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MONDAY, MARCH 15, 1976

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Rules Going Into Effect Today

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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	LABOR			LABOR

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

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

[Navel Orange Regulation 370, Amendment 1]

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

Limitation of Handling

• This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period March 5–11, 1976. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. •

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Naval Orange Regulation 370 (41 F.R. 9356). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 907.670 (Navel Orange Regulation 370 (41 F.R. 9356) are hereby amended to read as follows:

"(i) District 1: 1,066,000 cartons;

"(ii) District 2: 234,000 cartons."

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

Dated: March 10, 1976.

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

[FR Doc.76-7343 Filed 3-12-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-SO-25; Amdt. No. 39-2542]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman-American Aviation Corporation Models G–159 and G–1159

There have been failures of the nose landing gear with accompanying penetration of the fuselage floor on Grumman-American Aviation Corporation (GAAC) Model G–159 and G–1159 airplanes which could result in injury to an occupant of a jump seat located in this area. Since this condition is likely to occur in other airplanes of the same type, an airworthiness directive is being issued to prohibit occupancy during taxi, takeoff and landing, of any jump seat located between fuselage stations 119 and 169 on Grumman-American Aviation Corporation Model G–159 and G–1159 airplanes.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GRUMMAN-AMERICAN AVIATION CORPORATION. Applies to Grumman-American Aviation Corporation Model G–159 and G–1159 airplanes certificated in all categories.

Compliance required as indicated unless already accomplished.

To prevent injury to an occupant of any jump seat located between fuselage stations 119 and 169 on Grumman-American Aviation Corporation Model G–159 and G–1159 airplanes, accomplish the following:

Before further flight install a placard either on the bulkhead adjacent to the jump seat or at any equivalent location approved by the Federal Aviation Administration utilizing a minimum of 3/16 inch high letters with the following wording:

"JUMP SEAT OCCUPANCY DURING TAXI, TAKEOFF, OR LANDING PROHIBITED."

This amendment becomes effective March 10, 1976.

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

Issued in East Point, Georgia on March 3, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-7068 Filed 3-12-76;8:45 am]

[Docket No. 76-SO-23; Amendment 39-2540]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft Corporation Model PA–36–285

There have been bolts of improper length installed on Piper PA–36–285 airplanes that could result in the loss of rudder control. Since this condition is likely to exist on other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the rudder control horn for improper length attach bolts, and replacement if necessary, on Piper PA–36–285 airplanes.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER. Applies to: PA–36–285, serial numbers 7560001 to 7660077 inclusive, certificated in all categories.

Compliance required prior to further flight, unless already accomplished, for all aircraft at a servicing facility. Aircraft located in a non-servicing area may be flown to a service area for compliance with this

airworthiness directive after the pilot has inspected the three rudder horn attach bolts for adequate tightness.

To prevent loss of the rudder control system, accomplish the following:

1. Remove the three bolts which attach the rudder control horn to the rudder. (Reference Piper PA-36 Service Manual, Section IV, Figure 4-3, page 4-7, Sketch "G").

2. Verify that all three bolts are AN3-6A, Piper P/N 400440. (Note: Shank length is $^{13}/_{32}$ minimum to $^{13}/_{16}$ maximum).

3. If incorrect bolts are found, replace with AN3-6A with one AN960-10 washer, Piper P/N 407564, under the head of each bolt and torque to 20 to 25 inch-pounds. Make appropriate log book entry.

4. If bolts removed are AN3-6A, reinstall with one AN960-10 washer under the head of each bolt and torque to 20 to 25 inch-pounds. Make appropriate log book entry.

Piper Service Bulletin 495 pertains to this subject.

This amendment becomes effective March 12, 1976.

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

Issued in East Point, Georgia on March 2, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-7069 Filed 3-12-76;8:45 am]

[Docket No. 75-CE-8-AD; Amdt. 39-2546]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Pressurized Model 65, 90 and 100 Series Airplanes

Amendment 39-2171 (40 FR 16831 and 16832), AD 75-08-20, is an Airworthiness Directive (AD) applicable to Beech Pressurized 65, 90 and 100 series airplanes with two or more years time in service. The AD requires inspection of the round cabin windows and non-openable side windows in the crew compartment of these aircraft for crazing and cracks and replacement as necessary per Beechcraft Service Instruction 0711-110. Subsequent to the issuance of AD 75-08-20, there has been an incident where the baggage compartment window failed on a Beech 90 series airplane which caused decompression of the cabin. As a result the manufacturer has released Service Instruction 0711-110, Rev. I, to extend the recommended inspections therein to include the baggage compartment windows. Accordingly, Paragraph A(1) of AD 75-08-20 is being revised to make inspection of the baggage compartment windows mandatory.

Since this amendment is in the interest of safety and will impose no substantial additional burden on any person, notice and public procedure hereon are unnecessary and the amendment shall become effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39, Paragraph A(1), Amendment 39-2171, AD 75-08-20, is revised to read as follows:

A. (1) Visually inspect each round cabin window, each non-openable side window in the crew compartment, and each baggage compartment window for crazing and cracks in accordance with the procedures and sketches in Beechcraft Service Instruction No. 0711-110, Rev. I, or later approved revisions. If the initial inspection of the round cabin windows and the non-openable side windows in the crew compartment required by this AD have already been accomplished, commence inspection of the baggage compartment windows at the next repetitive inspection required by this AD.

This amendment becomes effective March 18, 1976.

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

Issued in Kansas City, Missouri, on March 4, 1976.

GEORGE R. LACAILLE,
Acting Director,
Central Region.

[FR Doc.76-7229 Filed 3-12-76;8:45 am]

[Docket No. 75-CE-13-AD; Amdt. 39-2548]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 320 Series Airplanes

Amendment 39-2204 (40 FR 2951), AD 75-11-01, is an Airworthiness Directive (AD) applicable to Cessna 320 series airplanes which requires in part, inspection and installation of supporting clamps on the crossover fuel lines behind the engine firewall. Subsequent to the issuance of AD 75-11-01 investigations have disclosed that Cessna Models 320, 320A, 320B and 320C (Serial Numbers 001 thru 320C00073) airplanes have a fuel line configuration that is not compatible with the supporting clamp requirements of Paragraph C of the AD. Further, it has been established that clamps installed by the manufacturer on these aircraft provide adequate support for crossover fuel lines. Accordingly, Paragraph C of AD 75-11-01 is being revised to delete therefrom Cessna Models 320, 320A, 320B and 320C aircraft.

Since this amendment is in the interest of safety, is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment shall become effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39, Paragraph C of Amendment 39-2204 (40 FR 2951), AD 75-11-01, is revised so that it now reads as follows:

(C) On Models 320D, 320E and 320F airplanes, in addition to the inspection required in Paragraph A, add additional supporting clamps to the crossover fuel lines in accordance with Cessna Service Kit SK402-8C, dated February 20, 1975, or subsequent revisions.

This amendment becomes effective March 22, 1976.

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

Issued in Kansas City, Missouri, on March 5, 1976.

