼;
Sec. 32, N½NE¼.
T. 58 N., R. 102 W.,
Sec. 24, S½N½.

The pipeline will convey natural gas from a well in sec. 23, T. 58 N., R. 102 W. to an existing pipeline in sec. 33, T. 58 N., R. 100 W., all in Park 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 send their name and address to the District Manager, Bureau of Land Management, P.O. Box 119, Worland, WY 82401.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75–3935 Filed 2–11–75;8:45 am]

COLORADO INTERSTATE GAS CO.

Notice of Pipeline Application

FEBRUARY 4, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, has applied for a right of way for a four-inch natural gas gathering pipeline across the following lands:

SIXTH PRINCIPAL MERIDAN, COLORADO,

T. 12 N., R. 100 W.,
Sec. 13: E½.

The pipeline will connect Burch Federal #13–9 well with an existing natural gas pipeline of Mountain Fuel Supply Company.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed pipeline right of way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must filed with the Chief, Branch of Land Operations, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, within thirty days from the date of this notice.

EVERETT K. WEEDIN,
Chief, Branch of Land Operations.

[FR Doc.75–3936 Filed 2–11–75;8:45 am]

Fish and Wildlife Service

SPORT HUNTING OF MIGRATORY BIRDS

Draft Environmental Statement; Notice of Public Hearings

Notice of availability of the draft EIS regarding the issuance of annual regulations permitting the sport hunting of migratory birds was published in the FEDERAL REGISTER on February 11, 1975. It is the policy of the Department of the Interior to permit the public an opportunity to comment on its environmental statements. Accordingly, a public hearing will be held in each U.S. Fish and Wildlife Service region in accordance with Part 455, Chapter I of the Departmental Manual.

The dates, times, and places of the hearings are as follows:

Region I—Date: March 19, 1975. Place: Bonneville Power Administration Auditorium 100 N. E. Holladay Street, Portland, Oregon. Time: 7:30 p.m.

Region II—Date: March 19, 1975. Place: Acoma Room, City Convention Center, Albuquerque, New Mexico. Time: 7:30 p.m.
Region III—Date: March 15, 1975. Place: Room 564, Federal Building, Fort Snelling, Minneapolis, Minnesota. Time: 9 a.m.
Region IV—Date: March 17, 1975. Place: Lenox Square Auditorium, Lenox Square, Shopping Center, 3293 Peachtree Road, Atlanta, Georgia. Time: 1–5:30 p.m. and beginning again at 7:30 p.m.
Region V—Date: March 22, 1975. Place: Defense Industrial Supply Center, Building 4, Robbins Avenue, Philadelphia, Pennsylvania. Time: 9:30 a.m.
Region VI—Date: March 18, 1975. Place: Room 269, Denver Post Office Building, 1823 Stout Street, Denver, Colorado. Time: 7 p.m.
Alaska—Date: March 19, 1975. Place: Council Chambers, Loussac Library, Anchorage, Alaska. Time: 7 p.m.

The EIS is available for inspection at all U.S. Fish and Wildlife Service field stations, regional and area offices, and the U.S. Fish and Wildlife Service, Office of Environmental Coordination, Department of the Interior, 18th and "C" Streets NW., Washington, D.C. In addition a brochure which summarizes the EIS is available from the following U.S. Fish and Wildlife Service Regional offices.

Region I—Regional Director, P.O. Box 3737, Portland, Oregon 97208.
Region II—Regional Director, U.S. Post Office and Courthouse, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103.
Region III—Regional Director, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.
Region IV—Regional Director, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329.
Region V—Regional Director, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.
Region VI—Regional Director, 10597 West Sixth Avenue, P.O. Box 25486, Denver, Colorado 80215.
Alaska—Area Director, 813 "D" Street, Anchorage, Alaska 99501.

Persons wishing to make an oral presentation or to submit their views in writing at any of these hearings should deliver a notice to that effect to the appropriate Regional Director at the above address, no less than five working days before the date of the hearing at which the testimony is to be presented. A time limit of 10 minutes per witness is imposed in the case of oral testimony, although additional time may be granted at the discretion of the Hearing Officer. This notice is published under authority of the Migratory Bird Treaty Act, 16 U.S.C. 704.

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

[FR Doc.75-3933 Filed 2-11-75;8:45 am]

Geological Survey

ALVORD, OREGON

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Section 21 (a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as the Alvord known geothermal resources area, effective August 1, 1974:

(37) OREGON

Alvord Known Geothermal Resources Area
Willamette Meridian, Oregon

T. 35 S., R. 33 E.
Secs. 1, 2, 10 through 15, 22 through 27, 34 through 36.
T. 36 S., R. 33 E.
Secs. 1 through 4, 9 through 16, 21 through 28, 33 through 36.
T. 37 S., R. 33 E.
Secs. 1 through 5, 8 through 17, 20 through 29, 32 through 36.
T. 32 S., R. 34 E.
Secs. 34 through 36.
T. 33 S., R. 34 E.
Secs. 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 34 S., R. 34 E.
Secs. 1 through 3, 10 through 16, 21 through 29, 32 through 36.
T. 35 S., R. 34 E.
Secs. 7 through 36.
T. 36 S., R. 34 E.
Secs. 1 through 23, 27 through 34.
T. 37 S., R. 34 E.
Secs. 3, 6, 7, 18, 19, 30, 31.
T. 32 S., R. 35 E.
Sec. 31.
T. 33 S., R. 35 E.
Secs. 1, 2, 6 through 8, 11 through 15, 17 through 24, 26 through 35.
T. 34 S., R. 35 S.
Secs. 3 through 10, 15 through 22, 27 through 34.
T. 35 S., R. 35 E.
Secs. 3 through 10, 16 through 21, 28 through 32.
T. 36 S., R. 35 E.
Secs. 5 through 7.
T. 32 S., R. 36 E.
Secs. 16, 17, 19 through 21, 28 through 33.
T. 33 S., R. 36 E.
Secs. 5 through 8, 17, 18.

The area described aggregates 176,835 acres, more or less.

HILLARY A. ODEN,
Acting Conservation Manager
Western Region.

JANUARY 30, 1975.

[FR Doc.75-3937 Filed 2-11-75;8:45 am]

FISH CREEK BASIN, ALABAMA

Power Site Cancellation 330

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 22 of January 20, 1922, is hereby cancelled to the extent that it affects the following described land:

UNSURVEYED LANDS IN ALASKA

All lands within 100 feet on either side of Fish Creek, a tributary of Salmon River about 5 miles above its junction with Portland Canal, from the mouth of Skookum Creek to a point on Fish Creek 3 miles above the said mouth.

The area described aggregates approximately 73 acres.

The effective date of this cancellation is June 5, 1975.

V. E. MCKELVEY,
Director.

FEBRUARY 5, 1975.

[FR Doc.75-3850 Filed 2-11-75;8:45 am]

APPLEGATE RIVER, OREGON

Power Site Cancellation 325

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 410 of November 9, 1950, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 39 S., R. 3 W.,
Sec. 3, SW¼NE¼ and SW¼SW¼;
Sec. 11, E½SW¼NW¼ and SW¼SE¼NW¼;
Sec. 15, SW¼SW¼NE¼, NW¼NW¼SW¼ and W½NW¼SE¼;
Sec. 22, W½NW¼NE¼ and NW¼NW¼NE¼;
Sec. 33, W¼W½NE¼.

The area described aggregates 220 acres.

The effective date of this cancellation is June 5, 1975.

V. E. MCKELVEY,
Director.

FEBRUARY 5, 1975.

[FR Doc.75-3851 Filed 2-11-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-104]

CANTERBURY COAL CO.

Amendment to Petition[1] for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Canterbury Coal Company has filed an amended petition to modify the application of 30 CFR 75.1405 to its David Mine, Avonmore, Pennsylvania.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

Petitioner amends its original petition and proposes the following alternative method for coupling and uncoupling mine cars at Petitioner's David Mine:

A. No more than four loaded or empty cars will comprise a trip.

B. (1) When coupling car to car or car to the outby end of a motor, the hand-link aligner will be used to guide the link at all times.

[1] The original petition was published in 39 FR 15891 on May 6, 1974.

(2) When coupling a car to the kitchen end of a motor, the link-hook will be used at all times.

(Drawings of the hand-link aligner and link-hook are shown in Exhibit "A."[2])

C. Dropping and lifting of pins will be done by engaging the end of the hand-link aligner in the ring provided on the pin, except when the pin can be handled from within the car of the kitchen of the motor.

(A drawing of a typical pin provided with a ring is shown in Exhibit "A".)

D. Coupling (dropping and lifting of a pin) will be done only with the trip totally stopped and with the brakes of the motor or motors fully applied.

E. Coupling between cars will be done on level areas of track at all times.

F. Petitioner will train and instruct all employees annually in the above procedures. New employees will be instructed and trained as part of their orientation program. Petitioner will maintain a record of the instruction and training of its employees in the above procedures.

G. The above procedures shall be a mandatory safety rule at the David Mine and shall be so posted on the bulletin boards of Petitioner and the United Mine Workers of America located at the mine.

Petitioner avers that the alternative method for coupling and uncoupling mine cars at Petitioner's David Mine proposed herein will at all time guarantee to the miners at Petitioner's David Mine no less than the same measure of protection than would be afforded the miners of such mine by a requirement for automatic couplers.

Petitioner further avers that the application of mandatory safety standard 30 CFR 75.1405 to David Mine will result in a diminution of safety to the miners in such mine. At least two men have been killed by being crushed between cars equipped with automatic couplers in Western Pennsylvania within the past fourteen months.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 14, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 5, 1975.

[FR Doc.75-3852 Filed 2-11-75;8:45 am]

[Docket No. M74-69]

ZEIGLER COAL CO.

Amendment to Petition for Modification of Application of Mandatory Safety Standard [1]

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Zeigler Coal Company has filed an amended petition to modify the application of 30 CFR 75.1105 to its Zeigler No. 9 Mine, Madisonville, Kentucky.

30 CFR 75.1105 provides:

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

Petitioner filed this amended petition for the purpose of clarifying the original petition and summarizing and incorporating subsequent changes and additions, including: letters, reports, and recommendations.

Recommendations of MESA Special Investigative Team & United Mine Workers' Safety Committee. As mentioned above, there is attached [2] hereto a Special Investigative Report dated August 21, 1974, prepared by Michell E. Mills, an authorized representative of the Secretary of Interior, which recommends that the petition for modification originally filed in this case be granted, subject to certain additional safeguards hereinafter delineated. There is also attached hereto for informational purposes, a statement dated August 28, 1974, signed by the president of the union local and two members of the mine safety committee, United Mine Workers of America, recommending to the District Manager, Mining Enforcement & Safety Administration, approval of the alternative plan submitted in this 301(c) petition.

Alternate Method. 1. The following safety features are to be maintained on the belt conveyor and belt drive units installed in the main south entries:

a. Fire-resistant belt—Data 42" Super Mylock Conveyor Belt, $\frac{3}{32}$ top x $\frac{3}{32}$ bottom S.B.K.—U.S. Bureau of Mines approved.

b. Fire sensoring system throughout the belt line. Control panel located at Portal No. 2—Manufacturer, Pyott-Boone, Inc.

c. All belt power transformer enclosed in fireproof housing.

d. All hydraulic fluids used are to be fire-resistant fluids.

e. All belt drives are to be protected with the water deluge spray system.

f. Communication between underground mine and both portals are to be of one phone system—Data M.S.A. permissible communication unit, Approval No. 98-20.

2. The belt transformer located at the 2nd South drive section, West drive section and 2nd West drive section, shall have the following safeguards:

a. A U.S.B.M. approved multipurpose dry chemical type fire suppression system installed which shall contain no less than 30 pounds.

b. Transformer stations will be incorporated into the fire sensoring system which is located along the present belt conveyors, with their own separate monitoring stations.

3. The permanent pump stations at the three locations shall be maintained in the following manner:

a. The permanent pump stations shall be enclosed in a fireproof housing.

b. A U.S.B.M. approved multipurpose dry chemical type fire suppression system shall be installed which shall contain no less than 30 pounds.

c. Pump stations will be incorporated into the fire sensoring system which is located along the present belt conveyors and they will have their own separate monitoring stations.

4. At the areas indicated on the map [3] which accompanied the original letter of petition dated February 26, 1974, the petitioner will construct a wall of stoppings of fireproof materials. Of the seven entries involved, two will be equipped with fireproof doors.

5. The petitioner will inaugurate the following fire fighting procedures in the event of a belt fire in area "A" as marked on said map:

a. Upon hearing the alarm, the man at Portal No. 2 will read the location from the control panel of the sensoring system.

b. He will then notify persons underground of the location of the fire.

c. He will then instruct the man located at Portal No. 1 to shut down the blowing fan located there.

d. The two fire doors located in the row of seven entries at the location specified above, shall be closed.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 14, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 4, 1975.

[FR Doc.75-3854 Filed 2-11-75;8:45 am]

[Docket No. M75-86]

BETTY B. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 816(c) (1970), Betty B. Coal Company has filed a petition to modify the application of 30 CFR 75.1403 to its No. 4 Mine, Dickenson County, Virginia.

30 CFR 75.1403 provides:

Other safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

In support of its petition, Petitioner states:

(1) The subject mine was developed in 1923. Subsequently, the track haulage entry

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[2] Exhibits will be available for inspection at the address mentioned in the last paragraph of the notice.

[1] The original petition was published in 39 Fed. Reg. 13697 on Tuesday, April 16, 1974.

[2] Material which is referred to as attached to the petition will be available for inspection at the address mentioned in the last paragraph of the notice.

[3] See footnote 2.

was driven in an area with poor roof conditions. The roof of this entry has been arched and supported to protect the personnel working in the area.

(2) Petitioner uses the track entry solely to transport men and supplies; coal haulage is accomplished by a belt line. Petitioner conducts a maximum of four personnel/supply trips per day.

(3) Shelter holes for workmen are provided every fifty or sixty feet on the left and right sides of the track entry.

(4) To provide the additional clearance for the track entry, so as to be in compliance with Section 75.1403, would result in a diminution of safety to the miners in the subject mine because such expansion of the entry would expose additional unsupported roof.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 14, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 5, 1975.

[FR Doc.75-3853 Filed 2-11-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in List of Establishments

Pursuant to sction 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the list (39 FR 41998) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and which use humane methods of slaughter and incidental handling of livestock is hereby amended as follows:

The reference to swine with respect to Walt's Custom Slaughtering, establishment 9300, is deleted. The reference to sheep with respect to LeDuc Packing Company, establishment 9387, is deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled by humane methods.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Iowa Beef Processors, Inc	245 E	(*)					
San Jose Meat Co	291 A	(*)					
Kaufman Meats	310	(*)	(*)				
Mr. Meat	2957	(*)	(*)	(*)	(*)	(*)	
F & J Meat Processors	5766	(*)	(*)	(*)	(*)	(*)	
Kreisel Slaughter House	5834	(*)				(*)	
Wholesale Meats	6421	(*)	(*)	(*)	(*)	(*)	
Bullock's Meats, Inc	8461	(*)	(*)	(*)			
Valley View Meat Processing Co., Inc	9129	(*)	(*)			(*)	
C & B Meats	E 9294						(*)
New establishments reported: 10.							
Metro Meat Packing, Inc	253	(*)					
Shapiro Packing Co., Inc	332			(*)			
General Meat Co., Inc	1994	(*)					
Mark's Meat Co	9265				(*)		
Species Added: 4.							

Done at Washington, D.C., on: February 4, 1975.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.75-3809 Filed 2-11-75;8:45 am]

Farmers Home Administration

[Notice of Designation Number A076—Amdt. 1]

WISCONSIN

Designation of Emergency Areas

The Secretary of Agriculture has found that an additional general need for agricultural credit exists in the following counties in Wisconsin:

Green Lafayette
Iowa

The Secretary has found that this additional need exists as a result of a natural disaster consisting of killing frost September 22 in Green and Iowa Counties and on September 22 and 23, 1974, in Lafayette County.

Therefore, the Secretary has amended his designation of October 10, 1974, of these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Patrick J. Lucey that such designation and amendment be made.

Applications for Emergency loans must be received by this Department no later than March 31, 1975, for physical losses and October 31, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 5th day of February 1975.

(S) FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75-3901 Filed 2-11-75;8:45 am]

COMMODITY CREDIT CORPORATION ADVISORY BOARD

Public Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that the Commodity Credit Corporation Advisory Board will meet at 8:30 a.m. on Tuesday, March 4, 1975 and Wednesday, March 5, 1975, in Room 2-W, of the Administration Building of the U.S. Department of Agriculture, Washington, D.C.

The purpose of this regularly scheduled quarterly meeting of the Advisory Board is to advise the Secretary of Agriculture relative to surveys of the general policies of the Commodity Credit Corporation, including Corporation policies in connection with the purchase, storage and sale of commodities, and the operation of lending and price support programs.

The meeting will be open to the public. Any member of the public may file a written statement with the Board before or within one week following the meeting.

The names of the members of the Advisory Board, Agenda, Summary of the Meeting and other information pertaining to the meeting may be obtained from Mr. Frank G. McKnight, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Signed at Washington, D.C. on February 6, 1975.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-3965 Filed 2-11-75;8:45 am]

Rural Electrification Administration

ALABAMA ELECTRIC COOPERATIVE, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama. This project includes financing for the construction of two 210 NW coal fired generating units at the site of the existing 66 MW Tombigbee power plant near Jackson, Alabama, and the construction of approximately 157 miles of 230 kV transmission lines and related terminal facilities in Washington, Clarke, Monroe, Conecuh and Covington Counties, all in the State of Alabama.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Askegaard at the address given above. Comments must be received within sixty (60) days of the date of publication of this notice to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 5th day of February, 1975.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.75-3902 Filed 2-11-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Meeting

Amendment to Notice of Open Meeting Published January 28, 1975 (FR Doc. 75-2426, Filed 1-27-75: 8:45 A.M.) 40 FR 4171.

The March 14, 1975, meeting of the Advisory Committee on East-West Trade will be extended to include an afternoon session from 2 p.m. to 4 p.m. in Room 4830 of the Main Commerce Building, after a lunch break.

The agenda for the afternoon meeting is:

1. Overview of the U.S. Economy from the Department of Treasury.

2. Commentary and Discussion by a distinguished scholar.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

FEBRUARY 6, 1975.

[FR Doc.75-3917 Filed 2-11-75;8:45 am]

PRESIDENT'S EXPORT COUNCIL

Postponement of Open Meeting

The meeting of the President's Export Council, scheduled for Thursday, February 27, and announced in the FEDERAL REGISTER on January 27 (40 FR 4029), has been postponed. When the meeting has been rescheduled, an announcement will appear in the FEDERAL REGISTER.

Inquiries may be addressed to Mr. Friedrich R. Crupe, Executive Secretary of the President's Export Council, U.S. Department of Commerce, Domestic and International Business Administration, Bureau of International Commerce, Washington, D.C. 20230 (telephone 202-967-2373).

Dated: February 7, 1975.

CHARLES W. HOSTLER,
Deputy Assistant Secretary for International Commerce.

[FR Doc.75-3954 Filed 2-11-75;8:45 am]

National Oceanic and Atmospheric Administration

J. LAWRENCE DUNN

Notice of Receipt of Application

Notice is hereby given that the following applicant has applied in due form for a permit to take and import marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

J. Lawrence Dunn, D.V.M., General Manager and Staff Veterinarian, Mystic Marinelife Aquarium, P.O. Box 190, Mystic, Connecticut 06335, to take and import up to seven (7) Atlantic harbor seals, up to one hundred (100) blood samples from Atlantic harbor seals, up to one hundred (100) ectoparasite samples from these same animals, up to twenty (20) tissue parasite samples from harbor seals found dead, up to ten (10) skin biopsies from harbor seals showing lesions of seal pox, and up to ten (10) milk or colostrum samples from lactating harbor seals for the purpose of scientific research.

The harbor seals and specimen materials will be collected from animals taken by Dr. Dunn on Sable Island, Nova Scotia, in conjunction with researchers from Dalhousie University, Halifax, Nova Scotia, who, during the course of their studies, capture and tag large numbers of harbor seals. The specimen materials will be taken from these captured animals.

The animals and specimen materials taken and imported will be used in research designed to elicit knowledge of the life cycle of the seal heartworm (*Dipetalonema spirocauda*), in support of determining a cure for that disease in seals and in histopathology studies of seal pox and its causative virus.

Dr. Dunn has been engaged in research and care of marine mammals for a period of more than 12 years.

Documents submitted with this application are available in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before March 14, 1975, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 6, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-3958 Filed 2-11-75;8:45 am]

DR. G. EDGAR FOLK

Notice of Receipt of Application

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Dr. G. Edgar Folk, Department of Physiology and Biophysics, University of Iowa, Iowa City, Iowa 52242 to take four (4) ringed seals (*Pusa hispida*) for the purpose of scientific research.

The seals are to be captured in either the area of Wainwright, Alaska, or at the mouth of the Coleville River, Alaska. The animals are to be captured by an experienced native collector using nets and will be transported by air to a laboratory at Point Barrow, Alaska. The purpose of this research is to investigate the cardiac physiology of the seals in relation to the daily activity patterns and

slowing-of-the-heart-studies when the seals dive. The data will be obtained by placing 20–40 gram radio transmitters in the abdominal cavity of the seals and recording the signals for up to one and a half years. On termination of the experiments, the transmitters will be removed, the animals tagged and released near the point of capture.

Another area of investigation will be obtaining fat samples from an unspecified number of seals taken by Eskimos for subsistence. These samples will be analysed for yearly cyclic fluctuations of the chemical structure of the fat tissue. The results of this investigation will be compared with the cardiac physiology studies mentioned above, in order to contribute knowledge to the understanding of seal physiology.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, and the Office of the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before March 14, 1975. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this Notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 7, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-3956 Filed 2-11-75;8:45 am]

NICHOLAS R. HALL AND DR. WILLIAM W. DAWSON

Notice of Receipt of Application

Notice is hereby given that the following applicants have applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Mr. Nicholas R. Hall and Dr. William W. Dawson, Department of Neuroscience and Opthalmology, College of Medicine, University of Florida, Gainesville, Florida 32610 to take up to twenty Atlantic bottlenose dolphins by capture for the purpose of scientific research.

The animals are to be used in endocrine, sleep, and visual research studies. The endocrine studies will be conducted by using routine diagnostic blood collecting procedures and examining the blood for its concentrations of reproductive hormones. The purpose of this research is to establish the reproductive cycle of female dolphins in hopes of contributing to the breeding husbandry of the species and providing basic physiologic information of this species.

An objective of the second area of research is to describe the sleep-wakefulness behavior of dolphins. One method of determining whether or not the animal is asleep will be to remove it from the water and apply a local anesthetic on certain areas of the head. Three small gauge electrodes will then be inserted to penetrate just below the blubber overlying the skull. The animals will then be placed in an enclosure and for several days the electrodes will transmit brain wave signals to a recorder while the breathing rate and vocalizations of the animal are monitored. The length of these investigations will be dependent on both the quality of the results and the health and well being of the animals.

The visual research studies will be conducted by two experiments. The first will be to make optical measurements on several of the animals much as they are made during routine eye examinations of humans. The second technique to be performed on some of the animals will involve anesthetizing them and taking electrical measures of the sensitivity of retina's color vision apparatus.

The applicants anticipate that up to ten of the requested animals will either succumb or need to be sacrificed in the course of the work. The other animals will be judged for their suitability to be tagged and released.

The requested animals will be maintained in one or more of the following enclosures. A pool measuring 60 feet long by 20 feet wide by 10 feet deep; two kidney-shaped pools 40 feet by 15 feet by 5 feet deep. A holding tank measuring 15 feet in diameter by 10 feet deep is also available. All of the facilities are supplied with fresh filtered sea water. Veterinary care will be provided to the animals when needed. The work proposed will be carried out over a three year period and the number of animals to be held at any one time will not exceed the capacity of the holding facilities.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above applications are available for review at the following locations:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on these applications on or before March 14, 1975, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are summaries based on information supplied by the Applicants and therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 3, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-3957 Filed 2-11-75;8:45 am]

LONG ISLAND GAME FARM, INC.

Issuance of Permit to Take Marine Mammals

On December 9, 1974, notice was published in the FEDERAL REGISTER (39 FR 42937), that an application had been filed with the National Marine Fisheries Service by Long Island Game Farm, Incorporated, Chapman Boulevard, Manorville, New York 11949, for a permit to take three (3) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on February 5, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above mentioned taking to Long Island Game Farm, Inc. subject to certain conditions set forth therein.

The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and in the Offices of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, and the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 5, 1975.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-3960 Filed 2-11-75;8:45 am]

MARINE ANIMAL PRODUCTIONS INC./ MARINE LIFE INC.

Notice of Receipt of Application

Notice is hereby given that the following applicants have applied in due form

for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Marine Animal Productions Inc./ Marine Life Inc., 150 Debuys Road, Biloxi, Mississippi 39531 to take eight (8) Atlantic bottlenosed dolphins (*Tursiops truncatus*) and ten (10) California sea lions (*Zalophus californianus*) for the purpose of public display.

The California sea lions will be taken by a professional collector from the California Channel Islands. The animals will be collected during the period of November to April.

The bottlenose porpoises will be collected in the waters between Mobile Bay and the mouth of the Mississippi River by means of a seine net by the staff of the Applicant.

Four dolphins and six sea lions will be maintained at facilities in Gulfport, Mississippi and Pigeon Forge, Tennessee. The animals will be held in three filtered salt water pools at Gulfport which have the following dimensions:

1. Main pool, 80 feet in diameter by 16 feet deep;
2. Stadium pool, 100 feet long by 30 feet wide by 10 feet deep with a sea lion haul out area of 20 feet by 45 feet;
3. Bay pool, 120 feet long by 55 feet wide by 10 feet deep.

The Pigeon Forge facility has two pools measuring 60 feet by 30 feet by 10 feet and 20 feet in diameter by 4 feet deep, respectively.

Four dolphins will be maintained at the Gulfport facilities and at Pontchartrain Beach, New Orleans, Louisiana. The Pontchartrain pool measures 50 feet long by 40 feet wide by 11 feet deep.

The animals are held at Gulfport during the winter months and transported by air to Tennessee and Louisiana for the summer months. Four of the requested sea lions will be maintained year-round at the Gulfport facility.

The animals will perform in a show of thirty minutes duration eight times a day. The display is for profit and expects some 130,000 visitors a year. Mr. Donald Jacobs, president of the corporations, has 15 years experience in marine mammal husbandry, the staff has experience in husbandry and training ranging from two years to 17 years. Regular veterinary care is available to the animals by a staff veterinarian.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described applications have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review at the following locations:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before March 14, 1975, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are summaries based upon information supplied by the Applicants and therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 5, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-3959 Filed 2-11-75;8:45 am]

DONALD B. SINIFF

Receipt of Application for a Scientific Research Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Donald B. Siniff, Associate Professor, Department of Ecology and Behavioral Biology, 223 Snyder Hall, University of Minnesota, St. Paul, Minnesota 55101, to collect biological data and materials from an unspecified number of dead seals killed by polar bears, and to collect biological data and materials from three-hundred fifty (350) ringed seals (*Pusa hispida*), two-hundred fifty (250) bearded seals (*Erignathus barbatus*) taken by native and Canadian Wildlife Service personnel along the northern coast of Canada each year.

The research activities will be conducted annually during April, May and June, from 1975 through 1977. The biological data will be collected by students in the Department of Ecology and Behavioral Biology of the University of Minnesota.

The purpose of the research is to collect data on polar bear/seal interactions in the Canadian Arctic and to attempt to establish the general status and dynamics of the seal populations involved. The data collected will be used to determine the age, sex, size, reproductive status, and other biological parameters. All of the biological material collected will be deposited with the Canadian Wildlife Service.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 within 30 days of the publication of this notice. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 7, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management National Marine Fisheries Service.

[FR Doc.75-3955 Filed 2-11-75;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Notice of Partially Closed Meeting

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, March 17 and 18, 1975. The Tuesday morning session will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration in a determination dated February 6, 1975, and cosigned by the Assistant General Counsel for Administration, and attached to this notice. Closure is necessitated by classified briefings on the development portion of the U.S. Navy's ocean science program. All other sessions will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 15th and Constitution Avenue NW, Washington, D.C. The closed session will be held in the Hoffman Building No. 2, conference room 8S11, 200 Stovall Street, Alexandria, Virginia.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971. Its duties are to (1) undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary

of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration. All members of the Committee have appropriate security clearances.

A general agenda contains the following topics:

MONDAY—OPEN, COMMERCE DEPARTMENT

9 a.m. to 5 p.m.—Discussion of topics for the Committee's fourth annual report including issues of coastal zone management and ocean resource development. General business including progress reports on the International Decade of Ocean Exploration study, civil/military weather operations, and the FCST study of capital structure supporting marine and atmospheric science.

TUESDAY—CLOSED, HOFFMAN BUILDING NO. 2

9 a.m. to noon—Security classified briefings on and discussion of the development portion of the U.S. Navy's ocean science program.

TUESDAY—OPEN, COMMERCE DEPARTMENT

1:30 p.m. to 5 p.m.—Additional discussion related to the fourth annual report.

The public is welcome at the Monday and Tuesday open session and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967-3343.

DOUGLAS L. BROOKS,
Executive Director.

DETERMINATION MADE PURSUANT TO SECTION 10(D) OF THE FEDERAL ADVISORY COMMITTEE ACT

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a regular meeting in Washington, D.C. on Monday and Tuesday, March 17 and 18, 1975. By memorandum of February 4, 1975, the Chairman of the Committee has requested that the morning session on Tuesday, the 18th be closed.

This session will be devoted to a continuation of classified briefings by the U.S. Navy on its ocean science program begun in December. At that time, the Committee was briefed on the basic research program; they will now hear about the development program. This briefing will require the presentation and discussion of security classified objectives supporting the Navy ocean science program and the use of security classified documents and briefing materials. Any nonclassified information will be so intermixed with the classified information that it is not feasible in any respect to separate them.

Pursuant to the authority delegated to me by the Secretary of Commerce, I find and determine that the morning session of the Tuesday meeting will be concerned with matters listed in Section 522(b)1 of Title 5, United States Code (specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order), and that the session may be closed to protect security classified information and documents, and to insure the free discussion thereof.

Dated: February 6, 1975.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

Dated: February 5, 1975.

ALFRED MEISNER,
Assistant General Counsel for Administration.

[FR Doc.75-3892 Filed 2-11-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 2811; Docket No. FDC-D-230;]
NDA 2-811]

CHORIONIC GONADOTROPIN

Follow-Up Notice and Opportunity for Hearing; Correction

In FR Doc. 74-28409, appearing in the issue of Thursday, December 5, 1974, the following corrections are made:

1. On page 42399, in the 10th line of paragraph "7" in the third column, "patient" is changed to read "patients".

2. On page 42400, the 36th line from the top of the second column reading "blood androgens in thus an extremely" is changed to read "blood androgens is thus an extremely" and the 39th line reading "recognized that cancer of the prostate" is changed to read "recognize that cancer of the prostate".

3. (a) On page 42402 for the sixth line of the second paragraph in the first column, the type size for the sentence which begins, "HCG has no known effect * * *" and continues through the rest of that paragraph and the next, is changed to all capital letters so that the affected text reads as follows:

"* * * HCG has no known effect on fat mobilization, appetite or sense of hunger, or body fat distribution.

INDICATIONS

HCG has not been demonstrated to be effective adjunctive therapy in the treatment of obesity. There is no substantial evidence that it increases weight loss beyond that resulting from caloric restriction, that it causes a more attractive or "normal" distribution of fat, or that it decreases the hunger and discomfort associated with calorie-restricted diets."

(b) The type size for the last complete paragraph of the third column is changed to all capital letters so that the affected text reads as follows:

"HCG has not been demonstrated to be effective adjunctive therapy in the treatment of obesity. There is no substantial evidence that it increases weight loss beyond that resulting from caloric restriction, that it causes more attractive or 'normal' distribution of fat, or that it decreases the hunger and discomfort associated with calorie-restricted diets."

Dated: February 4, 1975.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.75-3890 Filed 2-11-75;8:45 am]

SILVER-PLATED HOLLOWWARE

Request for Information and Data

At a public meeting held January 9, 1975, the Bureau of Foods requested submission to the Food and Drug Administration of certain information which is needed as a basis for regulatory action with regard to silver-plated hollowware. The purpose of this notice is to outline the problem and to delineate the information desired. It is requested that the information be received by the Food and Drug Administration on or before March 1, 1975.

On June 13, 1974, the Dallas District Office of the Food and Drug Administration received a request from the Army and Air Force Exchange Service to analyze silver-plated cups and goblets sold worldwide in post exchanges. Analyses confirmed excessive levels of leachable lead in the articles examined. (FDA currently takes regulatory action against ceramic dinnerware when the lead content of a leaching solution exceeds 7 parts per million (ppm) after testing of the dinnerware in accordance with the method described in the Journal of the Association of Official Analytical Chemists 56, 483 (1973). This same method was employed by the Food and Drug Administration in testing the silver-plated hollowware.) Follow-up examinations by the FDA Boston District home district for the importer, revealed a lead content of leaching solution averaging from 29.5 ppm to 171.0 ppm. The items analyzed included imported goblets, brandy snifters, and baby cups. Because of a greater potential hazard (i.e., involving repeated use by infants and young children), a recall was implemented for the baby cups which leached more than 7 ppm lead as determined by the testing method.

Subsequent to the baby cup recalls, an import alert was issued to all field installations to check all imported silver-plated hollowware for excessive leachable lead. Additionally, efforts were made to determine whether domestic silver plate leached lead. Between July 1974 and December 1974, FDA examined some 90 different silver-plate articles including baby cups, tankards, coffee sets, tea sets, goblets, salad bowls, gravy bowls, and serving trays. These analyses included articles imported from five countries as well as articles manufactured in the United States. Leachable lead values ranged from none detected to 316 ppm lead in the leaching solution. Those articles leaching lead in excess of the 7 ppm guideline used for ceramic dinnerware

appeared to come primarily from the United States and from one exporting country. Some of the apparent sources of lead were the base metals, spouts, and fluxes used to manufacture the hollowware.

This limited survey indicates that the excessive leaching of lead from silver-plated hollowware is not limited to a few manufacturers but is potentially widespread throughout the silver-plate industry, both domestic and foreign. Thus, an announced public meeting was held on January 9, 1975 with the principals of the silver-plate industry, including importers, exporters, and manufacturers, the purpose of which was to determine the necessary corrective procedures to be implemented to assure consumer protection from excessive exposure to lead. At the meeting FDA provided an overview of the problem of leachable lead in silver-plated hollowware and requested industry to provide information on the technology of silver-plate manufacture and other necessary information to enable the Food and Drug Administration to resolve the problem. Detailed presentations were made by members of FDA which dealt with the subjects of human lead intakes and toxicity, history of FDA's activities concerning heavy metals in ceramic dinnerware and its relevance to silver-plated hollowware, the acidity of various foods, and the scope and results of FDA's survey of silver-plated hollowware. Representatives of the industry outlined some recent technology changes aimed at solving the problem and their economic impact. The appropriateness of FDA's test procedure as applied to all silver-plated hollowware was also discussed.

At the meeting it was agreed that the industry attendees would compile information of the type solicited in this announcement, and report such information to the Food and Drug Administration by March 1, 1975.

The minutes of the meeting along with other relevant background material are on file in the office of the Hearing Clerk and may be examined by any interested person.

An ad hoc committee of experts in pediatric lead toxicity appointed by the Department of Health, Education, and Welfare has suggested that 300 micrograms of lead per day to be the maximum daily permissible intake from all sources for children between 1 and 3 years of age. The maximum permissible daily intake of lead for infants is not precisely known; however, on the basis of a smaller body size alone it must be assumed to be less than the figure of 300 micrograms per day established for children. The levels found in the survey do represent a significant health hazard for adults on the basis of the expected infrequent use rate of most of the articles offered for adult use. However, utilizing the ad hoc committee's guidelines, repeated use by infants or children of cups, bowls, etc., which leach such high levels of lead would pose a chronic health hazard, not only because repeated use of the articles would result in a greater level of exposure but also because infants and children are much more susceptible than adults to brain damage from lead, and because infants and children absorb about five times as much of the lead ingested as do adults. However, highly frequent use of silver-plated hollowware items leaching high levels of lead may pose a serious health hazard to adults.