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

[FR Doc.76-7230 Filed 3-12-76;8:45 am]

[Docket 76-GL-5; Amdt. 39-2549]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric CF6-6 and CF6-50

Engines have been found in service with missing compressor flange bolts or nuts, which situation could possibly compromise continuing airworthiness. An Airworthiness Directive is therefore being issued to require a one-time inspection of compressor flange bolts.

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

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

GENERAL ELECTRIC. Applies to Models CF6-6D, CF6-D1, CF6-50A, CF6-50C, CF6-50D, CF6-50E, CF6-50E1 and CF6-50H Turbofan Engines. Compliance required as indicated.

To insure that the continuing airworthiness of the engine is not compromised, accomplish the following:

(a) Within 30 days after the effective date of this Airworthiness Directive, unless already accomplished, inspect high pressure compressor splitlines for missing bolts or nuts. This applies to left hand and right hand horizontal splitlines of forward and aft case and to the forward case front circumferential flange.

(b) For any position where either nut or nut and bolt are missing, install new nut and bolt. Replace the nut and bolt on each side of this position. Use FAA approved nuts and bolts, and torque in accordance with standard procedures.

(c) Report in writing any instances of missing bolt or nut and the time on the engine to Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region as soon as possible. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

General Electric All Operator Wire #76-12 dated February 24, 1976 also covers this subject.

This amendment becomes effective March 24, 1976.

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

Issued in Des Plaines, Illinois on March 5, 1976.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.76-7231 Filed 3-12-76;8:45 am]

[Docket No. 15456; Amdt. 39-2553]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd., Model DH-104 Airplanes

There have been reports of cracks in the engine mounting pick-up brackets on Hawker Siddeley Model DH-104 airplanes that could result in failure of these brackets, loss of an engine, and possible catastrophic airplane structural failure. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires inspection for cracks and defects and rework and replacement, as necessary, of engine mounting pick-up brackets on Hawker Siddeley Model DH-104 airplanes.

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

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION LTD.: Applies to Model DH-104 "Dove" airplanes, all series, certificated in all categories.

Compliance is required as indicated.

To prevent the possible failure of engine mounting pick-up brackets, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished within the preceding 250 hours' time in service, inspect the following engine mounting pick-up brackets in accordance with paragraph (b) of this AD, and comply with paragraph (c), (d), and (e), as appropriate.

(1) For aircraft that do not incorporate Hawker Siddeley Modification 38, inspect—

(i) Inboard top joint assembly inner brackets, P/N 4 W.3433-4, and outer brackets, P/N 4 W.3435-6; and

(ii) Outboard top joint assembly inner brackets, P/N 4 W.3437-8, and outer brackets, P/N 4 W.3439-40.

(2) For aircraft that incorporate Hawker Siddeley Modification inspect—

(i) Inboard top joint assembly inner brackets, P/N 4 W.4239-40, and outer brackets, P/N 4 W.4241-2; and

(ii) Outboard top joint assembly inner brackets, P/N 4 W.3437-8, and outer brackets, P/N 4 W.3439-40.

(b) Remove the cowling over the oil tank and inspect the engine mounting pick-up brackets specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, for cracks using a dye penetrant method, and comply with paragraph (c) or (d) of this AD, as appropriate.

NOTE.—In conducting inspections required by paragraph (b) of this AD particular attention should be given to the top flanged edges of the brackets.

(c) If a crack is found during an inspection required by paragraph (b) of this AD, before further flight, replace the affected bracket with a new bracket of the same part number or an FAA-approved equivalent.

(d) If no crack is found during an inspection required by paragraph (b) of this AD, before further flight, inspect the flange edges of the brackets specified in paragraph (a)(1) or (a)(2), as appropriate, for cutouts, nicks, rough edges, and similar defects.

(e) If a defect is found during an inspection required by paragraph (d) of this AD, comply with the following, as appropriate:

(1) If the defect can be blended out over a length of at least 0.5 inches along the flange edge, without a material loss in excess of 0.05 inches from the edge of the flange, accomplish the following:

(i) Before further flight, blend out the defect, and

(ii) Thereafter, continue to comply with paragraph (b) of this AD at intervals not to exceed 1,200 hours' time in service.

(2) If the defect can be blended out over a length of at least 0.5 inches along the flange edge, with a material loss in excess of 0.05 inches, but not in excess of 0.20 inches, from the edge of the flange, accomplish the following:

(i) Before further flight, blend out the defect, and

(ii) Thereafter, continue to comply with paragraph (b) of this AD at intervals not to exceed 300 hours' time in service.

(3) If the defect cannot be blended out over a length of at least 0.5 inches along the flange edge, or a material loss in excess of 0.20 inches from the edge of the flange would result if the defect were blended out, before further flight, except that the airplane may be flown in accordance with FAR 21.197 and 21.199 to a base where the repair can be performed, replace the affected bracket with a new bracket of the same part number, or an FAA-approved equivalent.

(f) The blending out of defects as required by paragraphs (e)(1)(i) and (e)(2)(i) of this AD must be accomplished in such a manner that all reworked edges are smooth, free of burrs, and reprotected in accordance with FAR 43.13.

NOTE.—The Hawker Siddeley Aviation Limited Model DH-104 Maintenance Manual contains instructions for the blending out of defects.

Also Hawker Siddeley Aviation Limited Technical News Sheet CT(104) No. 226, Issue 1, dated October 25, 1971, deals with this subject.

This amendment becomes effective March 29, 1976.

Issued in Washington, D.C. on March 8, 1976.

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

[FR Doc.76-7228 Filed 3-12-76;8:45 am]

[Docket No. 15455; Amdt. 39-2552]

PART 39—AIRWORTHINESS DIRECTIVES

Scheibe Flugzeugbau SF 26A Glider

There have been reports of failures of the aileron bellcrank near the weld of the middle bearing bushing that could result in loss of lateral control on Scheibe Flugzeugbau GmbH (Scheibe) SF 26A gliders. Since this condition is likely to exist or develop in other gliders of the same type design, an airworthiness directive is being issued which requires periodic inspections of the aileron bellcrank for cracks and repair, if necessary, on Scheibe SF 26A gliders.

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

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SCHEIBE FLUGZEUGBAU GMBH: Applies to SF 26A gliders, certificated in all categories.

Compliance is required as indicated.

To prevent the possible loss of lateral control, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time in service from the last inspection, visually inspect the aileron bellcranks near the weld of the middle bearing bushing for cracks with a magnifying glass of at least 5 power, in accordance with Scheibe Technical Note No. 232-1/75 dated October 7, 1975, or an FAA-approved equivalent.

(b) If a crack is found during an inspection required by paragraph (a) of this AD, before further flight, repair the cracked aileron bellcrank, in accordance with FAR 43.13.

This amendment becomes effective March 29, 1976.

Issued in Washington, D.C. on March 8, 1976.

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

[FR Doc.76-7227 Filed 3-12-76;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 15452; Amdt. No. 95-264]

PART 95—IFR ALTITUDES

Miscellaneous Changes

The purpose of this amendment to Part 95 of the Federal Aviation Regulations (14 CFR Chapter I) is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or any portion of a route. These altitudes, when used in conjunction with the current changeover points for the routes or portions of routes, also assure navigational coverage that is adequate and free of frequency interference.

Since situations exist which demand immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1510); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Subpart C of Part 95 of the Federal Aviation Regulations is amended as follows, effective March 25, 1976.

Issued in Washington, D.C., on March 3, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

§95.1001 DIRECT ROUTES—U.S.

is amended to delete:

Meeker, Colo. VORTAC	Kremmling, Colo. VORTAC	14500
		MAA - 37000
Norton, Colif. VOR	Hilltop INT, Colif.	8000
		MAA - 18000
Almo DME Fix, Colo.	Windy DME Fix, Colo.	*17000
*15000 – MOCA		MAA - 39000
Grand Junction, Colo. VORTAC	Almo DME Fix, Colo.	*22000
*16400 - MOCA	COP 96 GJT	MAA - 39000
Lucin, Utah VOR	Rock Springs, Wyo. VORTAC	#18000
		MAA - 45000

#MEA is established with a gap in Navigation signal coverage.

Strasburg INT, Colo.	Gill, Colo. VOR	7800
Webster DME Fix, Colo.	Kiowa, Colo. VORTAC	*16000
*14500 – MOCA		MAA - 39000
Windy DME Fix, Colo.	Kiowa, Colo. VORTAC	*14000
*12400 – MOCA		MAA - 39000

§95.1001 DIRECT ROUTES—U.S.

Puerto Rico Routes

FROM	TO	MEA
Route 1 is amended to read in part:		
Moyaguez, P.R. VOR	Borinquen, P.R. VOR	2500
Route 8 is amended to read in part:		
Arenas INT, P.R.	Ponce, P.R. VOR	2700

§95.5500 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J920R is amended by adding:					
Krums, Mont. W/P	142			21000	45000
Mille, Mont. W/P			196/016 to Mille W/P		

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Buffalo, N.Y. VOR Via N alter.	Ehmann INT, N.Y. Via N alter.	2500
Ehmann INT, N.Y. Via N alter.	Rochester, N.Y. VOR Via N alter.	2500
Rochester, N.Y. VOR Via N alter.	Sodus INT, N.Y. Via N alter.	2200
Sodus INT, N.Y. Via N alter. *3000–MRA	*Lysander INT, N.Y. Via N alter.	2300
Lysander INT, N.Y. Via N alter.	Syracuse, N.Y. VOR Via N alter.	2300

§95.6004 VOR FEDERAL AIRWAY 4
Is amended to read in part:

FROM	TO	MEA
Seattle, Wash. VOR Via S alter. *7000–MCA Ortin INT, E-bound	*Ortin INT, Wash. Via S alter.	6000
Ortin INT, Wash. Via S alter.	Mount INT, Wash., Via S alter.	
	E-bound	10000
	W-bound	8000
Mount INT, Wash. Via S alter.	Chinook INT, Wash. Via S alter.	10000

§95.6008 VOR FEDERAL AIRWAY 8
Is amended to read in part:

FROM	TO	MEA
Morman Mesa, Nev. VOR	Hunch INT, Utah	
	E-bound	*12000
	W-bound	*9000
*8800–MOCA		
Hunch INT, Utah *11700–MOCA	Bryce Canyon, Utah VOR	*12000

§95.6014 VOR FEDERAL AIRWAY 14
Is amended to delete:

FROM	TO	MEA
Erie, Pa. VOR Via N alter.	Bractan INT, N.Y. Via N alter.	3000
Bractan INT, N.Y. Via N alter.	U. S. Canadian Border Via N alter.	3500

§95.6017 VOR FEDERAL AIRWAY 17
Is amended to read in part:

FROM	TO	MEA
Pendleton INT, Tex.	Waco, Tex. VOR	2400

§95.6021 VOR FEDERAL AIRWAY 21
is amended to read in part:

FROM	TO	MEA
Carrine INT, Utah	Malad City, Ido. VOR	10000
Morman Mesa, Nev. VOR Via E alter.	Hunch INT, Utah Via E alter.	
	E-bound	*12000
	W-bound	*9000
*8800–MOCA		
Hunch INT, Utah Via E alter. *11500–MOCA	Cedar City, Utah VOR Via E alter.	*12000

§95.6029 VOR FEDERAL AIRWAY 29
is amended to delete:

FROM	TO	MEA
Salisbury, Md. VOR Via W alter. *1700–MOCA	Ridgely INT, Md. Via W alter.	*1800
Ridgely INT, Md. Via W alter.	Kenton, Del. VOR Via W alter.	2000

§95.6031 VOR FEDERAL AIRWAY 31
Is amended by adding:

FROM	TO	MEA
Rochester, N.Y. VOR	Grant INT, N.Y.	2300
Grant INT, N.Y.	Bullhead INT, N.Y.	5000
Bullhead INT, N.Y.	U.S. Canadian Border	2500

§95.6034 VOR FEDERAL AIRWAY 34
Is amended to delete:

FROM	TO	MEA
U. S. Canadian Border Via S alter.	Bullhead INT, N. Y. Via S alter.	2500
Bullhead INT,N.Y. Via S alter.	Grant INT,N.Y. Via S alter.	5000
Grant INT, N.Y. Via S alter.	Rochester, N.Y. VOR Via S alter.	2300

§95.6036 VOR FEDERAL AIRWAY 36
Is amended to delete:

FROM	TO	MEA
U.S. Canadian Border Via S alter.	Grand Island INT, N.Y. Via S alter.	2500
Grand Island INT, N.Y. Via S alter.	Buffalo, N.Y. VOR Via S alter.	2300

§95.6036 VOR FEDERAL AIRWAY 36
Is amended by adding:

FROM	TO	MEA
Sault Ste Marie, Mich. VOR *2500–MOCA	U.S. Canadian Border	*6000

§95.6042 VOR FEDERAL AIRWAY 42
Is amended to delete:

FROM	TO	MEA
U.S. Canadian Border Via E alter. *1700–MOCA	Crib INT, Ohio Via E alter.	*3500
Crib INT, Ohio Via E alter.	Akron, Ohio VOR Via E alter.	3000

§95.6043 VOR FEDERAL AIRWAY 43
Is amended by adding:

FROM	TO	MEA
Erie, Pa. VOR	Bractan INT, N.Y.	3000
Bractan INT, N.Y.	U.S. Canadian Border	3500
U.S. Canadian Border	Buffalo, N.Y. VOR	2300

§95.6090 VOR FEDERAL AIRWAY 90
Is amended to delete:

FROM	TO	MEA
U.S. Canadian Border Via N alter.	Dunkirk, N.Y. VOR Via N alter.	2700

§95.6096 VOR FEDERAL AIRWAY 96
Is amended to read in part:

FROM	TO	MEA
Ft. Wayne, Ind. VOR *2200–MOCA	Antwerp INT, Ohio	*6000
Antwerp INT, Ohio *2200–MOCA	Waterville, Ohio VOR	*2500

§95.6134 VOR FEDERAL AIRWAY 134
Is amended to read in part:

FROM	TO	MEA
Glenwood Springs INT, Colo.	Basalt INT, Colo.	*14500
*14300–MOCA		

§95.6147 VOR FEDERAL AIRWAY 147
Is amended to delete:

FROM	TO	MEA
Int. 067 M rad New Castle VOR & 152 M rad Pottstown VOR	Ardmore INT, Pa.	2000
Ardmore INT, Pa.	Pottstown, Pa. VOR	2400

§95.6159 VOR FEDERAL AIRWAY 159
Is amended to read in part:

FROM	TO	MEA
*Bolivar INT, Mo.	Augie INT, Mo.	2700
*6000–MRA		
Augie INT, Mo.	Holden INT, Mo.	2700

§95.6161 VOR FEDERAL AIRWAY 161
Is amended to read in part:

FROM	TO	MEA
Brainard, Minn. VOR	Grand Rapids, Minn. VOR	*3400
*2800–MOCA		

§95.6164 VOR FEDERAL AIRWAY 164
Is amended by adding:

FROM	TO	MEA
U.S. Canadian Border	Grand Island INT, N.Y.	2500
Grand Island INT, N.Y.	Buffalo, N.Y. VOR	2300

§95.6218 VOR FEDERAL AIRWAY 218
Is amended by adding:

FROM	TO	MEA
Pontiac, Mich. VOR	Novi INT, Mich.	2700
Novi INT, Mich.	U.S. Canadian Border	2800
U.S. Canadian Border	Crib INT, Ohio	*3500
*1700–MOCA		
Crib INT, Ohio	Akron, Ohio VOR	3000

§95.6233 VOR FEDERAL AIRWAY 233
Is amended to read in part:

FROM	TO	MEA
Mt. Pleasant, Mich. VOR	Traverse City, Mich. VOR	
Via W alter.	Via W alter.	*3000
*2700–MOCA		

§95.6234 VOR FEDERAL AIRWAY 234
Is amended to read in part:

FROM	TO	MEA
Butler, Mo. VOR	Augie INT, Mo.	2400
Augie INT, Mo.	Vichy, Mo. VOR	*3200
*2400–MOCA		

§95.6244 VOR FEDERAL AIRWAY 244
Is amended to read in part:

FROM	TO	MEA
*Duckwall INT, Calif.	**Nicol INT, Calif.	15100
*12000–MCA Duckwall INT, E-bound		
**13000–MCA Nicol INT, W-bound		
Nicol INT, Calif.	Cooldale, Nev. VOR	11500

§95.6300 VOR FEDERAL AIRWAY 300
Is amended to delete:

FROM	TO	MEA
Sault Ste Marie, Mich. VOR	U.S. Canadian Border	6000
Via N alter.	Via N alter.	*6000
*2500–MOCA		

§95.6317 VOR FEDERAL AIRWAY 317
Is amended to delete:

FROM	TO	MEA
U.S. Canadian Border	Annette Island, Alas. VOR	
Via W alter.	Via W alter.	*5000
*4900–MOCA		

§95.6347 VOR FEDERAL AIRWAY 347
Is deleted.

§95.6362 VOR FEDERAL AIRWAY 362
Is added to read:

FROM	TO	MEA
U.S. Canadian Border	Annette Island, Alas. VOR	*5000
*4900–MOCA		

§95.6420 VOR FEDERAL AIRWAY 420
Is amended to read in part:

FROM	TO	MEA
Gaylord, Mich. VOR	Alpena, Mich. VOR	*3000
*2700–MOCA		

§95.6447 VOR FEDERAL AIRWAY 447
Is added to read:

FROM	TO	MEA
Fairbanks, Alas. VOR	*Domey INT, Alas.	**5000
*7000–MRA		
**4400–MOCA		
Domey INT, Alas.	Tatta INT, Alas.	*7000
*5200–MOCA		
Tatta INT, Alas.	Chandalar Lake, Alas.	#11000
*8000–MOCA	LF/RBN	

#MEA is established with a gap in navigation signal coverage.

§95.6464 VOR FEDERAL AIRWAY 464
Is amended by adding:

FROM	TO	MEA
U.S. Canadian Border	Dunkirk, N.Y. VOR	2700

§95.6493 VOR FEDERAL AIRWAY 493
Is added to read:

FROM	TO	MEA
Menominee, Mich. VOR	Rhinelander, Wisc. VOR	4300

§95.6496 VOR FEDERAL AIRWAY 496
Is amended to read in part:

FROM	TO	MEA
Bills INT, N.H.	Grump INT, N.H.	5000

§95.6518 VOR FEDERAL AIRWAY 518
Is amended to read in part:

FROM	TO	MEA
Twin Lakes INT, Calif.	*Lang INT, Calif.	7000
*7000–MCA Lang INT, NE-bound		
Lang INT, Calif.	*Palmdale, Calif. VOR	7000
*6300–MCA Palmdale VOR, SW-bound		

§95.7509 JET ROUTE NO. 507 is amended to read in part:

FROM	TO	MEA	MAA
Barrow, Alas. VORTAC	Deadhorse, Alas. VOR/DME	18000	45000

§95.7515 JET ROUTE NO. 515 is amended to delete:

FROM	TO	MEA	MAA
U. S. Canadian Border	Northway, Alas. VOR	18000,	45000
Bettles, Alas. VORTAC	Barrow, Alas. VORTAC	#18000	45000

#MEA is established with a gap in navigation signal coverage.

§95.7515 JET ROUTE NO. 515 is amended by adding:

FROM	TO	MEA	MAA
Whitehorse, Y.T., Can. VOR/DME	Northway, Alas. VOR	*#18000	#45000

#For that airspace over U. S. Territory.

Bettles, Alas. VORTAC	Barrow, Alas. VORTAC	#20000	#45000

*MEA is established with gap 110 mi from Northway, 100 mi from Whitehorse.

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
V-96 is amended by adding:			
Ft. Wayne, Ind. VOR	Waterville, Ohio VOR	46	Waterville
V-496 is amended by adding:			
Lebanon, N.H. VOR	Kennebunk, Me. VOR	15	Lebanon

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
J-515 is amended by adding:			
Bettles, Alas. VORTAC	Barrow, Alas. VORTAC	130	Bettles

[FR Doc.76-6722 Filed 3-12-76;8:45 am]

NOTE: For additional Title 14 documents, see page 10911 of this issue.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 76-81]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 6—AIR COMMERCE REGULATIONS

Explanation of Manifest Discrepancy

On January 29, 1974, a notice of proposed rulemaking to amend § 4.12 of the Customs Regulations (19 CFR 4.12) relating to correction of manifest discrepancies was published in the FEDERAL REGISTER (39 FR 3682). Interested parties were given 30 days from the date of publication of the notice to submit their comments with respect to the proposed amendments.

After consideration of all comments received, the following changes are being made with respect to the amendments originally proposed:

1. The title of § 4.12, "Correction of Manifest," is changed to "Explanation of Manifest Discrepancy" to avoid the implication that the filing of Customs Form 5931, Discrepancy Report and Declaration, corrects the manifest and cancels any liability arising under 19 U.S.C. 1584.