To ensure that all pertinent safety and technological information is considered, this notice solicits from all possible sources information in response to the following questions concerning silver-plated hollowware:

1. What materials are currently used to fabricate domestic and imported silver-plated hollowware and what is the lead content of each?

a. *Primary materials* (components of finished article).

Base metals (brass, nickel-silver, etc.).
Attachments (spouts, handles, etc.).
Solders.
Silver plate.
Others.

b. *Secondary materials* (not part of the finished article, but used in fabrication).

Fluxes.
Electrolytes.
Mold materials (sand, etc.).
Processing aids.
Others.

2. In each of the materials above:

a. Is lead intentionally included or is it an unwanted impurity?

b. Is recycled material used?

c. What quality control is undertaken with particular regard to lead content?

3. Which of the materials above are likely to result in lead contamination of foods?

4. What is the present range of silver plate thickness, and how has this changed over the years? Is the silver layer:

a. Uniform (e.g., inside versus outside surfaces, edges, etc.)?

b. Impermeable (i.e., continuous and nonporous)?

c. Attacked by any food and beverage components? If so, to what extent?

d. Ever coated with polymeric (e.g., lacquer) materials? If so, identify materials, methods of application, and thickness.

5. Which of the lead sources would be most difficult to eliminate technologically and why?

6. What would be the social and economic consequence of eliminating leachable lead from any of the sources above?

7. List the silver-plated hollowware items currently on the U.S. market and categorize them as follows:

a. Commonly used to contain liquids.

b. Could conceivably be used to contain liquids or liquid-coated foods (salad with dressing, pickles, etc.)

c. Used to contain or measure liquids but always for a brief period of time.

d. Never used to contain liquids or liquid-coated foods.

8. Submit available data on leaching of lead to foods or other leaching media as compared to the regulatory test medium of 4 percent acetic acid (presently used for ceramic dinnerware). Submit details of analytical methods used and name of laboratory which performed the analyses.

9. Any other pertinent data, or recommendations for solving the problem at hand, will be welcome.

This information will be used to determine the scope of the problem and to establish appropriate regulatory control mechanisms for leachable lead in silver-plated hollow ware to ensure that the consuming public is not exposed to excessive levels of lead.

All information and data should be sent to the Associate Director for Technology, HFF-400, Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204. To assure full consideration, such information should be mailed or otherwise transmitted in time to be received by the Food and Drug Administration by March 1, 1975.

The Commissioner urges the cooperation of all segments of the public in this important work.

Dated: February 6, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-3889 Filed 2-11-75;8:45 am]

Health Services Administration

HEALTH MAINTENANCE ORGANIZATIONS

Applications for Federal Financial Assistance

On November 27, 1974, there was published in the FEDERAL REGISTER (39 FR 41390-91) a notice announcing deadlines for the submission of applications for assistance under the Health Maintenance Organization Act of 1973 (42 U.S.C. 300e et seq.). This notice establishes modified procedures and revised deadlines for the submission of such applications. The Health Services Administration will now distinguish between projects which have been funded under the Health Maintenance Organization Act and projects which have not been so funded, as follows:

New Projects. Applications for the support of HMO projects not previously funded under the Health Maintenance Organization Act must be submitted to the appropriate DHEW Regional Office in accordance with the following schedule in order to be considered for funding during fiscal year 1975:

Deadline for Submission of Applications	*Anticipated Date of Award*
Feb. 3, 1975	Apr. 30, 1975.
Apr. 1, 1975	June 30, 1975.

It is anticipated that the schedule of funding cycles for fiscal year 1976 will be published three months prior to the first deadline for submission of applications thereunder.

Projects Previously Funded Under the Health Maintenance Organization Act. In order to respond to the different rates of progress of HMO feasibility, planning, and initial development projects, and to different beginning dates of initial operations, the Health Services Administration will accept and consider applications for continuation funding, or for funding of subsequent levels of progress, on an individual basis, as completion of the appropriate activities under the previously funded projects is demonstrated. It is

estimated that a 13-week review period will be required between the receipt of such applications and final action on their approval.

Dated: February 5, 1975.

ROBERT VAN HOEK,
Acting Administrator, Health Services Administration.

[FR Doc.75-3847 Filed 2-11-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX75-6; Notice 1]

MOTOR COACH INDUSTRIES, INC.

Temporary Exemption from Federal Motor Vehicle Safety Standards

Motor Coach Industries, Inc. of Pembina, North Dakota, has applied for a temporary exemption from Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, on the basis that compliance would cause it substantial economic hardship.

Petitioner, a subsidiary of Greyhound Corporation, manufactured 620 buses in 1974. It builds the Challenger Model MC-5B (50 produced in 1974), a 35-foot two-axle intercity coach, and the Crusader Model MC-8 (570 produced in 1974), a 40-foot three-axle intercity coach. This vehicle will also be produced by another Greyhound subsidiary, Transportation Manufacturing Corporation, a new entity, to whom the exemption would also be given. Motor Coach requests an exemption of two months, until May 1, 1975, for MC-5B vehicles as its supplier of axles and anti-skid components is unable to furnish parts necessary for conformity by March 1, 1975, the effective date of the standard. An exemption of 12 months, until March 1, 1976, is requested for the MC-8 vehicles for the reason that the company is experiencing repetitive failure of the third axle anti-skid computer. Petitioner requires the additional time "to analyze the problem created by a lightly loaded third axle with each trailing wheel carrying only 3,000 pounds maximum." Failure to obtain the exemption for the MC-5B would result in a loss of production of 20 vehicles, estimated at $1,400,000 plus interest. The petitioner's net income for the first 11 months of 1974 was $1,438,000. Losses would also include start-up costs of $200,000, and the lay-off of workers for 60 days. If an exemption for the MC-8 is not granted, the petitioner will encounter sizable warranty costs on its production of four vehicles a day, until the third axle computer is perfected. Thus, the granting of the exemption, by insuring uninterrupted employment and the implementation of mass transit programs, is, in the petitioner's view, in the public interest.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Motor Coach Industries, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date. February 21, 1975.

Proposed effective date. March 1, 1975.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on February 6, 1975.

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

[FR Doc.75-3914 Filed 2-7-75;1:42 am]

Federal Railroad Administration

[FRA Waiver Petition No. HS-75-4]

FORE RIVER RAILROAD CORPORATION

Petition for Exemption From Hours of Service Act

The Fore River Railroad Corporation has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. Secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-4, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 12, 1975, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on February 7, 1975.

DONALD W. BENNETT,
Chief Counsel, Federal Railroad Administration.

[FR Doc.75-3963 Filed 2-11-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 27423, 27425, 26310, Order No. 75-2-31]

OZARK AIR LINES INC.

Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of February, 1975.

In the matter of rules relating to the acceptance and carriage of live animals proposed by Ozark Air Lines, Inc.

Rules and practices relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation.

By tariff revisions[1] marked to become effective February 7, 1975, Ozark Air Lines, Inc. (Ozark) proposes to establish various rules which set forth the terms, conditions, and other provisions governing the acceptance of live animals for transportation.

Specifically, Ozark proposes, among other things, to refuse to accept on passenger aircraft any single piece of a shipment where the gross weight of the animal and container is in excess of 200 pounds (Rule 19(A)(4)); to refuse to accept on any aircraft shipments of poisonous snakes, poisonous lizards, or other poisonous reptiles (Rule 19(A)(1)); and to establish packaging standards for nonpoisonous reptiles (Rule 19(C)(6)(e)).

Complaints have been filed requesting rejection, or in the alternative, suspension pending investigation, by the Pet Industry Parties (PIP), and jointly by the American Association of Zoological Parks and Aquariums (AAZPA) and the Zoological Action Committee, Inc. (Zoo-Act). The complainants variously allege, inter alia, that the proposed rule prohibiting shipments containing a single piece in excess of 200 pounds conflicts with and duplicates another rule which provides that Ozark would accept, subject to advance arrangements, shipments with pieces weighing in excess of 200 pounds; that the carrier's justification is inadequate; that the 200-pound limit places an impossible burden on shippers and effectively precludes the domestic movement of exotic animals by air; and that the live-animal restrictions involve a limitation on the carrier's common-carrier obligation, and it is improper for the carrier to attempt to alter its live-animal acceptance provisions while such rules are currently under investigation by the Board in Docket 26310.

In support of its proposal and in answer to the complaints, Ozark asserts, inter alia, that this filing is designed to comply with objections and suggestions of shippers and others; to comply with Federal Aviation Administration Regulations; and to set forth provisions for the transportation of live animals which are just and reasonable, and, for the most part, are already in effect for other carriers. Furthermore, Ozark asserts that, with respect to Rule 19(A)(1), it has merely sought to join with Delta Air

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96.

Lines, Inc. (Delta) in a rule which is already effective; that the shipment by air of poisonous reptiles is not in the public interest and poses a real and present hazard to other live-animal shipments and employees of the carriers and shippers; that rules similar to 19(A)(4) are already contained in Rule 19 and the carrier is only trying to follow a recognized practice and has chosen a limitation which is consistent with the capabilities of its aircraft and ground-handling facilities and equipment; that in arriving at the proposed 200-pound limit, it has taken into account the capacity of its aircraft in relation to available cargo space; and that proposed Rule 19(C)(6)(e) does not differ substantially from existing sections of the rule; however, in the interest of conformity and in an attempt to lessen the proliferation of rules, it is willing to join with Delta and Trans World Airlines, Inc. (TWA) in existing Rule 19(C)(6)(b).

All of the proposed rules come within the scope of the investigation in Docket 26310, *Rules and Practices Relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation*, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The establishment of a 200-pound limit per piece and the refusal to accept poisonous reptiles represent, in our opinion, a significant decrease in Ozark's common-carrier obligation, and would represent a significant difference from typical industry tariff provisions. We see no valid basis for Ozark's 200-pound limitation, which would single out live animals while permitting other commodities to be handled based on the capacity of the carrier's facilities. No other carrier has the same limitation in effect.

It should be noted that Ozark, as well as all other carriers, participates in the advance-arrangement rule which provides that all shipments with pieces weighing in excess of 200 pounds are subject to advance arrangements. This rule, in our opinion, gives the carrier sufficient flexibility to plan use of its aircraft or other facilities in advance.

It also appears that the proposed refusal to accept poisonous reptiles is unreasonable. Ozark states that Delta Air Lines, Inc. (Delta) has the same restriction in effect in its tariff, as a result of the Board's "approval." The fact is, however, that Delta's provision (as well as a complete refusal to accept all live snakes by Trans World Airlines, Inc.) became effective after suspension by the Board, Order 74–1–79, January 14, 1974, when the 180-day suspension period expired.

The establishment of packing requirements for reptiles, on the other hand, does not appear significantly different from those currently in effect for other carriers, and we will not suspend them, pending investigation.

Consistent with the above, and upon consideration of the complaints and all other relevant factors, the Board finds that Ozark's proposals excluding poisonous snakes and other poisonous reptiles from carriage in Rule 19(A)(1) and establishing a 200-pound per piece limit on animal shipments in Rule 19(A)(4) should be suspended pending investigation.[2] The remaining proposal of Ozark will be permited to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, that:

1. Pending hearing and decision by the Board, the provisions in Rule Nos. 19(A)(1) and 19(A)(4) applicable to the carrier OZ on 8th Revised Page 10–C of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96, are suspended and their use deferred to and including May 7, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of the Pet Industry Parties in Docket 27425 and American Association of Zoological Parks and Aquariums and the Zoological Action Committee, Inc. in Docket 27423 are dismissed; and

3. Copies of this order shall be filed with the tariff and served upon the American Association of Zoological Parks and Aquariums, and the Zoological Action Committee, Inc., which are hereby made parties to Docket 26310.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75–3969 Filed 2–11–75;8:45 am]

[Docket 27156]

LOYAL-AIR LTD.

Small Aircraft Permit Application; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 27, 1975, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before February 17, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., February 7, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75–3966 Filed 2–11–75;8:45 am]

CAPACITY REDUCTION AGREEMENTS CASE

[Docket 22908]

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on March 5, 1975, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., February 7, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75–3967 Filed 2–11–75;8:45 am]

[Dockets 24626, 27075; Order 75–2–33]

EASTERN AIR LINES, INC.

Order Granting Exemption and Setting Application for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of February 1975.

Application of Eastern Air Lines, Inc., for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended—Docket 24626.

Application of Eastern Air Lines, Inc., for amendment of its certificate of public convenience and necessity for route 5—Docket 27075.

By application filed August 12, 1974, Eastern Air Lines, Inc. (Eastern), requests renewal of its present exemption authority to provide a single round-trip flight on a Pittsburgh-Atlanta-Jamaica routing for an additional period of 2 years.[1]

In support of its application, Eastern alleges, *inter alia*, that order 74–1–12 (later extended by order 74–5–127)[3] per-

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[1] By order 72–4–150, Mar. 10, 1972, the Board authorized Eastern to provide Atlanta-Jamaica service (*Chicago/Atlanta-Jamaica Service Investigation*). Condition 6 of route 5 (now condition 5(b)) requires that all Pittsburgh-Atlanta schedules originate or terminate in Toronto. By order 72–9–118, Sept. 29, 1972, Eastern was exempted from the provisions of its certificate for route 5 so as to permit it to provide one daily Buffalo-Pittsburgh-Atlanta-Jamaica round trip. Subsequently, by order 74–1–12, Jan. 2, 1974, the Board amended order 72–9–118 to authorize Eastern to discontinue a single daily round-trip flight between Pittsburgh and Buffalo on its Buffalo-Pittsburgh-Atlanta-Jamaica service. By order 74–5–127, May 24, 1974, the authority granted in order 74–1–12 was extended until Dec. 12, 1974, Eastern has invoked the automatic extension provisions of 5 U.S.C. 558(c).

[3] Both orders were predicated upon the need to conserve fuel; however, Eastern does not base its present applicaton upon consideration of fuel conservation.

[2] The Board can find no basis upon which to reject Ozark's filing.

mitted Eastern to operate one daily round trip on a Pittsburgh-Atlanta-Jamaica routing, and Eastern began such service in January soon after it was authorized (flights 988 and 989); that prior thereto, beginning in December 1972 Eastern provided service over a Buffalo - Pittsburgh - Atlanta - Jamaica routing, as authorized in order 72-9-118 (see footnote 1, *supra*); that the Buffalo-Pittsburgh segment of these flights was poorly patronized during 1973; that there is sufficient alternative service available in the affected markets; and that the circumstances which led the Board to grant Eastern relief from the Toronto long-haul restriction remain valid today. The carrier also stated that compliance with condition 5 of its certificate would (1) result in an additional expense of $500,000 for the Toronto-Buffalo segment; (2) necessitate changing the number of the flight at Atlanta;[3] (3) require operation of the Buffalo-Pittsburgh segment, resulting in an estimated loss of $468,000 in 1975; and (4) burden Eastern's ability to continue to provide uninterrupted service from Pittsburgh to Jamaica via Atlanta.

United Air Lines, Inc. (United), filed a motion for leave to file an unauthorized document,[4] together with an answer in opposition to Eastern's request, stating that Eastern's application represents an attempt to eliminate condition 5 from Eastern's route 5 for an extended period of time all without economic justification or the showing of a public need; that Eastern has not met the statutory standards for exemption under the Act; that enforcement of condition 5 would not cause the public to lose the convenience of a daily Jamaica flight originating and terminating at Pittsburgh; that it appears that Eastern is more concerned with Pittsburgh-Atlanta and beyond traffic than with the Pittsburgh-Jamaica traffic as it alleges; that the proposed elimination of Eastern's long-haul certificate restriction will have a serious economic impact on United; and that Eastern has failed to submit adequate economic justification for the exemption sought.

Eastern filed a reply to United's answer stating that: authority to operate a single daily flight over a Pittsburgh-Atlanta-Jamaica routing is narrower than the relief initially granted by the Board over United's objection in order 72-9-118; contrary to United's assertion, enforcement of condition 5 would mean that Eastern's Jamaica flights would miss the Atlanta connecting complex, resulting in the loss of connecting traffic support for its Atlanta-Jamaica operations and inconvenience Jamaica connecting passengers; the purpose of its application is to eliminate the uneconomic and unnecessary portions of flights which would otherwise hinder its Pittsburgh-Atlanta-Jamaica service; renewal will have no competitive impact on the Pittsburgh-Atlanta market, since the level of Eastern's service will remain unchanged; and United's claim that Eastern has failed to submit adequate economic justification for the requested exemption is groundless.

Subsequently, on October 7, 1974, Eastern filed a certificate application in docket 27075 to permanently authorize unrestricted service between Pittsburgh and Jamaica via Atlanta. Contemporaneously therewith the carrier filed a motion for leave to amend its exemption application,[5] together with a supplement to the latter application, stating that: since Eastern now is the designated U.S.-flag carrier for the Toronto-Pittsburgh nonstop route under the new United States-Canada bilateral agreement, a stop at Buffalo is no longer required on flights between Toronto and Pittsburgh; however, Eastern cannot combine nonstop Toronto-Pittsburgh operations with its existing Pittsburgh-Atlanta-Jamaica flights and still maintain its present Pittsburgh/Atlanta-Jamaica service; compliance with condition 5 would therefore force Eastern to institute an additional Toronto-Pittsburgh nonstop round trip and to incur more than $782,000 in needless operating expenses without the benefit of any added revenue support; the addition of the Toronto-Pittsburgh nonstop route does not change those provisions which prohibit the advertising of Toronto-Jamaica flights and require a change of flight number at Atlanta; and there would be no need for another nonstop flight in the local Toronto-Pittsburgh market, since Eastern's December 3rd schedules include four daily round-trip nonstop flights. The carrier requests that grant be for a period of 2 years commencing December 12, 1974 or until 90 days after final decision on its certificate application for similar relief in docket 27075, whichever occurs first.

United filed an answer to Eastern's amendment, and Eastern filed a reply to United's answer.

Upon consideration of the pleadings and all the relevant facts, we have decided to (1) set Eastern's certificate application in docket 27075 for hearing and (2) renew Eastern's present Pittsburgh-Atlanta-Jamaica authority for an additional 2-year period, or until 90 days after final decision on its certificate application in docket 27075, whichever should first occur.

We believe that the public interest would best be served by renewing Eastern's present Pittsburgh-Atlanta-Jamaica exemption authority, pending an investigation of the need for permanent certificate authority in a formal proceeding. None of the arguments advanced by United persuade us to the contrary. The service which Eastern plans to provide—a single daily round trip—will be extremely limited in scope and does not have the effect of eliminating condition 5 from Eastern's route 5. In addition, the level of Eastern's Pittsburgh-Atlanta service will remain unchanged, so that any adverse competitive impact on United will not result from the exemption granted herein.

The effect of enforcing condition 5(b) of route 5 of Eastern's certificate would be to require the proposed Pittsburgh-Atlanta-Jamaica flight to operate beyond Pittsburgh to Toronto.[6] The long-haul restriction on Eastern's Pittsburgh-Atlanta authority was imposed in order to keep Eastern from competing on a turnaround basis with United, the unrestricted incumbent in the market. Although this question will be resolved at the hearing on the requested certificate amendment, it appears that a Pittsburgh-Atlanta flight serving a point as distant as Jamaica serves precisely the same purpose as a restriction requiring such flights to serve Toronto (which actually is considerably closer to Pittsburgh than Jamaica is to Atlanta). Moreover, there has been no showing of any need for service to Toronto on the proposed flight. The Toronto-south markets involved are all amply served, and it appears that they will be only minimally affected by Eastern's proposed Pittsburgh-Atlanta-Jamaica flight. In addition, the marketability of the flight in relation to Toronto-Jamaica service cannot be improved because the United States-Canada bilateral prohibits the advertising of Toronto-Jamaica flights and requires a change of flight number at Atlanta. Enforcement of condition 5 would cause Eastern's proposed flight to Jamaica to be uneconomic, and since condition 5 was not designed to limit Eastern's operations in United States-Jamaica markets, this result is unduly burdensome. Furthermore, certification proceedings could not be completed in time to permit Eastern to conduct its proposed services. Under all these circumstances, the Board concludes that enforcement of section 401 of the Act and the terms, conditions, and limitations of Eastern's certificate, to the extent that it would prevent the limited authority granted herein, would be an undue burden on the carrier by reason of the limited extent of, and unusual circumstances affecting, the carrier's operations, and would not be in the public interest.

During the past few years the Board has acted with caution in setting for hearing certificate amendment applications where it appeared that grant of the application would increase or intensify

[3] The Canadian bilateral prohibits the advertising by Eastern of Toronto-Jamaica service and requires that Eastern change the flight number of the proposed service at Atlanta.

[4] We will grant the motion.

[5] We will grant the motion.

[6] At the time order 72-9-118 was issued, Eastern could not provide Pittsburgh-Toronto nonstop service, but only nonstop authority between Buffalo and Toronto. Thus, the practical effect of condition 5(b) was to require that both Buffalo and Toronto be served on all Pittsburgh-Atlanta flights and, consequently, there were references in order 72-9-118 to Buffalo service. As a result of the recent amendments to the United States-Canada bilateral, Eastern can operate between Toronto and Pittsburgh (see also condition 3 of Eastern's route 148). Since the carrier could now operate Toronto-Pittsburgh-Atlanta-Jamaica service, we will not consider the need for service to Buffalo on the proposed flight.

competition among domestic air carriers. This course has been occasioned by depressed economic conditions in air transportation following a period of rapid expansion and, more recently, by the need to conserve scarce fuel. It has also to some extent been influenced by unusual demands upon the time of the Board's staff in fare and rate matters, *e.g.*, in the recently completed *Domestic Passenger-Fare Investigation*. Undoubtedly this course can be expected to change as the relevant circumstances change, and it goes without saying that the Board has a continuing duty to address those situations where it becomes apparent that there are legitimate needs for additional or improved air service which are not being met.[7] Moreover, it does not appear from the present pleadings that grant of Eastern's application would significantly increase or intensify competition, for the reasons stated in the preceding paragraphs, or would increase overall capacity; and indeed it appears likely that a net savings in fuel would result. Of course such questions, like others, will be ultimately determined on the record at the hearing.

We have determined that the proceeding instituted herein is by its very nature not one which could lead to 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 of 1969 (NEPA). In a case such as the instant one all prospective environmental effects, direct and secondary, proceed in the first instance from changes in aircraft schedules and levels of service. Our conclusion in regard to the environment is largely based, therefore, upon our findings that there are unlikely to be environmentally significant changes in such schedules and service levels should unrestricted Pittsburgh-Atlanta-Jamaica service be authorized. In its application for exemption authority in docket 24626, Eastern proposes the operation of a single daily Pittsburgh-Atlanta-Jamaica round trip. In view of the size of the Pittsburgh/Atlanta-Jamaica markets (less than 20,000 O&D passengers for calendar year 1973) and the level of existing service,[8] it is unlikely that Eastern would offer significantly more service. Such a service change must be placed against the large overall level of traffic at Pittsburgh and Atlanta. In 1973 there were 210,885 and 96,348 certificated carrier aircraft departures at Atlanta and Pittsburgh, respectively.[9] Therefore, it is unreasonable to suppose on the face of the matter that authorization of unrestricted Pittsburgh-Atlanta-Jamaica service will lead to more than very minor environmental changes.

Accordingly, we are not directing our staff to undertake the preparation of an environmental assessment. Our conclusion herein is not intended to foreclose any party from presenting evidence (subject to the usual evidentiary rules in force in CAB proceedings) or from making arguments with respect to relevant environmental issues. Nor is our conclusion intended to foreclose our consideration of environmental impacts resulting from the contemplated licensing action which, although of a lesser magnitude than those required to trigger the NEPA procedures, might nonetheless be relevant to our decision.

Accordingly, it is ordered, That:

1. The application of Eastern Air Lines, Inc., in docket 27075 for amendment of its certificate of public convenience and necessity for route 5 be and it hereby is set for hearing at a time and place to be hereafter designated;

2. The hearing shall consider the issue of whether the public convenience and necessity require that Eastern's certificate be altered, amended, or modified so as to authorize the carrier to engage in turn-around air transportation between Pittsburgh, Pa., and Jamaica, via Atlanta, Ga.;

3. Eastern Air Lines, Inc., be and it hereby is temporarily exempted from section 401 of the Act, and the terms, conditions, and limitations of its certificate of public convenience and necessity for route 5, to the extent necessary to permit it to operate one daily round trip on a Pittsburgh-Atlanta-Jamaica routing:

4. The authority granted in paragraph 3 above shall be effective on the date of this order and shall continue in effect for a period of 2 years or until 90 days after final decision on its certificate application in docket 27075, whichever shall first occur;

5. The motions of United Air Lines, Inc., and Eastern Air Lines, Inc., for leave to file an unauthorized document and for leave to amend the application be and they hereby are granted;

6. This authority may be amended or revoked at any time in the discretion of the Board without hearing; and

7. This order shall be served on Eastern Air Lines, Inc.; United Air Lines, Inc.; Allegheny Airlines, Inc.; Braniff Airways, Inc.; Trans World Airlines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; Piedmont Airlines, Inc.; Southern Airways, Inc.; Pan American World Airways, Inc.; American Airlines, Inc.; National Airlines, Inc.; Governor, State of Pennsylvania; Governor, State of Georgia; Mayor, City of Pittsburgh; Mayor, City of Atlanta; Airport Manager, Hartsfield International Airport; Airport Manager, Greater Pittsburgh Airport; the Postmaster General; the Departments of the Interior, Transportation, Commerce, Health, Education, and Welfare, and State; the National Aeronautics and Space Administration; the Environmental Protection Agency; the Council on Environmental Quality; and the Federal Aviation Administration.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-3971 Filed 2-11-75;8:45 am]

[7] In this connection, it may be noted that the public is currently being asked to comment on a Domestic Route Study, prepared by the Board's Bureau of Operating Rights, which explores potential service needs during the next decade and suggests possible future standards for setting route cases for hearing. This study, however, has not to date been adopted or endorsed by the Board, nor has the Board determined to defer all consideration of present service needs until a long-term study is completed and a decision is reached as to what new general standards, if any, are needed in this area, which is presently governed by section 399.60 of the Board's Policy Statements.

[8] Except for Eastern's proposed flight, only connecting flights are offered in the Atlanta/Pittsburgh-Jamaica markets.

[9] *Airport Activity Statistics of Certificated Route Air Carriers*, 12 months ended Dec. 31, 1973.

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, March 19, 1975. This meeting will be held in room 3314 of the U.S. Civil Service Commission building, 1900 E. Street, N.W., and will consist of continued discussions on the fiscal year 1976 comparability adjustment for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

FRED W. HOHLWEG,
Acting Advisory Committee Management Officer for the President's Agent.

[FR Doc.75-3943 Filed 2-11-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director of Education Programs, Office

of Education Programs, Bureau of Indian Affairs.

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3944 Filed 2-11-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director, Office of Water Resources Research, Office of the Assistant Secretary for Land & Water Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3945 Filed 2-11-75;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Appeals & Civil Litigation Section, Internal Security Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3946 Filed 2-11-75;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Criminal Section, Tax Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3947 Filed 2-11-75;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Chief, Criminal Section, Internal Security Division.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3948 Filed 2-11-75;8:45 am]

DEPARTMENT OF JUSTICE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Director, Office of Justice Policy and Planning, Office of the Deputy Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3949 Filed 2-11-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the National Foundation on the Arts and the Humanities to fill by noncareer executive assignment in the excepted service the position of Director, Office of Program Development and Coordination, National Endowment of the Arts.

UNITED STATES CIVIL SERVICE COMMISSION
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3950 Filed 2-11-75;8:45 am]

VETERANS ADMINISTRATION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Assistant Deputy Administrator, Office of the Assistant Deputy Administrator, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3951 Filed 2-11-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Title Change in Noncareer Executive Assignment

By notice of August 16, 1969, FR Doc. 69-9708 the Civil Service Commission authorized the Department of Transportation to make a change in title for the position of Director of Public Affairs, Federal Aviation Administration, Office of Public Affairs, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Assistant Administrator for Information Services, Federal Aviation Administration, Office of Public Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3952 Filed 2-11-75;8:45 am]

DEPARTMENT OF THE TREASURY

Title Change in Noncareer Executive Assignment

By notice of November 8, 1973, FR Doc. 73-23796 the Civil Service Commission authorized the Department of the Treasury to fill by noncareer executive assignment the position of Deputy Assistant Secretary (Tariff and Trade Affairs), Office of the Deputy Assistant Secretary (Tariff and Trade Affairs); Office of the Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary (Tariff Affairs); Office of the Deputy Assistant Secretary (Tariff Affairs); Office of the Assistant Secretary for Enforcement, Operations, and Tariff; Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-3953 Filed 2-11-75;8:45 am]

DEFENSE NUCLEAR AGENCY

ADVANCED MISSILE MATERIALS RESEARCH GROUP

Meeting

The next meeting of the Advanced Missile Materials Research (AMMRES) Group, sponsored by the Defense Nuclear Agency (DNA), will be held during the period 10-11 March 1975 at R&D Associates, 525 Wilshire Boulevard, Santa Monica, California. AMMRES members will evaluate MIGHTY EPIC (which is a future underground test at the Nevada Test Site) advanced materials proposals. Since all of the MIGHTY EPIC proposals contain classified information, the meeting will be closed to the public under the provisions of sections 552(b)(1) and (3) of Title 5, United States Code.

J. F. MOULTON, Jr.,
Chief,
Aerospace Systems Division.

[FR Doc.75-3939 Filed 2-11-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 332-6; OPP-32000/187]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before April 14, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after April 14, 1975.

Dated: February 4, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 9854-G. Air-Tite Products Co., Inc., 1483 Washington, Ave., Vineland NJ 08360. AIR-TITE ALGAE CONTROL SOLUTION CONCENTRATED SWIMMING POOL ALGAECIDE. Active Ingredients: Alkyl (61% C12, 23% C14, 11% C16, 5% C8-C18) Dimethyl Benzyl Ammonium Chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 36118-R. Amchlor Corp., Pool Chem. Div. of Amato Solvents, Inc., 9120 Talbot Ave., Silver Spring MD 20910, AMCIDE. Active Ingredients: N-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 8.40%; N-dialkyl (60% C14, 30% C16, 5% C12, 5% C18) methyl benzyl ammonium chloride 1.60%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 35378-U. Aqua/Process Chem., 2408 Yorktown #178, Houston TX 77027. S-73 MICROBIOCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 6248-RE. Black Magic Co., PO Box 16453, Jacksonville FL 32216. BLACK MAGIC FLEA & TICK POWDER. Active Ingredients: Carbaryl (1-Naphthyl N-Methylcarbamate) 5.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 8506-RN. Blaine Chem., 1005 N. Coleman St., Hobbs NM 88240. BLAINE'S PINE ODOR DISINFECTANT COEF. 13. Active Ingredients: Isopropanol 9.50%; Pine oil 7.90%; Alkyl (C14 58%, C15 28%, C12 14%) dimethyl benzyl ammonium chloride 3.95%. Method of Support: Application proceeds under 2(c) of interim policy, PM31

EPA File Symbol 2914-UA. Calgon Commercial Div., 7501 Page Ave., St. Louis MO 63166. SMS-422 ACID CLEANER SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 4318-LU. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. CARROLL QUAT SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35495-R. Chemax Inc., 2106 N.W. 24th Ave., Portland OR 97210. 474 DISINFECTANT - SANITIZER - FUNGICIDE-DEODORIZER. Active Ingredients: Alkyl (C14 60%, C16 30%, C12 5%, C13 5%) Dimethyl Benzyl Ammonium Chlorides 5.0%; Alkyl (C12 68%, C14 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35893-R. Chemical Packaging, Inc., 1196 E. 152nd St., Cleveland OH 44140. SANICIDE DISINFECTANT-SANITIZER-FUNGICIDE - DEODORIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35893-E. Chemical Packaging, Inc. LIQUASAN. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35893-G. Chemical Packaging, Inc. SURGITEX. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 0.950%; Dioctyl Dimethyl Ammonium Chloride 0.475%; Didecyl Dimethyl Ammonium Chloride 0.475%; Tetrasodium Ethylenediamine Tetraacetate 1.000%; Trisodium Phosphate 2.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 15300-I. Chemical Treatment Co., Hanover Industrial Park, 500 Lickinghole Rd., Ashland VA, 23005. CL-200. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 239-EUGG. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804. ORTHO TOMATO & VEGETABLE INSECT SPRAY. Active Ingredients: Pyrethrins 0.030%; Technical Piperonyl Butoxide 0.160%; Rotenone 0.128%; Other Cube Resins 0.238%; Petroleum Distillate 0.120%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 100-LIN. Home and Garden Products, Agricultural Div., Ciba-Geigy Corp., PO Box 11422, Greensboro NC 27409. SPECTRACIDE 6000 LAWN INSECT CONTROL LIQUID. Active Ingredients: 0,0-diethly 0-(2-isopropyl-6-methyl-4-pyrimidinly) phosphorothioate 48.0%; Aromatic Petroleum Derivative Solvent 37.9%. Method of Support: Application proceeds under 2(c) of interim policy. PM14.

EPA File Symbol 36147-R. Dadom Chemical Corp., 250 Delawanna Ave., Clifton NJ 07014. "TOUGH L G-D". Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 36116-R. Dap Inc., General Offices, Dayton OH 45401. DAP FOAMING BATHROOM CLEANER. Active Ingredients: n-Alkyl dimethyl benzyl ammonium chlorides 0.10%; n-Alkyl dimethyl ethylbenzyl ammonium chlorides 0.10%; Tetrasodium ethylenediamine tetraacetate 1.54% Sodium Metasilicate 0.24%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 6754-AL. Dettelbach Pesticide Corp., 4111 Peachtree Rd., N.E., Atlanta GA 30319. PROFESSIONAL ORKIN PARADICHLOROBENZENE. Active Ingredients: Paradichlorobenzene 100%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

EPA File Symbol 4812-GU. Eastern Lab., Inc., PO Box 281, Vineland NJ 08360. EASTERN LIQUID SANITIZER CLEANER FOR WASHING SOILED EGGS. Active Ingredients: Alkyldimethylbenzyl ammonium chloride (C-12, C-14, C-16, and related C-8 and C-18 alkyl groups) 10.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 34761-RE. Ecolo-G Ltd., Bldg. #5, Industrial Park, Haverstraw NY 10926. ECOLO-G RESIDUAL INSECT SPRAY. Active Ingredients: Pyrethrins 0.050%; Technical Piperonyl Butoxide 0.100%; N-octyl bicycloheptene dicarboximide 0.167%; 0, 0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 0.500%; Petroleum Distillate 99.183%. Method of Support: Application proceeds under 2(c) of interim policy. PM14

EPA File Symbol 34761-RR. Ecolo-G Enterprises Ltd., Industrial Bldg. #5, West Haverstraw NY 10993. ECOLO-G HORNET & WASP PRESSURIZED SPRAY. Active Ingredients: Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-octyl bicycloheptene dicarboximide 0.33%; 0-isopropoxphenyl methylcarbamate 0.50%; Petroleum distillate 51.87%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 168–LNU. Entrada Industries, Inc., Wasatch Chem. Div., 1979 S. 7th W., P.O. Box 6219, Salt Lake City UT 85106. WASCO SANITAL II. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA Reg. No. 869–123. Green Light Co., PO Box 16192, San Antonio TX 78246. GREEN LIGHT WIPE-OUT BROADLEAF WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 3.23%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 10.59%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 1.28%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 9463–A. Johar Enterprises, Inc., Uhler & Kesslerville Rds., Easton PA 18042. JO-CHLOR NO. 3 DISINFECTANT-GERMICIDE. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 299–ROR. C. J. Martin Co., 606 W. Main St., Nacogdoches TX 75961. DIAZINON 12.5E LAWN AND GARDEN INSECT CONTROL. Active Ingredients: O,O-diethyl O-(2-isophopyl-6-methyl-4-pyrimidinyl) phosphorothioate 12.5%; Aromatic Petroleum Derivative Solvent 79.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM14

EPA File Symbol 10742–A. Prinova Co. Inc., 982 Terminal Way, San Carlos CA 94070. MILDEW PREVENTATIVE. Active Ingredients: Didecyl Dimethyl Ammonium Chloride 25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10742–L. Prinova Co. Inc., 982 Terminal Way, San Carlos CA 94070. LADRIN BAC SOF BATERIOSTATIC LAUNDRY SOFTENER CONCENTRATE. Active Ingredients: Octyl decyl dimethyl ammonium chloride 3.0%; Dioctyl dimethyl ammonium chloride 1.5%; Didecyl dimethyl ammonium chloride 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 10710–L. Purdy Products Inc., 1526 N. 31st St., Milwaukee WI 53208. TROPHY NO–BAC PLUS. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1456–EE. Reilly Tar & Chem. Corp., Merchants Bank Bldg., 11 S. Meridian St., Indianapolis IN 46204. 70/30 CREOSOTE COAL TAR SOLUTION. Active Ingredients: Creosote oil 70%; Coal Tar 27%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 491–EEN. Selig Chem. Indus., Inc., PO Box 43106, Atlanta, GA 30336. ULVP FOR EFFECTIVE ADULT MOSQUITO CONTROL. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) (cyclopropanecarboxylate 4.22%; Related compounds 0.57%; Aromatic petroleum hydrocarbons 5.59%; Refined petroleum distillate 89.45%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 491–ERO. Selig Chem. Industries, Inc., PO Box 43106, Atlanta GA 30336. SUPER DU KIL. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 22058–A. Sharp Chem. Co., 5921 Plainview, Houston TX 77017. SHARP CLEAN L 55, Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1574–GR. Stanley Home Products, Inc., Westfield MA 01085. STANHOME "FIRST MATE" DISINFECTANT CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.1%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.1%; Tetrasodium ethylenediamine tetraacetate 1.6%; Sodium metasilicate pentahydrate 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 2459–ELO. Stevens Industries, Inc., Dawson GA 31742. MASTER EMULSIFIABLE SPRAY FOR COTTON. Active Ingredients: Toxaphene 79.06%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 6921–E. Tesch Chem. Co., Inc., E. Midway Rd., Appleton WI 54911. SPEEDEE SAN. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) Dimethyl Benzyl Ammonium Chloride 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 9768–GU. Thatcher Chem. Co., PO Box 6114, Salt Lake City UT 84106. TEAT DIP. Active Ingredients: alpha -(p-nonylphenyl) -omega -hydroxypoly (oxyethylene) -iodine complex 8.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 623–GO. United Chem. Co., Inc., 5050 E. 52nd St., Kansas City MO 64130. UNITED PINE ODOR DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%; Isopropyl Alcohol 2%; Synthetic Pine Odor 1%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 9640–EN. Vulcan Lab., 208 Auburn Ave., Pontiac MI 48058. MICROBIOCIDE 1392M. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 9640–ER. Vulcan Lab., 408 Auburn Ave., Pontiac MI 48058. MICROBIOCIDE 1393M. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7%; Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 11659–O. Walling Chem. Co., PO Box 408, Sioux Falls SD 57101. WALLING A–160. Active Ingredients: Dioctyl Dimethyl ammonium chloride 50%; Ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 15265–A. Wausau Chem. Corp., PO Box 953, Wausau WI 54401. ALGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 15265–R. Wausau Chem. Corp., PO Box 953, Wausau WI 54401. SANIDET. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18 dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 34810–L. Wexford Labs, Inc. PO Box 9334, St. Louis MO 63117. SANIWEX. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl Ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

[FR Doc.75–3701 Filed 2–11–75;8:45 am]

MOBIL CHEMICAL CO.

[FRL 332–7]

Establishment of Temporary Tolerances

Mobil Chemical Co., Post Office Box 26683, Richmond, VA 23261, submitted a petition (PP 5G1505) requesting establishment of temporary tolerances for negligible residues of the herbicide bifenox (methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate) in or on the raw agricultural commodities the grain and straw of barley, oats, rice, and wheat and sorghum grain and forage at 0.05 part per million.

It has been determined that the temporary tolerances of 0.05 part per million for negligible residues of the herbicide in or on the above raw agricultural commodities will protect the public health. They are therefore established as requested on condition that the herbicide be used in accordance with the temporary permits being issued concurrently and which provide for distribution under the Mobil Chemical Co. name.

These temporary tolerances expire February 5, 1976. Residues remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term, and in accordance with provisions of the temporary permits/tolerances.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805).

Dated: February 5, 1975.

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

[FR Doc.75–3826 Filed 2–11–75;8:45 am]

[FRL 333-2]

ZOECON CORP.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5H5075) has been filed by Zoecon Corp., 975 California Avenue, Palo Alto, CA 94304, proposing the issuance of a regulation (21 CFR Part 121) to provide for the safe use, in an experimental program, of the insect growth regulator methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in the complete feed of poultry in an amount not to exceed 0.0015% by weight of the complete feed.

Dated: February 5, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division (WH-567).

[FR Doc.75-3825 Filed 2-11-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19787; File No. BL-13137; FCC 75-126]

CHESAPEAKE-PORTSMOUTH BROADCASTING CORP.

Memorandum Opinion and Order Modifying Hearing

In re application of Chesapeake-Portsmouth Broadcasting Corporation, Portsmouth, Virginia, for broadcast license for WPMH(AM).

1. The Commission has before it the briefs of Chesapeake-Portsmouth Broadcasting Corporation (Chesapeake-Portsmouth) and the Broadcast Bureau filed in accordance with the Commission's memorandum opinion and order released June 18, 1974, 47 FCC 2d 306.[1] The Briefs were limited by the Commission's memorandum opinion and order to an analysis of section 319(c) of the Communications Act, 47 USC § 319(c), and its relation to section 309 of the Act, 47 USC § 309, and particularly section 309(e), including any relevant legislative history and Commission and judicial precedent concerning the application of these provisions to a proceeding on an application for license to cover construction permit.

2. Chesapeake-Portsmouth had petitioned the Commission for waiver of its rules and reconsideration of the order designating for hearing its application for license to cover construction permit of WPMH in Portsmouth, Virginia. In our Memorandum Opinion and Order, supra, we denied the petition for reconsideration.[2] On our own motion, however, we noted that the application had been designated for hearing under section 309(e) but that a provision of section 319(c), uncited by either party, makes Section 309(a)-(g) inapplicable to "any license the issuance of which is provided for and governed by the provisions of [section 319(c)]." The Commission was concerned with whether the order of designation complied with the Communications Act.

3. We have examined the arguments of the parties and have independently researched the problem. It is our opinion that an application for license to cover construction permit may not be designated for hearing under the provisions of section 309(e).

4. Section 319(c) reads as follows:

* * * * *

Upon the completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the grant of the permit would in the judgment of the Commission, make the operation of such station against the public interest, the Commission shall issue a license to the lawful holder of said permit for the operation of the station. Said license shall conform generally to the terms of said permit. The provisions of Section 309(a), (b), (c), (d), (e), (f), and (g) shall not apply with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection.

5. The provisions of section 319(c) plainly put the applicant for a license to cover construction permit in a protected position—different from and superior to those applicants for licenses (or construction permits) subject to section 309(a)-(g). Under section 309 we first had to find that grant of the construction permit to Chesapeake-Portsmouth was in the public interest before we made the grant; as we read section 319(c), we are enjoined to issue the license to cover the construction permit unless factors coming to our attention subsequent to the grant of the permit would, in our judgment, make a grant of the license to cover the construction permit against the public interest. This requires a finding different from the one under section 309. There is, as it were, a continuation of the Commission's previous finding of public interest in granting the construction permit until we reach an opposite conclusion with respect to the application for the license.

6. This reading of section 319(c) is buttressed by the legislative history of that section. Early House bills proposing a national scheme for regulation of radio took the position that grant of a license to cover a construction permit be at the discretion of the licensing authority. These bills provided that grant of the permit to construct should not be construed to impose any duty on the licensing authority to issue a license for the operation of the station. H.R. 11964, 67th Cong., 2d Sess. (1922); H.R. 13773, 67th Cong., 4th Sess. (1923). Vigorous objections were raised to this proposed provision on the ground that no one would be willing to construct or would be able to borrow funds for construction if there were no assurance that the license to cover the construction permit would issue. *See* 64 Cong. Rec. 2792-3 (1923).

7. In 1924, one of the supporters of absolute discretion introduced a new House bill which was substantially like its predecessors of 1922 and 1923 except that the express language denying the construction permit weight of itself was deleted and language almost identical[3] to that now appearing in Section 319(c) was substituted. H.R. 7357, 68th Cong., 1st Sess. (1924). In contrast to the previously proposed absolute discretion of the licensing authority, the language proposed in 1924 conferred limited power to refuse licenses to cover construction permits, *i.e.*, only upon new information. Subsequent bills included substantially the same provision, which was finally adopted as Section 21 of the Radio Act of 1927.

8. With minor changes in language, not here pertinent, the Communications Act of 1934 reenacted Section 21 of the 1927 Act as section 319(b). The Communications Act Amendments, 1952, ch. 879, 66 Stat. 711 (July 16, 1952), removed the license to cover construction permit provision from subsection (b) of section 319 and placed it in a new subsection (c) and also excluded section 319(c) license applications from the ambit of Section 309 for the first time. The House Report on the 1952 amendments, H. Rept. No. 1750, 1952 U.S. Code Cong. and Adm. News 2234, makes clear that then section 319(b) "directs" the Commission to issue the license if no subsequent adverse information arises and that ". . . in most cases the issuance of such license would almost automatically follow from the fact that the construction permit was granted" and thus the prehearing and protest procedures of revised section 309 (b) and (c) should not apply. See also Benton Broadcasting Service, 9 RR 586 (1953) and KACY, Inc., 30 FCC 2d 648 (1971).

9. In 1960, to accommodate changes in Section 309, section 319(c) was amended to make subsections (d) through (g) of section 309 also inapplicable to licenses to cover construction permits. 14 Stat. 889. Specific language in section 319(c)

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[1] Briefs filed by the Chief, Broadcast Bureau and by Chesapeake-Portsmouth Broadcasting Corporation on August 23, 1974, and reply briefs filed by the Chief, Broadcast Bureau and by Chesapeake-Portsmouth Broadcasting Corporation on August 30, 1974.

[2] On October 18, 1974, Chesapeake-Portsmouth filed a document entitled "Supplement to Petition for Waiver of the Commission's Rules and Request for Expedited Consideration," and the Chief, Broadcast Bureau filed an opposition to that document on October 23, 1974. We explicitly denied Chesapeake-Portsmouth's petition for waiver and dismissed its petition for reconsideration of designation and expedited consideration. At that time we authorized Chesapeake-Portsmouth to file its pleading with the officer presiding at the hearing as a petition for summary decision. Since Chesapeake-Portsmouth's petitions are no longer before us, its supplement is clearly unauthorized and will be dismissed.

[3] The only difference is the identity of the licensing authority.

excludes the application of the procedural requirements of section 309 to applications for licenses to cover construction permits:

> * * * Section 309 (a), (b), (c), (d), (e), (f), and (g) shall not apply with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection [319(c)].

10. The Bureau would have us adopt the thesis that the provisions of section 309(a)–(g) are inapplicable only when a license is issued automatically but that if a hearing is required, section 309(e) becomes applicable because, once designated for hearing, the license is no longer one "the issuance of which is provided for and governed by [section 319(c)]." The Bureau's argument is ingenuous. It deprives the provision of any substantive meaning. Clearly, section 309(e) cannot be applicable to licenses to cover construction permits granted without hearing, for the very reason that no hearing is held. Thus the only instances in which section 309(e) otherwise might be applicable are instances when a hearing is necessary.

11. To adopt the Bureau's interpretation is to reduce the section 319(c) prohibition on the applicability of section 309(a)–(g) to a restatement of the obvious: the hearing provisions of Section 309 do not apply when no hearing is held. This is antithetical to the principles of statutory construction that meaning be given to every provision of a statute and that a provision may not be interpreted to render it superfluous or nugatory. *Ginsberg & Sons* v. *Popkin*, 285 U.S. 204 (1932); *Ex parte Public Nat. Bank*, 278 U.S. 101 (1928); and *Washington Market Co.* v. *Hoffman*, 101 U.S. 112 (1879). As Chesapeake-Portsmouth points out, it is not impossible to ascribe meaning to the language in question. There are a number of kinds of licenses the issuance of which is not provided for under section 319(c) and which are not governed by section 319(c); namely, all those for which a construction permit is not required. See section 319(d). Furthermore, the Bureau's position seems tied to the concept relied on in its opposition to the petition for reconsideration that designation for hearing of the application for license to cover construction permit constitutes a finding by the Commission that grant would be against the public interest.[4] If the Commission's designation order were such an affirmative finding that a grant of the application for license to cover construction permit was against the public interest, then a hearing would serve no purpose for the Commission would already have decided the ultimate question. Rather, the designation order is a finding only that public interest questions have been raised which require examination in a record hearing. The Commission cannot make a determination of the public interest until it has considered the record evidence and arguments adduced by a hearing. For these reasons, we believe the position taken by the Bureau is fatally flawed; section 309(e) does not apply to this proceeding[5] and should not have been the basis of the order designating for hearing Chesapeake-Portsmouth's application for license to cover construction permit.

12. Nevertheless, we do not believe, as Chesapeake-Portsmouth argues, that we were precluded from designating its application for hearing or that we must now grant the license. We agree with Chesapeake-Portsmouth that section 319(c) was intended to create an expedited procedure whereby, if the terms of the construction permit were met, a license would issue "almost automatically" without the waiting period prescribed by section 309(c)(2).[6] However, as in this case, where new information raises the question of whether causes or circumstances exist which would make a grant against the public interest, such expedited treatment is no longer warranted. The Commission must have adequate time to investigate charges brought against a permittee; otherwise, we would be forced either to designate a license application for hearing without certainty of the necessity for such action or to issue a license in circumstances which might prove to be contrary to the public interest.

13. Nor do we agree with Chesapeake-Portsmouth that the kinds of issues we designated are precluded by section 319(c). We agree that generally the Commission should designate for hearing applications for licenses to cover construction permits only for alleged technical violations of an extremely serious nature, for questions concerning the underlying validity of the permit itself, for serious character qualifications issues, or for alleged noncompliance with the construction permit. But we believe it would be contrary to the public interest to take the position argued by Chesapeake-Portsmouth that we may not set for hearing matters involving the general operation of a station under program test authority.[7] The determinative question is whether the matters here designated, if proved, would justify a conclusion that a grant of the pending application would be *against* the public interest. The four issues designated by us were whether there was adequate supervision and control of the station; whether there was compliance with the equal employment opportunity requirements of the Rules; whether there was compliance with the Emergency Broadcast System rules; and whether there was a public file available in compliance with the Rules.[8] In our view, the charges against Chesapeake-Portsmouth are sufficiently serious *in toto* to require resolution before we can issue a license under the standard established by section 319(c).

14. The final matter for consideration is the question of which party is to bear the burden of proceeding and the burden of proof of the ultimate issue. Unlike section 309(e), which places the burden of proceeding and of proof on the applicant in a hearing on a construction permit or license application governed by that section, and section 312(d), which places the burden on the Commission on the question of issuance of a revocation or cease and desist order, section 319(c) does not expressly prescribe these burdens. If read literally, the language would seem to require someone, presumably the applicant, to make it appear to the Commission that no new cause or circumstance arising or first coming to the knowledge of the Commission since the grant of the permit would make the operation of the station against the public interest. This is an impossible burden, greater even than that borne at the time of the grant of the construction permit because the applicant would be required to prove that nothing had happened since grant of the permit which would make grant of the license against the public interest. After careful consideration, we believe the scheme of section 319(c) requires the Bureau to bear both the burden of proceeding with the evidence and the burden of proving that there is a new cause or circumstance which makes issuance of a license against the public interest.[9] The exclusion of section 319(c) license applications from the provisions of section 309(e) would be rendered largely meaningless if the burdens were the same under both sections. Furthermore, this interpretation is most compatible with the idea that section 319(c) provides a greater degree of protection to applicants for licenses to cover construction permits than that afforded

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[4] The Bureau argued at page 4 of its opposition, filed January 30, 1974: "Such an affirmative finding has been made in this case at the time of designation for hearing of [Chesapeake-Portsmouth's] license application."

[5] In *Independent Broadcasting Co., Inc.* v. *FCC*, 39 U.S. App. D.C. 396, 193 F. 2d 900 (1951), the Court affirmed a Commission decision in which we applied the procedural provisions and decisional criterion of section 309 to a hearing involving an application for license to cover construction permit. At that time, however, the Act did not exclude licenses to cover construction permits from the provisions of section 309. Not until 1952 did Congress amend Section 319 by expressly making the standards of section 309 inapplicable to section 319(c) licenses. Thus, we believe, Congress effectively, if silently, overruled the *Independent* decision. *Communications Act Amendments*, 1952, *supra*.

[6] Chesapeake-Portsmouth does not argue that we may not designate an application for hearing under section 319(c).

[7] Chesapeake-Portsmouth has been operating under program test authority since January 4, 1972. A field investigation of its operation was made in August of 1972.

[8] The Review Board has since added a meritorious programming issue requested by Chesapeake-Portsmouth and issues requested by the Broadcast Bureau with respect to Chesapeake-Portsmouth's compliance with certain operator and logging rules and with respect to whether, in light of violation notices issued by the Commission, Chesapeake-Portsmouth will exercise the degree of responsibility required of a licensee of the Commission. 45 FCC 2d 1046 (1974) and FCC 74R-394, released October 23, 1974.

[9] The designation order and subsequent issues added by the Review Board do not raise any question as to whether "all the terms, conditions, and obligations set forth in the application and permit have been met", as required before issuance of a license under section 319(c). The burden of proceeding and of proof on such an issue would necessarily be on the applicant.

other applicants. Therefore we will modify the designation order in this proceeding by removing the burdens of proceeding and of proof from Chesapeake-Portsmouth and placing them on the Bureau. Furthermore, on our own motion, we will modify the assignment of burdens on those issues subsequently added by the Review Board. *See* Note 8, *supra*.

15. *Accordingly, it is ordered,* That the order and notice of apparent liability designating this proceeding for hearing, FCC 73-748, released July 25, 1973, is modified as follows:

a. In paragraph 3, delete the language "pursuant to Section 309(e) of the Communications Act of 1934, as amended;"

b. Paragraph 3(e) is modified to read as follows: To determine, in light of the evidence adduced under the preceding issues, whether a grant of the application would be against the public interest.

c. Paragraph 7 is modified to read as follows: 7. IT IS FURTHER ORDERED, That the Broadcast Bureau shall have the burden of going forward with the evidence and the burden of proof with respect to issues (a) through (e);

d. Paragraph 9 is deleted.

16. *It is further ordered,* That the Memorandum Opinions and Orders of the Review Board, 45 FCC 2d 1046 (1974) and FCC 74R-394, released October 23, 1974, ARE MODIFIED so that the Broadcast Bureau will assume both the burdens of going forward with the evidence and of proof on these issues added in response to the Bureau's requests for enlargement of issues.

17. *It is further ordered,* That the Supplement to the Petition for Reconsideration of Designation Order, Petition for Waiver of the Commission's Rules, and Request for Expedited Consideration IS DISMISSED.

Adopted: January 29, 1975.

Released: February 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-3911 Filed 2-11-75;8:45 am]

[Report No. 739]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

FEBRUARY 3, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20820-CD-ML-75, Airsignal of California, Inc. (KLF648) Mod. License to change frequency from 2121.6 MHz to 2171.6 MHz, control facilities at Loc. #2: 238 North Fresno Street, Fresno, California.

21062-CD-P-75, Charles Rotkin dba Northeast Communications (New) C.P. for a new 2-way station to operate on 152.12 MHz to be located at Junction of Route 2 and 2A, Williston, Vermont.

21063-CD-P-75, Charles Rotkin dba Northeast Communications (New) C.P. for a new 1-way station to operate on 158.70 MHz to be located at Junction of Route 2 and 2A, Williston, Vermont.

21064-CD-P-75, Sleepy Eye Telephone Company (New) C.P. for a new 2-way station to operate on 152.57 MHz to be located at Southwestern corner of town, Sleepy Eye, Minnesota.

21065-CD-P-75, Stuart J. Lipoff (New) (Developmental) C.P. for a new developmental station to operate on 454.275 MHz located at Boston, Massachusetts.

21066-CD-TC-75, Racine Private Police. Consent to Transfer of Control from Joseph P. Costabile, Transferor to Howard R. McMahon, Executor of the Will of Joseph P. Costabile, deceased, Transferee. Station: KLF464, Racine, Wisconsin.

21067-CD-TC-75, Racine Private Police, Inc. Consent to Transfer of Control from Howard R. McMahon, Executor of the Will of Joseph P. Costabile, deceased, Transferor to Elizabeth Costabile, Transferee. Station KLF464, Racine, Wisconsin.

21068-CD-AL-75, Racine Private Police, Inc. Consent to Assignment of License from Racine Private Police, Inc., Assignor to Industrial and Commercial Communications Services, Inc., Assignee. Station KLF464, Racine, Wisconsin.

21069-CD-P-75, Airsignal International of Pittsburgh, Pennsylvania, Inc. (KGA805) C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. #4: 0.3 mile N. of Leechburg & Logans Ferry Roads, Logans Ferry, Pennsylvania.

21070-CD-AL-75, Paul C. and Teressa M. Stark. Consent to Assignment of License from Paul C. and Teressa M. Stark, Assignors to Paul C. Stark dba Stark Communication Specialities, Assignee. Station KFL957, Gainesville, Florida.

21071-CD-P-75, Public Communications, Inc. (New) C.P. for a new 1-way station to operate on 152.24 MHz to be located off-Highway 59, 2 miles South of Lufkin, Texas.

21072-CD-MP-75, FWS Radio, Inc. (KWH339) Mod. of C.P. to change antenna system operating on 454.125, 454.225 & 454.275 MHz located at Preston Tower Building, 6211 W Northwest Highway, Dallas, Texas.

21073-CD-MP-75, Southern Radio-Phone Inc. (KUC939) Mod. of C.P. to change antenna system operating on 152.09 MHz located 0.6 mile NE of mile marker 86 westside of U.S. #1, Plantation Key, Florida.

21074-CD-P-75, L & L Services, Inc. dba Metro Communications (KIY519) C.P. to replace transmitter, change antenna system and relocate facilities operating on 152.09 MHz to be located at 301 North Montgomery Avenue, Sheffield, Alabama.

21075-CD-P-75, Answer Inc. of Houston (New) C.P. for a new 2-way station to operate on 152.18 MHz to be located at One Shell Plaza, Houston, Texas.

Correction

20618-CD-P-75, Island Telepage Systems, Oak Harbor, Washington (New) Delete major amendment entry on PN #738 dated January 27, 1975. All other particulars to remain as reported on PN #726 dated November 4, 1974.

RURAL RADIO SERVICE

60268-CR-P-75, The Mountain States Telephone and Telegraph Company (KSV88) C.P. to add test facilities to operate on 459.40 MHz located at 103 North Durbin, Casper, Wyoming.

60269-CR-P-75, The Mountain States Telephone and Telegraph Company (KOB79) C.P. to replace transmitter operating on 459.65 MHz located 26.4 miles ENE. of Vernal, Utah.

60270-CR-P-75, The Mountain States Telephone and Telegraph Company (KOB80) C.P. to replace transmitter operating on 454.65 MHz located at 67 N. Vernal Avenue, Vernal, Utah.

60271-CR-P/L-75, The Mountain States Telephone and Telegraph Company (New) C.P. for a new rural subscriber station to operate on 157.77 MHz to be located 19.9 miles NE of Douglas, Wyoming.

POINT TO POINT MICROWAVE RADIO SERVICE

2168-CF-MP-75, Eastern Microwave, Inc. (WQR74) Salem, Ohio (Lat. 40°51'22" N., Long. 80°52'06" W.): Mod. of C.P. (9381-C1-P-73)—(a) to relocate station to foregoing coordinates and (b) to change point of communication to Hookstown (WQR 72), Pennsylvania, on azimuth 131°/39', on existing frequencies (11425H MHz and 11585H MHz).

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[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

2169–CF–MP–75. Same (WQR72) 1.4 miles SE. of Hookstown, Pennsylvania. (Lat. 40°34'41" N., Long. 80°27'34" W.): Mod. of C.P. (9382–C1–P–73)— (a) to relocate station to foregoing coordinates; (b) to delete Ellwood City, Pennsylvania, as point of communication; (c) to add existing frequencies 10795H MHz and 11135H MHz, via path intercept, toward McKees Rocks, Pennsylvania, on azimuth 109°/15'; (d) to change azimuth toward Pittsburgh (WQR73), Pennsylvania, to 109°/05'; and (e) to change azimuth toward Aliquippa, Pennsylvania, to 74°/58'.

2431–CF–P–75, United Video, Inc. (KXQ33) 1.75 miles SE. of Dallas City, Illinois (Lat. 40°37'24" N., Long. 91°07'53" W.): C.P. to add (reinstate) 10735H MHz and 10895H MHz toward Fort Madison, Iowa, on azimuth 277°/18'.

2432–CF–P–75, Andrews Tower Rental, Inc. (WQQ43) 1.2 miles North of Bowie, Texas (Lat. 33°35'00" N., Long. 97°51'42" W.): C.P. to add 6004.5V MHz and 6063.8V MHz toward Wichita Falls, Texas, on azimuth 300°/00'.

2433–CF–P–75, Same (New) Wichita Falls, Texas (Lat. 33°53'50" N., Long. 98°32'33" W.): C.P. for a new station—6197.2H MHz, 6256.5H MHz, and 6315.9H MHz toward Electra, Texas, on azimuth 294°/00'.

2434–CF–P–75, Same (New) Electra, Texas (Lat. 34°02'16" N., Long. 98°54'43" W.): C.P. for a new station—5945.2V MHz, 6004.5V MHz, and 6063.8V MHz toward Vernon and Seymour, Texas, on azimuth 288 degrees/30 minutes and 212°/00', respectively. (A waiver of 21.701(i) is requested by Andrews.)

2437–CF–P–75, Microwave Transmission Corporation (KNL31) Fremont Peak, California (Lat. 36°45'20" N., Long. 121°30'00" W.): C.P. to add 6152.8V MHz and 5967.5V MHz towards Williams Hill, California, on azimuth 153°/11'.

2438–CF–P–75, Same (New) Williams Hill, 7.0 miles SW. of San Ardo, California (Lat. 35°57'04" N., Long. 121°00'03" W.): C.P. for a new station—6170.0H MHz and 6404.8H MHz toward Cuesta Ridge, California. (Note: A waiver of 21.701(i) is requested by MTC.)

2444–CF–MP–75, American Television & Communications Corporation (WAT976) Mastins Corners, Virginia (Lat. 38°11'14" N., Long. 77°45'56" W.): Mod. of C.P. to change antenna system and replace transmitters on 5945.2H & 6063.8H MHz toward Charlottesville, Virginia, on azimuth 250°/25'.

2445–CF–MP–75, American Television & Communications Corporation (WAT977) Charlottesville, Virginia (Lat. 37°58'59.5" N., Long. 78°28'54" W.): Mod. of C.P. to change antenna system, increase transmitters output power, and replace transmitters on 6226.9H and 6286.2H MHz toward Spear Mtn., Virginia, on azimuth 208°/44'.

2446–CF–MP–75 Same (WAT978) Tower Hill, Virginia (Lat. 37°34'33.5" N., Long. 78°45'43" W.): Mod. of C.P. to change antenna system and replace transmitters on 6197.2V and 6256.5V MHz toward Jack Mtn., Virginia, on azimuth 231°/24'.

2447–CF–MP–75, Same (WAT979), Lynchburg, Virginia (Lat. 37°20'12.5" N., Long. 79°08'12" W.): Mod. of C.P. to change antenna system and replace transmitters on 5945.2H and 6004.5H MHz toward Dry Fork, Virginia, on azimuth 198° 32'.

2448–CF–MP–75, Same (WAT980), Dry Fork, Virginia (Lat. 36°44'28" N., Long., 79°23'-05" W.): Mod. of C.P. to change antenna system and replace transmitters on 6226.9H and 6286.2H MHz toward Reidsville, North Carolina, on azimuth 211°35'; 6226.9V and 6286.2V MHz toward Danville, Virginia, on azimuth 191°55'.

2449–CF–MP–75, Same (WAT981), Reidsville, North Carolina (Lat. 36°23'17" N., Long. 79°39'11" W.): Mod. of C.P. to change antenna system and replace transmitters on 5974.8H and 6034.2H MHz toward Greensboro, North Carolina, on azimuth 202°57'; 6034.2H MHz toward Burlington, North Carolina, on azimuth 156°45'.

2450–CF–MP–75, Same (WAT982), Greensboro, North Carolina (Lat. 36°03'47" N., Long. 79°49'21" W.): Mod. of C.P. to change antenna system and replace transmitters on 11385V and 11625V MHz toward High Point, North Carolina, on azimuth 247°44'.

2490–CF–P–75, Southern Bell Telephone and Telegraph Company (KJL23), 4.2 Miles SE of Nickelsville, Georgia. Lat. 32°39'15" N., Long. 83°01'48" W. C.P. to add frequency 6286.2H MHz toward Gordon, Georgia, on azimuth 306°36'.

2491–CF–P–75, Same (KJL24), 2.5 Miles South of Gordon, Georgia. Lat. 32°50'52" N., Long. 83°20'22" W. C.P. to change alarm system and add frequencies 6034.2H MHz toward Round Oak, Georgia, on azimuth 318°14'; add 6004.5H MHz toward Nickelsville, Georgia, on azimuth 126°26'.

2261–CF–P–75, General Telephone Company of the Northwest, Inc. (KPJ99), 109 Midway Blvd., Oak Harbor, Washington. Lat. 48°-17'32" N., Long. 122°38'35" W. C.P. to change antenna system and location, correct co-ordinates, azimuth, and path distance, and add frequencies 2178.0V and 2178.0H MHz toward Camano Island, Washington, on azimuth 135°54'.

2480–CF–P–75, Southern Bell Telephone and Telegraph Company (KJK92), 0.8 Mile SSW of Clarks Hill, South Carolina. Lat. 33°39'39" N., Long. 82°10'47" W. C.P. to add frequency 6197.2V MHz toward Thomson, Georgia, on azimuth 236°49'; add 6197.2V MHz toward Augusta, Georgia, on azimuth 136°30'.

2481–CF–P–75, Same (KJK93), 2.7 miles NE of Thomson, Georgia. Lat. 33°29'53" N., Long. 82°28'34" W. C.P. to remove tower lighting requirements and add frequency 5974.8V MHz toward Mitchell, Georgia, on azimuth 215°47'; add 5974.8V MHz toward Clarks Hill, South Carolina, on azimuth 56°39'.

2482–CF–P–75, Same (KJK94), 1.6 miles NNE of Mitchell, Georgia. Lat. 33°14'29" N., Long. 82°41'46" W. CP to add frequency 6197.2V MHz toward Tennille, Georgia, on azimuth 192°53'; add 6197.2V MHz toward Thomson, Georgia, on azimuth 35°40'.

2483–CF–P–75, Same (KJK95), 1.9 miles East of Tennille, Georgia. Lat. 32°56'10" N., Long. 82°46'44" W. CP to add frequency 5974.8V MHz toward Nickelsville, Georgia, on azimuth 217°01'; add 5974.8V MHz toward Mitchell, Georgia, on azimuth 12°50'.

2484–CF–P–75, Same (KJL23), 4.2 miles SE of Nickelsville, Georgia. Lat. 32°39'15" N., Long. 83°01'48" W. CP to add frequency 6197.2V MHz toward Tennille, Georgia, on azimuth 36°53'.

2485–CF–P–75, Same (KTF45), 937 Greene Street, Augusta, Georgia. Lat. 33°28'30" N., Long. 81°58'10" W. CP to add frequency 5974.8V MHz toward Clarks Hill, South Carolina, on azimuth 316°37'.

2486–CF–P–75, Same (KJG91), 787 Cherry Street, Macon, Georgia. Lat. 32°50'19" N., Long. 83°37'54" W. CP to add frequency 4010H MHz toward Round Oak, Georgia, on azimuth 03°22'.

2487–CF–P–75, Same (KJG92), 0.25 Mile South of Round Oak, Georgia. Lat. 33°06' 19" N., Long. 83°36'47" W. CP to change alarm system and add frequencies 6226.9V MHz toward Jackson, Georgia on azimuth 306°11'; 6256.5H MHz toward Gordon, Georgia, on azimuth 138°05'; add 3970H MHz toward Macon, Georgia, on azimuth 183°22'.

2488–CF–P–75, Same (KJG93), 1.4 miles ENE of Jackson, Georgia. Lat. 33°17'53" N., Long. 83°55'39" W. CP to add frequencies 6063.8H MHz toward Rockdale, Georgia, on azimuth 352°28'; add 6004.5V MHz toward Round Oak, Georgia, on azimuth 126°01'.

2489–CF–P–75, Same (KJG94), Rockdale, approximately 3 miles SE of Conyers, Georgia. Lat. 33°37'42" N., Long. 83°58'47" W. CP to add frequency 6315.9V MHz toward Jackson, Georgia, on azimuth 172°26'.

2511–CF–P–75, American Telephone and Telegraph Company (KIK32) 3.5 miles SE of Adairsville, Georgia. Lat. 34°19'01" N. Long. 84°53'52" W. CP to add frequency 4198V MHz toward Yorkville, Georgia, on azimuth 191°25'.

2512–CF–P–75, Same (KIT27), 0.5 mile North of Yorkville, Georgia. Lat. 33°55'25" N., Long. 84°59'35" W. CP to add frequencies 4190H, 6197H, and 6316H MHz toward Villa Rica, Georgia, on azimuth 155°19'; add 4190V MHz toward Adairsville, Georgia, on azimuth 11°27'.

2513–CF–P–75, Same (KIT28), 1.8 miles East of Villa Rica, Georgia. Lat. 33°43'43" N., Long. 84°53'09" W. CP to add frequencies 4198H, 5945H, and 6064H MHz toward Yorkville, Georgia, on azimuth 335°23'.

2514–CF–P–75, Same (KIV70), 4.8 miles East of Chatsworth, Georgia. Lat. 34°46'12" N., Long. 84°41'16" W. CP to correct address of alarm center and add frequencies 4198H, 6227H and 6346H MHz toward Cleveland, Tennessee, on azimuth 345°46'.

2515–CF–P–75, Same (KIV71), 4.0 miles NE of Cleveland, Tennessee. Lat. 35°12'41" N., Long. 84°49'27" W. CP to correct address of alarm center and add frequencies 4190H, 5975H, and 6094H MHz toward Chatsworth, Georgia, on azimuth 165°42'; add 4190H, 5975H, and 6054H MHz toward Pikeville, Tennessee, on azimuth 326°24'.

2516–CF–P–75, Same (KIV72), 4.5 miles East of Pikeville, Tennessee. Lat. 35°34'54" N., Long. 85°07'32" W. CP to correct address of alarm center and add frequencies 4198H, 6227H, and 6346H MHz toward Cleveland, Tennessee, on azimuth 146°14'; add 4198H, 6227H, and 6346H MHz toward Crossville, Tennessee, on azimuth 15°46'.

2517 CF–P–75, Same (KIV73), 6.0 miles NE of Crossville, Tennessee. Lat. 36°01'19" N., Long. 84°58'21" W. CP to correct address of alarm center and add frequencies 4190H, 5975H, and 6094H MHz toward Jamestown, Tennessee, on azimuth 13°04'.

2518–CF–P–75, Same (KIV74), 8.0 miles NE. of Jamestown, Tennessee. Lat. 36°30'12" N., Long. 84°50'03" W. C.P. to correct address of alarm center and add frequencies 4198H, 6227H, and 6346H MHz toward Crossville, Tennessee on azimuth 193°09'; add 4198H, 6227H, and 6346H MHz toward Wiborg, Kentucky, on azimuth 42°46'.