2. Section 4.12(a)(4) is amended to provide that district directors may now use Customs Form 5931 to advise carriers of discrepancies in inward foreign manifests.

3. In order not to penalize those carriers who have received from Customs officials a notice of a discrepancy found in an inward foreign manifest, the period of time in which the carrier must correct the manifest is 30 days from the date of the notice or 60 days after the entry of the vessel, whichever is later.

4. Although the notice of proposed rulemaking noted that the proposed amendments would also be applicable to aircraft (by virtue of the incorporation of the requirements of § 4.12 by reference in § 6.7(h)), it has been determined after further consideration, that an extension of the amended provisions of § 4.12 to aircraft is neither necessary nor desirable. Accordingly, § 6.7(h) is amended to delete the reference to the requirements of § 4.12 and to set forth, with respect to the correction of aircraft manifests, the time limitations and notice requirements previously contained in § 4.12.

Accordingly, §§ 4.12 and 6.7 of the Customs Regulations (19 CFR 4.12, 6.7) are amended as set forth below:

The heading and paragraphs (a)(2), (3), and (4) of § 4.12 are amended to read as follows:

§ 4.12 Explanation of manifest discrepancy.

(a)(1) * * *

(2) Shortages shall be reported to the district director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 158.3 of this chapter or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to suport the claim of nonimportation [23] or of proper disposition, or other corrective action (see § 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for one year.

(3) Overages shall be reported to the district director within 60 days after the date of entry of the vessel by completion of a post entry [24] or suitable explanation of corrective action (see § 4.34) on the Customs Form 5931.

(4) The district director shall immediately advise the master or agent of those discrepancies which are not reported by the master or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days after the date of such notification or within 60 days after entry of the vessel, whichever is later.

(R.S. 251, as amended, secs. 440, 584, 624, 46 Stat. 712, as amended, 748 as amended, 759 (19 U.S.C. 66, 1440, 1584, 1624))

Paragraph (h) of § 6.7 is amended to read as follows:

§ 6.7 Documents for entry.

* * * * *

(h)(1) Aircraft commanders or agents shall notify the district director of shortages (merchandise and unaccompanied baggage manifested, but not found) or overages (merchandise and unaccompanied baggage found, but not manifested) of merchandise and unaccompanied baggage.

(2) Shortages shall be reported to the district director in the following manner:

(i) By submission, within 30 days after the date of entry of the aircraft, of a separate copy of the cargo manifest form marked or stamped "Shortage Declaration," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears a signed declaration of the aircraft commander or an authorized agent reading, "I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reasons stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand;"

(ii) By endorsement on the importer's claim for shortage on Customs Form 5931, as provided for in § 158.3 of this chapter; or

(iii) By submission of Customs Form 5931 within 30 days after the date of entry of the aircraft. Whichever of the three alternatives is followed, satisfactory evidence to support the explanation of the shortage shall be retained in the carrier's files for one year.

(3) Overages shall be reported to the district director within 30 days after the date of entry of the aircraft by completion of a post entry (section 440, Tariff Act of 1930, as amended) on a separate copy of the cargo manifest form marked or stamped "Post Entry," provided the copy lists the merchandise involved, states the reasons for the discrepancy, and bears the signed declaration described in paragraph (h)(2)(i) of this section, or by submission of Customs Form 5931.

(4) The district director shall immediately advise the aircraft commander or agent of those discrepancies which are not reported by the aircraft commander or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the aircraft commander or agent. The aircraft commander or agent shall satisfactorily resolve the matter within 30 days after the date of such notification.

(5) Unless the required notification and explanation are made timely and the district director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported by the aircraft commander or agent that there was a valid reason for the failure to so report), applicable penalties under section 584, Tariff Act of 1930, as amended, shall be assessed (see § 162.31 of this chapter). For the purpose of this section, the term "clerical error or other mistake" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission of manifests. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing such penalties, the value of the merchandise shall be determined as prescribed in § 162.43 of this chapter. The fact that the aircraft commander or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(6) A correction in the manifest shall not be required in the case of bulk merchandise if the district director is satis-

fied that the difference between the manifested quantity and the quantity unladden, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the airport, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing aircraft when the quantity and description of the merchandise in such packages are correctly given.

(R.S. 251, as amended, secs. 624, 644, 46 Stat. 759, 761, as amended, sec. 1109, 79 Stat. 799 (19 U.S.C. 66, 1624, 1644, 49 U.S.C. 1509))

Effective date. These amendments shall become effective April 14, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved: March 4, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-7225 Filed 3-12-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

FOODS AND DRUGS

Editorial Amendments

The Food and Drug Administration (FDA) is amending certain regulations in Chapter I of Title 21 of the Code of Federal Regulations to update references, effective March 15, 1976.

FDA, in the process of reorganizing and republishing its regulations in 21 CFR, has found that some references are obsolete or inapplicable and that some contain typographical errors. This document eliminates those discrepancies..

Therefore, under 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 of Food and Drugs (21 CFR 2.120), 21 CFR is amended in Chapter I as follows:

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

§ 2.121 [Amended]

1. Section 2.121(q) is amended by changing the reference "42 CFR 72.181" to read "21 CFR 1240.20".

PART 8—COLOR ADDITIVES

§ 8.502 [Amended]

2. Section 8.502(e) is amended by deleting the obsolete parenthetical referance "(§ 9.90 of this chapter)".

§ 8.510 [Amended]

3. Section 8.510(b)(1) is amended by deleting the obsolete parenthetical reference "(§ 9.60 of this chapter)".

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 10—DEFINITIONS AND STANDARDS FOR FOOD

4. Part 10 is amended in the cross-reference note of the table of contents by deleting the references to §§ 3.1, 5.2, 5.3, and 5.4.

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

5. Part 19 is amended by revising the cross-reference note of the table of contents to read as follows:

CROSS REFERENCE: For another regulation in this chapter concerning cheese see § 3.19.

PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS

§ 29.4 [Amended]

6. Section 29.4(e) is amended by changing the reference "§ 29.2 (f) and (g)(6)" to read "§ 29.2(e)(1)".

§ 29.5 [Amended]

7. Section 29.5(e) is amended by changing the reference "§ 29.3 (f) and (g)(5)" to read "§ 29.3(e)(1)".

PART 121—FOOD ADDITIVES

§ 121.2507 [Amended]

8. Section 121.2507(b)(2) is amended by changing the reference "§ 121.2001" to read "§ 121.2005".

§ 121.2531 [Amended]

9. Section 121.2531(b)(2) is amended in the "Limitations" column for the entries "Dimethylpolysiloxane" and "Epoxidized soybean oil" by changing the references to "§ 121.2001" to read "§ 121.2005".

§ 121.2543 [Amended]

10. Section 121.2543 (b)(4)(i), (b)(6)(i), (b)(7), (b)(8), and (b)(9) is amended by changing the reference "§ 121.2001" to read "§ 121.2005".