2519–CF–P–75, Same (KIV75), Wiborg, 5.5 miles North of Whitley City, Kentucky. Lat. 36°48'29" N., Long. 84°28'59" W. C.P. to correct address of alarm center and add frequencies 4190H, 5975H, and 6094H MHz toward Jamestown, Tennessee, on azimuth 222°59'; add 4190V, 5975H, and 6094H MHz toward Argyle, Kentucky, on azimuth 325°47'.

2262–CF–P–75, General Telephone Company of the Northwest, Inc. (KPJ97), 2.0 miles ENE, of Camano Island, Washington. Lat. 48°11'21" N., Long. 122°29'38" W. C.P. to correct co-ordinates, azimuth and path distance and to add frequencies 3128.0V and 2128.0H MHz toward Oak Harbor, Washington, on azimuth 316°01'.

2499—CF–P–75, The Western Union Telegraph Company (new), Prospect & Talmadge Sts., Hollywood, California. Lat. 34°06'12" N., Long. 118°16'54" W. C.P. for a new station on 11365V MHz toward KHOI (TOC), California, on azimuth 279°42'.

2500–CF–P–75, Same (New) KNBC–TV, 3000 West Alameda Avenue, Burbank, California. Lat. 34°09'15" N., Long. 118°20'00" W. C.P. for a new station on 11245H MHz toward KJOI (TOV), California, on azimuth 233°52'.

2504–CF–P–75, Same (New) KNXT–TV, 6121 West Sunset Blvd., Los Angeles, California. Lat. 34°05'55" N., Long. 118°19'15" W. C.P. for a new station on 11565H MHz toward KJOI (TOC), California, on azimuth 289°05'.

2498–CF–P–75, Same (New) Los Angeles #2, 2555 Briarcrest Rd., Beverly Hills, California. Lat. 34°07'08" N., Long. 118°23'29" W. C.P. for a new station to add 10915V MHz toward a new point of communication at KABC–TV, California, on azimuth 99°39'; 11115H MHz toward a new point of communication at KNBC–TV, California, on azimuth 53°50'; 10875H MHz toward a new point of communication at KNXT, California, on azimuth 109°02'.

2520–CF–P–75, American Telephone and Telegraph Company (KIV76), Argyle, 13.5 Miles NW. of Somerset, Kentucky, Lat. 37°12'51" N., Long. 84°49'13" W. C.P. to correct address of alarm center and add frequencies 4198V, 6227H, and 6346H MHz toward Wiborg, Kentucky, on azimuth 145°34'; add 4197H, 6227H, and 6346H MHz toward Junction City, Kentucky, on azimuth 357°09'.

2543–CF–P–75, Same (KIV77), 2.5 Miles West of Junction City, Kentucky, Lat. 37°35'27" N., Long. 84°50'40" W. C.P. to correct address of alarm center and add frequencies 4190H, 5975H, and 6094H MHz toward Argyle, Kentucky, on azimuth 177°08'.

2525–CF–R–75, General Telephone Company of California (KZI31), Location within the territory of the Grantee. Renewal of Radio Station License (Developmental) expiring March 1, 1975. Term: March 1, 1975, to March 1, 1976.

CORRECTIONS

2265–CF–P–/ML–75, Correct: Applicant's name to read: General Telephone Company of the Northwest, Inc. (all other particulars remain the same as reported on Public Notice #737 dated Januay 20, 1975).

2453–CF–P–75, Southern Pacific Communications Company. Correct Call Sign to read WOH38.

2302–CF–P–75, MCI Telecommunications Corporation. Correct File Number to 2303–CF–P–75.

2114–CF–P/ML–75 through 2119–CF–P/ML–75, Southern Pacific Communications Company. Correct File Numbers to read 2414–CF–P/ML–75 through 2419–CF–P/ML–75.

Delete File Numbers 2386–CF–P–75 and 2397–CF–P–75 Southern Pacific Communications Company, entered in error.

The entry of CPI Satellite Telecommunications, Inc.'s applications File Number 2045 and 2046–CF–P–75, under Applications Accepted for Filing on page seven of the Commission's Public Notice dated January 20, 1975, were inadvertently placed thereon. These applications appeared on the Public Notice of January 13, 1975, and this is the date which governs the time within which to file formal objections thereto.

[FR Doc.75–3912 Filed 2–11–75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

PUBLIC SYMPOSIUM REGARDING THE IMPACT OF PROPOSED ACCELERATION IN OCS LEASING

Rescheduling

In the FEDERAL REGISTER of December 24, 1974 (39 FR 44508), the Federal Energy Administration published a notice of a public symposium to be held on January 22 and 23, 1975, in Los Angeles, California, to examine issues and problems surrounding possible accelerated exploration and development of the Outer Continental Shelf leasing off the coast of Southern California. However, on January 3, 1975, the Federal Energy Administration published in the FEDERAL REGISTER (40 FR 837), a notice that the public symposium was postponed until further notice.

Notice is hereby given that this public symposium is rescheduled for March 4 and 5, 1975. The symposium will be held in Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012, beginning at 9 a.m. on March 4, 1975.

In view of the fact that environmental issues will be considered in a hearing by the Department of the Interior, the symposium to be conducted by the Federal Energy Administration will focus on the following issues:

(a) relation of the Outer Continental Shelf to the U.S. energy supply/demand balance.
(b) Operating conditions and technical constraints regarding operations on the Outer Continental Shelf.
(c) Applicable laws and regulations.
(d) Social impacts of Outer Continental Shelf exploration and development.

The Federal Energy Administration encourages representatives of recognized regional groups, environmental and consumer organizations, officials of State and local governments, representatives of the oil, gas and chemical industries, and the general public to attend the symposium and to submit written comments on the above issues. Written comments should be submitted no later than April 4, 1975, and should be addressed to the Federal Energy Administration, Executive Communications, Room 3309, Box BS, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Procedures for the Symposium. Persons selected to address the symposium have been asked to limit their oral presentation to about twenty minutes. A few minutes for questions will be reserved at the end of each presentation. Such questions must be in writing and will be collected prior to each question period. Oral questions from the floor will not be accepted. The symposium will be open to the public and to the press and other media. A complete record of the proceedings will be compiled and made available to the public in Room 3400, Administrator's Reception Area, Washington, D.C., and the FEA Branch Office, Suite 800, 3660 Wilshire Boulevard, Los Angeles, California, between the hours of 8 a.m. and 4:30 p.m. daily.

Any questions concerning the symposium should be directed to the Office of Oil and Gas, 202–961–6277.

ROBERT E. MONTGOMERY, Jr.
General Counsel.

FEBRUARY 6, 1975.

[FR Doc.75–3887 Filed 2–11–75;8:45 am]

FEDERAL MARITIME COMMISSION

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN/KOREA AND JAPAN/KOREA-ATLANTIC AND GULF FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreements Filed by:

Charles F. Warren, Esquire
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Agreements Nos. 150–61, filed by the Trans-Pacific Freight Conference of Japan/Korea, and 3103–57, filed by the Japan/Korea-Atlantic and Gulf Freight Conference, are similar in language, and amend Article 20 of each agreement to regulate the matter of Conference voting in the case of prolonged indebtedness by member lines.

By Order of the Federal Maritime Commission.

Dated: February 5, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-3976 Filed 2-11-75;8:45 am]

[Independent Ocean Freight Forwarder License No. 1445]

ALL AIR & SEA FORWARDING CORP.

Order of Revocation

All Air & Sea Forwarding Corp., P.O. Box 511, Wilmington, California 90744 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1445 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated September 15, 1973);

It is ordered, That Independent Ocean Freight Forwarder License No. 1445 be and is hereby revoked effective January 27, 1975, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon All Air & Sea Forwarding Corp.

ROBERT S. HOPE,
Managing Director.

[FR Doc.75-3975 Filed 2-11-75;8:45 am]

U.S. ATLANTIC & GULF/AUSTRALIA-NEW ZEALAND CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 4, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Jacob P. Billig, Esq.
Billig, Sher & Jones, P. C.
1126 Sixteenth Street NW.
Washington, D.C. 20036

Agreement 6200-18 would modify the U.S. Atlantic & Gulf/Australia-New Zealand Conference's basic agreement by the addition of a new paragraph, No. 14, reading as follows:

14. It is an essential term of this agreement and a basic condition of each and every promise or undertaking herein contained that member lines (subject to there being obtained any requisite approval thereof of the Federal Maritime Commission of the United States of America or any other regulatory agency affecting the flag of the carrying vessel) agree that during the time of this agreement they will use their best endeavors to observe and maintain the conference system of shipping in relation to any outwards cargo shipping from Australia in which they may engage. To that end if at any time during the term of this agreement two or more member lines are engaged in a particular trade outwards from Australia and there is no current conference agreement relative to such trade then those member lines will negotiate in good faith for the formation of such an agreement.

By Order of the Federal Maritime Commission.

Dated: February 7, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-3977 Filed 2-11-75;8:45 am]

ARLO E. OSBORNE, ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Arlo E. Osborne, Great Southwest Building, Suite 719, 1314 Texas Avenue, Houston, Texas 77002.

American Import Services, Anthony Emposimato, d/b/a, 400 Delancy Street, Newark, New Jersey 07105.

Fernando Rivera, 4 Van Cott Avenue, Farmingdale, New York 11735.

Penson Florida Company, 18770 N.E. 6th Avenue, Miami, Florida 33164. Officers: Jose A. Perez, Vice President/General Manager; Jack A. Penson, President.

Sumco's, Inc., 39 Brimfield Road, Norristown, Pennsylvania 19401. Officers: Dannie Summers, President; Hortense J. Summers, Secretary; Nathaniel Summers, Vice President.

Inter-Continental Custom Brokers, Inc., 519 South Hindry Avenue, Inglewood, California 90301. Officers: Paul J. Moskowitz, President; Samuel Plon, Vice President; Milton Weinberg, Secretary; Frank E. Helfman, Treasurer.

Action Moving and Storage, Inc., 1201 65th Street, Baltimore, Maryland 21237. Officers: John Lampe, Sr., President/Treasurer; Marjorie Lampe, Vice President/Secretary; Stephen J. Cavaselis, Vice President; Antonio I. Pelina, Vice President.

By the Federal Maritime Commission.

Dated: February 6, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-3978 Filed 2-11-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9232]

ALABAMA POWER CO.

Change in Delivery Point

FEBRUARY 4, 1975.

Take notice that on January 27, 1975, Alabama Power Co. filed in the above-referenced docket 8th Revised Sheet No. 37 to its FPC Electric Tariff, Original Volume No. 1. Alabama states the purpose of such filing is to give notice that effective December 6, 1974, electric service to the McIntosh delivery point of Clarke-Washington EMC was terminated at the request of Alabama Electric Cooperative, Inc., acting as agent for Clarke-Washington EMC. Alabama further states the McIntosh delivery point has been transferred to the electric system of Alabama Electric Cooperative, Inc.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Alabama's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3855 Filed 2-11-75;8:45 am]

[Docket No. RP74-77]

COLORADO INTERSTATE GAS CO.

Settlement Conference

FEBRUARY 7, 1975.

Take notice that on February 19, 1975, a Settlement Conference in the above captioned docket will be held at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, at 10 a.m., e.s.t. Such conference will be

held pursuant to § 1.18 of the Commission's rules of practice and procedure. Failure of any party to attend this conference shall constitute waiver of all objections to any agreement reached at this conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3837 Filed 2-7-75;9:56 am]

[Project No. 271]

ARKANSAS POWER AND LIGHT CO.

Issuance of Annual License

FEBRUARY 5, 1975.

On February 4, 1970, Arkansas Power and Light Company, Licensee for Carpenter and Remmel Developments Project No. 271, located on the Ouichita River in Hot Spring and Garland Counties, Arkansas, filed an application for a new license under Section 15 of the Federal Power Act and Commission Regulations thereunder (§§ 16.1–16.6).

The license for Project No. 271 was issued effective February 7, 1923, for a period ending February 6, 1973. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project pursuant to Section 15 of the Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Arkansas Power and Light Company for continued operation and maintenance of Project No. 271.

Take notice that an annual license is issued to Arkansas Power and Light Company (Licensee) under Section 15 of the Federal Power Act for the period February 7, 1975 to February 6, 1976, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Carpenter and Remmel Developments Project No. 271, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3858 Filed 2-11-75;8:45 am]

[Docket No. RP66-12]

ALGONQUIN GAS TRANSMISSION CO.

Refund Report

FEBRUARY 4, 1975.

Take notice that on December 2, 1974, Algonquin Gas Transmission Co. (Algonquin) tendered for filing a report on refunds made to its customers on November 8, 1974, pursuant to ordering paragraph (E) of the Commission's order issued August 10, 1971, in the above-captioned docket. Algonquin further states that Algonquin received from Texas Eastern Transmission Corporation (TET CO) on July 9, 1974, a refund resulting from purchases during the period January 1, 1962 through December 31, 1964 and that this refund was flowed through to Algonquin's customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 21, 1975. 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.75-3857 Filed 2-11-75;8:45 am]

[Docket No. RP73-74]

ALGONQUIN GAS TRANSMISSION CO.

Refund Report

FEBRUARY 4, 1975.

Take notice that on October 24, 1974, Algonquin Gas Transmission Corp. (Algonquin) tendered for filing schedules listing the actual sales volume data for the 12 month period ending December 12, 1973, and a calculation of refunds based thereon. The October 24, 1974, filing was made pursuant to a Commission order issued September 24, 1974, in the above-captioned docket. Algonquin states that it will make said refunds on November 8, 1974, to the customers listed in its October 24, 1974, filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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.75-3856 Filed 2-11-75;8:45 am]

[Docket No. R-389-B]

JUST AND REASONABLE NATIONAL RATES FOR SALE OF GAS

Order Denying Rehearing

FEBRUARY 4, 1975.

In the matter of Just And Reasonable National Rates For Sales Of Natural Gas On Or After January 1, 1973, And New Dedications Of Natural Gas To Interstate Commerce On Or After January 1, 1973.

On January 27, 1975, Texas Eastern Transmission Corporation (Texas Eastern) and Transwestern Pipeline Company (Transwestern) jointly petitioned for rehearing of the January 3, 1975, Order Modifying In Part Opinion No. 699-F, which had been issued as the result of a petition filed by these same companies for clarification of Opinion No. 699-F, issued November 7, 1974.

The January 3 order made it clear that an emergency sale pursuant to § 157.29 could be made by a producer for only one 60 day period. The Commission reached this determination for the reason that the public interest is not served by permitting a producer to sell natural gas in interstate commerce without a certificate for more than sixty (60) days, except under the express provisions of § 157.29 (c) as promulgated by Opinion No. 699-B, issued September 9, 1974.

Petitioners' application for rehearing presents no new facts or principles of law which were not fully considered in Opinion No. 699-F and its subsequent modifications and clarifications, or, which having now been considered, warrant any modification of the January 3, 1975, order.

The Commission orders. The application for rehearing filed by Texas Eastern and Transwestern on January 27, 1975, is denied.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3882 Filed 2-11-75;8:45 am]

[Docket No. E-9155]

NORTHERN STATES POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Denying Request for Maximum Suspension, Granting Petition To Intervene, and Establishing Procedures

FEBRUARY 5, 1975.

On December 6, 1974, Northern States Power Company (Wisconsin) (NSP) tendered for filing proposed changes to existing rates for service to eleven wholesale customers.[1] NSP requests that these changes be permitted to become effective on February 6, 1975.

Notice of the proposed rate increase was issued December 13, 1974, with comments, protests, or petitions to intervene due on or before January 3, 1975. On January 2, 1975, the cities of Bloomer, Cadott, Cornell, New Richmond, Black River Falls, Rice Lake, Westby, and Whitehall (Cities), all in Wisconsin, filed a petition to intervene and request for maximum suspension period. On January 13, 1975, the City of Spooner, Wisconsin, filed a petition to intervene in which it states that it adopts as its own the petition to intervene filed by Cities. Similarly, the City of Bangor, Wisconsin filed a petition to intervene also adopting the petition of the Cities. A Notice of Intervention by the Public Service Commission of the State of Wisconsin was filed

[1] Commissioners Brooke and Moody dissenting opinion filed as part of the original document.

[1] See Appendix A.

on January 8, 1975. Cities filed an amendment and supplement to its petition to intervene on January 6, 1975. NSP answered Cities' petition to intervene on January 15, 1975. Cities, in return, replied to NSP's answer to the petition. NSP also responded to Cities' reply to NSP's answer. Both of these documents were filed on January 20, 1975.

Our review of the proposed rate increase together with all the pleadings filed by NSP and Cities indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. We shall, therefore, accept the proposed rate increase for filing and suspend it for one day when it will be permitted to become effective, subject to refund, pending a hearing and decision as to the justness and reasonableness of the proposed rate increase. We shall also institute a separate phase of this proceeding (Phase II), which will be the subject of a hearing and decision separate and apart from the investigation into the justness and reasonableness of the proposed rate increase, for the purpose of developing a complete evidentiary record concerning alleged restrictions contained in NSP's currently effective rate schedules proposed to be continued in the rate schedules filed herein.[2] Certain of the allegations raised in the pleading require further discussion, however.

Cities state that the contracts under which service is provided are fixed-rate fixed-term contracts and that they cannot be changed unilaterally because of the Mobile-Sierra doctrine.[3] Cities, however, point to no provisions to substantiate this allegation. The contracts provide as follows:

RATE: Municipality agrees to pay Northern States monthly for Firm Power Service furnished in the previous month under the provisions and at the rates in effect from time to time as accepted for filing by the Federal Power Commission and as transmitted to the Public Service Commission of Wisconsin. The rate schedule now in effect for such service is attached hereto as Schedule A.

This language clearly indicates that the parties contemplated that NSP could alter its rates by a unilateral filing pursuant to section 205 of the Federal Power Act and Cities allegations to the contrary are without merit.

Cities also allege a price squeeze situation with regard to NSP' retail rates and the wholesale rates proposed herein. As we have so often noted in the past[4], the Commission must utilize a cost plus fair return standard for establishing the justness and reasonableness of wholesale rates and does not have the authority under the Federal Power Act to set wholesale rates predicated upon retail rates over which we have no jurisdiction. In this regard, Cities did make allegations as to the propriety of the costs allocated to wholesale customers. We believe that this is a proper area of inquiry. We shall, however, limit Phase I of the proceedings hereinafter ordered to exclude consideration of the price squeeze issue.

Cities also request that the proposed rate increase be suspended for the full statutory period. The basis for this request is a stated inability of the Cities to get approval from the Wisconsin Public Service Commission for any increase in their rates occasioned by the increase they must pay their supplier, NSP. Just as we cannot defer our determination of the just and reasonable level of wholesale rates to the determination of the level for retail rates under the jurisdiction of a state agency, we cannot defer our determination of the appropriate length of the suspension period to alleged difficulties customers may have before its state regulatory authority in passing on rate increases to its customers.[5] The increased rates will be permitted to go into effect, subject to refund at the rate of 9% per annum. We believe that this procedure protects the interests of NSP and its customers in this proceeding. We shall therefore deny Cities' request for a maximum suspension.

Cities question the appropriateness of certain charges from NSP's parent, Northern States Power Company (Minnesota) and ask that we direct NSP to provide certain documents and evidence as to the reasonableness of these charges. We note that the agreement is on file with this Commission and is the currently effective rate schedule for the service. We do not, however, believe that we should foreclose the inquiry into the appropriateness of the costs NSP relies on in requesting this rate increase. Nor do we believe that we should at this time dictate the manner in which it seeks to demonstrate the justness and reasonableness of the proposed rates. This matter, like all other cost issues, should be fully explored in the evidentiary hearing in Phase I hereinafter ordered.

Cities state that certain provisions of the contracts providing for the service to the wholesale customers, specifically the provisions which prohibit interconnection with other systems and prohibit purchases from or sales to any other electric utility, are anticompetitive and contrary to the antitrust laws of the United States. In reply, NSP states that it has entered new contracts which revises the Terms and Conditions of Service to indicate that NSP is concerned with system reliability. NSP states that it is willing to extend the same Terms and Conditions to all other Cities. We believe that this change in the contracts is appropriate, but it does not dispose of all the issues raised by Cities allegations. We shall therefore institute Phase II of this proceeding to develop a complete evidentiary record on the specific contract provisions alleged to be improper and the relief requested. We shall not hesitate to order, to the extent we have jurisdiction over the conduct or contracts involved, appropriate reformation of the contracts or any other relief shown to be necessary to remedy the offenses proved.

The Commission finds: (1) NSP's proposed rate increase should be accepted for filing and suspended for one day when it shall be permitted to become effective, subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter into hearings under Section 205 and 206 of the Act concerning the lawfulness of the rates, terms, and conditions proposed by NSP and into the alleged anticompetitive provisions of the contracts as hereinafter described.

(3) Good cause exists to permit the intervention of the above named intervenors as hereinafter ordered and conditioned.

(4) Good cause exists to deny Cities' request for a suspension for the full statutory period.

The Commission orders: (A) Pending a hearing and decision thereon, NSP's proposed rate increase is accepted for filing and suspended for one day until February 7, 1975, when it will be permitted to become effective, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held on June 17, 1975, at 10 a.m., e.d.t., in a hearing room at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning all issues, other than those issues to be considered in Phase II of these proceedings hereinafter ordered, which bear on the lawfulness and reasonableness of the rates and charges proposed in NSP's filing (Phase I).

(C) With respect to Phase I of these proceedings, the Commission Staff shall file its evidence and exhibits on or before April 29, 1975. Any intervenor evidence and exhibits shall be filed on or before May 1, 1975. Rebuttal evidence of NSP shall be filed on or before May 27, 1975.

(D) A second phase (Phase II) of this proceeding is hereby instituted for the development of a complete evidentiary record concerning the anticompetitive provisions of NSP's contracts as contained in Cities' pleadings and over which this Commission has jurisdiction to grant relief. Intervenor evidence in support of their allegations as to these anticompetitive provisions in NSP's contracts shall be filed on or before May 20,

[2] See: Virginia Electric and Power Company, Docket No. E-9147, issued January 22, 1975; Carolina Power and Light Company, Docket No. E-8884, issued August 26, 1974; Wisconsin Public Service Corporation, Docket No. E-8867, issued August 23, 1974; and Pacific Gas and Electric Company, Docket No. E-7777 isued March 14, 1974.

[3] United Gas Pipe Line v. Mobile Gas Service Corporation, 350 U.S. 344 (1956); F.P.C. v. Sierra Pacific Power Company, 350 U.S. 348 (1956).

[4] *See*, e.g. orders cited in n. 2, supra.

[5] For a discussion of similar problems under the Natural Gas Act, see Northwest Pipeline Corporation Docket Nos. RP72-154 and CP73-332, issued October 30, 1974; and Southern Natural Gas Company, Docket Nos. RP73-64, et al., Order Denying Rehearing issued July 5, 1974.

1975. Staff evidence, if any, shall be filed on or before June 3, 1975. NSP shall file its prepared evidence on or before June 17, 1975. Any intervenor rebuttal evidence shall be filed on or before July 1, 1975. A public hearing for the purpose of cross-examination of the filed testimony and exhibits shall commence on July 15, 1975, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, at 10 a.m., e.d.t.

(E) A Presiding Administrative Law Judge shall preside at the hearings initiated by this order, and shall conduct such hearings in accordance with the Federal Power Act, the Commission's rules and regulations, and terms of this order.

(F) The above named petitioner are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters over which this Commission has jurisdiction and which affect the rights and interests specifically set forth in their petitions to intervene. As to Phase I, these matters are limited to the appropriate level of the wholesale rates proposed herein. As to Phase II, these matters are limited to the alleged anticompetitive contract provisions of NSP over which this Commission has jurisdiction.

(G) The request by Cities intervenors for the maximum suspension of NSP's filing is hereby denied.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

The customers and Rate Schedule designations are:

	FPC Rate Schedule No.
Bangor	58, Supplement No. 1.
Cadott	42, Supplement No. 3.
Bloomer	45, Supplement No. 3.
Cornell	59, Supplement No. 1.
New Richmond	48, Supplement No. 3.
Spooner	49, Supplement No. 3.
Whitehall	51, Supplement No. 3.
Trempealeau	52, Supplement No. 3.
Black River Falls	54, Supplement No. 3.
Westby	55, Supplement No. 5.
Rice Lake	56, Supplement No. 2.

[FR Doc.75-3873 Filed 2-11-75;8:45 am]

[Docket Nos. E-8999, E-9000]

ORANGE AND ROCKLAND UTILITIES, INC.

Notice of Extension of Procedural Dates

FEBRUARY 3, 1975.

On January 31, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 27, 1974 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony	Mar. 25, 1975.
Service of Intervenor's Testimony.	Apr. 8, 1975.
Service of Company Rebuttal.	Apr. 22, 1975.
Hearing	May 6, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-3874 Filed 2-11-75;8:45 am]

[Docket No. E-7718 and E-8598]

PENNSYLVANIA ELECTRIC CO.

Notice of Extension of Procedural Dates

FEBRUARY 3, 1975.

On January 27, 1975, Pennsylvania Electric Company filed a motion to extend the procedural dates fixed by order issued November 11, 1974, as most recently modified by notice issued December 31, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal.	Feb. 28, 1975.
Hearing	Mar. 11, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-3875 Filed 2-11-75;8:45 am]

ROCKLAND ELECTRIC CO.

[Docket No. E-9001]

Notice of Further Extension of Procedural Dates

FEBRUARY 3, 1975.

On January 31, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 27, 1974, as most recently modified by notice issued January 9, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony	Mar. 18, 1975.
Service of Intervenor's Testimony.	Apr. 1, 1975.
Service of Company Rebuttal	Apr. 15, 1975.
Hearing	Apr. 29, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-3876 Filed 2-11-75;8:45 am]

[Docket No. CI75-433]

SKELLY OIL CO.

Notice of Application

FEBRUARY 4, 1975.

Take notice that on January 24, 1975, Skelly Oil Company (Applicant), P.O. Box 1650, Tulsa, Oklahoma 74102, filed in Docket No. CI75-433 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America (Natural) from the Forty Niner Ridge Unit Well No. 1, in Eddy County, New Mexico, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to sell gas to Natural from the subject acreage at a rate of 65.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Applicant estimates sales volume at 120,000 Mcf of gas per month. Applicant states it will make a 60 day sale within the contemplation of Section 157.29 of the Commission's regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the emergency period within the contemplation of § 2.70 of the Commission's General policy and interpretations (18 CFR 2.70).

Applicant further states that it is requesting the subject sale on a limited-term basis pending its determination of whether it will use the subject gas for its own purposes and that the proposed price is believed by Applicant to be the lowest price at which this particular sale of gas may be obtained for the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3877 Filed 2-11-75;8:45 am]

JAMES W. STAPLES, ET AL.

[Docket No. CI75-437]

Notice of Application

FEBRUARY 4, 1975.

Take notice that on January 27, 1975, James W. Staples, Lee Evins and Robert Greenburg (Applicants), P.O. Box 76, Tuleta, Texas 78162, filed in Docket No. CI75-437 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Fortitude Field, Bee County, Texas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicants propose to sell an estimated 500 Mcf per day of gas from the subject acreage to United for one year at a rate of 85 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's General policy and interpretations (18 CFR 2.70).

Applicants state that the subject gas could be sold intrastate at a much greater consideration, but that the location of United's 18-inch pipeline makes the sale to United "more advantageous, and more economical."

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3878 Filed 2-11-75;8:45 am]

[Docket No. CI75-239]

TEXAS GAS CORPORATION CORPORATION

Notice of Withdrawal

FEBRUARY 4, 1975.

On January 23, 1975, Texas Gas Corporation Corporation (operator) et al. filed a withdrawal of its application of October 17, 1974, in the above-designated matter.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules of practice and procedure the withdrawal of the above application shall become effective February 24, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3879 Filed 2-11-75;8:45 am]

[Docket No. RP75-16-10]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Withdrawal

FEBRUARY 4, 1975.

In the matter of Transcontinental Gas Pipe Line Corporation (Eastern Shore Natural Gas Company).

On January 24, 1975, General Food Corporation filed a withdrawal of its petition for interim extraordinary relief filed January 17, 1975 in the above-designated matter.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules of practice and procedure, the withdrawal of the above application shall become effective February 24, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3881 Filed 2-11-75;8:45 am]

[Docket No. RP75-16-9]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Withdrawal

FEBRUARY 4, 1975.

In the matter of Transcontinental Gas Pipe Line Corporation (Southwestern Virginia Gas Company).

On January 23, 1975, Southwestern Virginia Gas Company filed a withdrawal of its petition for extraordinary relief in the above-designated matter.

Notice is hereby given that pursuant to § 1.11(d) of the Commission's rules of practice and procedure, the withdrawal of the above application shall become effective February 24, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3880 Filed 2-11-75;8:45 am]

[Docket No. CP75-214]

FLORIDA GAS TRANSMISSION CO.

Application

FEBRUARY 5, 1975.

Take notice that on January 27, 1975, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP75-214 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service and measuring equipment and appurtenant facilities used to render the service on a direct sale basis to Suni-Citrus Products Company (Suni-Citrus) in Haines City, Florida, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that Suni-Citrus has sold the plant to which the gas is delivered to Bordo Citrus Products Cooperative, which has decided to obtain its gas service from Central Florida Gas Corporation. Applicant, accordingly, proposes to remove and salvage the subject facilities, the estimated salvage vaule of which is $3,517.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1975, file with the Federal Power Commission, Washington, DC. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3867 Filed 2-11-75;8:45 am]

[Docket Nos. RP71-14, et al, G-13202, and RP67-9]

EL PASO NATURAL GAS CO.

Refund Report

FEBRUARY 4, 1975.

Take notice that on November 15, 1974, El Paso Natural Gas Company (El Paso), tendered for filing a report of refunds which indicated that on October 11, 1974, El Paso refunded a total of $10,726,269.74 to the jurisdictional customers of its former Northwest division. The refund report indicates that the refunds were made pursuant to refund plans approved by Commission letter orders issued September 11, 1974 in the above-referenced dockets. The subject letter orders approved two refund plans: (1) to return $9,416,968.36 in excess revenues collected under the proposed rates at Docket Nos. RP71-14, et al, plus interest accumulations; and (2) to flow through $86,150.04 in producer supplier refunds under Docket Nos. G-13202 and RP67-9, plus interest accumulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 18, 1975. 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.75-3866 Filed 2-11-75;8:45 am]

[Docket No. RP72-134 (PGA 75-7A)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

FEBRUARY 5, 1975.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on January 29, 1975, tendered for filing Third Substitute Eleventh Revised Sheet No. 3A and Third Substitute Eleventh Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1 to become effective February 1, 1975. The proposed changes reflect the rates accepted by Commission letter order dated December 24, 1974, as adjusted to include the rate changes proposed by its supplier.

Pursuant to the Purchased Gas Adjustment Clause contained in its tariff, Eastern Shore proposes to decrease the commodity or delivery charges of its rate schedules CD-1, CD-E, G-1, E-1, I and PS-1, as proposed in its January 17, 1975, filing, by 0.4¢ per Mcf to reflect the equivalent changes in the similar rates of its sole supplier, Transcontinental Gas Pipe Line Corporation, contained in the latter's filing in Docket No. RP75-3 on January 15, 1975. Eastern Shore requests waiver of the notice requirements of § 154.22 of the Regulations under the Natural Gas Act and § 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the proposed tariff sheets to become effective as of February 1, 1975, coincident with the proposed effective date of Transcontinental's rate changes.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 C.F.R. 1.8, 1.10). All such petitions or Protests should be filed on or before February 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3865 Filed 2-11-75;8:45 am]

[Docket No. E-9188]

DUKE POWER CO.

Filing of Supplement to Electric Rate Schedule

FEBRUARY 5, 1975.

Take notice that on December 20, 1974, the Duke Power Company tendered for filing a supplement to its Electric Power Contract with the City of Gastonia, North Carolina. The supplement is to become effective January 20, 1975 and provides a new Delivery Point No. 10 for service to Gastonia. A 100/12.5 kv substation and 1.74 miles of tap line will be constructed to provide that service.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3864 Filed 2-11-75;8:45 am]

[Docket No. E-9185]

DUKE POWER CO.

Filing of Supplement to Contract

FEBRUARY 5, 1975.

Take notice that on December 20, 1974, Duke Power Company, tendered for filing a supplement to its electric power contract with Laurens Electric Cooperative, Inc. The supplement is to become effective January 20, 1975, and provides a new point of delivery for service to Laurens.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3863 Filed 2-11-75;8:45 am]

[Docket No. E-9187]

DUKE POWER CO.

Filing Supplement to Rate Schedule

FEBRUARY 5, 1975.

Take notice that on December 20, 1974, Duke Power Company, tendered for filing a supplement to its Electric Power Contract with the City of High Point, North Carolina. The supplement is to become effective January 20, 1975, and it provides for an increase in contract demand from 20,000 kw to 40,000 kw at Delivery Point No. 3 of the City of High Point.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such

petitions or protests should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3862 Filed 2-11-75;8:45 am]

[Docket No. E-9186]

DUKE POWER CO.

Filing Supplement to Rate Schedule

FEBRUARY 5, 1975.

Take notice that on December 20, 1974, Duke Power Company, tendered for filing a supplement to its Electric Power Contract with the Town of Pineville, North Carolina. The supplement is to become effective January 20, 1975, and provides for an increase in contract demand from 2,000 kw to 3,000 kw at Delivery Point No. 1.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3861 Filed 2-11-75;8:45 am]

[Docket No. E-9192]

CONSUMERS POWER CO.

Filing of Amendment to Interconnection Agreement

FEBRUARY 5, 1975.

Take notice that on December 23, 1974, Consumers Power Company (Applicant) tendered for filing with the Federal Power Commission an amendment (denoted Supplemental Agreement No. 2 and Supplement F) to an existing Interconnection Agreement, as amended, between Applicant and Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., the City of Grand Haven, Michigan and the City of Traverse City, Michigan ("MMCPP Members"). The Interconnection Agreement is denoted Consumers Power Company Rate Schedule FPC No. 34 and became effective on November 1, 1973.

Supplemental Agreement No. 2 and Supplement F provide for the transmission by Consumers Power Company over its facilities of 20 megawatts capacity at 100% power factor to be provided by The Detroit Edison Company at a point of interconnection between its system and that of Applicant, and delivered by Applicant at a point of interconnection between its system and that of the MMCPP members.

Waiver of the Commission's notice requirements is requested pursuant to § 35.11 of the Commission's regulations, in order that the amendment can be effective September 1, 1974.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3860 Filed 2-11-75;8:45 am]

[Docket No. CS72-175]

CONCEPT RESEARCH CORP.

Redesignation

FEBRUARY 4, 1975.

On June 7, 1974, and January 15, 1975, Concept Resources Ltd. and its subsidiary Concept Resources Inc. (Concept) notified the Commission of their corporate name change from the former Canarctic Resources Ltd. and Canarctic Resources Inc. respectively, effective February 25, 1972.

Notice is hereby given that the small producer certificate issued in the above-designated matter are redesignated as those of Concept.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3859 Filed 2-11-75;8:45 am]

[Docket No. E-9239]

INDIANA & MICHIGAN ELECTRIC CO.

Tariff Change

FEBRUARY 4, 1975.

Take notice that Indiana & Michigan Electric Company (I&M), on January 29, 1975, tendered for filing proposed changes in its FPC Rate Schedule No. 58 applicable to service rendered by I&M to the City of Richmond, Indiana (Richmond). According to I&M, the proposed changes would increase revenues from Richmond by $363,579 if the proposed increases had been in effect for the twelve-month period ending December 1974.

I&M states that the proposed changes implement the contractual obligations as set forth in the Service Agreement between I&M and Richmond and have been authorized by the decision of the United States Court of Appeals for the District of Columbia Circuit in Richmond Power & Light v. F.P.C., 481 F.2d 490 (1973). I&M states further that copies of the filing were served upon Richmond and upon its counsel, as well as upon the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 18, 1975. 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.75-3868 Filed 2-11-75;8:45 am]

[Docket No. E-9228]

KENTUCKY UTILITIES CO.

Contract Cancellation

FEBRUARY 4, 1975.

Take notice that on January 20, 1975, Kentucky Utilities Company (KU) tendered for filing a letter dated January 9, 1975, wherein KU notified Jackson Purchase Rural Electric Cooperative Corporation (Jackson) that KU was cancelling its Contract for Electric Service dated December 1, 1967. The effective date of the cancellation is January 15, 1978.

KU's letter states that its action is made necessary by the inadequacy of the rates and charges specified in said contract. KU's January 9, 1975, letter further states that KU wishes to enter into a new contract with Jackson which provides for rate and other charges adequate to cover KU's costs of providing the service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protest-

ants 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.75-3869 Filed 2-11-75;8:45 am]

[Docket Nos. CP70-22, RP73-102, PGA 75-2, AP75-2, and R&D 75-1]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in Rates and Charges

FEBRUARY 5, 1975.

Take notice that on January 7, 1975, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Substitute Eighth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1.

Michigan Wisconsin states that the above tariff sheet reflects a reduction in rate of .06¢ necessitated by the Commission's disposition of Northern Natural Gas Company's rate increase at Docket No. RP71-107, et al.; order dated December 26, 1974.

Michigan Wisconsin further states that also enclosed are the supporting calculations and revised schedules to Michigan Wisconsin's November 15, 1974 tariff filing.

According to Michigan Wisconsin, copies of the filing have been mailed to its jurisdictional customers, to all parties in Docket No. RP73-102 and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1975. 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.75-3870 Filed 2-11-75;8:45 am]

[Docket No. RP73-63]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Petition to Amend Authorization

FEBRUARY 5, 1975.

Take notice that on January 24, 1975, Natural Gas Pipeline Company of America (Natural) filed a petition to amend the order establishing a revolving exploration and development fund issued in Docket No. RP73-63 on August 3, 1973, as amended by Order Amending Order issued August 3, 1975. Natural states that the amendment of the order will enlarge the revenues available for the revolving exploration and development fund program and thus increase the amount of exploration and development of new gas supplies.

The Petition to Amend requests permission for Natural to transfer to the revolving exploration and development fund program all of the revenues attributable to the sale by Natural to Phillips Petroleum Company of liquid hydrocarbons under that certain contract as amended dated September 1, 1966. Natural further states that it would discontinue reducing its cost of service by the amount of these revenues generated from such sale and requests authority to revise its FPC Tariff so as to reflect the resulting rate increase in its jurisdictional rates.

Any person desiring to be heard or to make any protest with reference to said Petition to Amend should on or before February 21, 1975, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3871 Filed 2-11-75;8:45 am]

[Docket No. E-9219]

NEW ENGLAND POWER POOL AGREEMENT (NEPOOL)

Notice of Filing Supplement to NEPOOL Agreement

FEBRUARY 5, 1975.

Take notice that on January 20, 1975, the Secretary of the New England Power Pool (NEPOOL) Management Committee tendered for filing the signature pages executed by the following twelve new participant systems in NEPOOL, all of whom are municipal electric systems in the State of Massachusetts, dated December 14, 1974:

City of Chicopee Municipal Lighting Plant.
City of Westfield Gas and Electric Light Department.
Town of Ashburnham Municipal Light Plant.
Town of Boylston Municipal Light Department.
Town of Marblehead Municipal Light Department.
Town of North Attleborough Electric Department.
Town of Paxton Municipal Light Department.
Town of Shrewsbury Electric Light Plant.
Town of South Hadley Electric Light Department.
Town of Templeton Municipal Lighting Plant.
Town of Wakefield Municipal Light Department.
Town of West Boylston Municipal Lighting Plant.

The proposed filing will not change the NEPOOL Agreement in any manner, other than to make the twelve municipal electric systems additional participants in the Pool. Waiver of the Commission's notice requirements is requested in order that the participation of the twelve new participants may be effective as of December 14, 1974.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protest should be filed on or before February 20, 1975. 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 documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-3872 Filed 2-11-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF DEFENSE

[Temporary Reg. F-329]

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telecommunications rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the South Carolina Public Service Commission involving the application of the Southern Bell Telephone and Telegraph Company for an increase in telecommunications rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General

Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

JANUARY 31, 1975.

[FR Doc.75-3845 Filed 2-11-75;8:45 am]

ADVISORY COMMITTEE FOR PROTECTION OF ARCHIVES AND RECORDS CENTERS

Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that meetings of the Advisory Committee for Protection of Archives and Records Centers will be held at 9 a.m. on February 27 and 28, 1975, in the Departmental Auditorium, Conference Room C, 14th and Constitution Avenue NW., Washington, D.C.

The meetings on February 27 and 28 will be devoted to a review of pertinent aspects of previously received testimony; discussion of the testimony as it relates to the protection of Archives and Records Centers; discussion of the outline of the proposed report, and to receive additional testimony from interested parties concerning the protection of archives and records from fire.

Individuals wishing to offer testimony are requested to submit, in advance, to the Advisory Committee Secretary, a one-page outline of their testimony, and to limit their oral remarks to fifteen minutes. Written statements of any length will be accepted.

Further information with reference to these meetings can be obtained from Mr. D. Peter Lund, Advisory Committee Secretary, c/o Society of Fire Protection Engineers, 60 Batterymarch Street, Boston, MA 02110, or call 617-482-0686.

Dated: January 28, 1975.

W. A. MEISEN,
Acting Commissioner,
Public Buildings Service.

[FR Doc.75-3839 Filed 2-11-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TEA-W-263]

NORTHLAND SHOE CORP.

Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Northland Shoe Corp., Fryeburg, Maine, a wholly owned subsidiary of Standard Prudential Corp., New York, New York, the United States International Trade Commission, on February 6, 1975, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.45 and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States International Trade Commission, 8th and E Streets, NW, Washington, D.C., and at the New York City office of the International Trade Commission located at 6 World Trade Center.

By order of the Commission.

Issued: February 7, 1975.

KENNETH R. MASON,
Secretary.

[FR Doc.75-3962 Filed 2-11-75;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

FREEDOM OF INFORMATION ACT

Fees for Search and Duplication, as Amended—Uniform Agency

At its meeting on February 6, 1975, the National Capital Planning Commission adopted the following schedule of fees which the Commission may charge for services performed pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended:

1. Publications offered for sale—as marked
2. Commission reports—$0.15/page
3. Committee reports—$0.15/page
4. Commission Memorandums of Actions—$0.15/page
5. Transcripts of Commission meetings and Committee meetings—$0.15/page
6. Other records—$0.15/page
7. Maps—microfilm printout—$0.50/each ozalid maps—$0.20/linear foot

The Commission keeps on file a limited quantity of back copies of Commission reports, Committee reports, and Commission Memorandums of Actions. The Commission will first attempt to fill specific requests for these documents from its supply of back copies and until the supply is exhausted, the Commission will provide the documents at no charge. Once the supply is exhausted, the requested document will be provided in accord with the fee schedule.

Fees will be waived when less than $5.00 or when it is in the public interest to do so. Such a waiver will be in the public interest, for example, when in the determination of the Commission the request will not impose an undue burden or expense upon it and the request is (1) from another Government organization, Federal, State or local; (2) for the purpose of obtaining information primarily for the benefit of the general public rather than for the primary benefit of the requester, as will be the case with certain requests from news media and from organizations engaged in a non-profit activity designed for public safety, health, welfare, or education; (3) from employees and former employees seeking information from their own personnel records; (4) from or on behalf of the defending party in connection with a proceeding against such party by the Federal Government; and (5) from a low-income person and the fee would impose a financial hardship.

This schedule shall be effective February 14, 1975.

DANIEL H. SHEAR,
Secretary.

FEBRUARY 7, 1975.

[FR Doc.75-3918 Filed 2-11-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-516; STN 50-517]

LONG ISLAND LIGHTING CO.

Jamesport Nuclear Power Station, Units 1 and 2, Availability of NRC Draft Environmental Statement

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 Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed Jamesport Nuclear Power Station, Units 1 and 2, to be constructed by Long Island Lighting Company in Suffolk County, New York is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Riverhead Free Library, 330 Court Street, Riverhead, New York 11901. The Draft Statement is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, New York 12207 and the Tri-State Regional Planning Commission, 100 Church Street, New York, New York 10007. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Long Island Lighting Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on September 13, 1974 (39 F.R. 33022).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report

and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by March 31, 1975. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Riverhead Free Library, 330 Court Street, Riverhead, New York 11901. Upon consideration of comments submitted with respect to the draft environmental statement, the Staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Rockville, Maryland, this 6th day of February 1975.

For the Nuclear Regulatory Commission.

WM. H. REAGAN, JR.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-3708 Filed 2-11-75;8:45 am]

[Construction Permit Nos. CPPR-77; CPPR-78]

VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Notice and Order

MAY 28, 1974.

Before the Atomic Safety and Licensing Board.

Please take notice, that an evidentiary session will be held on February 13, 1975 commencing at 9:30 a.m. at the Landow Building, 7920 Woodmont Avenue, ASLBP Hearing Room, Bethesda, Maryland 20014.

As discussed in a telephone conference call on February 6, 1975, with all parties, the purpose of this session is to clarify the record relating to submission of in camera material.

It is so ordered.

Dated at Bethesda, Maryland, this 6th day of February 1975.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.75-3830 Filed 2-11-75;8:45 am]

[Docket No. 50-285]

FORT CALHOUN STATION, UNIT NO. 1

Negative Declaration Regarding Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has considered the issuance of changes to the Technical Specifications Appendix B of Facility Operating License No. DPR-40. These changes would authorize the Omaha Public Power District (the licensee) to operate their Fort Calhoun Station Unit 1 at a 2° F increase in the condenser cooling water differential temperature (ΔT).

The U.S. Nuclear Regulatory Commission, Division of Reactor Licensing, has prepared an environmental impact appraisal for the proposed change to the Technical Specifications Appendix B, of License No. DPR-40, Fort Calhoun Station, Unit 1, described above. On the basis of this appraisal, we have concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement for Fort Calhoun Station Unit 1 published in May 1972. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska 68008.

Dated at Rockville, Maryland, this 4th day of February 1975.

For the Nuclear Regulatory Commission.

GORDON K. DICKER,
Chief, Environmental Projects Branch 2, Division of Reactor Licensing.

[FR Doc.75-3828 Filed 2-11-75;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effect as of its date of issuance.

The amendment permits a 2° F. increase in cooling water discharge and a 2° F. increase in cooling water differential temperature.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated July 26, 1974, (2) Amendment No. 4 to License No. DPR-40, with any attachments, and (3) the Commission's related Negative Declaration. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska 68008.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 4th day of February 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch 3, Division of Reactor Licensing.

[FR Doc.75-3829 Filed 2-11-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SCIENCE EDUCATION PROJECTS

NATO Postdoctoral Fellowship Subpanel Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the NATO Postdoctoral Fellowship Subpanel to be held at 9 a.m. on February 27-28, 1975, in room 651, 5225 Wisconsin Avenue, NW., Washington, D.C.

The purpose of this Subpanel is to provide advice and recommendations concerning the merit of specific applications submitted for consideration by the NATO Postdoctoral Fellowship Program.

This meeting will not be open to the public because the Subpanel will be reviewing, discussing, and evaluating individual applications for NATO fellowships. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning the applicants. These matters are within the exemptions of 5 U.S.C. 522(b) (4), (5) and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Subpanel, please contact Dr. Hall Taylor, Program Manager, Fellowships and Traineeships Section, Rm. W-476, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7595.

FRED K. MURAKAMI,
Committee Management Officer.

FEBRUARY 7, 1975.

[FR Doc.75-3893 Filed 2-11-75;8:45 am]

NATIONAL TECHNICAL INFORMATION SERVICE

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the

licensing policy of each Agency-sponsor.

Copies of patents are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161, at the prices cited. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent Office. Claims and other technical data can usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,783,189: Television System for Precisely Measuring Distances; filed 1 June 1972; patented 1 January 1974; not available NTIS.

Patent 3,800,256: Energy Storage and Switching with Superconductors; filed 24 April 1973; patented 26 March 1974; not available NTIS.

Patent 3,801,445: Thermionic Reactor Electrical Control System; filed 28 September 1972; patented 2 April 1974; not available NTIS.

Patent 3,803,416: Slotted Coaxial Germanium Gamma-Ray Camera; filed 28 November 1972; patented 9 April 1974; not available NTIS.

Patent 3,805,119: Superconductor; filed 12 July 1972; patented 16 April 1974; not available NTIS.

Patent 3,816,771: Plasma Energy to Electrical Energy Converter; filed 9 February 1973; patented 11 June 1974; not available NTIS.

Patent 3,817,746: Ductile Superconducting Alloys; filed 14 November 1972; patented 18 June 1974; not available NTIS.

DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street, SW., Washington, D.C. 20590.

Patent application 516,448: Signal Conditioner Front-End; filed 21 October 1974; PC $3.25/MF $2.25.

ENVIRONMENTAL PROTECTION AGENCY, Room W513, 401 M Street, SW., Washington, D.C. 20460.

Patent 3,635,034: Method of Plugging Mine Passages, Having Water Emanating Therefrom; filed 9 July 1969; patented 18 January 1972; not available NTIS.

Patent 3,672,173: Forming Self-Supporting Barriers in Mine Passages and the Like; filed 13 May 1969; patented 27 June 1972; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 508,784: Process for Fabricating Sic Semiconductor Devices; filed 24 September 1974; PC $3.25/MF $2.25.

Patent application 483,850: An Externally Supported Internally Stabilized Flexible Duct Joint; filed 27 June 1974; PC $3.25/MF $2.25.

Patent application 483,857: Rapid Activation and Checkout Device for Batteries; filed 27 June 1974; PC $3.25/MF $2.25.

Patent application 505,880: Improved Structure and Method of Producing Composite of Gapped and Ungapped Cores; filed 13 September 1974; PC $3.25/MF $2.25.

Patent application 510,677: Solar Cell Assembly; filed 30 September 1974; PC $3.25/MF $2.25.

Patent application 510,678: Method of Manufacturing Composite Superconductors; filed 30 September 1974; PC $3.25/MF $2.25.

Patent application 511,346: An Attitude Control System; filed 2 October 1974; PC $3.25/MF $2.25.

Patent application 511,894: Aircraft Mounted Crash Activated Transmitter Device; filed 3 October 1974; PC $3.25/MF $2.25.

Patent application 513,612: Hingeless Helicopter Rotor with Improved Stability; filed 10 October 1974; PC $3.25/MF $2.25.

Patent application 513,689: Miniature Hydraulic Actuator; filed 10 October 1974; PC $3.25/MF $2.25.

Patent 3,837,285: Open Tube Guideway for High Speed Air Cushioned Vehicles; patented 24 September 1974; not available NTIS.

Patent 3,840,829: Integrated n-Channel MOS Gyrator; patented 8 October 1974; not available NTIS.

[FR Doc.75-3903 Filed 2-11-75;8:45 am]

GOVERNMENT-OWNED INVENTIONS
Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of patents are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161, at the prices cited. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent Office. Claims and other technical data can usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 476,500: Method of Preparing Gas Tags for Identification of Single and Multiple Failures of Nuclear Reactor Fuel Assemblies; filed 5 June 1974; PC $3.75/MF $2.25.

Patent application 481,262: Fast-Neutron Solid-State Dosimeter; filed 20 June 1974; PC $3.25/MF $2.25.

Patent application 484,740: Phase Control in High Resolution Electron Microscopy; filed 1 July 1974; PC $3.25/MF $2.25.

Patent application 486,924: Pipe Gripper; filed 9 July 1974; PC $3.25/MF $2.25.

Patent application 87,323: Thermochemical Production of Hydrogen; filed 10 July 1974; PC $3.25/MF $2.25.

Patent application 487,326: Failure Limiting Pipe Expansion Joint; filed 10 July 1974; PC $3.25/MF $2.25.

Patent application 489,215: Method of Apparatus for Fabricating a Composite Structure Consisting of a Filamentary Material in a Metal Matrix; filed 17 June 1974; PC $3.25/MF $2.25.

Patent application 489,305: Whole Blood Analysis Rotor for a Multistation Dynamic Photometer; filed 17 July 1974; PC $3.25/MF $2.25.

Patent application 490,446: Displaced Electrode Process for Welding; filed 22 July 1974; PC $3.25/MF $2.25.

Patent application 491,082: A Combined Coal Fired Process for Production of Power and Liquid Fuel; filed 23 July 1974; PC $3.25/MF $2.25.

Patent application 491,095: Variable Thickness Double-Refracting Plate; filed 23 July 1974; PC $3.25/MF $2.25.

Patent 3,797,804: Atmospheric Closure Mechanism; filed 6 February 1973; patented 19 March 1974; not available NTIS.

Patent 3,801,446: Radioisotope Fueled Heat Transfer System; filed 5 June 1968; patented 2 April 1974; not available NTIS.

Patent 3,806,625: High-Voltage Feedthrough Assembly; filed 16 March 1973; patented 23 April 1974; not available NTIS.

Patent application 474,547: Controlled Porosity Filter and Uniform Structure Composites; filed 30 May 1974; PC $4.00/MF $2.25.

Patent 3,801,446: Radioisotope Fueled Heat Transfer System; filed 5 June 1968; patented 2 April 1974; not available NTIS.

Patent 3,805,552: Radial Spline Guide Bearing Assembly; filed 17 October 1972; patented 23 April 1974; not available NTIS.

Patent 3,805,890: Helical Coil Heat Exchanger; filed 12 December 1972; patented 23 April 1974; not available NTIS.

Patent 3,807,257: Apparatus and Method for Delivering Vibratory Energy; filed 17 November 1972; patented 30 April 1974; not available NTIS.

Patent 3,821,747: Recording System Having Piezoelectric Stylus Drive Means; filed 23 April 1973; patented 28 June 1974; not available NTIS.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Maryland, 20014.

Patent application 368,578: Enzyme Electrode; filed 11 June 1973; PC $3.25.

Patent 3,843,974: Intimal Lining and Pump with Vertically Drafted Webs; filed 5 January 1972; patented 29 October 1974; not available NTIS.

Patent 3,846,353: Nonthrombogenic Plastic Material and Method for Making the Same; filed 8 June 1970; patented 5 November 1974; not available NTIS.

DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Virginia.

Patent 3,757,256: Surface Wave Transducers with Cancellation of Secondary Response; filed 2 August 1971; patented 4 September 1973; not available NTIS.

Patent 3,757,287: Sea Bottom Classifier; filed 6 April 1972; patented 4 September 1973; not available NTIS.

Patent 3,757,312: General Purpose Associative Processor; filed 9 October 1970; patented 4 September 1973; not available NTIS.

Patent 3,757,720: Control Surfaces for Submersible Vehicles; filed 19 October 1971; patented 11 September 1973; not available NTIS.

Patent 3,757,722: Submersible Underway Docking Unit; filed 21 April 1972; patented 11 September 1973; not available NTIS.

Patent 3,757,725: Right Spherical Segment—Glass Shell—to Metal—Joint; filed 24 September 1971; patented 11 September 1973; not available NTIS.

Patent 3,758,071: Magnetically-Actuated Fluid Control Valve; filed 26 November 1971; patented 11 September 1973; not available NTIS.

Patent 3,758,382: Process of Freezing Blood Using a Hydroxyalkyl Starch as Cryoprotective Agent; filed 26 July 1968; patented 11 September 1973; not available NTIS.

Patent 3,758,868: Noise-Riding Slicer; filed 21 December 1971; patented 11 September 1973; not available NTIS.

Patent 3,758,886: Versatile in Line Waveguide to Coax Transition; filed 1 November 1972; patented 11 September 1973; not available NTIS.

Patent 3,759,092: Differential Pressure Transducer and Readout for Sensing Claw Grip Force; filed 9 June 1971; patented 18 September 1973; Not available NTIS.

Patent 3,757,042: Pan and Tilt Underwater Optical Viewing System with Adjustable Source-Receiver Separation and Zoom Lenses; filed 18 February 1972; patented 4 September 1973; not available NTIS.

Patent 3,757,247: Frequency Selective Optical Isolator; filed 22 June 1972; patented 4 September 1973; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patents Matter, NASA Code GP–2, Washington, D.C. 20590.

Patent application 513,690: Zero Torque Gear Head Wrench; filed 10 October 1974; PC $3.25/MF $2.25.

Patent application 518,545: Translatory Shock Absorbers for Attitude Sensors; filed 29 October 1974; PC $3.25/MF $2.25.

Patent application 518,546: Apparatus for Measuring the Ferrite Content of Austenitic Stainless Steel Weld Material; filed 29 October 1974; PC $3.25/MF $2.25.

Patent application 518,685: An Improved Static Pressure Probe; filed 29 October 1974; PC $3.25/MF $2.25.

Patent application 521,006: An Improved Heat Exchanger; filed 5 November 1974; PC $3.25/MF $2.25.

Patent application 521,602: An Improved Portable Peening Gun; filed 6 November 1974; PC $3.25/ $2.25.

Patent application 521,603: Carbon Monoxide Monitor; filed 6 November 1974; PC $3.25/MF $2.25.

Patent application 424,500: Hall Effect Magnetometer; filed 13 December 1973; PC $3.25/MF $2.25.

Patent application 500,982: Self-Energized Plasma Compressor; filed 27 August 1974; PC $3.25/MF $2.25.

Patent application 506,803: Bonding of Sapphire to Sapphire by Eutectic Mixture of Aluminum Oxide and Zirconium Oxide; filed 17 September 1974; PC $3.25/MF $2.25.

Patent application 506,804: A Holographic Motion Picture Camera; filed 17 September 1974; PC $3.25/MF $2.25.

Patent application 506,803: Method and Apparatus for Detecting Flaws in Elongated Bodies; filed 24 September 1974; PC $3.25/MF $2.25.

Patent application 512,825: Two Feed Dish Antenna Having Switchable Beamwidth; filed 4 October 1974; PC $3.25/MF $2.25.

Patent application 513,613: Catalytic Trimerization of Aromatic Nitriles and Triaryl-S-Triazine Ring Cross-Linked High Temperature Resistant Polymers and Copolymers Made Thereby; filed 10 October 1974; PC $3.75/MF $2.25.

Patent application 514,546: A Method and Apparatus for Compensating Reflection Losses in a Path Length Modulated Absorption-Absorption Trace Gas Detector; filed 15 October 1974; PC $3.25/MF $2.25.

Patent 3,835,318: Fast Scan Control for Deflection Type Mass Spectrometers; patented 10 September 1974; not available NTIS.

[FR Doc.75–3904 Filed 2–11–75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 7, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

VA cooperative study of aspirin therapy in unstable angina, 10–7993 A–K, on occasion, patients in VA hospitals, Hall, George, 395–4697.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Laboratory personnel qualification appraisal for technologists, cytotechnologists, technicians and trainees, SSA–3082, on occasion, individuals, Caywood, D. P., 395–3443.

Laboratory personnel qualifications appraisal for directors and supervisors, SSA–3083, on occasion, individuals, Caywood, D. P., 395–3443.

Health Resources Administration, emergency medical technician performance evaluation, New Haven, HRABH1120, on occasion, ambulance companies and hospitals, Human Resources Division, 395–3532.

Food and Drug Administration, survey on use of antibiotics in clinical practice, FDABD 0114, single-time, physicians, Hall, George, 395–4697.

DEPARTMENT OF LABOR

Manpower Administration, process evaluation of decentralized CETA programs, MT–1062, single-time, CETA prime sponsor staff, Human Resources Division, 395–3532.

REVISIONS

VETERANS ADMINISTRATION

Application for automobile or other conveyance and adaptive equipment, 21–4502, on occasion, veterans and service persons, Caywood, D. P., 395–3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, survey to develop school feeding participant's profile, single-time, school principals, Human Resources Division, 395–3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, joint program for the study of abortion—CDC, CDC 4.316A, CDC 4.316B, and CDC 4.316C, on occasion, medical care facilities, Human Resources Division, 395–3532.

EXTENSIONS

RAILROAD RETIREMENT BOARD

Unemployment insurance claimants referral report, ES–20A, on occasion, Evinger, S. K., 395–3648.

Employment relation questionnaire (employment service for retirement credit), ERR–8, on occasion, Evinger, S. K., 395–3648.

Referral card—report on placement or refusal of referral of job offer to RRB, ES–21, on occassion, Evinger, S. K., 395–3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–4093 Filed 2–11–75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 3–4608; File No. (81–175)]

BI LIQUIDATING CORP.

Notice of Application and Opportunity for Hearing

FEBRUARY 4, 1975.

Notice is hereby given that BI Liquidating Corporation ("BI") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 (the "Act"), that BI be granted an exemption from the provisions of section 13 of the Act.

Section 12(g) of the Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons. Registration is terminated 90 days after the issuer files a certification with the Commission that the number of holders of the registered class of securities is fewer than 300 persons.

Section 12(h) of the Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions under sections 12, 13 and 14 of the 1934 Act and to

grant exemptions from the insider reporting and trading provisions of section 16 of the Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states, in part: BI, a Delaware corporation, had been prior to September 30, 1974 primarily engaged in the importation, designing, manufacture and sale of men's and boys' sport shirts. BI was formed in 1961 as Walter J. Schneider Corporation and changed its name to Barrington Industries, Inc. in 1963 and to its present name on October 8, 1974.

BI has outstanding common stock, $.10 par value, which is registered pursuant to section 12(g) of the Act. On September 30, 1974 BI sold all of its assets to a subsidiary of Wilson Brothers, an Illinois corporation. Wilson's subsidiary assumed BI's liabilities and issued 123,463 shares of Wilson's common stock to BI pursuant to a Form S-14 registration statement. The Wilson common stock is registered under section 12(b) of the Act and is traded on the American Stock Exchange. BI's two classes of subordinated convertible debentures outstanding are convertible into Wilson stock. In addition to the sale of assets, BI's shareholders approved a plan of liquidation and disolution. BI is currently distributing in liquidation its only asset (Wilson stock) to its shareholders upon surrender by such holders of their shares of BI stock. As of January 21, 1975 there were approximately 929 shareholders who had not surrendered their BI stock. Therefore, in the absence of an exemption, BI is subject to the reporting requirements of section 13.

BI contends in part that since September 30, 1974 there has been virtually no market activity in its stock and that the company has been performing the sole function of liquidating its asset pursuant to the plan adopted by its shareholders and its contract with Wilson. BI also contends that the Wilson stock to be received by its shareholders is registered under section 12 of the Act and that Wilson files reports with the Commission pursuant to section 13.

Therefore, BI claims that exemption from the requirements of section 13(a) would not be inconsistent with the public interest or protection of investors.

For a more detailed statement of information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than March 3, 1975 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3925 Filed 2-11-75;8:45 am]

[File No. 500-1]

BIO-MEDICAL SCIENCES, INC.

Suspension of Trading

FEBRUARY 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Bio-Medical Sciences, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:01 a.m. (e.s.t.), February 6, 1975, through midnight (e.s.t.) on February 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3920 Filed 2-11-75;8:45 am]

[Rel. No. 18799; 70-5614]

CONNECTICUT YANKEE ATOMIC POWER CO.

Proposed Issue and Sale of Notes to Banks and to a Dealer in Commercial Paper and Exception from Competitive Bidding

FEBRUARY 3, 1975.

Notice is hereby given that Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), P.O. Box 270, Hartford, Connecticut 06101, an electric utility subsidiary company of Northeast Utilities "Northeast") and of New England Electric System ("New England") both of which are registered holding companies, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Connecticut Yankee proposes to issue and sell, from time to time on or before March 1, 1976, short-term securities in an aggregate principal amount not to exceed $30,000,000 outstanding at any one time. Such securities will be in the form of short-term notes issued to banks or commercial paper issued to a dealer in such securities.

The proposed bank notes will each be dated as of the date of issue, will have maximum maturity dates of nine months, will bear interest at a rate per annum not in excess of one percent (1%) above the prime rate in effect at the lending bank on the date of issue, and will be subject to prepayment at any time at Connecticut Yankee's option without premium. The banks which will participate in Connecticut Yankee's short-term borrowing program and the maximum commitment of each bank is as follows:

The Chase Manhattan Bank, New York, N.Y.	$18,000,000
The Connecticut Bank & Trust Co., Hartford, Conn.	6,000,000
Total	24,000,000

The lines of credit are to be secured by a deposit of 10 percent of the amount of the line at the time it is committed. In addition, at the time of the first borrowing pursuant to the line of credit, Connecticut Yankee will make an additional deposit (compensating balance) of 10 percent of the entire committed line. Assuming a full 20 percent compensating balance and borrowings at one percent (1%) above the prime rate, the effective cost of borrowing would be approximately 13.1 percent, based on an assumed prime interest rate of 9½ percent.

The proposed commercial paper notes will be issued in denominations of not less than $50,000 and not more than $1,000,000, will have a maturity of not more than 270 days, will not be repayable prior to maturity, and will be sold by Connecticut Yankee directly to Lehman Commercial Paper, Incorporated, a dealer in commercial paper, at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity sold by public-utility issuers to commercial paper dealers. No commercial paper notes having a maturity of more than 90 days will be issued at an effective interest cost which exceeds the effective interest cost at which Connecticut Yankee could borrow from banks in

an amount at least equal to the principal amount of such commercial paper. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The commercial paper dealer, as principal, will reoffer the commercial paper to institutional investors at a discount of no more than ⅛ of 1 percent per annum less than the prevailing discount rate to Connecticut Yankee in such manner as not to constitute a public offering. The commercial paper will be reoffered to not more than 200 identified and designated customers in a list (nonpublic) prepared in advance by the dealer. It is anticipated that the commercial paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others in the group of 200 customers.

The funds to be derived from the issuance and sale of bank notes and commercial paper will be applied by the company (i) to repay $30,000,000 of existing bank notes and commercial paper presently outstanding pursuant to an order of the Commission dated September 14, 1973 (HCAR No. 18096), (ii) to provide funds for capital expenditures consisting principally of replacement turbine rotors, high energy pipe brake modification, the construction of a warehouse, and for the purchase of additional nuclear fuel. It is contemplated that the bank notes and commercial paper will be repaid in large part from the proceeds of a leverage lease nuclear fuel transaction in May or June of 1975 and with a mortgage bond issue later in 1975. It is represented that a small quantity of commercial paper will remain outstanding as a continuing component of the fuel financing program.

It is stated that no fees or commissions (including counsel fees) will be paid or incurred, directly or indirectly, in connection with the proposed transactions and that incidental services, valued at an estimated $500, will be performed at cost by Northeast Utilities Service Company, an affiliated service company. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Connecticut Yankee requests that the issue and sale of its commercial paper notes be excepted from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) thereof in view of the fact that current rates for commercial paper for prime borrowers such as Connecticut Yankee are readily ascertainable by reference to daily financial publications and that it is not practicable to invite competitive bids for commercial paper. Connecticut Yankee further requests that the certificates under Rule 24 be filed on a quarterly basis with respect to the commercial paper.

Notice is further given that any interested person may, not later than February 27, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3928 Filed 2-11-75;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Suspension of Trading

FEBRUARY 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½ percent debentures due 1990, 5½ percent convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended for the period from February 6, 1975 through February 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3923 Filed 2-11-75;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Suspension of Trading

FEBRUARY 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 6, 1975 through February 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3921 Filed 2-11-75;8:45 am]

[Rel. No. 18802; 70-5613]

THE SOUTHERN CO.

Proposed Charter Amendment Regarding Increase in Authorized Number of Shares of Common Stock and Solicitation of Proxies in Connection Therewith

FEBRUARY 4, 1975.

Notice is hereby given that The Southern Company ("Southern") 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 7 and 12(e) of the Act and rule 62 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern's Certificate of Incorporation ("Certificate") presently authorizes 110,000,000 shares of common stock, par value $5 per share, of which 98,749,500

shares are issued and outstanding. Southern proposes to amend its Certificate so as to increase the authorized number of shares of common stock from 110,000,000 to 150,000,000, par value $5.00 per share.

Southern has traditionally provided its subsidiary companies with the common equity portion of the capital needed to finance their construction programs. To that end, Southern issued and sold 36,300,000 shares of common stock during the 3 year period 1972 through 1974. It is contemplated that the common stock capital requirements of the subsidiary companies will continue and that in 1975 Southern will be required for such purposes to sell additional shares of its common stock approaching, if not exceeding, the number of its presently authorized but unissued shares. The proposed amendment to the Certificate is designed to provide Southern with a reasonable amount of authorized but unissued shares of common stock for financing such additional common equity capital requirements and for general corporate purposes, including possible use in a dividend reinvestment and stock purchase plan for Southern's stockholders. Any actual issuance and sale of common stock would be subject to approval pursuant to the applicable provisions of the Act and rules thereunder.

The proposed amendment to the Certificate will require the affirmative vote of the holders of a majority of the shares of outstanding common stock. By means of a proxy and proxy-statement, the proposed amendment will be submitted to the stockholders at Southern's 1975 annual meeting to be held on or about May 28, 1975. It is stated that the proposed amendment has been proposed and declared advisable by Southern's Board of Directors.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 28, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3927 Filed 2-11-75;8:45 am]

[Rel. No. 8661; 811-2036]

SUMMIT CAPITAL INVESTMENT PLANS

Notice of Proposal To Terminate Registration

FEBRUARY 5, 1975.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Summit Capital Investment Plans ("Summit"), c/o Lawrence A. Fox, Wilkie, Farr & Gallagher, 1 Chase Manhattan Plaza, New York, New York 10005, registered under the Act as a unit investment trust, has ceased to be an investment company as defined by the Act.

On March 2, 1970, Summit registered under the Act by filing a Form N-8A Notification of Registration. On the same date, Summit filed a Form N-8B-2 Registration Statement under the Act and also filed a Form S-6 Registration Statement (2-36462) under the Securities Act of 1933 which was declared abandoned by order on July 20, 1972. Information in the Commission's files indicates that Summit has never had any assets or liabilities, has never sold any shares, and has never conducted and does not propose to conduct any business operations whatsoever.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 5, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to the controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following March 5, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-2926 Filed 2-11-75;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

FEBRUARY 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 6, 1975 through February 15, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3924 Filed 2-11-75;8:45 am]

[File No. 500-1]

ZENITH DEVELOPMENT CORP.

Suspension of Trading

FEBRUARY 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 6, 1975 through February 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-3922 Filed 2-11-75;8:45 am]

WATER RESOURCES COUNCIL

PROCEDURE NO. 1 FOR PLANNING WATER AND RELATED LAND RESOURCES

Notice of Amendment

On July 24, 1974, there was published in the FEDERAL REGISTER (39 FR 26952) a notice that Procedure No. 1 for Planning Water and Related Land Resources—Schedule and Application of Principles and Standards to Implementation Studies in Progress—had been established pursuant to Section 103 of the Water Resources Planning Act (Pub. L. 89-80) and the authority delegated in Section 2 of Executive Order 11747, November 7, 1973.

Notice is now given that Procedure No. 1 is hereby amended.

The amending material to Procedure No. 1 is in the form of additional material only. The full text of Procedure No. 1 for Planning Water and Related Land Resources, as hereby amended, is published as a part of this notice with the amending additional material in paragraphs C and D italicized.

The amendment to Procedure No. 1 is effective on February 12, 1975.

ROGERS C. B. MORTON,
Chairman.

FEBRUARY 3, 1975.

PROCEDURE NO. 1 FOR PLANNING WATER AND RELATED LAND RESOURCES

SCHEDULE AND APPLICATION OF PRINCIPLES AND STANDARDS TO IMPLEMENTATION STUDIES IN PROCESS

A. Level C (implementation) plans, as defined by the Water Resources Council, July 22, 1970, which have been formulated in accordance with Senate Document No. 97, Supplement No. 1 thereto regarding recreation benefits, and the amendment of December 24, 1968, regarding discount rate, and transmitted to OMB prior to October 25, 1973, including those in this category which were transmitted to Congress for approval or authorization will remain as formulated.

B. Level C plans on which field studies, analyses, and evaluation were completed as of October 25, 1973, and which were formulated in accordance with Senate Document No. 97 as supplemented and amended, and which were transmitted to OMB, or transmitted to OMB and to Congress, for approval or authorization between October 25, 1973, and June 30, 1974, will include an addendum providing the following information.

1. Changes in Benefits and Costs: An evaluation of the plan without reformulation, using current normalized prices, current construction costs, and current recreation values.