§ 121.2567 [Amended]

11. Section 121.2567(b)(2) is amended by changing the reference "§ 121.2001" to read "§ 121.2005".

SUBCHAPTER D—DRUGS FOR HUMAN USE

Redesignation Table No. 2 for Parts 300–499 [Amended]

12. The *Old Section* entries for "146c.-201 except (c)(2)" and "148j.7" are amended in the *New Section* column by changing "446.10(a)" and "455.251b" to read "446.10a(a)" and "455.151b", respectively.

PART 310—NEW DRUGS

§ 310.504 [Amended]

13. Section 310.504(e) is amended by changing the reference "§ 3.86" to read "§ 300.50".

PART 314—NEW DRUG APPLICATIONS

§ 314.1 [Amended]

14. Section 314.1 is amended as follows:

a. Paragraph (c)(2), in Form FD-356H paragraph 4.C. is amended by changing the reference "§ 1.106(b) (21 CFR 1.106(b))" to read "§ 201.100 (21 CFR 201.100)".

b. Paragraph (f)(1)(iv) is amended by changing the reference "Part 133" to read "Parts 210 and 211".

§ 314.200 [Amended]

15. Section 314.200 is amended as follows:

a. Paragraph (d)(1), (d)(2), (d)(3), and (d)(3) in Form paragraphs II.B.2. and III is amended by changing the references "§ 3.86" to read "§ 300.50".

b. Paragraph (e)(3) is amended by changing the reference "§ 130.40" to read "§ 310.6".

PART 369—INTERPRETIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

§ 369.20 [Amended]

16. Section 369.20 is amended in the parenthetical sentence following the heading "ANTIBIOTICS FOR EXTERNAL USE FOR PREVENTION OF INFECTION," by deleting the reference "§ 310.201(a)(5)" and by changing the references "§ 146c.202" and "§ 146e.402" to read "§ 446.510a(a)" and "§ 448.510a(a)", respectively.

§ 369.21 [Amended]

17. Section 369.21 is amended as follows:

a. The heading "ANTIBIOTIC-CONTAINING DRUGS FOR EXTERNAL USE FOR PREVENTION OF INFECTION" is amended by deleting the obsolete parenthetical sentence "(See § 310.201(a)(5) of this chapter.)".

b. The heading "NEOMYCIN SULFATE WITH A VASOCONSTRICTOR, IN NASAL PREPARATIONS (SPRAY OR DROPS)" is amended by deleting the obsolete parenthetical sentence "(See § 310.201(a)(9) of this chapter.)".

PART 430—ANTIBIOTIC DRUGS: GENERAL

§ 430.20 [Amended]

18. Section 430.20 (d)(8)(i), (d)(8)(ii), (d)(8)(iii), in Form paragraphs II.B.2. and III, and (d)(10)(i) is amended by changing the reference "§ 3.86" to read "§ 300.50".

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

§ 431.50 [Amended]

19. Section 431.50 is amended in the list of forms by changing the reference "§ 135.4" to read "§ 514.1".

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

§ 436.1 [Amended]

20. Section 436.1(b) is amended by changing the reference "§ 436.20(e)(i)" to read "§ 436.20(e)(1)".

§ 436.509 [Amended]

21. Section 436.509(a)(2) is amended by changing the reference "§ 544.373c(b)(1)(i)" to read "§ 544.373(b)(1)(i)".

§ 436.512 [Amended]

22. Section 436.512(a)(4) is amended by changing the reference "§ 141a.65(a)(3)" to read "§ 436.105".

PART 440—PENICILLIN ANTIBIOTIC DRUGS

§ 440.9a [Amended]

23. Section 440.9a(b)(3) is amended by changing the reference to "§ 436.22(b)" to read "§ 436.32(b)".

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

§ 444.542g [Amended]

24. Section 444.542g(b)(1) is amended by changing the reference "§ 444.542b(b)(1)" to read "§ 444.542b(b)".

§ 444.542h [Amended]

25. Section 444.542h(b)(1)(i) is amended by changing the reference "§ 444.542c(b)(1)" to read "§ 444.542c(b)".

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

§ 446.10a [Amended]

26. Section 446.10a(a)(3)(i) is amended by changing the reference "§ 1.106(b)" to read "§ 201.100".

§ 446.567d [Amended]

27. Section 446.567d(b)(2) is amended by changing the reference "§ 141b.117(c)" to read "§ 436.201".

PART 448—PEPTIDE ANTIBIOTIC DRUGS

§ 448.510f [Amended]

28. Section 448.510f is amended as follows:

a. Paragraph (b)(3)(i)(*a*) is amended by changing the reference "§ 436.20(b)(7)" to read "§ 436.20(c)(7)".

b. Paragraph (b)(3)(ii)(*b*) is amended by changing the reference "§ 436.20(b)(8)" to read "§ 436.20(c)(8)".

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

§ 449.550g [Amended]

29. Section 449.550g(a)(1) is amended by changing the reference "§ 442.42a(a)(1)" to read "§ 444.42a(a)(1)".

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

§ 455.50 [Amended]

30. Section 455.50 is amended as follows:

a. Paragraph (b)(5) is amended by changing the reference "§ 455.51(b)(8)" to read "§ 455.51a(b)(8)".

b. Paragraph (b)(6) is amended by changing the reference "§ 455.51(b)(9)" to read "§ 455.51a(b)(9)".

§ 455.310c [Amended]

31. Section 455.310c(a)(3) is amended by changing the reference "§ 1.106(b)" to "§ 201.100".

SUBCHAPTER E—ANIMAL DRUGS, FEED, AND RELATED PRODUCTS

REDESIGNATION TABLE NO. 1 FOR PARTS 500–599

32. The *Old Section* entries for "141b.-129", "146c.264", and "146e.416" are amended in the *New Section* column by changing "544.373c(b)", "539.210c", and "539.310a" to read "544.373b(b)", "539.-210b", and "539.310(a)", respectively.

PART 505—INTERPRETIVE STATEMENTS RE: WARNINGS ON ANIMAL DRUGS FOR OVER-THE-COUNTER SALE

§ 505.10 [Amended]

33. Section 505.10 is amended in the parenthetical sentence following the heading CHLORAMPHENICOL OPHTHALMIC by changing the reference to "§ 553.310a" to read "§ 555.310a".

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.250 [Amended]

34. Section 540.250(a)(1) is amended by changing the reference "§ 440.70a(a)(1)" to read "§ 444.70a(a)(1)".

§ 540.260 [Amended]

35. Section 540.260(a) is amended by changing the reference "§ 440.60(a)(1)" to read "§ 440.60a(a)(1)".

§ 540.274f [Amended]

36. Section 540.274f(a)(1)(i) is amended by changing the reference "§ 440.59(a)(1)" to read "§ 440.59a(a)(1)".

§ 540.881 [Amended]

37. Section 540.881 is amended as follows:

a. In paragraph (a)(1) the reference "§ 444.101a(a)" is changed to read "§ 444.10a(a)".

b. In paragraph (b)(1)(iv) the reference "§ 447.70a(b)(1)(i) through (ix)" is changed to read "§ 444.70a(b)(1)(i) through (ix)".

c. In paragraph (b)(4)(i)(*a*)(*5*) the reference "§ 455.106(b)(1)(v)" is changed to read "§ 455.10b(b)(1)(v)".

d. In paragraph (b)(4)(i)(*a*)(*6*) the reference "§ 455.106(b)(1)(vi)" is change to read "§ 455.10b(b)(1)(vi)".