2. Environmental Problems: A summary description of any significant environmental problems expected to be encountered or created by the plan.

3. Need for Reformulation: If the plan has unresolved environmental problems, a careful examination of the plan is to be undertaken by the responsible Federal agency, and reasons that reformulation of the plan is not needed prior to authorization will be set forth.

C. Level C (implementation) plans on which field studies analyses, and evaluation were completed as of October 25, 1973, and which were formulated in accordance with Senate Document No. 97 as supplemented and amended, and which are *either* transmitted to OMB between July 1, 1974, and June 30, 1975, *or which are in the review process on June 30, 1975, specifically designated and listed by the agencies, and transmitted to OMB between July 1, 1975, and June 30, 1976, will require supplemental analyses. A list of the plans in this review process will be filed on July 1, 1975, by the agencies with the Water Resources Council. Plans in Section C* will include an addendum providing the following information.

1. Changes in Benefits and Costs: An evaluation of the plan without reformulation, using current normalized prices, current construction costs, and current recreation values.

2. Environmental Quality Plan: An abbreviated environmental quality plan consistent with the intent of the "Principles and Standards," but which is abridged in detail.

3. Regional Development and Social Well-being: An abbreviated display of the regional development and social well-being impacts consistent with the intent of the "Principles and Standards," but which is abridged in detail.

4. Need for Reformulation: If the plan has unresolved environmental problems, a careful examination of the plan will be undertaken by the responsible Federal agency, and reasons that reformulation of a plan is not needed prior to authorization will be set forth.

D. Level C plans transmitted to OMB after June 30, 1975, *except those specifically designated and listed under the provisions of Section C above,* will be formulated in conformance with the "Principles and Standards" and applicable implementing Procedures.

E. For Level C plans which can be finally approved and carried out by an agency head pursuant to specific statutory provisions without further action by Congress, the application of the "Principles and Standards" is determined by substituting the words "approved administratively" for the words "transmitted to OMB" in Procedures A through D.

F. Agency heads responsible for applying the "Principles and Standards" may, if they desire, accelerate the schedule set out in this Procedure.

[FR Doc.75-3785 Filed 2-11-75;8:45 am]

DEPARTMENT OF LABOR

Manpower Administration

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKERS PROGRAMS

Termination of Grant Application Process and Request for Submissions

Pursuant to 29 CFR and sections 602(a) and 303(a) of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92.203, 87 Stat. 839), notice is hereby given that the regular grant planning and application process for allocable funds, described in 29 CFR 97.210-97.220 has terminated in the following States, as of this date (together with the amount of funds available for farmworker grants in those States):

Colorado—$946,800; Kentucky—$802,000; Wyoming—$42,000; Maine—$118,000; New Hampshire—$30,000; and Rhode Island—$23,000.

Because we were unable to provide grants in those States through the regular grant planning and application process for allocable funds, the funds made available for programs in those States revert to the National Contingency Account described in § 97.204(b). However, it is the intent and desire of the Manpower Administration to spend those available funds in those States for farmworker programs. For that reason, we are giving this notice of the availability of these funds for farmworker programs in those States and limiting eligibility for application for those funds to those applicants eligible under § 97.205.

The Manpower Administration will consider any proposals submitted by February 28, 1975, for a program(s) in those States. Interested persons are invited to submit proposals (four copies) to:

U.S. Department of Labor
Manpower Administration
Room 7122, Patrick Henry Building
601 D Street, NW
Washington, D.C. 20213
Attention: Chief, Migrant Division

Proposals submitted for a program(s) in those States should include the information, documentation and forms described in § 97.212 and 97.215.

Signed at Washington, D.C., this 29th day of January, 1975.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.75-3913 Filed 2-11-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

FEBRUARY 6, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway-Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before February 24, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2633 (Sub-No. E12), filed May 12, 1974. Applicant: CROSSETT, INC., P.O. Box 946, Warren, Pennsylvania 16365. Applicant's representative: M. A. Burgett (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum products*, in bulk, in tank trucks, from Erie, and points in Crawford Counties, Pennsylvania, to points on the U.S.-Canada International Boundary line between and including Buffalo, and Youngstown, New York. The purpose of this filing is to eliminate the gateways of Buffalo, Tonawanda, North Tonawanda; those points between Buffalo and Tonawanda which are within two miles of the Niagara River, New York.

No. MC 2633 (Sub-No. E13), filed May 12, 1974. Applicant: CROSSETT, INC., P.O. Box 946, Warren, Pennsylvania 16365. Applicant's representative: M. A. Burgett (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from points in Clinton, Potter, and Tioga Counties, Pennsylvania to points on the International Boundary line between the U.S. and Canada which are between Buffalo and Youngstown, New York. The purpose of this filing is to eliminate the gateways of Buffalo, Tonawanda, North Tonawanda, New York, and points in New York which are between Buffalo and Tonawanda and are within two miles of the Niagara River.

No. MC 2633 (Sub-No. E15), filed May 12, 1974. Applicant: CROSSETT, INC., P.O. Box 946, Warren, Pennsylvania 16365. Applicant's representative: M. A. Burgett (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, except those named in Appendix XV thereof, from points in Beaver County, Pennsylvania; points in Chautauqua, Erie, and Niagara Counties, New York. The purpose of this filing is to eliminate the gateway of Freedom, Pennsylvania.

No. MC 2633 (Sub-No. E16), filed May 12, 1974. Applicant: CROSSETT, INC., P.O. Box 946, Warren, Pennsylvania 16365. Applicant's representative: M. A. Burgett (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating oil*, in bulk, in tank vehicles, from points in Beaver County, Pennsylvania, to Syracuse and East Syracuse, New York. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pennsylvania.

No. MC 18088 (Sub-No. E1), filed May 13, 1974. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile products*, (a) from points in South Carolina (except points in Oconee County), to points in that part of Tennessee in and west of Lincoln, Moore, Coffee, Rutherford, Davidson, Cheatham, and Montgomery Counties, (b) from points in Oconee County, S.C., to points in and west of Franklin, Moore, Bedford, Marshall, Maury, Hickman, Humphreys, Houston, and Stewart Counties, Tenn., (c) from points in Cherokee, York, Union, Chester, Lancaster, Chesterfield, Marlboro, Dillon, Horry, Marion, Florence, Darlington, Lee, Sumter, Kershaw, Fairfield, and Newberry Counties, S.C., to points in Troup, Harris, Muscogee, and Chattahoochee Counties, Ga., (d) from points in Oconee, Pickens, Greenville, Spartanburg, Anderson, Laurens, Abbeville, Greenwood, Saluda, McCormick, and Edgefield Counties, S.C., to points in Harris, Muscogee, and Chattahoochee Counties, Ga., (e) from points in that part of South Carolina in and south of Aiken, Lexington, Richland, Clarendon, Williamsburg, and Georgetown Counties, to points in Troup and Harris Counties, Ga. The purpose of this filing is to eliminate the gateways of Sycamore, Pell City, and Lafayette, Ala.

No. MC 18088 (Sub-No. E2), filed May 13, 1974. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products, and machinery, machinery parts, equipment, materials, and supplies* used in or in connection with the operation of textile mills and warehouses (except commodities the transportation of which, because of size or weight require the use of special equipment for the transportation thereof), restricted to the transportation of shipments originating at or destined to sites of mills or plants for the production of textiles or textile products, or of warehouses operated in connection with such mills or plants, (a) between points in South Carolina (except Oconee County) on the one hand, and, on the other, points in that part of Tennessee in and west of Giles, Lewis, Hickman, Dickson, and Montgomery Counties, (c) between points in Charleston County, S.C. on the one hand, and, on the other, points in that part of Tennessee in and west of Lincoln, Marshall, Williamson, Davidson, and Robertson Counties, (d) between points in that part of Georgia, on and east of Muscogee, Chattahoochee, Marion, Schley, Sumter, Lee, Worth, Colquitt, and Brooks Counties on the one hand, and, on the other, points in that part of Tennessee in and west of Hamilton, Meigs, Rhea, Cumberland, Fentress, and Pichett Counties, (e) between points in Union, Towns, Rabun, Lumpkin, White, Habersham, Stephens, Hall, Banks, Franklin, Hart, Jackson, Madison, Elbert, Gwinnett, Barrow, Clarke, Oglethorpe, Wilkes, Lincoln, Walton, Oconee, Morgan, Greene, Taliaferro, Putnam, Jasper, Butts, Newton, Henry, Fayette Spalding, Douglas, Carroll, and De Kalb Counties, Ga. on the one hand, and, on the other, points in that part of Tennessee in and west of Lawrence, Lewis, Hickman, Humphreys, Houston, and Stewart Counties.

(f) between points in Heard, Coweta, Troup, Meriwether, Pike, Lamar, Monroe, Harris, Talbot, Upson, Crawford, and Taylor Counties, Ga. on the one hand, and, on the other, points in that part of Tennessee in and west of Giles, Marshall, Williamson, Davidson, Cheatham, and Montgomery Counties, (g) between points in Taylor, Crawford, Peach, Houston, Macon, Pulaski, Dooly, Crisp, Wilcox, Turner, Ben Hill, Tift, Irwin, Cook, Berrien, Coffee, Atkinson, Lowndes, Lanier, Clinch, and Echols Counties, Ga. on the one hand, and, on the other, points in that part of Tennessee in and west of Bradley, McMinn, Loudon, Knox, Union, and Campbell Counties, (h) between points in Columbia, McDuffie, Warren, Hancock, Baldwin, Jones, Bibb, Twiggs, Bleckley, Dodge, Telfair, Jeff Davis, Bacon, Ware, Charlton, Camden, Glynn, Brantley, Pierce, McIntosh, Wayne, Appling, Long, Liberty, Chatham, Bryan, Effingham, Screven, Bulloch, Candler, Evans, Tattnall, Toombs, Montgomery, Wheeler, Treutlen, Laurens, Wilkinson, Washington, Glascock, Richmond, Burke, Jenkins, Johnson, Emanuel, and Jefferson Counties, Ga. on the one hand, and,

on the other, points in that part of Tennessee in and west of Lincoln, Moore, Bedford, Rutherford, Davidson, and Robertson Counties. The purpose of this filing is to eliminate the gateway of the plantsite of Vulcan Binder and Cover, Division of Ebsco Industries, Inc., at Vincent, Ala.

No. MC 18088 (Sub-No. E3), filed May 13, 1974. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, (a) from points in that part of Tennessee in and west of Hamilton, Meigs, Rhea, Cumberland, Fentress, and Pichett Counties to points in that part of Georgia in and west of Muscogee, Chattahoochee, Marion, Schley, Sumter, Lee, Worth, Colquitt, and Brooks Counties, (b) from points in that part of Tennessee in and west of Lawrence, Lewis, Hickman, Humphreys, Houston, and Stewart Counties to points in Union, Towns, Rabun, Lumpkin, White, Habersham, Stephens, Hall, Banks, Franklin, Hart, Jackson, Madison, Elbert, Gwinnett Barrow, Clarke, Oglethorpe, Wilkes, Lincoln, Walton, Oconee, Morgan, Greene, Taliaferro, Putnam, Jasper, Butts, Newton, Henry, Fayette, Spalding, Douglas, Carroll, and Dekalb Counties, Ga., (c) from points in that part of Tennessee in and west of Giles, Marshall, Williamson, Davidson, Cheatham, and Montgomery Counties to points in Heard, Coweta, Troup, Meriwether, Pike, Lamar, Monroe, Harris, Talbot, Upson, Crawford, and Taylor Counties, Ga., (d) from points in that part of Tennessee in and west of Bradley, McLinn, Loudon, Knox, Union, and Campbell Counties to points in Taylor, Crawford, Peach, Houston, Macon, Pulaski, Dooly, Crisp, Wilcox, Turner, Ben Hill, Tift, Irwin, Cook, Berrien, Coffee, Atkinson, Lowndes, Lanier, Clinch, and Echols Counties, Ga., (e) from points in that part of Tennessee in and west of Lincoln, Moore, Bedford, Rutherford, Davidson, and Robertson Counties to points in Columbia, McDuffie, Warren, Hancock, Baldwin, Jones, Bibb, Twiggs, Bleckley, Dodge, Telfair, Jeff Davis, Bacon, Ware, Charlton, Camden, Glynn, Brantley, Pierce, McIntosh, Wayne, Appling, Long, Liberty, Chatham, Bryan, Effingham, Screven, Bulloch, Candler, Evans, Tattnall, Toombs, Montgomery, Wheeler, Treutlen, Laurens, Wilkinson, Washington, Glascock, Richmond, Burke, Jenkins, Johnson, Emanuel, and Jefferson Counties, Ga., (f) from points in that part of Tennessee in and west of Giles, Maury, Hickman, Dickson, Houston, and Stewart Counties to points in South Carolina (except points in Oconee County), (g) from points in that part of Tennessee in and west of Giles, Lewis, Hickman, Dickson, and Montgomery Counties to points in Oconee County, S.C., and (h) from points in that part of Tennessee in and west of Lincoln, Marshall, Williamson, Davidson, and Robertson Counties to points in Charleston County, S.C. The purpose of this filing is to eliminate the gateway of the plant site of Vulcan Binder and Cover, Division of Ebsco Industries, Inc., at Vincent, Ala.

No. MC 31462 (Sub-No. E17), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Alabama on, south and east of a line beginning at the Alabama-Mississippi State line extending along Alabama Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Alabama-Tennessee State line, on the one hand, and, on the other, points in that part of South Dakota on and north of a line beginning at the Minnesota-South Dakota State line extending along U.S. Highway 34 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction Interstate Highway 90, thence along Interstate Highway 90 to Rapid City, South Dakota, thence along U.S. Highway 385 to Deadwood, South Dakota, thence along U.S. Highway 85 to the South Dakota-Wyoming State line. The purpose of this filing is to eliminate the gateway of points in Georgia; points in Tennessee; Cairo, Illinois, and points within 25 miles thereof; Burlington, Iowa, and points within 50 miles thereof; and Alden, Minnesota, and points in Minnesota within 35 miles thereof.

No. MC 31462 (Sub-No. E18), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Tennessee, on the one hand, and, on the other, points in that part of Alabama bounded by a line beginning at the Georgia-Alabama State line extending along U.S. Highway 278 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction Alabama County Highway 31, thence along Alabama County Highway 31 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction County Highway 49, thence along County Highway 49 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Alabama Highway 93, thence along Alabama Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateway of points in Georgia.

No. MC 31462 (Sub-No. E20), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Alabama on and east of a line beginning at the Georgia-Alabama State line at Phenix City, Alabama, extending along U.S. Highway 431 to Dothan, Alabama, thence along Alabama Highway 51 to junction Alabama Highway 53, thence along Alabama Highway 53 to junction Alabama Highway 109, thence along Alabama Highway 109 to the Alabama-Florida State line, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of any point in Georgia; any point in Tennessee; Cairo, Illinois, or any point within 25 miles thereof; and Burlington, Iowa, or any point within 50 miles thereof.

No. MC 31462 (Sub-No. E155), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Illinois on and south of a line beginning at the Illinois-Iowa State line extending along Interstate Highway 80 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and points within 50 miles thereof.

No. MC 31462 (Sub-No. E159), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, from points in that part of Illinois on and north of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 40 to the Illinois-Indiana State line, to points in West Virginia. The purpose of this filing is to eliminate the gateway of Fort Wayne, Indiana, and points in Indiana within 40 miles thereof.

No. MC 31462 (Sub-No. E161), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined, by the Commission, between points in Illinois, on the one hand, and, on the other, points in that part of Texas on, north, and west of a line beginning at Texarkana, Texas, extending along U.S. Highway 67 to junction U.S. Highway 271, thence along U.S. Highway 271 to junction U.S. Highway 69 to junction

U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 21, thence along Texas Highway 21 to junction Texas Highway 123, thence along Texas Highway 123 to junction Texas Highway 72, thence along Texas Highway 72 to junction Texas Highway 97, thence along Texas Highway 97 to junction U.S. Highway 81, thence along U.S. Highway 81 to the United States-Mexico Boundary line. The purpose of this filing is to eliminate the gateway of St. Louis, Missouri, and East St. Louis, Illinois, and points within 50 miles thereof; Cairo, Illinois, and points within 25 miles thereof; and points in Okmulgee County, Oklahoma.

No. MC 31462 (Sub-No. E164), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois on the one hand, and, on the other, and points in South Dakota. The purpose of this filing is to eliminate the gateway of Alden, Minnesota, and points in Minnesota within 35 miles thereof.

No. MC 31462 (Sub-No. E165), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois on the one hand, and, on the other, and points in North Dakota. The purpose of this filing is to eliminate the gateway of Alden, Minnesota, and points in Minnesota within 35 miles thereof.

No. MC 31462 (Sub-No. E166), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Illinois on the one hand, and, on the other, and points in Mississippi. The purpose of this filing is to eliminate the gateway of Cairo, Illinois, and points within 25 miles thereof.

No. MC 31462 (Sub-No. E167), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Illinois on and north of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 136 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is toe eliminate the gateway of Fort Wayne, Indiana, and points in Indiana within 40 miles thereof.

No. MC 31462 (Sub-No. E244), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in South Dakota, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and points within 50 miles thereof; Ft. Wayne, Indiana, and points in Indiana within 50 miles thereof; Hoosick Falls, New York; and any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E245), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in North Dakota on the hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and points within 50 miles thereof; Ft. Wayne, Indiana, and points in Indiana within 40 miles thereof; Hoosick Falls, New York; and any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E246), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Nebraska, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and points within 50 miles thereof, Ft. Wayne, Indiana, and points in Indiana within 40 miles thereof; and Hoosick Falls, New York.

No. MC 31462 (Sub-No. E247), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Oklahoma, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of Kansas City, Missouri, and points within 30 miles thereof; Ft. Wayne, Indiana, and points in Indiana within 40 miles thereof; and Hoosick Falls, New York.

No. MC 31462 (Sub-No. E335), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line on the one hand, and, on the other, points in Vermont. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; (4) Hoosick Falls, New York and (5) any points which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E336), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along

U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, points in Virginia. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E337), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; and (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E338), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; and (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E339), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P. O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof, and (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E340), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191 thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles, and (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E346), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, on the one hand, and, on the other, points in New Hampshire. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; (4) Hoosick Falls, New York, and (5) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E347), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster,

Texas 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Montana on and east of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 91 to junction U.S. Highway 2, thence along U.S. Highway 2 to Browning, thence along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line on the one hand, and, on the other, points in that part of Tennessee on and east of a line beginning at the Tennessee-Kentucky State line extending along U.S. Highway 127 to junction U.S. Highway 127 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of (1) Williston, North Dakota and points in North Dakota within 200 miles thereof; (2) Burlington, Iowa and points within 50 miles thereof; (3) Ft. Wayne, Indiana and points in Indiana within 40 miles thereof; and (4) any point which is both within 35 miles of Alden, Minnesota, and within that part of Minnesota or Iowa on and south of a line beginning at the Mississippi River, thence along U.S. Highway 16 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Mississippi River.

No. MC 31462 (Sub-No. E419), filed May 13, 1974. Applicant: PARAMOUNT MOVERS, INC., P.O. Box 309, Lancaster, Texas, 75146. Applicant's representative: R. L. Rork (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Oklahoma on the one hand, and, on the other, and points in Wisconsin. The purpose of this filing is to eliminate the gateway of Burlington, Iowa, and points within 50 miles thereof.

No. MC 32562 (Sub-No. E1), filed May 13, 1974. Applicant: POINT EXPRESS, INC., 4035 Roberts Road, Columbus, Ohio 42316. Applicant's representative: LOWELL T. BAYS (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Beckley, W. Va., on the one hand, and, on the other, points in Virginia within 75 miles of Bluefield, W. Va. The purpose of this filing is to eliminate the gateway of Bluefield, W. Va.

No. MC 61403 (Sub-No. E34) (Correction), filed May 31, 1974, republished in the FEDERAL REGISTER January 27, 1975. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *Liquid chemicals*, in bulk, in tank vehicles, (a) from points in that part of Tennessee on and east of U.S. Highway 27 to points in that part of North Dakota on and east of U.S. Highway 85, and points in that part of South Dakota on and east of U.S. Highway 85 (Kingsport, Tenn., and Marshall, Ill.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial correction is to correct the territorial descriptions. The remainder of this letter-notice remains as previously published.

No. MC 95540 (Sub-No. E829) (Correction), filed December 9, 1974, published in the FEDERAL REGISTER January 2, 1975. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Charles, Ill., to those points in New Mexico on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 60 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Arizona State line, to those points in Arizona on and south of a line beginning at the Arizona-New Mexico State line and extending along U.S. Highway 66 to its junction with U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-New Mexico State line, to those points in California on and south of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to its junction with California Highway 58, thence along California Highway 58 to its junction with California Highway 140, thence along California Highway 140 to its junction with Interstate Highway 15, thence along Interstate Highway 15 to its junction with California Highway 152, thence along California Highway 152 to its junction with California Highway 1, thence along California Highway 1 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn. The purpose of this correction is to include the gateway.

No. MC 95540 (Sub-No. E842) (correction), filed December 12, 1974, published in the FEDERAL REGISTER January 2, 1975. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from Dubuque, Iowa, to points in Gordon County, Tenn., and points in Loudon County, Tenn., restricted to the transportation of shipments destined to points in the named destination counties. The purpose of this filing is to eliminate the gateway of Blytheville, Ark. The purpose of this correction is to correct a typographical error.

No. MC 106398 (Sub-No. E83) (correction), filed May 31, 1974, published in the FEDERAL REGISTER December 23, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections and component parts, materials, supplies, and fixtures*, from points in Pennsylvania, Ohio, Indiana, Missouri, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Arkansas, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa. The purpose of this correction is to clarify the origin points.

No. MC 106398 (Sub-No. E122) (correction), filed May 31, 1974, published in the FEDERAL REGISTER October 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, in sections, when transported on wheeled undercarriages equipped with hitch-ball connector, other than from origins which are points of manufacture, from Saratoga Springs, N.Y., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of any point in Pennsylvania, New Jersey, or Massachusetts. The purpose of this correction is to clarify the gateway.

No. MC 106920 (Sub-No. E94), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: commodities classified as *dairy products* under B in the appendix to the report in Modification of Permits of Motor Carriers of

packinghouse products, 48 M.C.C. 628, except in bulk, in tank vehicles, and concentrated whole milk and concentrated skim milk, in containers, from points in Wisconsin south of a line beginning at the Iowa-Wisconsin State line and extending along Wisconsin Highway 60 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Wisconsin Highway 74, thence along Wisconsin Highway 74 to Lake Michigan, to points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line and extending along Kentucky Highway 163 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Kentucky Highway 55, thence along Kentucky Highway 55 to junction Kentucky Highway 555, thence along Kentucky Highway 555 to junction Kentucky Highway 62, thence along Kentucky Highway 62 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Indiana State line. The purpose of this filing is to eliminate the gateway of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E96), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: Commodities classified as *dairy products* under B in the appendix to the report in modification of permits of motor contract carriers of packinghouse products, 48 M.C.C. 628, except in bulk, in tank vehicles, and concentrated whole milk and concentrated skim milk, in containers, from points in Wisconsin south of a line beginning at the Iowa-Wisconsin State line and extending along Wisconsin Highway 60 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Wisconsin Highway 74, thence along Wisconsin Highway 74 to Lake Michigan, and north of a line beginning at the Wisconsin-Iowa State line and extending along Wisconsin Highway 60 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Wisconsin-Illinois State line, to points in Alabama bounded by a line beginning at the Alabama-Tennessee State line and extending along U.S. Highway 231 to junction Alternate U.S. Highway 72, thence along Alternate U.S. Highway 72 to junction Alabama Highway 24, thence along Alabama Highway 24 to junction Alabama Highway 33, thence along Alabama Highway 33 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction Alabama Highway 195, thence along Alabama Highway 195 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction Interstate Highway 59, thence along Interstate Highway 59 to the Alabama-Georgia State line, thence along the Alabama-Georgia State line to the Alabama-Tennessee State line; thence along the Alabama-Tennessee State line to the point of origin. The purpose of this filing is to eliminate the gateway of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E101), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: *Commodities* classified as *dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 48 M.C.C. 628, from points in Missouri on and north of a line beginning at the Kansas-Missouri State line and extending along Missouri Highway 92 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Missouri Highway 10, thence along Missouri Highway 10 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 154, thence along Missouri Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Illinois-Missouri State line, to points in Florida on and south of a line beginning at the Atlantic Ocean and extending along Interstate Highway 4 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Florida Highway 688, thence along Florida Highway 688 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E102), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits* of Motor Contract Carriers of Packinghouse Products, 48 M.C.C. 628, from points in Missouri bounded by a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 136 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Missouri Highway 135, thence along Missouri Highway 135 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Missouri Highway 240, thence along Missouri Highway 240 to junction Missouri Highway 3, thence along Missouri Highway 3 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 154, thence along Missouri Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Illinois-Missouri State line and extending along the Illinois-Missouri State line to the point of origin, to points in Kentucky bounded by a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 68 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line and extending along the Ohio-Kentucky State line to the point of origin. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E104), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 48 M.C.C. 628, from points in Missouri south of a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 136 to junction Missouri Highway 145, thence along Missouri Highway 145 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Missouri Highway 46, thence along Missouri Highway 46 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Nebraska-Missouri State line, and north of a line beginning at the Nebraska-Missouri State line and extending along U.S. Highway 136 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Missouri Highway 48, thence along Missouri Highway 48 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line, to points in Tennessee north of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25E to junction U.S. Highway 11E, thence along U.S. Highway 11E to the Tennessee-Virginia State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E106), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 48 M.C.C. 628, from points in Missouri to points in West Virginia, north of a line beginning at the Virginia-West Virginia State line and extending along West Virginia Highway 39 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction U.S.

Highway 33, thence along U.S. Highway 33 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to the West Virginia-Ohio State line (except points in West Virginia on and north of U.S. Highway 50). The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E108), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packinghouse Products*, 48 M.C.C. 628, from points in Missouri on and north of a line beginning at the Missouri-Illinois State line and extending along Missouri Highway 16 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 11, thence along Missouri Highway 11 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Missouri State line, to points in North Carolina. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 107227 (Sub-No. E1) (Correction), filed May 15, 1974, republished in the FEDERAL REGISTER January 16, 1975. Applicant: INSURED TRANSPORTERS, INC., P.O. Box 1807, Fremont, Calif. 94538. Applicant's representative: John G. Lyons, Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (6) *Trucks*, in truckaway service, from points in that part of California on and west of a line beginning at the Arizona-California State line and extending along U.S. Highway 80 to junction California Highway 86, thence along California Highway 86 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Temporary Interstate Highway 5, thence along Temporary Interstate Highway 5 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction California Highway 29, thence along California Highway 29 to junction California Highway 128, thence along California Highway 128 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 12, thence along California Highway 12 to junction California Highway 116, thence along California Highway 116 to the Pacific Ocean to points in Washington (San Francisco and Oakland)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial correction is to correct a typographical error. The remainder of this letter-notice remains as previosuly published.

No. MC 107403 (Sub-No. E466) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER January 8, 1975. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Ohio (except points within 150 miles of Monongahela, Pa.), to points in Maryland, Pennsylvania, and West Virginia (points within 150 miles of Monongahela, Pa.). The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. The purpose of this correction is to omit the word "except" from the destination description.

No. MC 107839 (Sub-No. E10) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from Coral Gables, Fla., to points in that part of Arizona on and north of a line beginning at the Arizona-New Mexico State line, thence along U.S. Highway 66 to Flagstaff, thence along Interstate Highway 17 to Phoenix, thence along Interstate Highway 10 to the California-Arizona State line, points in that part of Utah on and south and west of a line beginning at the Arizona-Utah State line, thence along U.S. Highway 6 to U.S. Highway 89, thence along U.S. Highway 89 via Salt Lake City to the Utah-Idaho State line; points in that part of Idaho on and south of U.S. Highway 12; and points in California, Nevada, Oregon, and Washington. The purpose of this filing is to eliminate the gateways of Denver, Colo., and Gallup, N. Mex. The purpose of this correction is to clarify the territorial description.

No. MC 107839 (Sub-No. E13) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, 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 commodities in bulk, in tank vehicles), (1) from the plant sites and warehouses of Sterling Colorado Beef Packers, at or near Sterling, Colo., to points in Robeson, Columbus, Brunswick, Pender, Bladen, Cumberland, Sampson, Duplin, Onslow, Carteret and Craven Counties, N.C., and points in South Carolina; and (2) from the plant sites and warehouses of American Beef Packers, Inc., at or near Fort Morgon, Colo., to points in North Carolina, South Carolina, and points in that part of Tennessee on and south of Interstate Highway 40. The purpose of this filing is to eliminate the gateway of Plainview, Tex. The purpose of this correction is to include origin points.

No. MC 109478 (Sub-No. E9), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice, tomato juice, jams, jellies, and preserves*, other than frozen or in bulk, in tank vehicles, except no service may be performed under this authority from Philadelphia, Pa., to described Pennsylvania and West Virginia points, from Boston and Waban, Mass., and Philadelphia, Pa., to points in Illinois, Indiana, Michigan, Ohio, West Virginia, Pennsylvania on and west of U.S. Highway 219, and New York on, south, and west of a line beginning at Lake Ontario extending along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateways of North East, Pa., and Erie County, Pa., and points in New York on, south and west of a line beginning at Lake Ontario extending along New York Highway 13 to junction U.S. Highway 11 to the New York-Pennsylvania State line.

No. MC 111496 (Sub-No. E4), filed June 4, 1974. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minn. 55113. Applicant's representative: R. E. Caturia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) from points in Clay County, Minn., to those points in North Dakota on and north of North Dakota Highway 5, (2) from points in Wilkin County, Minn., to those points in North Dakota on and north of North Dakota Highway 5. The purpose of this filing is to eliminate the gateways of Fargo and points in Walsh County, N. Dak.

No. MC 111496. (Sub-No. E5), filed June 4, 1974. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minn. 55113. Applicant's representative: R. E. Caturia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Becker and Otter Tail Counties, Minn., to those points in North Dakota on and north of North Dakota Highway 5. The purpose of this filing is to eliminate the gateways of points in Fargo and Walsh Counties, N. Dak.

No. MC 111496 (Sub-No. E8), filed June 4, 1974. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minn. 55113. Applicant's representative: R. E. Caturia (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Clay and Wilken Counties, Minn., to those points in North Dakota on and west of a line beginning at the North Dakota-Montana State line, extending along North Dakota Highway 5 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 2, thence along U.S. Highway 2 to the North Dakota-Montana State line. The purpose of this filing is to eliminate the gateways of Fargo, and points in Cass County, N. Dak.

No. MC 111496 (Sub-No. E9), filed June 4, 1974. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, Minn. 55113. Applicant's representative: R. E. Caturia (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Becker County, Minn., to those points in North Dakota on and west of a line beginning at the North Dakota-Montana State line, and extending along North Dakota Highway 5 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 2, thence along U.S. Highway 2 to the North Dakota-Montana State line. The purpose of this filing is to eliminate the gateways of Fargo, and points in Cass County, N. Dak.

No. MC 113843 (Sub-No. E426) (Correction), filed May 16, 1974, published in the FEDERAL REGISTER July 26, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products,* as defined by the Commission, from Martins Ferry, Ohio, to points in that part of Illinois on and north of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 80 to its junction with Interstate Highway 294, thence along Interstate Highway 294 to its junction with Illinois Highway 64, thence along Illinois Highway 64 to the Mississippi River. The purpose of this filing is to eliminate the gateway of Detroit, Mich. The purpose of this correction is to clarify the territorial description.

No. MC 113843 (Sub-No. E495) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products* as defined by the Commission, from Piqua, Ohio, to points in that part of Pennsylvania on, east, and north of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Bradford, thence along Pennsylvania Highway 46 to junction Pennsylvania Highway 446, thence along Pennsylvania Highway 446 to junction Pennsylvania Highway 155, thence along Pennsylvania Highway 155 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to Wilkes-Barre, thence along Pennsylvania Highway 115 to junction Pennsylvania Turnpike Extension, thence along Pennsylvania Turnpike Extension to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y. The purpose of this correction is to clarify the territorial description.

No. MC 114019 (Sub-No. E408), filed May 19, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd. Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid petroleum products,* in bulk, in tank vehicles, from points in Warren County, Pa., to those points in Ohio bounded by a line beginning at Lake Erie and extending along U.S. Highway 21 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, thence along the Ohio-Pennsylvania State line to junction Ohio Highway 165, thence along Ohio Highway 165 to junction Ohio Highway 14, thence along Ohio Highway 14 to Lake Erie. The purpose of this filing is to eliminate the gateways of points in that portion of Chautauqua County, N.Y., which are within 15 miles of Erie, Pa.

No. MC 114019 (Sub-No. E410), filed May 19, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cocoa, chocolate* and *compounds thereof, and confectionery,* between Detroit and Grand Rapids, Michigan, on the one hand, and, on the other, points in New York on and east of a line beginning at Lake Ontario and extending along New York Highway 17 to the New York-Pennsylvania State line, and points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 220 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 307, thence along Pennsylvania Highway 307 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Interstate Highway 80, thence along Interstate Highway 80 to the New Jersey-Pennsylvania State line, and those points in New Jersey which are within 40 mileso f City Hall, New York, New York, and within the Philadelphia, Pennsylvania, Commercial Zone. The purpose of this filing is to eliminate the gateway of Syracuse, New York.

No. MC 114211 (Sub-No. E479), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Buildings, storage bins, grain driers, and corn cribs,* knocked down or in sections, and when shipped with said commodities, *component parts, materials, supplies, fixtures, and accessories* used in their construction and erection, *ventilators and irrigation well casings* which because of size or weight requires the use of special equipment, from points in that part of Nebraska on and west of a line beginning at the South Dakota-Nebraska State line extending along U.S. Highway 83 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction Nebraska Highway 39, thence along Nebraska Highway 39 to junction Nebraska Highway 22, thence along Nebraska Highway 22 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-Kansas State line, to points in that part of Wisconsin on and northeast of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 53 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 25, thence along Wisconsin Highway 25 to the Wisconsin-Minnesota State line; to points in that part of Missouri on and northeast of a line beginning at the Missouri-Iowa State line

extending along Interstate Highway 35 to junction Missouri Highway 13, thence along Missouri Highway 13 to the Missouri-Arkansas State line; to points in that part of Minnesota on and northeast of a line beginning at the U.S.-Canada Boundary line extending along U.S. Highway 53, thence along U.S. Highway 53 to Lake Superior; and to points in that part of Iowa on and east of a line beginning at the Iowa-Wisconsin State line extending along Iowa Highway 9 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction Iowa Highway 24, thence along Iowa Highway 24 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 29, thence along Interstate Highway 29 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line and to points in Illinois, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Columbus, Nebr.

No. MC 114211 (Sub-No. E601), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, from points in Illinois to points in South Dakota. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114211 (Sub-No. E602), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, (except commodities, the transportation of which, because of size or weight, requires the use of special equipment or special handling), between points in that part of Illinois on and north of a line beginning at the Illinois-Indiana State line extending along Illinois Highway 130 to junction Illinois Highway 33, thence along Illinois Highway 33 to junction Illinois Highway 128, thence along Illinois Highway 128 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Missouri-Illinois State line, on the one hand, and, on the other, points in Colorado, restricted against the transportation of those commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateways of Beatrice and Omaha, Nebr., and Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E603), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, from points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction Illinois Highway 54, thence along Illinois Highway 54 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line, to points in that part of Texas on and north of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 62 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Texas Highway 86, thence along Texas Highway 86 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Texas-New Mexico State line, with no transportation for compensation on return except as otherwise authorized, restricted against movement to oil field locations. The purpose of this filing is to eliminate the gateways of Nebraska City and Beatrice, Nebr., and points in Iowa.

No. MC 114211 (Sub-No. E680), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving and finishing machinery, equipment, parts, accessories, and attachments*, between Huron, South Dakota on the one hand, and, on the other, points in that part of Idaho on and west of a line beginning at the Oregon-Idaho State line extending along Interstate Highway 80, thence along Interstate Highway 80 to the Idaho-Utah State line, points in that part of Idaho on and west of a line beginning at the United States-Canada Boundary line extending along U.S. Highway 95 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Idaho-Washington State line; points in that part of Washington on and north of a line beginning at the Idaho-Washington State line extending along U.S. Highway 12 to junction Washington Highway 11, thence along Washington Highway 11 to the Washington-Oregon State line; points in that part of Colorado on and south and west of a line beginning at the Utah-Colorado State line extending along U.S. Highway 50 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Colorado-Oklahoma State line; points in that part of Kansas on and east of a line beginning at the Oklahoma-Kansas State line extending along U.S. Highway 56 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction Interstate Highway 70.

Thence along Interstate Highway 70 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Nebraska State line; points in that part of Wisconsin on and south and east of a line beginning at the Minnesota-Wisconsin State line extending along U.S. Highway 16 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 21, thence along Wisconsin Highway 21 to junction Wisconsin Highway 173, thence along Wisconsin Highway 173 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction U.S. Highway 10, thence along Wisconsin Highway 10 to junction Wisconsin Highway 34, thence along Wisconsin Highway 34 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 17, thence along Wisconsin Highway 17 to U.S. Highway 45, thence along U.S. Highway 45 to the Wisconsin-Michigan State line; points in that part of Oregon on and south and west of a line beginning at the Washington-Oregon on and south and west of a line beginning at the Washington-Oregon State line extending along Oregon Highway 11 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Oregon-Idaho State line; points in that part of Utah on, south, and west of a line beginning at the Idaho-Utah State line extending along Interstate Highway 80 to junction U.S. Highway 30.

Thence along U.S. Highway 30 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Colorado State line; points in that part of Oklahoma on and south and east of a line beginning at the Colorado-Oklahoma State line extending along U.S. Highway 287 to junction U.S. Highway 56, thence along U.S. Highway 56 to the Oklahoma-Kansas State line; points in that part of Nebraska on and east of a line beginning at the Kansas-Nebraska State line extending along U.S. Highway 81 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Nebraska-Iowa State line; points in that part of Michigan on, east, and south of a line beginning at the Wisconsin-Michigan State line extending along U.S. Highway 45 to Ontonagon, Michigan; and points in Cali-

fornia, Nevada, Arizona, New Mexico, Texas, Missouri, Arkansas, Louisiana, Illinois, Indiana, Tennessee, Kentucky, Mississippi, Georgia, Alabama, Florida, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Maryland, Delaware, New Jersey, Rhode Island, Pennsylvania, New York, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of Canton, South Dakota.

No. MC 114211 (Sub-No. E681), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery*, and *contractors' equipment* and supplies, from Huron, South Dakota, to points in Wisconsin, Michigan, Illinois, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, Ohio, Indiana, Vermont, New Hampshire, Maine, and points in that part of Texas on and east of a line beginning at the Texas-Louisiana State line extending along Texas Highway 63 to junction U.S. Highway 96, thence along U.S. Highway 96 to Port Arthur, Texas; to points in that part of Arkansas on and east of a line beginning at the Missouri-Arkansas State line extending along U.S. Highway 63 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 67, thence along U.S. Highway 67 to the Arkansas-Texas State line; and points in that part of Missouri on and east of a line beginning at the Iowa-Missouri State line extending along U.S. Highway 136 to junction Missouri Highway 15, thence along Missouri Highway 15 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, with no transportation to points in Maine, New Hampshire, and Vermont of agricultural implements and machinery as defined in Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 292. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E682), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories* and *attachments*, between McAllen, Texas on the one hand, and, on the other, points in Minnesota, North Dakota, and points in that part of Wisconsin on and north of a line beginning at Milwaukee, Wisconsin, extending along Wisconsin Highway 15 to junction Wisconsin Highway 11, thence along Wisconsin Highway 11 to the Wisconsin-Iowa State line; points in that part of Nebraska on and north of a line beginning at the Iowa-Nebraska State line extending along Nebraska Highway 51 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line; points in that part of South Dakota on and north of a line beginning at the Nebraska-South Dakota State line extending along U.S. Highway 83 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 18 to junction Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 16, thence along U.S. Highway 16 to the South Dakota-Wyoming State line; points in that part of Wyoming on and northwest of a line beginning at the South Dakota-Wyoming State line extending along U.S. Highway 16 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 87.

Thence along U.S. Highway 87 to the Wyoming-Montana State line; points in that part of Montana on and north of a line beginning at the Wyoming-Montana State line extending along U.S. Highway 87 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Montana Highway 43, thence along Montana Highway 43 to the Montana-Idaho State line; points in that part of Idaho on and north of a line beginning at the Montana-Idaho State line extending along U.S. Highway 12 to the Idaho-Washington State line; and points in that part of Washington on and north of a line beginning at the Idaho-Washington State line extending along U.S. Highway 12 to junction Washington Highway 124, thence along Washington Highway 124 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Washington Highway 432, thence along Washington Highway 432 to junction U.S. Highway 30, thence along U.S. Highway 30 to Astoria, Washington. The purpose of this filing is to eliminate the gateway of Canton, South Dakota, and points in Kansas.

No. MC 114211 (Sub-No. E683), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery* and *contractors equipment* and *supplies*, from Huron, South Dakota, to points in New York, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at or near Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E684), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery* and *contractors' equipment* and *supplies*, from Springfield, Illinois, to points in Oregon, Washington, Idaho, Montana, North Dakota, and points in that part of South Dakota on and north of a line beginning at the South Dakota-Minnesota State line extending along U.S. Highway 14, to junction South Dakota Highway 37, thence along South Dakota Highway 37, to junction U.S. Highway 16, thence along U.S. Highway 16, to junction Highway 79, thence along South Dakota Highway 79, to junction U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Wyoming State line; points in that part of Wyoming on and north of a line beginning at the Wyoming-South Dakota State line extending along U.S. Highway 18 to junction U.S. Highway 26, thence along U.S. Highway 26, to junction U.S. Highway 89, thence along U.S. Highway 89 to the Idaho-Wyoming State line; to points in that part of Nevada on and west of a line beginning at the Idaho-Nevada State line extending along U.S. Highway 93 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line; and points in that part of California on and north of a line beginning at the California-Nevada State line extending along U.S. Highway 6 to junction U.S. Highway 395, thence along U.S. Highway 395, to junction California Highway 14, thence along California Highway 14, to junction Interstate Highway 5, thence along Interstate Highway 5, to junction Interstate Highway 10, thence along Interstate Highway 10 to Los Angeles, California, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota, and points in Iowa.

No. MC 114301 (Sub-No. E6) (Correction), filed May 30, 1974, published in the FEDERAL REGISTER, August 27, 1974. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Walter J. Winther (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry poultry and dairy feed*, from points in Berks and Chester Counties, Pa., to points in Anne Arundel, Prince Georges, Charles, Calvert, and St. Marys Counties, Md. The purpose of this filing is to eliminate the gateways of Newark, Dela., and the plant sites of the Ralston Purina Co., at or near Wilmington, Dela. The purpose of this correction is to clarify the commodity descriptions.

No. MC 116915 (Sub-No. E7), filed May 24, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, P.O. Box 1279, Owensboro, Ky. 42301.

Applicant's representative: William P. Sullivan, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil well and mine machinery, pipe and supplies* which require the use of special equipment by reason of size or weight, from points in West Virginia to points in Missouri. The purpose of this filing is to eliminate the gateway within 35 miles of Owensboro, Ky.

No. MC 116915 (Sub-No. E12), filed May 24, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, P.O. Box 1279, 1125 Sweeney St., Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, Federal Bar Bldg. West, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products and equipment, materials, and supplies* (except in bulk), used in the manufacture and processing of aluminum and aluminum products which require the use of special equipment by reason of size or weight, (1) from points in Florida to points in Ohio, Indiana, and the Lower Peninsula of Michigan, (2) from points in North Carolina to points in Illinois and Missouri, (3) from points in Connecticut, New Jersey, New York and Pennsylvania to points in Missouri and to those points in Tennessee on and west of U.S. Highway 231, and (4) from points in Arkansas and Texas to points in Ohio, Indiana, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of shipper facility gateways at Hawesville, Ky.

No. MC 119968 (Sub-No. E17), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Ohio, on and south of a line beginning at Toledo, Ohio, and extending south along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line; those points in West Virginia on and west of a line beginning at the Ohio-West Virginia State line, and extending east along U.S. Highway 250 to junction West Virginia Highway 2, thence south along West Virginia Highway 2 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Kentucky State line; those points in Kentucky on and north of a line beginning at the Kentucky-West Virginia State line and extending west along U.S. Highway 60 to intersection U.S. Highway 23, thence along U.S. Highway 23 to junction Kentucky Highway 10, thence along Kentucky Highway 10 to junction Kentucky Highway 8, thence along Kentucky Highway 8 to its termination near North Bend, Ohio, on the one hand, and, on the other, points in New York on and west of New York Highway 12 and on and east of New York Highway 15. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E18), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemicals manufacturing plants, in bulk, between points in Ohio on and south of a line beginning at the Indiana-Ohio State line and extending east along U.S. Highway 30 to intersection U.S. Highway 30 near Ontario, Ohio, thence along U.S. Highway 30 to U.S. Highway 250 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line; those points in West Virginia on and west of a line beginning at the Ohio-West Virginia State line and extending along Interstate Highway 77 to West Virginia Highway 2, thence south along West Virginia Highway 2 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Kentucky State line; those points in Kentucky on and north of a line beginning at the Kentucky-West Virginia State line and extending west along U.S. Highway 60 to intersection U.S. Highway 23, thence along U.S. Highway 23 to junction Kentucky Highway 10, thence along Kentucky Highway 10 to junction Kentucky Highway 8, thence along Kentucky Highway 8 to its termination near North Bend, Ohio, on the one hand, and, on the other, points in New York on and west of U.S. Highway 15. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E19), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Ohio on and west of a line beginning at Lorain, Ohio, and extending south along Ohio Highway 57 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line; those points in West Virginia on and west of a line beginning at the Ohio-West Virginia State line and extending east along Interstate Highway 77 to junction West Virginia Highway 2, thence south along West Virginia Highway 2 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Kentucky State line; those points in Kentucky on and north of a line beginning at the Kentucky-West Virginia State line and extending west along U.S. Highway 60 to intersection U.S. Highway 23, thence along U.S. Highway 23 to junction Kentucky Highway 10, thence along Kentucky Highway 10 to junction Kentucky Highway 8, thence along Kentucky Highway 8 to its termination near North Bend, Ohio, on the one hand, and, on the other, points in that part of Connecticut on and south of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 7 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to junction Connecticut Highway 85, thence along Connecticut Highway 85 to New London, Conn.; that part of New Jersey on and north of New Jersey Highway 33; that part of New York, including Long Island, on and south of a line beginning at the New York-Pennsylvania State line and extending north along New York Highway 7 to junction New York Highway 23, thence along New York Highway 23 to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E21), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Ohio on and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 62 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line, on the one hand, and, on the other, points in Indiana on and north of U.S.

Highway 30, and the southern peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E22), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Rd., Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between points in Ohio on and east of a line beginning at Lorain, Ohio, and extending south along Ohio Highway 57 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line, on the one hand, and, on the other, points in Illinois on and south of Interstate Highway 70; points in Indiana on and south of Interstate Highway 70, and points in Kentucky on and west of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 123407 (Sub-No. E177), filed December 2, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Laftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating composition board* (except lumber and commodities in bulk), from Minneapolis, Minn., to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of L'Anse, Mich.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.75-3991 Filed 2-11-75;8:45 am]

[Notice No. 11]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 7, 1975.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

MC 29079 (Sub-No. 70) (Republication), filed April 8, 1974, and published in the FEDERAL REGISTER issue of May 16, 1974, and republished this issue. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union St., Kokomo, Ind. 46901. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, D.C. 20005. An Order of the Commission, Operating Rights Board, dated December 23, 1974, and served January 24, 1975, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of *aluminum and steel articles* between the facilities of Roll Coata Company, at or near Kingsbury, Ind., on the one hand, and, on the other, points in Indiana, Illinois, Michigan, Ohio, Missouri, points in New York on and west of U.S. Highway 62, points in Pennsylvania on and west of U.S. Highway 219, and points in West Virginia on and north of U.S. Highway 40; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the change of the commodity description from iron or steel, plate or sheet, flat or in coils, to aluminum and steel articles; and to indicate the correct spelling of the plant-site and warehouses, from Roll Coates Company, to Roll Coata Company. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 98713 (Sub-No. 6) (Republication), filed May 9, 1974, and published in the FEDERAL REGISTER issue of June 20, 1974, and republished this issue. Applicant: ORANGE BELT STAGES, a Corporation, 525 E. Acequia Street, Visalia, Calif. 93277. Applicant's representative: F. S. Bayley, Suite 1200, 111 Sutter Street, San Francisco, Calif. 94104. An order of the Commission, Operating Rights Board, dated December 23, 1974, and served January 28, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle: (A) of *Passengers and their baggage* in the same vehicle with passengers and *express* in the same vehicle with passengers (limited to a weight of no more than 100 pounds per shipment), over regular routes: (1) Between Visalia and Bakersfield; from Visalia, over California Highway 198 to junction of unnumbered highway (Farmersville Road), thence over unnumbered highway via Farmersville to Exeter, thence over California Highway 65 to Bakersfield. (2) Between Visalia and Hanford: from Visalia, over California Highway 198 to Hanford. (3) Between Bakersfield and Paso Robles; from Bakersfield, over California Highway 99 to Formosa, thence over California Highway 46 to Paso Robles. (4) Between Bakersfield and Wasco; from Bakersfield, over Rosedale Highway to Shafter Highway to Santa Fe Way to Wasco Avenue to Poso Drive to F Street to Wasco. (5) Between Lerdo and Shafter; from Lerdo, over unnumbered highway to Shafter, to be operated as an alternate route serving no intermediate points. (6) Between Bakersfield and Barstow; from Bakersfield, over California Highway 58 to Barstow.

(7) Between the junction of California Highways 99 and 198, and the junction of 14th Avenue West and California Highway 198; from the junction of California Highways 99 and 198, over California Highway 99 to Goshen Junction, thence over 14th Avenue West to California Highway 198, and return over the same routes serving all intermediate points restricted (1) against the transportation of passenger, baggage, or express between Visalia and points west thereof, on the one hand, and Bakersfield, on the other hand, over the route via Exeter, Porterville, and Ducor, (2) against the transportation of traffic between Muroco junction and Beecher's Corner and intermediate points, (3) against the transportation of traffic between points located on California Highway 99, and (4) against the transportation of passengers between Bakersfield and Brundage Lane, and intermediate points; and (B) of *Passengers and their baggage* in the same vehicle with passengers in round-trip charter operations, beginning and ending at points in Tulare, Kings, San Luis Obispo and Kern, Counties, Calif., and at Burrel, Coalinga, Huron, Kingsburg, Lanare, Orange Cove, Parlier, Reedley, Riverdale, San Joaquin, and Selma, Calif., and extending to points in Washington, Oregon, Nevada, Utah, Arizona, and New Mexico. The purpose of this republication is to indicate the correct spelling of the county of Tulare, which was erroneously spelled Tulane; and to modify the territorial description. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this

publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 109326 (Sub-No. 110) (Republication), filed July 17, 1974, and published in the FEDERAL REGISTER issue of August 15, 1974, and republished this issue. Applicant: C & D TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, La. 70121. Applicant's representative: William P. Jackson, Jr., 919 18th St. NW., Washington, D.C. 20006. An Order of the Commission, Operating Rights Board, dated December 18, 1974, and served January 24, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over *irregular routes*, of bananas, and agricultural commodities otherwise exempt from regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Texas, Oklahoma, Kansas, Nebraska, Iowa, Missouri, Arkansas, Louisiana, Illinois, Indiana, Ohio, Kentucky, North Carolina, South Carolina, Alabama, restricted against service from or to any facility of the Great Atlantic and Pacific Tea Company or Hunt Foods and Industries, Inc. and further restricted to the transportation of traffic of having an immediately prior movement by water; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; the purpose of this republication is to include South Carolina as a destination State. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 124774 (Sub-No. 89) (Republication), filed April 17, 1974, and published in the FEDERAL REGISTER issue of May 8, 1974, and republished this issue. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, P.O. Box 7344, Omaha, Nebr. 68101. Applicant's representative: Thomas D. Sutherland, P.O. Box 80028, 605 South 14th Street, Lincoln, Nebr. 68501. An Initial Decision of the Commission, Glennon, Administrative Law Judge, dated January 8, 1975, and served January 22, 1975, finds, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *edible bakery supplies*, from the plantsite of Globe Products Company, Inc., located in Clifton, N.J., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Minnesota, Nebraska, Wisconsin, Ohio, Kentucky, and West Virginia restricted to traffic originating at the named plantsite; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include Missouri as a destination State. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 263 (Sub-No. 87) (Notice of filing of petition to remove restriction), filed January 27, 1975. Petitioner: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, P.O. Box 4048, Pocatello, Idaho 83201. Petitioner's representative: Wayne S. Green (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 263 (Sub-No. 87) issued August 21, 1959, authorizing transportation, over regular 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 those requiring special equipment), between Farmington, N. Mex., and Albuquerque, N. Mex., serving all intermediate points, except Bernalillo, N. Mex., and points on U.S. Highway 85 between Bernalillo and Albuquerque, N. Mex.; from Farmington over New Mexico Highway 17 to junction New Mexico Highway 44, thence over New Mexico Highway 44 to junction U.S. Highway 85, at Bernalillo, N. Mex., and thence over U.S. Highway 85 to Albuquerque, and return over the same route. Restriction: The authority granted herein shall not be combined or joined with any other authority held by carrier for the purpose of serving Albuquerque, N. Mex., in connection with traffic originating at or destined to Ogden or Salt Lake City, Utah. By the instant petition, petitioner seeks to remove the restriction imposed on the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 76677 (Notice of filing of petition to modify commodity description), filed January 27, 1975. Petitioner: HALLAMORE MOTOR TRANSPORTATION, INC., P.O. Box 556, Brockton, Mass. 02403. Petitioner's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Petitioner holds a motor *common carrier* certificate in No. MC 76677 issued February 14, 1956, authorizing transportation, as pertinent, over irregular routes, of *Plant, office and store equipment and supplies* requiring specialized handling or rigging: (1) Between Brockton, Mass., and points in Massachusetts within 35 miles of Brockton, on the one hand, and, on the other, points in Pennsylvania, New York, Rhode Island, Connecticut, and New Hampshire; (2) between points in Massachusetts; (3) between points in Rhode Island; (4) between points in Connecticut; and (5) between points in New Hampshire. By the instant petition, petitioner seeks to modify the commodity description in the above authority so as to read: *Commodities*, the transportation of which, because of size or weight requires the use of special equipment, and *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to the transportation of commodities, which by reason of size or weight require special equipment. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 111545 (Sub-No. 94) (Notice of filing of petition to modify a commodity description) filed January 23, 1975. Petitioner: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., S.E., P.O. Box 6426, Station A, Marietta, Ga. 30060. Petitioner's representative: Robert E. Born (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 111545 (Sub-No. 94), issued April 25, 1967, authorizing transportation, as pertinent, over irregular routes, of *Machinery and contractors' equipment*, which because of size or weight, require the use of special equipment or special handling, Between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin within 300 miles of Ames, Iowa, including Ames, except road-building equipment from Peoria, Ill., to points in Iowa. By the instant petition, petitioner seeks to modify the commodity description in the above authority to read: *Commodities* which because of size or weight, require the use of special equipment or special handling. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 114789 (Sub-No. 28) (Notice of filing of petition to add a destination point), filed January 24, 1975. Petitioner: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Peti-

tioner's representative, Donald L. Stern: Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Petitioner holds a motor *contract carrier* permit in No. MC 114789 (Sub-No. 28), issued December 9, 1971, authorizing transportation, as pertinent, 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 requiring special equipment because of size or weight), from the plant sites and other facilities of Minnesota Mining and Manufacturing Company at Bristol, Pa., Freehold and Newark, N.J., and Middleway, W. Va., to the plant sites and other facilities of Minnesota Mining and Manufacturing Company at St. Paul, Minn., and Ames Iowa, under a continuing contract, or contracts with Minnesota Mining and Manufacturing Company of St. Paul, Minn. By the instant petition, petitioner seeks to add Eagan, Minn., as a destination point in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 115212 (Notice of filing of petition to modify territorial description), filed January 27, 1975. Petitioner: H. M. H. MOTOR SERVICE, a Corporation, Route 130, Cranbury, N.J. 08512. Petitioner's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* permit in No. MC 115212 issued May 2, 1956, authorizing transportation, over irregular routes, of *such commodities* as are dealt in by retail women's and children's ready-to-wear apparel stores, and in connection therewith, *supplies and equipment* used in the conduct of such business, between New York, N.Y., on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama, under special and individual contracts or agreements, with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate retail stores, the business of which is the sale of women's and children's ready-to-wear apparel. By the instant petition, petitioner seeks to modify the above territorial description so as to read: Between New York, N.Y. and those points in New Jersey within 5 miles of New York, N.Y., and all of any New Jersey municipality any part of which is within 5 miles of New York, N.Y., on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126111 (Sub-No. 2) (Notice of filing of petition to modify a territorial description), filed January 23, 1975. Petitioner: LYLE W. SCHAETZEL, doing business as SCHAETZEL TRUCKING COMPANY, 520 Sullivan Drive, P.O. Box 1579, Fond du Lac, Wis. 54935. Petitioner's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Petitioner holds a motor *contract carrier* permit in No. MC 126111 (Sub-No. 2), issued July 3, 1972, authorizing transportation, over irregular routes, of *Sweetened condensed milk*, in bulk, in tank vehicles, from Fond du Lac, Wis., to Philadelphia, Pa., under a continuing contract, or contracts, with Galloway-West Company, a division of the Borden Company, Inc. of Fond du Lac, Wis. By the instant petition, petitioner seeks to modify the territorial description in the above authority by the addition of Baltimore, Md. as a destination point. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 12720 (Sub-No. 2) (Notice of filing of petition to modify a license), filed January 24, 1975. Petitioner: TRAVEL & TOUR SERVICE, INC., 722 North Third Street, Milwaukee, Wis. 53203. Petitioner's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Petitioner holds a license as a *broker* at Milwaukee, Wis. in No. MC 12720 (Sub-No. 2), issued March 7, 1972, to sell or offer to sell the transportation of *Passengers and their baggage*, in charter and special operations, Beginning and ending at Minneapolis and St. Paul, Minn., and extending to points in the United States (including Alaska and Hawaii). By the instant petition, petitioner seeks to substitute Minneapolis and St. Paul, Minn. for Milwaukee, Wis. as the points at which the brokerage service would be performed. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210A (B)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-12104. (Amendment) (ILLINOIS-CALIFORNIA EXPRESS, INC. — Purchase (Portion) — BESTWAY FREIGHT LINES, INC.), published in the January 23, 1974, issue of the FEDERAL REGISTER on page 2653. By amendment filed January 30, 1975, THE MARMON GROUP INC. (Michigan) AND GL CORPORATION, both of 39 S. LaSalle St., Chicago, IL 60603, join in as party applicants to the proceeding.

No. MC-F-12422. Authority sought for purchase by BURTON TRUCK & TRANSFER CO., 11910 South Greenstone Ave., Santa Fe Springs, CA 90670, of the operating rights of WEST COAST WAREHOUSE CORPORATION, P.O. Box 258, Long Beach, CA 90801; and authority sought for purchase by WEST COAST WAREHOUSE CORPORATION, of the operating rights of BURTON TRUCK & TRANSFER CO., and for acquisition by MARY B. BLEMING, also of Long Beach, CA 90801, and R. F. McCURDY, JR., 7823 E. Fourth Place, Downey, CA 90241, of control of such rights through the purchase. Applicants' attorney: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017.* Operating rights sought to be transferred: Under certificates of registration in Docket Nos. MC 105537 (Sub-No. 5), and MC 3853 (Sub-No. 3), covering the transportation of general commodities, as common carriers, in interstate commerce, within the State of California. Vendees are authorized to operate as common carriers in California. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12423. Authority sought for merger by UNION BUS LINES, INC., St. Charles & 12th St., Brownsville, TX 78520, of the operating rights of WINTER GARDEN BUS LINE, INC., also of Brownsville, TX 78520, and for acquisition by CONTINENTAL TRAILWAYS, INC., 315 Continental Ave., Dallas, TX 75207, and TCO INDUSTRIES, INC., 1500 Jackson St., Dallas, TX 75202, of control of such rights through the transaction. Applicants' attorney: D. Paul Stafford, 315 Continental Ave., Dallas, TX 75207. Operating rights sought to be merged: Passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, as a common carrier over regular routes, between Eagle Pass, and Laredo, Tex., between Eagle Pass, and Dilley, Tex., between Eagle Pass, and El Indio, Tex., between Eagle Pass, and Brackettville, Tex., between junction U.S. Highway 277 and Texas Farm Road 191, and Carrizo Springs, Tex., between Eagle Pass, and Del Rio, Tex., serving all intermediate points. UNION BUS LINES, INC., doing business as CONTINENTAL TRAILWAYS, is authorized to operate as a common carrier in Texas. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to MC-F-8724, Transferee acquired control of Transferor.

No. MC-F-12424. Authority sought for purchase by MOORE TRANSPORTATION, INC., 10360 N. Vancouver Way, Portland, OR 97211, of the operating rights of GOLD COAST TRUCKING, INC., 319 W.W. Pine, Room 340, Portland, OR 97204, and for acquisition by HERB MOORE, also of Portland, OR 97211, of control of such rights through the pur-

*Applicants intend to exchange Certificates of Registration.

chase. Applicants' attorney: Philip G. Skofstad, 3076 E. Burnside St., Portland, OR 97214. Operating rights sought to be transferred: *Malt beverages*, as a *common carrier* over irregular routes, from Los Angeles and San Francisco, Calif., to points in Oregon; *wine*, from points in California north of San Luis Obispo, Kern and San Bernardino Counties, to points in Oregon. Vendee holds no authority from this Commission. However, it is affiliated with HERB MOORE AND HAZEL MOORE, doing business as H & H TRUCKING CO., 10366 N. Vancouver Way, Portland, OR 97217, which is authorized to operate as a *common carrier* in California, Oregon, and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12425. Authority sought for purchase by AL JOHNSON TRUCKING, INC., 1516 Marshall Ave., N.E., Minneapolis, MN 55413, of the operating rights and property of MALDWYN JAMES, doing business as JAMES TRANSFER, 1134 E. Hawthorne Ave., St. Paul, MN 55106, and for acquisition by ALVIN JOHNSON, also of Minneapolis, MN 55413, of control of such rights and property through the purchase. Applicants' attorney: Earl Hackling, 1700 Brighton Blvd., Minneapolis, MN 55413. Operating rights sought to be transferred: *Malt beverages*, as a *common carrier* over irregular routes, from Milwaukee, and Sheboygan, Wis., to Albert Lea, Austin, Owatonna, and Rochester, Minn.; from LaCrosse, Wis., to Albert Lea, Austin, North Mankato, Owatonna, and Rochester, Minn., from St. Paul and Minneapolis, Minn., to points in Nebraska and that part of Iowa on and west of U.S. Highway 65. Vendee is authorized to operate as a *common carrier* in Minnesota, Wisconsin, Nebraska, and Iowa. Application has not been filed for temporary authority under section 210 a(b).

No. MC–F–12426. Authority sought for purchase by SALTER'S EXPRESS COMPANY, INCORPORATED, West St., Simsbury, CT 06070, of the operating rights of R. C. GAY EXPRESS, INC., 115 York St., West Springfield, MA 01089, and for acquisition by ARTHUR M. SALTER, DOROTHY M. AMES, AND JAMES SALTER, all of Simsbury, CT 06070, of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 342 N. Main St., West Hartford, CT 06117, and David M. Marshall, 135 State St., W. Springfield, MA 01103. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 121398 (Sub–No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Massachusetts. Vendee is authorized to operate as a common carrier in Massachusetts, Connecticut, New York, Rhode Island, New Hampshire, Vermont, and New Jersey. Application has been filed for temporary authority under section 210a(b).

NOTE—MC–38650 (Sub-No. 5), is a matter directly related.

No. MC–F–12427. Authority sought for merger by CLAIRMONT TRANSFER CO., 1803 7th Ave. North, Escanaba, MI 49829, of the operating rights and property of MILBURN, INC., 500 43rd St., Rock Island, IL 61201, and for acquisition by RUTH K. NORTON, also of Escanaba, MI 49829, of control of such rights and property through the transaction. Applicants' attorney: Adolph J. Bieberstein, 121 W. Doty St., Madison, WI 53703. Operating rights sought to be merged: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Davenport, Iowa, and Chicago, Ill., between Clinton, Iowa, and Fulton, Ill., serving all intermediate points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Bettendorf and Davenport, Iowa, Rock Island, Moline, Milan, East Moline, Carbon Cliff, and Silvis, Ill., over one alternate route for operating convenience only. CLAIRMONT TRANSFER CO. is authorized to operate as a *common carrier* in Illinois, Indiana, Iowa, Kentucky, Ohio, Michigan, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to order dated March 8, 1972, in MC–F–10634, transferee acquired control of transferor.

No. MC–F–12428. Authority sought for purchase by MONAHAN TRANSPORTATION CO., INC., 99 Colorado Ave., Warwick, RI 02888, of the operating rights of THE CONNECTICUT PAPER CORPORATION, P.O. Box 1182, Waterbury, CT 06720, and for acquisition by JOHN J. RIGNEY, and DAVID COLLINS, also of Warwick, RI 02888, of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 342 N. Main St., W. Hartford, CT 06117 and Fred B. Rosnick, 49 Leavenworth St., Waterbury, CT 06720. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–96791 (Sub-No. 1), covering the transportation of property, as a common carrier, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–60203 (Sub-No. 8), is a matter directly related.

No. MC–F–12429. Authority sought for purchase by CARRANO'S EXPRESS, INCORPORATED, Route 17, Middletown Avenue, Northford (North Branford), CT 06471, of a portion of the operating rights of F. L. CASTINE, INCORPORATED, 127 Sunderland Road, North Amherst, MA 01059, and for acquisition by ANEILLO F. CARRANO, FRANK CARRANO, and ANNA CARRANO, also of Northford (North Branford), CT 06471, of control of such rights through the purchase. Applicants' attorneys: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117 and David Marshall, 135 State Street, Suite 200, Springfield, MA 01103. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Sunderland, Mass., and Springfield, Mass., serving the intermediate point of Hadley, Mass., and the off-route points of Easthampton, Holyoke, West Springfield, Chicopee, Leverett, and Pelham, Mass. Vendee is authorized to operate a a *common carrier* in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, and District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12430. Authority sought for merger by CONTINENTAL TRAILWAYS, INC., 315 Continental Ave., Dallas, TX 75207, of the operating rights and property of CONTINENTAL PACIFIC TRAILWAYS, 1501 S. Central Ave., Los Angeles, CA 90021, and for acquisition by TCO INDUSTRIES, INC., 1500 Jackson St., Dallas, TX 75201, of control of such rights through the transaction. Applicants' attorney: D. Paul Stafford, 315 Continental Ave., Dallas, TX 75207. Operating rights sought to be merged: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as a *common carrier* over regular routes, between San Francisco, Calif. and Seattle, Wash., serving all intermediate points, including Roseburg, Oreg., except those points located between Portland, Oreg. and junction U.S. Highways 99 and 99E, north of Salem, Oreg., between Sacramento and Stockton, Calif., between Woodland and Davis, Calif., between Lodi and Stockton, Calif., between Thornton and Stockton, Calif., between Sacramento and Lodi, Calif., serving all intermediate points. CONTINENTAL TRAILWAYS, INC., is authorized to operate as a *common carrier* in Illinois, Missouri, Kansas, California, Texas, Oklahoma, Utah, Arizona, New Mexico, Colorado, Nebraska, Arkansas, Iowa, and Louisiana. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Transferor is a wholly owned subsidiary of transferee pursuant to authority granted in Nos. MC–F–10160 and MC–F–10161.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–3984 Filed 2–11–75;8:45 am]

[Notice No. 14]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 4, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that

there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 45736 (Sub-No. 48TA), filed January 29, 1975. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Charlotte, N.C. 28213. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and such other commodities as are dealt in by wholesale and retail chain and grocery houses, and equipment, materials, and supplies used in the conduct of such business* (except commodities in bulk), between the facilities of Savannah Foods and Industries, Inc., and its subsidiaries, including TransSales Corporation, in Chatham County, Ga. on the one hand, and, on the other, points in Alabama, Florida and Tennessee, for 180 days. Supporting shippers: Savannah Foods and Industries, Inc., P.O. Box 339, Savannah, Ga. 31402. TranSales Corporation, P.O. Box 9177, Savannah, Ga. Send protests to: Price, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Road, Suite CC516, Charlotte, N.C. 28205.

No. MC 82841 (Sub-No. 152TA), filed January 27, 1975. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Nucor Steel Division of Nucor Corporation, located at or near Norfolk, Nebr., to points in Kansas, Colorado, Minnesota, and South Dakota, for 180 days. Supporting shipper: Nucor Steel Division of Nucor Corporation, R. D. Bisping, Traffic Manager, P.O. Box 59, Norfolk, Nebr. 68701. Send protests to: Carroll Russel, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, 110 No. 14 St., Omaha, Nebr. 68102.

No. MC 99780 (Sub No. 50TA), filed January 27, 1975. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 N.E. Bond Street, Peoria, Ill. 61603. Applicant's representative: John R. Zang, P.O. Box 1345, Peoria, Ill. 61601. 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 food business (except commodities in bulk), from the plantsites, storage and/or warehouse facilities of the Kroger Co., located in St. Louis and Hazelwood, Mo., to the stores and warehouse of the Kroger Co., located in Illinois, restricted to traffic originating and destined to the above named plants, for 180 days. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. Send protests to: Richard K. Shullaw, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 107496 (Sub-No. 987TA), filed January 24, 1975. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, from Clearbrook, Minn. to Superior and Saxon, Wis., for 180 days. Supporting shipper(s): Lakehead Pipeline, Bemidji, Minn. 56601. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 111170 (Sub-No. 218TA), filed January 28, 1975. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid pipe coating* (a coal tar derivative), in bulk, in tank vehicles, from the plant of Reilly Tar & Chemical Corporation at Lone Star, Tex., to the plant of Irish Pipe Coating Co., Inc. at Custer City, Okla., for 180 days. Supporting shipper: Irish Pipe Coating Co., Inc., 2504 Flournoy-Lucas Road, Shreveport, La. 71108. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 508TA), filed January 28, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material, moving therewith* (except motion picture film used primarily for commercial theater and television exhibition), between Chicago, Ill., on the one hand, and, on the other, Algoma and Sturgeon Bay, Wis., for 180 days. Supporting shipper: Harmann Studios, 222 Steele Street, Algoma, Wis. 54201. Send protests to: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112520 TA, filed January 27, 1975. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles from Opelika, Ala., to points in North Carolina, for 180 days. Supporting shipper(s): Reliance Gas Corporation, P.O. Box 42, Columbus, Ga. 31902. Send protests to: G. H. Fauss, Jr., District Supervisor, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 113908 (Sub-No. 333TA), filed January 28, 1975. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rum, distilled spirits, wine and wine products*, from Roberta, Ga., to Owensboro, Ky., for 180 days. Supporting shipper(s): Monarch Wine Company of Georgia, P.O. Box 6847, Atlanta, Ga. 30315. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, - BOp, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 124813 (Sub-No. 124TA), filed January 27, 1975. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed*, in bulk, and in bags in mixed shipments with bulk feed, from the plantsite of Cargill, Incorporated, at Minneapolis, Minn., to points in Wisconsin in and north of Manitowoc, Calumet, Outagamie, Waupaca, Portage, Wood, Jackson, Trempealeau, and Buffalo Counties, for 180 days. Supporting shipper(s): Cargill, Inc., Nutrena Feed Division, 830–15th Avenue SE., Minneapolis, Minn. 55414. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 128944 (Sub-No. 15TA) (Amendment), filed January 14, 1975,

published in the FEDERAL REGISTER issue of January 23, 1975, and republished as amended this issue. Applicant: RELIABLE TRUCK LINES, INC., 716 South 37th Street, Birmingham, Ala. 35222. Applicant's representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, dangerous explosives, and commodities requiring special equipment), between Birmingham, Ala., and Chattanooga, Tenn., over Interstate Highway 59 (and also over U.S. Highway 11), serving the intermediate points of Gadsden and Attalla, Ala., including the commercial zones of each of these four named points, for 180 days. Supporting shippers: There are approximately 30 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below.