PART 544—OLIGOSACCHARIDE CERTIFIABLE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 544.211b [Amended]

38. Section 544.211b(a)(3) is amended by changing the reference "§ 444.70(a)(3)(ii) or (iii)" to read "§ 444.70a(a)(3)(ii) or (iii)".

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 546.110b [Amended]

39. Section 546.110b is amended as follows:

a. In paragraph (a)(1) the reference "§ 446.10(a)(1)" is changed to read "§ 446.10a(a)(1)".

b. In paragraph (a)(4)(iii)(*b*) the reference "§ 446.10(a)(2)" is changed to read "§ 446.10a(a)(2)".

§ 546.110f [Amended]

40. Section 546.110f(b)(3) is amended by changing the reference "§ 444.-180a(b)(3)" to read "§ 440.180a(b)(3)".

§ 546.110g [Amended]

41. Section 546.110g is amended as follows:

a. In paragraph (a)(1) the reference "§ 446.10(a)(1)" is changed to read "§ 446.10a(a)(1)".

b. In paragraph (a)(4)(iii)(*b*) the reference "§ 466.10(a)(2)" is changed to read "§ 446.10a(a)(2)".

§ 546.113a [Amended]

42. Section 546.113a(a)(1) is amended by changing the reference "§ 539.210d" to read "§ 539.210b".

§ 546.713 [Amended]

43. Section 546.713 is amended as follows:

a. In paragraph (a)(1) the reference "§ 446.610a" is changed to read "§ 446.-610".

b. In paragraph (a)(2) the reference "§ 446.610a(a)(3)" is changed to read "§ 446.610(a)(3)".

c. In paragraph (b) the reference "§ 446.610a" is changed to read "§ 446.-610".

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 548.112a [Amended]

44. Section 548.112a is amended as follows:

a. In paragraph (a)(1) the reference "§ 539.310a(a)" is changed to read "§ 539.310(a)".

b. In paragraph (a)(2) the reference "§ 539.310a(b), (c), and (d)" is changed to read "§ 539.310(a)(2), (3), and (4)".

The changes being made are editorial and nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation.

Effective date. This amendment shall become effective March 15, 1976.

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

Dated: March 8, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7241 Filed 3-12-76;8:45 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

GRANTS AND FELLOWSHIPS

The Food and Drug Administration (FDA) is amending § 2.121 *Redelegations of authority from the Commissioner to other officers of the Administration* (21 CFR 2.121) to provide for revised delegations relating to fellowship authority, effective March 15, 1976.

The authority to award service fellowships in the FDA Staff Fellowship Program is being redelegated to the directors of sponsoring organizations to provide flexibility in the selection of Fellows best qualified to fill a particular need in an operating program.

Further redelegation of the authority redelegated by this amendment is not authorized. Authority redelegated by this amendment to a specified position may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting" or unless not legally permissible.

Therefore, under 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 § 2.121 by revising paragraph (r) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(r) *Delegations regarding grants and fellowships.* (1) The Associate and Deputy Associate Commissioner for Science are authorized to approve or disapprove all applications for grants and fellowships and to select officials to serve as program managers to exercise scientific oversight and to monitor grantee progress.

(2) The Associate and Deputy Associate Commissioner for Administration and the Director and Deputy Director of the Division of Contracts and Grants Management of the Office of Administration are authorized to execute grant awards upon approval by the Associate or Deputy Associate Commissioner for Science under sections 301, 307, 311, and 356 of the Public Health Service Act, and to notify grantees of officials who will serve as the FDA program manager for their grant.

(3) The Associate and Assistant Commissioners, the Directors of Bureaus, the Director, National Center for Toxicological Research, and the Executive Director of Regional Operations are authorized to award service fellowships in the FDA Staff Fellowship Program under section 301 of the Public Health Service Act.

* * * * *

Effective date. This amendment shall be effective March 15, 1976.

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

Dated: March 8, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7242 Filed 3-12-76;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76F-0024]

PART 121—FOOD ADDITIVES

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

NYLON RESINS

The Food and Drug Administration is amending the food additive regulations in § 121.2502 *Nylon resins* (21 CFR 121.2502) to provide for the safe use of nylon 12 resins in food-contact films, effective March 15, 1976; objections by April 14, 1976.

Notice was given by publication in the FEDERAL REGISTER of May 14, 1975 (40 FR 20972) that a food additive petition (FAP 5B3077) had been filed by Emser Werke AG, CH-7013, Domat/EMS, Switzerland, proposing that § 121.2502 be amended to provide for safe use of nylon 12 resins made by the condensation of *omega*-laurolactam as food-contact films intended to contact all foods except those containing alcohol.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2502 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2502 is amended by adding paragraph (a)(9) and adding item 9 to the table in paragraph (b) to read as follows:

§ 121.2502 Nylon resins.

* * * * *

(a) * * *

(9) Nylon 12 resins are manufactured by the condensation of *omega*-laurolactam.

(b) Specifications:

Nylon resins	Specific gravity	Melting point (°F)	Solubility in boiling 4.2 *N* HCl	Maximum extractable fraction in selected solvents (expressed as percent by weight of resin)			
				Water	95 pct ethyl alcohol	Ethyl acetate	Benzene
* * *	*	*	*	*	*	*	*
9. Nylon 12 resins for use only in food-contact films having an average thickness not to exceed 0.0016 in, intended for use in contact with nonalcoholic food under the conditions of use A (sterilization not to exceed 30 min at a temperature not to exceed 250° F), B, C, D, E, F, G, and H, of table 2 of sec. 121.2526(c).	1.0±0.015	335-355	Insoluble after 1 h.	1	2	1.50	1.50

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 14, 1976, 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 regulation, specify with particularity the provisions of the regulation 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 and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This regulation shall become effective April 14, 1976.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1)))

Dated: March 8, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7239 Filed 3-12-76;8:45 am]

[Docket No. 76F-0010]

PART 121—FOOD ADDITIVES

Polyoxymethylene Copolymer; Correction

In FR Doc. 76-4412, published at page 7092 in the FEDERAL REGISTER of February 17, 1976, on page 7093, the four references in § 121.2566(b) under the "Limitations" column which read "121.2636 (b)(1)" should be corrected to read "121.2637(b)(1)."

Dated: March 10, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7412 Filed 3-12-76;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 76N-0066]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

Revision of General Safety Test

The Food and Drug Administration (FDA) is amending the biologics regulations concerning the general safety test under § 610.11 *General safety* (21 CFR 610.11) and paragraph (a) of § 620.6 *General requirements* (21 CFR 620.6(a)), effective June 14, 1976.

The Commission of Food and Drugs proposed in the FEDERAL REGISTER of March 27, 1974 (39 FR 11301), to update the general safety test for licensed biological products (21 CFR 610.11) to reflect the best current testing procedures established by the scientific community as well as to promote uniformity and specificity in the safety testing of licensed biological products. The general safety test is designed to detect the presence of any toxic contaminants present in the final product.