NOTE.—Applicant presently holds permanent authority in its Docket No. MC 128944, Sub 8, between Birmingham, Alabama, and Memphis, Tennessee, over specified routes; it also holds authority (temporary) in Docket No. MC-F-11133 to operate between Florence and Sheffield, Alabama, on the one hand, and, on the other, Birmingham and points within 15 miles of Birmingham; it holds authority in Docket No. MC 128944, Sub 1, between Sheffield, Alabama, and Nashville, Tennessee; it has pending an application in its Docket No. MC 128944, Sub 12, now pending on Exceptions after a favorable Initial Decision, which includes authority between Birmingham, Alabama, on the one hand, and, on the other, points in Clay, Choctaw, Chickasaw, Itawamba, Lowndes, Monroe, Oktibbeha, Pontotoc, Union, and Webster Counties, Mississippi, and also Tupelo, Mississippi, and certain other points in Lee County, Mississippi; applicant intends to tack any authority here granted at Birmingham with any and all of these existing authorities, and the additional authority involving Mississippi, if and when granted.

Applicant also has pending in its Docket No. MC 128944, Sub 10, an application which would include authority between Chattanooga, Tennessee, on the one hand, and, on the other, Fayetteville, Tennessee, and also Memphis, Tennessee, and various points across North Alabama such as Huntsville, Sheffield, and Florence, between which and Birmingham it is already authorized to serve; this application is also pending on Exceptions after a favorable Initial Decision. Applicant would tack any temporary authority here granted at Chattanooga with that authority, if and when finally granted.

Applicant intends to interchange with other carriers at Chattanooga, Birmingham, and possibly at Gadsden, although it is not aware of any specific traffic which would be interchanged with any specific carrier at Gadsden, as of the present time. The purpose of this republication is to add the tacking statement which was previously omitted. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 133646 (Sub-No. 16TA), filed January 22, 1975. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., P.O. Box 404, Billings, Mont. 59103. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar beet pellets*, in bulk, for 180 days. Supporting shipper(s): Minn-Dak Farmers Cooperative, Wahpeton, N. Dak. 58075. The Red River Valley Cooperative, Inc., Box 43, Hillsboro, N. Dak. 58045. Send protests to: District Supervisor, Paul J. Labane, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134336 (Sub-No. 6TA), filed January 24, 1975. Applicant: TOM BOWEN, INC., 1717 Lalelle St., Box 689, Sturgis, S. Dak. 57785. Applicant's representative: J. Maurice Andren 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Spearfish, South Dakota, to points in Nebraska, for 180 days. Supporting shipper(s): Homestake Forest Products Co., Box 472, Spearfish, S. Dak. 57783, Steward W. Reed, Sales Manager. Send protests to: District Supervisor, J. L. Hammond, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building. Pierre, S. Dak. 57501.

No. MC 134922 (Sub-No. 111TA), filed January 28, 1975. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Don Garrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber and rubber products*, from Guntersville, Ala., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (2) *Compounds, materials, and supplies* used in the manufacture of the commodities in (1) above, from points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, to Guntersville, Ala., for 180 days. Supporting shipper: O.K. Tire & Rubber Company, Inc., East Lake Road, Guntersville, Ala. 35976. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 138438 (Sub-No. 12TA), filed January 27, 1975. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl siding and accessories* for the installation thereof from the plantsite and storage facilities of Certain-Teed Products Corp. from Williamsport, Md., to Connecticut, Delaware, Indiana, Kentucky, Maine, Massachusetts, New York, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper(s): Certain-Teed Products Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Interstate Commerce Commission, W. C. Hersman, District Supervisor, Room 317, 12th and Constitution Ave. NW., Washington, D.C. 20423.

No. MC 140549 (Sub-No. 1TA), filed January 24, 1975. Applicant: FRITZ TRUCKING, INC., Box 566, Clara City, Minn. 56222. Applicant's representative: Samuel Rubenstein, 301 N. Fifth St., Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds and feed ingredients*, except in tank vehicles, From Gluek, Montevideo and Minneapolis, Minn., and its Commercial Zone to points in Iowa, North Dakota, South Dakota, and those points on and east of U.S. Highway 81 in Nebraska. From Sioux City, Iowa to Montevideo, Minn., (2) *Fertilizer and fertilizer materials*, From Minneapolis, Minn., and its Commercial Zone, Savage, Roseport, Gluek and Winona, Minn., to points in Iowa, North Dakota and South Dakota, Between Clara City, Minn., and points in Iowa, for 180 days. Supporting shipper(s): Cargill, Ind., Gluek, Minn., Murphy Products, Co., Montevideo, Minn., Clara City Co-op Fertilizer Assn., Clara City, Minn. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 140578 (Sub-No. 1TA), filed January 27, 1975. Applicant: ROBERT E. L. SMITH AND SHIRLEY A. SMITH, doing business as SMITH TRUCKING COMPANY, 918 Ednor Road, Silver Spring, Md. 20904. Applicant's representative: Charles E. Creager, Esq., 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decomposed hardwood fine* (in bulk, in dump vehicles), from points in Fauquier, Surry, Hanover, and Hopewell Counties, Va., to Chester County, Penn., for 180 days. Supporting shipper: Marco Products Corporation, 1346 Bladon Road, Phoenix, Md. 21131. Send protests to: W. C. Hersman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 317, 12th & Constitution Ave. NW., Washington, D.C. 20423.

No. MC 140587 TA, filed January 24, 1975. Applicant: CECIL CLAXTON, East Elm Street, Wrightsville, Ga. 31096. Applicant's representative: Mr. William Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, in containers*, From Baltimore, Md., to points in Georgia and Alabama, for 180 days. Note: Dual operations may be involved. Sup-

porting shipper(s): All-State Beer, Inc., 2060 Defoor Hills Rd., N.W., Atlanta, Ga. 30318. Talladega Beverage Co., P.O. Box 519, Talladega, Ala. 35160. Johnson Distributing Company, P.O. Box 580, Valdosta, Ga. 31601. Quality Beverages Company, Inc., P.O. Box 601, Anniston, Ala. 36201. Albany Beverage Company, P.O. 586, Albany, Ga. 31702. Sterling Distributors, Inc., P.O. Box 2703, Birmingham, Ala. 35202. Send protests to: W. L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 West Peachtree St., N.W., Room 546, Atlanta, Ga. 30309. Northeast Sales Distributing, Inc., P.O. Box 1643, Athens, Ga. 30601.

No. MC 140588 TA, filed January 22, 1975. Applicant: TRONA TRANSPORTATION, INC., 1900 East Ocean Boulevard, Long Beach, Calif. 90802. Applicant's representative: Murchison & Davis, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, in bags, in steamship containers* for export from Trona and West End, Calif., to Los Angeles, Harbor and Long Beach Harbor, Calif., transporting empty containers on return, for 180 days. Supporting shipper(s): Kerr McGee Corporation, 680 South Wilshire Pl., Los Angeles, Calif. 90005. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 140590 TA, filed January 24, 1975. Applicant: WESTERN TURF EXPRESS, LTD., 3515—76 Avenue, Rural Route No. 2, South Edmonton, Alberta, Canada T6C 4E6. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary horses, and in the same vehicle with such horses, *feed, stable equipment and supplies* used in their care and exhibition, *livestock tack and show equipment;* and *personal effects of their attendants, trainers and exhibitors*, between ports of entry on the United States-Canada Boundary line at or near East Port, Idaho; Noyes, Minn.; Sweetgrass, Mont.; Portal, N. Dak.; Blaine and Sumas, Wash., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Minnesota, Montana, Nevada, North Dakota, South Dakota, Oregon, Utah, and Washington, for 180 days. Supporting shippers: Edward D. Huckabay, Public Trainer, 12018—69 St., Edmonton, Alberta, Canada and Fred Melneckhuk, Public Trainer, 6203—122 Avenue, Edmonton, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 140591 TA), filed January 28, 1975. Applicant: LOWELL M. BUNDERSON, Route 1, Shafer, Minn. 55074. Applicant's representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, Minn. 55413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Milwaukee, Wis., to Hastings, Long Lake, Minneapolis, St. Paul and St. Cloud, Minn., from Monroe, Wis., to Long Lake, Minn., and from Minneapolis and St. Paul, Minn., to Sparta, Wis., for 180 days. Supporting shippers: Sabel Beverage Co., Route 7, St. Cloud, Minn. 56301. John McLean Dist., Inc., 2328 Territorial Road, St. Paul, Minn. 55114. Bottled Beverage, Inc., Sparta, Wis. 54656. W. & W. Beverage Co., Inc., 515 E. 3rd Street, Hastings, Minn. 55033. Rex Distributing Co., Inc., 740—24th Avenue SE., Minneapolis, Minn. 55414. Day Dist., Company, Highway 12, Long Lake, Minn. 55356. Send protests to: Raymond T. Hones, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 414 Federal Bldg., & U.S. Courthouse, 110 South Fourth St., Minneapolis, Minn. 55401.

By the Commission

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-3989 Filed 2-11-75;8:45 am]

[Notice No. 15]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 6, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the Federal Register publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51312 (Sub-No. 13 TA), filed January 31, 1975. Applicant: BOWLING GREEN TRANSFER, INC., 530 South Maple Street, Bowling Green, Ohio 43402. Applicant's representative: Michael Spurlock, Paul F. Beery Co., L.P.A., 9th Floor, 8 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except those of unusual value and except dangerous explosives, household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between the plantsite and facilities of Young-Ottawa, Division of Gulf Western Manufacturing Company at Bowling Green, Ohio, on the one hand, and, on the other, Ottawa and Topeka, Kans., restricted to shipments to and from the plantsite of Young-Ottawa, Division of Gulf Western Manufacturing Company, Bowling Green, Ohio, for 180 days. Supporting shipper: Young-Ottawa, Division of Gulf Western Manufacturing Co., 1175 N. Main Street, Bowling Green, Ohio 43402. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 59640 (Sub-No. 43 TA), filed January 27, 1975. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, N.J. 07106. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain camping and sporting goods stores, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, over irregular routes, between the facilities of Lionel Morsan, Inc., at Mahwah, N.J., on the one hand, and, on the other, points in Hudson, Union, and Essex Counties, N.J., restricted to traffic which has a prior or subsequent movement by water or rail; New York, N.Y.; and points in Nassau, Suffolk, and Westchester Counties, N.Y.; and points in New Haven County, Conn., under a continuing contract or contracts with Lionel Morsan, Inc., for 180 days. Supporting shipper: Lionel Morsan, Inc., 810 Route 17, Paramus, N.J. Send protests to: Robert E. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J.

No. MC 97009 (Sub-No. 24TA), filed January 31, 1975. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware Street, Honesdale, Pa. 18431. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, sold, or distributed by the House of Westmore, its subsidiaries and/or its divisions*, located at or near Newburgh and Rochester, N.Y. (except commodities in bulk), in mechanical refrigerated equipment, between the facilities of the House of Westmore, located at or near Newburgh and Rochester, N.Y., on the one hand, and, on the

other, Bladensburg, Clinton, Cottage City, and Towson, Md.; Alexandria, Norfolk, and Richmond, Va.; Charleston, Huntington, and Wheeling, W.Va.; Erie, and Sharon, Pa.; the Chicago Commercial Zone, Ill.; Angola, Elkhart, Evansville, Fort Wayne, Ind.; Detroit, Flint, Grand Rapids, Pontiac, and Saginaw, Mich.; Baton Rouge, Lafayette, New Orleans, and Shreveport, La.; and Knoxville, Tenn., for 180 days. Supporting shipper: House of Westmore, Inc., Pierces Road, Newburgh, N.Y. 12550. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 103051 (Sub-No. 337TA), filed January 29, 1975. Applicant: FLEET TRANSPORT COMPANY, INC., 934—44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed ingredients* (in bulk, in tank vehicles), from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Mississippi, and Texas, for 180 days. Supporting shipper: The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 U.S. Court House, Nashville, Tenn. 37203.

No. MC 106674 (Sub-No. 154TA), filed January 24, 1975. Applicant: SCHILLI MOTOR LINES, INC., Box 123, Remington, Ind. 47977. Applicant's representative: Jerry Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (in bulk, in dump vehicles), from the Bi-State Warehouse in Danville, Ill., to the branches of the Fountain Warren Co., Farm Bureau Co-op, located in Gessie, Kingman, Mellott, Riverside, Veedersburg, and West Levanon, Ind., for 180 days. Supporting shipper: Fountain Warren County Farm Bureau Co-op, Box 158, Veedersburg, Ind. 47987. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne, Room 204, Fort Wayne, Ind. 46802.

No. MC 106674 (Sub-No. 155TA), filed January 29, 1975. Applicant: SCHILLI MOTOR LINES, INC., Box 123, Remington, Ind. 47977. Applicant's representative: Jerry Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry soybean meal and hulls* (in bulk), from the plantsite of Krause Milling Co., in Logansport, Ind., to points in Illinois, Michigan and Ohio, for 180 days. Supporting shipper: Krause Milling Co., Box 1156, Milwaukee, Wis. 53201. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107496 (Sub-No. 988TA), filed January 29, 1975. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar and blends of corn syrup and liquid sugar* (in bulk), from Memphis, Tenn., to Shreveport, La., for 180 days. Supporting shipper: Sugar Service Corp., P.O. Box 18375, Memphis, Tenn. 38118. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 112520 (Sub-No. 298TA), filed January 29, 1975. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glue*, (in bulk), in tank vehicles, from Orlando, Fla., to points in North Carolina, for 180 days. Supporting shipper: Stuck of Florida, Inc., 11235 Satellite Blvd., Orlando, Fla. 32809. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 114533 (Sub-No. 317TA), filed January 30, 1975. Applicant: BANKERS DISPATCH CORPORATION, 1106 W. 35th Street, Chicago, Ill. 60609. Applicant's representative: Warren W. Wallin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Kenosha, Wis., on the one hand, and, on the other, Chicago, Ill., for 180 days. Supporting shipper: Victorine, Office Manager, Micro, Inc., 3327—14th Ave., Kenosha, Wis. 53140. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., Room 1086, 219 South Dearborn St., Chicago, Ill. 60604.

No. MC 116273 (Sub-No. 188TA), filed January 29, 1975. Applicant: D & L TRANSPORT, INC., 3800 S. Laramie Avenue, Cicero, Ill. 60605. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Lubricating Oil, and* (b) *spent or waste petroleum oil*, from Indianapolis, Ind., to Winchester, Kentucky, from Winchester, Kentucky, to Indianapolis, Ind., for 180 days. Supporting shipper: D. A. Stuart Oil Company, Ltd., 2727 2S. Troy Street, Chicago, Ill. 60632. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 116514 (Sub-No. 33TA), filed January 29, 1975. Applicant: EDWARDS TRUCKING, INC., P.O. Drawer 428, Hemingway, S.C. 29554. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., Pennsylvania Avenue & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and such commodities as are dealt on by wholesale and retail chain and grocery houses, and equipment, materials, and supplies used in conduct of such business*, except commodities in bulk, between the facilities of Savannah Foods and Industries, Inc., and its subsidiaries, including TranSales Corporation, in Chatham County, Ga., on the one hand, and, on the other, points in Alabama and Tennessee, for 180 days. Supporting shippers: Savannah Foods and Industries, Inc., P.O. Box 339, Savannah, Ga. 31402. TranSales Corporation, P.O. Box 9177, Savannah, Ga. 31402. Send protests to: E. E. Strotheid, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 302, 1400 Bldg., 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 117068 (Sub-No. 38TA), filed January 30, 1975. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., 15th and New York Ave. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of excavators (except those the transportation of which, by reason of size or weight, require the use of special equipment, and except commodities in bulk), from points in Michigan, Illinois, Indiana and Wisconsin to Winona, Minn., for 180 days. Supporting shipper: Warner & Swasey Company, Winona, Minn. 55987. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 117416 (Sub-No. 49TA), filed January 31, 1975. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue, N.W., Knoxville, Tenn. 37921. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities as are dealt in by wholesale and retail chain and grocery houses*, and in connection therewith equipment, materials, and supplies used in the conduct of such business, between the facilities of Savannah Foods & Industries, Inc., and its subsidiary, TranSales Corporation in Chatham County, Ga., on the one hand, and, on the other, points in Tennessee and Kentucky. Restriction: Restricted against the transportation of commodities in bulk, and further re-

stricted against the transportation of shipments in vehicles equipped with mechanical refrigeration, for 180 days. Supporting shipper: Savannah Foods & Industries, Inc., P.O. Box 339, Savannah, Ga. 31402. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A–422 U.S. Court House, Nashville, Tenn. 37203.

No. MC 119789 (Sub-No. 235TA), filed January 31, 1975. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mechanical cooling and heating apparatus* (except commodities which because of size or weight require the use of special equipment), from Louisville, Georgia to California, Nevada, New Mexico and Utah, for 180 days. Supporting shipper: Thermo King Sales & Service Company, 2161 Adams Avenue, San Leandro, Calif. 94577. Send protests to: Gerald T. Holland, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 124417 (Sub-No. 11TA), filed January 30, 1975. Applicant: ALPHONSE AND VINCENT HINDERMAN, doing business as HINDERMAN BROTHERS, Box 327, Dickeyville, Wis. 53808. Applicant's representative: John Duncan Varda, 121 South Pinckeny St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry Fertilizer*, from the facilities of the Burlington and Northern Railroad, at or near Potosi, Wis., to Dickeyville, Wis., for 180 days. Supporting shipper: Swift Chemical Company, P.O. Box 330, Dubuque, Iowa 52001. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 129742 (Sub-No. 8TA), filed January 30, 1975. Applicant: PUROLATOR COURIER LTD., 259 Lake Shore Blvd., East Toronto, Ontario, Canada. Applicant's representative: John M. Delany, Esq., 2 Nevada Drive, Lake Success, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, Radioactive Drugs, and Medical Isotopes*, from Buffalo, N.Y., to the Port of Entry at or near Buffalo, N.Y., on the U.S.-Canada Boundary line, for 90 days. Supporting shipper: Mallinckrodt Canada Ltd., 600 Delmar Avenue, Pointe Claire, Quebec. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Bldg., 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 134535 (Sub-No. 3TA), filed January 27, 1975. Applicant: CASALE CONTRACT CARRIERS, INC., 1110 Hamilton Blvd., South Plainfield, N.J. 07080. Applicant's representative: Edward F. Bowes, 744 Broad St., Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and rugs*, From Woodbridge and Edison, N.J., to Danbury, Fairfield, Farmington, Guilford, Meriden, Milford, New Haven, Norwalk, Norwich, Trumbull and West Haven, Conn., Avon, Everett, Hyannis and Springfield, Mass., Bloomfield, N.J., Albany, Bayshore, Baldwin, Buffalo, Corum, Endicott, Garden City, Hicksville, Huntington, Huntington Station, Inwood, Kingston, Lake Grove, Middletown, Mount Vernon, New Rochelle, New York, Pleasantville, Portchester, Schenectady, Smithtown, Westbury and White Plains, N.Y., Lancaster, Philadelphia, Pittsburgh, Plymouth Meeting and York, Pa. Restriction: The operation authorized herein is limited to a transportation service to be performed, under a continuing contract, or contracts, with World Carpets, Woodbridge, N.J., for 90 days. Supporting shipper(s): World Carpets, Homestead Ave. & Essex East, Avenel, N.J. 07001. Send protests to: District Supervisor, Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 138018 (Sub-No. 17TA) (Correction), filed November 29, 1974, published in the FEDERAL REGISTER issue of December 13, 1974, and republished as corrected this issue. Applicant: REFRIGERATED FOODS, INC., 1420 33d Street, Denver, Colo. 80205. Applicant's representative: Donna F. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat 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, in tank vehicles), from the plant site and/or storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, restricted to traffic originating at and destined to named points, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 1961 Stout Street, 2022 Federal Bldg., Denver, Colo. 80202. The purpose of this republication is to change the name of the supporting shipper.

No. MC 138104 (Sub-No. 20TA), filed January 30, 1975. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro manganese, and silicon manganese*, in bulk, in dump vehicles, from Houston, Tex., to the plantsite and storage facilities of Chaparral Steel Company, near Midlothian, Tex., for 180 days. Supporting shipper: Chaparral Steel Company, P.O. Box 400, Arlington, Tex. 76010. Send protests to: H. C. Morrison, Sr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 9A27, Federal Bldg., 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 138512 (Sub-No. 10TA), filed January 31, 1975. Applicant: ROLAND'S TRANSPORTATION SERVICE, INCORPORATED, doing business as WISCONSIN PROVISIONS EXPRESS, 3383 East Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Roland J. Kissinger (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Logan, Utah to Baltimore, Md., and Oklahoma City, Okla., for the account of L. D. Schreiber Cheese Company, Inc. for 180 days. Supporting shipper: L. D. Schreiber Cheese Company, Inc., 1607 P.O. Box 610, Green Bay, Wis. 54305. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 139495 (Sub-No. 30TA) (Correction), filed January 22, 1975, published in the FEDERAL REGISTER issue of January 28, 1975, and republished as corrected this issue. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums and aquariums supplies*, from Canton, Ga., to points in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Michigan, and Wisconsin, for 180 days. Supporting shipper: Triton Industries, Inc., 1930 South 23rd St., P.O. Box 1426, Saginaw, Mich. 48601. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202. The purpose of this republication is to change the territorial description.

No. MC 139645 (Sub-No. 2TA), filed January 29, 1975. Applicant: SERVICE MOTOR FREIGHT, INC., 133 East Atlantic Avenue, Lawnside, N.J. 08045. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, Ohio 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products*, from Parkway Industrial Center, Anne Arundel County, Md., to points in West Virginia, for 180 days. Supporting shipper: International Paper Co., 220 E. 42d Street, New York, N.Y. 10017. Send protests to: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission,

428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 140198 (Sub-No. 1TA), filed January 30, 1975. Applicant: MARVIN BENDER, doing business as MARVIN BENDER TRUCKING, Britton, S. Dak. 57430. Applicant's representative: Frank L. Farrar, Box 190, Britton, S. Dak. 57430. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Casting, steel friction materials, machine parts and industrial products,* from Minneapolis, Minn., to Britton, S. Dak., and St. Paul, Minn., to Britton, S. Dak., for 180 days. Supporting shipper: Horton Industries, Inc., 1170 15th Ave., SE., Minneapolis, Minn., Hugh K. Schilling, President. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 140266 (Sub-No. 2TA), filed January 30, 1975. Applicant: BAKER TRUCK LINES, INC., P.O. Box 875, Lewiston, Idaho 83501. Applicant's representative: James W. Givens (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Sawdust and woodchips,* between points in Idaho north of the Salmon River, for 180 days. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, Idaho 83501. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 140383 (Sub-No. 1TA), filed January 30, 1975. Applicant: FRED LEA, doing business as VICTORY MOVERS & STORAGE CO., 1046 S. Route 83, Villa Park, Ill. 60181. Applicant's representative: Michael F. Sheehan, Jr., One East Wacker Drive, Room 2530, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *New appliances, crated and uncrated,* between points in Illinois and Indiana, for 180 days. Supporting shippers: Robert A. Sutter, Manager, The Tappan Company, 700 Rte., 53, Itasca, Ill. 60143. A. Wrobel, Shop Foreman, Amana Refrigeration of Chicago, Inc., 11441 Melrose Street, Franklin Park, Ill. Send protests to: William J. Gray, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 140544 (Sub-No. 1TA) (Correction), filed January 13, 1975, published in the FEDERAL REGISTER issue of January 23, 1975, and republished as corrected this issue. Applicant: ARLO R. MILLER AND WILLARD D. NEBEKER, doing business as M & N TRUCKING, P.O. Box 267, Afton, Wyo. 83110. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Metallic and non-metallic ores,* including but not restricted to phosphate and vanadium ore, in bulk, in dump vehicles, between points in Lincoln and Sublette Counties, Wyo.; and between points in Lincoln and Sublette Counties, Wyo., on the one hand, and on the other, points in Caribou and Bear Lake Counties, Idaho, for 180 days. Supporting shipper: Chemical Distributors, P.O. Box 68, Montpelier, Idaho 83254. Send protests to: P. A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1006, Federal Bldg. & Post Office, 100 East "B" Street, Casper, Wyo. 82601. The purpose of this republication is to add the territorial description which was omitted in the previous publication.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-3988 Filed 2-11-75;8:45 am]

[Finance Docket No. 26745]

BALTIMORE AND OHIO RAILROAD CO.

Order on Abandonment Between Coal Shaft and Beardstown in Sangamon and Cass Counties, Ill.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et. seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Sangamon and Cass Counties, Ill., on or before February 26, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 31st day of January, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-3990 Filed 2-11-75;8:45 am]

[Disaster Order No. 13]

SOUTHERN PACIFIC TRANSPORTATION CO.

Disaster Relief

FEBRUARY 7, 1975.

In the Matter of Relief under section 22 of the Interstate Commerce Act.

Upon consideration of an application filed by the Southern Pacific Transportation Company requesting the entry of an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction participating in the transportation of property to and from stations on the Coos Bay Branch Line of the Southern Pacific Transportation Company south of Reedsport, Oregon (in which area disruption of rail transportation facilities has resulted due to a temporary break in the rail line caused by fire in Tunnel #19, located at Mile Post 745 between Reedsport and Lakeside, Oregon) to establish and maintain reduced rates to and from such stations with the object of providing relief to shippers and receivers of carload freight:

It is ordered, That carriers by railroad participating in the transportation of property, in carloads, to and from the disaster area in Oregon which is all of the rail line of the Southern Pacific Transportation Company south of Reedsport, to Myrtle Point, Oregon, be, and they are hereby, authorized under Section 22 of the Interstate Commerce Act to establish and maintain until March 10, 1975, reduced rates in the manner proposed in said application, the reduced rates to be published and filed in the manner prescribed in Section 6 of the

Interstate Commerce Act except they may be made effective upon one day's notice after publication and filing instead of thirty.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons receiving or shipping carload freight at stations south of Reedsport, Oregon on the line of the railroad named in the preceding ordering paragraph, who, because of the disruption of rail sevice caused by the fire, are required to and do assume the cost of transporting the freight by highway to or from stations on the rail line of the Southern Pacific Transportation Company south of Reedsport, to Myrtle Point, Oregon, and who ship or receive such traffic by rail at the latter points.

It is further ordered, That during the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of Section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That notice to the affected railroad and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association-Eastern Railroads, New York, N.Y., the Chairman of the Southern Freight Association, Atlanta, Georgia, the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Illinois, and the Vice-President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

Dated at Washington, D.C., this 7th day of February, A.D., 1975.

By the Commission, Acting Chairman.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3980 Filed 2-11-75;8:45 am]

[Notice No. 694]

ASSIGNMENT OF HEARINGS

FEBRUARY 7, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after February 12, 1975.

MC 140008 Sub 1, Wellington Transportation Corporation, now being assigned March 17, 1975 (2 days) in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo.

MC-F 12218, Grouch Bros., Inc., Control-Caddo Express, Inc., now being assigned March 24, 1975 (1 wk) in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo.

MC 134308 Sub 8, Caddo Express, Inc., now being assigned March 24, 1974 (1 wk) in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo.

MC 44735 Sub 13, Kissick Truck Lines, Inc., now being assigned March 19, 1975 (2 days) in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo.

MC 139979, American Colloid Carrier Corp., now being assigned March 31, 1975 (1 day) in Room 609, Federal Office Building, 911 Walnut St., Kansas City, Mo.

MC 108121 Sub 14, Transport Storage & Distributing Co., application dismissed.

MC 124796 Sub 117, Continental Contract Carrier Corp., now assigned March 12, 1975, at Kansas City, Mo., is postponed indefinitely.

MC 29886 Sub 314, Dallas and Mavis Forwarding Co., Inc.,

MC 105045 Sub 51, R. L. Jeffries Trucking Co., Inc.,

MC 111545 Sub 201, Home Transportation Company, Inc.,

MC 112304 Sub 84, Ace Doran Hauling & Rigging Co., and

MC 124974 Sub 27, Machinery Transports, Inc., now assigned March 10, 1975 at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

AB 71, Baltimore and Annapolis Railroad Company Abandonment of Operations between Clifford Junction, Baltimore City and Annapolis, in Baltimore and Anne Arundel Counties, Maryland, now being assigned March 12, 1975 (3 days), at Baltimore, Maryland, in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3982 Filed 2-11-75;8:45 am]

[Notice No. 695]

ASSIGNMENT OF HEARINGS

Correction

FEBRUARY 7, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after February 12, 1975.

MC 123048 Sub 311, Diamond Transportation System, Inc., now assigned March 11, 1975, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 S. Dearborn St. instead of now assigned March 10 and 11, 1975.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3983 Filed 2-11-75;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

FEBRUARY 7, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, 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, 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.

Oklahoma Docket No. MC 23466 Sub-No. 5, filed January 16, 1975. Applicant: CENTRAL OKLAHOMA FREIGHT LINES, INC., 2945 North Toledo, Tulsa, Okla. 74115. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of General commodities, between Tulsa, Okla. and Covington, Okla.: From Tulsa, Okla. to Perry, Okla. over U.S. Highway 64, thence over Oklahoma Highway 164 to Covington, Okla., and return over the same route, serving no intermediate points. Applicant intends to tack with existing authority. Intrastate, interstate and foreign commerce authority sought.

HEARING: Assigned for hearing on the 3rd day of March 1975, at 9 o'clock a.m. before the Referee, in the Commission's Court Room, 3rd floor, Jim Thorpe Office Building, Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Public Utilities Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3986 Filed 2-11-75;8:45 am]

[Notice No. 5]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 7, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

No. MC 76032 (Deviation No. 27), NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223, filed January 31, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Pueblo, Colo., over U.S. Highway 50 to junction U.S. Alternate Highway 95 near Fallon, Nev., thence over U.S. Alternate Highway 95 to junction Interstate Highway 80 near Fernley, Nev., thence over Interstate Highway 80 to Sacramento, Calif., 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 Pueblo, Colo., over U.S. Highway 85 to Albuquerque, N. Mex., thence over U.S. Highway 66 to Barstow, Calif., thence over California Highway 58 to Bakersfield, Calif., thence over California Highway 99 to Sacramento, Calif., and return over the same route.

No. MC 59680 (Deviation No. 92), STRICKLAND TRANSPORTATION CO., INC., P.O. Box 5689, Dallas, Tex. 75222, filed January 23, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over deviation routes as follows: (1) From Cleveland, Ohio over Interstate Highway 77 to junction Interstate Highway 76 at Akron, Ohio, thence over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 26, thence over Pennsylvania Highway 26 to junction Pennsylvania Highway 144, thence over Pennsylvania Highway 144 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction U.S. Highway 11 near Amity Hall, Pa., thence over U.S. Highway 11 to New Kingstown, Pa., and (2) From Cleveland, Ohio over Interstate Highway 77 to junction Interstate Highway 76 at Akron, Ohio, thence over Interstate Highway 76 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 26, thence over Pennsylvania Highway 26 to junction Pennsylvania Highway 144, thence over Pennsylvania Highway 144 to junction U.S. Highway 322, thence over U.S. Highway 322 to junction U.S. Highway 11, near Amity Hall, Pa., thence over U.S. Highway 11 to junction Interstate Highway 81 near Marysville, Pa., thence over Interstate Highway 81 to junction Pennsylvania Highway 114, thence over Pennsylvania Highway 114 to junction U.S. Highway 11, thence over U.S. Highway 11 to New Kingstown, Pa., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Cleveland, Ohio over U.S. Highway 21 to the Ohio Turnpike, thence over the Ohio Turnpike to the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to Harrisburg, Pa., and return over the same route.

No. MC 95540 (Deviation No. 3), WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301, filed January 22, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 280 and Georgia Highway 55, at Richland, Ga., over Georgia Highway 55 to junction U.S. Highway 82, (2) From Wildwood, Fla., over U.S. Highway 301 to junction Florida Highway 471 at Sumterville, Fla., thence over Florida Highway 471 to junction U.S. Highway 98, thence over U.S. Highway 98 to junction Interstate Highway 4, (3) From junction U.S. Highways 19 and 98 near Chassahowitzka, Fla., over U.S. Highway 98 to junction U.S. Highway 41 at Brooksville, Fla., (4) From Brooksville, Fla., over U.S. Highway 98 to junction Interstate Highway 75, (5) From Brooksville, Fla., over U.S. Highway 98 to junction Interstate Highway 4, (6) From El Centro, Calif., over California Highway 86 to junction California Highway 111, thence over California Highway 111 to junction Interstate Highway 10 at Indio, Calif., and (7) From junction U.S. Highway 395 and California Highway 14 over California Highway 14 to junction Interstate Highway 5, 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 Richland, Ga., over U.S. Highway 280 to Americus, Ga., thence over U.S. Highway 19 to junction U.S. Highway 82, thence over U.S. Highway 82 to junction Georgia Highway 55, (2) From Wildwood, Fla., over Sunshine State Parkway to junction Interstate Highway 75.

Thence over Interstate Highway 75 to junction Interstate Highway 4, thence over Interstate Highway 4 to junction U.S. Highway 98, (3) From junction U.S. Highways 19 and 98 near Chassahowitzka, Fla., over U.S. Highway 19 to junction U.S. Highway 27 near Chiefland, Fla., thence over U.S. Highway 27 to junction U.S. Highway 41 near Williston, Fla., thence over U.S. Highway 41 to junction U.S. Highway 98 at Brooksville, Fla., (4) From Brooksville, Fla., over U.S. Highway 41 to junction Interstate Highway 75, thence over Interstate Highway 75 to junction U.S. Highway 98, (5) From Brooksville, Fla., over U.S. Highway 41 to junction Interstate Highway 4, thence over Interstate Highway 4 to junction U.S. Highway 98, (6) From El Centro, Calif., over U.S. Highway 80 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction California Highway 111, and (7) From junction U.S. Highway 395 and California Highway 14 over U.S. Highway 395 to junction Interstate Highway 10, thence over Interstate Highway 10 to junction Interstate Highway 5, thence over Interstate Highway 5 to junction California Highway 14, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3985 Filed 2-11-75;8:45 am]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

[Notice No. 3]

FEBRUARY 7, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 689), GREYHOUND LINES, INC. (Eastern Division), P.O. Box 6903, 1400 W. Third Street, Cleveland, Ohio 44101, filed January 30, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over deviation routes as follows: From Vienna, Ill., over Illinois Highway 146 to junction Interstate Highway 24, thence over Interstate Highway 24 to junction Kentucky Highway 305, thence over Kentucky Highway 305 to Paducah, Ky., with the following access route: (a) from junction Interstate Highway 24 and U.S. Highway 45 over U.S. Highway 45 to Metropolis, Ill., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Vienna, Ill., over U.S. Highway 45 to Paducah, Ky., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-3987 Filed 2-11-75;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 7, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 100.40) and filed on or before February 27, 1975.

FSA No. 42940—*Lumber and Related Articles Between Points in Southern Territory.* Filed by Southwestern Freight Bureau, Agent, (No. B-513), for interested rail carriers. Rates on lumber and related articles, in carloads, as described in the application, between points in southern territory; also between Helena, Arkansas, on the one hand, and points in southern territory, on the other; also from West Memphis, Arkansas, to points in southern territory.

Grounds for relief—Rate relationship and short-line distance formula and grouping.

Tariffs—Supplement 81 to Southwestern Freight Bureau, Agent, tariff SW/S-2007-H, I.C.C. No. 5042, and Supplement 65 to Southern Freight Association, Agent, tariff S-2011-N, I.C.C. No. S-1112. Rates are published to become effective on March 10, 1975.

FSA No. 42941—*Joint Water-Rail Container Rates—Nippon Yusen Kaisha.* Filed by Nippon Yusen Kaisha, (No. 8), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water Competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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