Interested persons were given until April 26, 1974 to submit written comments concerning the proposal. Twenty-three letters containing varying numbers of comments regarding the proposal were received. The comments received and the Commissioner's responses are discussed below.

1. Two comments noted that the introductory paragraph of proposed § 610.11, which requires that the test shall be conducted by the specific conditions prescribed in paragraphs (a) through (e), is contradictory to pargraphs (f) and (g), which permit test variations and exceptions, respectively. The comments suggested that the introductory paragraph be revised to reference paragraphs (f) and (g) as well as acknowledge permitted modifications of the test as prescribed in the additional standards for products such as smallpox vaccines and certain allergenic extracts.

The Commissioner agrees that the introductory paragraph should be clarified by referencing the provisions that permit test variations and exceptions. Accordingly, the introductory paragraph is revised in the final regulation to reference the provisions of paragraphs (f) and (g), as well as the permitted modifications of the test prescribed in the additional standards for certain biological products.

2. Six comments on proposed § 610.11 (a) indicated that the requirement to suspend or grind nonliquid and insoluble products in a concentration of one human dose per 5.0 milliliters may not be applicable to certain topical and oral preparations. The comments noted that the human dose for such products may depend on the indication for, or condition of, the patient. For this reason, the comments requested that proposed paragraph (a) be revised to clarify the procedures for testing nonliquid products and insoluble materials.

The Commissioner recognizes that the proposed requirements of paragraph (a) may not have adequately defined the procedures for testing nonliquid products and insoluble materials. Accordingly, the Commissioner has transferred from paragraph (a) the last two sentences, which describe the testing requirements for nonliquid products and insoluble materials, to paragraph (c) of the section. Paragraph (c) is revised to outline clearly the procedures, including required test doses, for different forms of biological products. Since, as noted by the comments, the human dose may vary for certain topical and oral preparations that may be, (1) freeze-dried (nonliquid) products for which the volumes of reconstitution are not indicated on the label, or (2) nonliquid products other than freeze-dried products (insoluble products), the final regulation in § 610.11(c)(2) and (3) provides that the route of administration, test dose, and diluents shall be as approved by the Director, Bureau of Biologics in accordance with § 610.11(f).

In addition, the term "pasteurization" and the phrase "pasteurization bath" in proposed § 610.11(a) have been replaced in the final regulation by the phrases "sterilization or heat treatment" and "sterilization chamber or heat treatment bath," respectively, to reflect accurately existing manufacturing practices.

3. Three comments on proposed § 610.11(b) suggested revision of the weight limits specified for the test animals to accommodate normal variability in animal weights and preclude the use of immature animals.

The Commissioner rejects these suggestions. The Commissioner advises that the proposed weight limits of less than 400 grams for guinea pigs and less than 22 grams for mice adequately provide for variability in animal weights. The upper weight limits were chosen to assure the use of young animals which are in the active growth period and which are more sensitive to toxic contaminants than are fully grown animals. As indicated in the preamble of the proposal, the Commissioner is conducting a review of existing biological product standards so that the standards will reflect the best current testing procedures established by the scientific community. When the review is completed, other regulations will likewise be revised, where applicable, to prescribe the use of animals within specified weight limitations.

The Commissioner has no objection to the use of immature animals because the manifestation of toxicity, as well as the sensitivity of the test, increases with the ratio of the dose or volume of the product sample to the body weight of the animal. Accordingly, no change is made in the specified weight limits for the test animals.

4. The Commissioner is adding the word "each" after the specified weight limit for each species, in the first sentence of § 610.11(b). The word is added to emphasize that each test animal must be weighed separately and must satisfy the weight requirement for each species. The Commissioner recognizes that most manufacturers weigh the animals separately. However, inspections of establishments by FDA indicate that some manufacturers are weighing test animals as a group and using the average weight.

5. Three comments recommended that proposed § 610.11(b) be revised to allow the re-use of overtly healthy animals that satisfy the weight requirements, provided that a specified time period had elapsed between tests, and the animals had been tested with a different generic material. These comments also noted that unless re-use of animals is allowed, the testing cost burden on the manufacturer, reflected in the cost of the drug, would be appreciable and the number of animals required in conducting the general safety test for biological products may result in a nationwide shortage of test animals.

The Commissioner disagrees with these recommendations because it is difficult to determine the cause of any toxic reaction or weight loss in animals that have been previously exposed to other biological products. Therefore, he concludes that it is in the best interest of the consumer and the manufacturer that only overtly healthy animals that have not been used previously for any test purpose are used in conducting the general safety test. Furthermore, the Commissioner believes that prohibiting the re-use of test animals would not result in an appreciable testing cost burden or a nationwide shortage of test animals. The Commissioner notes that the proposed minimum number of animals (two mice and two guinea pigs) required for the general safety test has not changed from that currently required in § 610.11. Accordingly, no change is made in the final regulation.

6. Five comments on proposed § 610.11 (c) objected to intraperitoneal injection as the required route of administration of the product into the test animals. Four of the comments suggested that other routes of administration should be permitted for certain biological products, such as smallpox vaccine, because these products may elicit responses that are attributable to the intrinsic toxicity of the active component or the vehicle of the product when injected intraperitoneally into the test animal in the required test dose or volume.

The Commissioner recognizes that certain products must be administered by

routes other than by intraperitoneal injection. For this reason, § 610.11(f) and certain additional standards already provide for variations, including route of administration. In addition, the introductory paragraph of § 610.11 is revised to reference these test variation provisions. Accordingly, the comments are rejected.

7. One comment on proposed § 610.11 (c) questioned the basis for the determination, made in the preamble of the proposal, that the intraperitoneal route will increase the sensitivity of the test. The comment requested that data relative to this determination be made available for review and noted that the intraperitoneal route is not standard procedure for conducting the general safety test throughout all the biological product industry. Another comment indicated that the intraperitoneal route is seldom used clinically and cited several literature studies, which reported untoward results related to errors in the intraperitoneal injection of test animals.

The Commissioner advises that the determination to require intraperitoneal injection as the route of administration in conducting the general safety test of most biological products is not based on published data per se. Rather, the determination is made because the scientific community, both in the practice of medicine and in laboratory experimentation, generally accepts the intraperitoneal route as being a simple way of achieving rapid absorption of injected materials. Conversely, the scientific community uses subcutaneous and intramuscular injections when relatively slow absorption is desired, such as in immunization. Although intravenous injection is used more frequently when rapid absorption in humans is desired, intraperitoneal injection, which is nearly equivalent to intravenous injection for rapidity of absorption, is a more desirable route of administration in conducting the general safety test since the veins of the test animals are too small to permit the intravenous injection of the prescribed test volumes without injury to the test animals. In addition, the sensitivity of a test for toxicity (general safety test) is greatest when the test is performed in a manner that assures rapid absorption of the injected material so that the responses of the test animals will be maximal and readily detected. The intraperitoneal route assures that even minute quantities of toxic contaminant will enter the bloodstream quickly, rapidly reaching the vital organs, thereby manifesting the toxicity through weight loss, responses that are not specific for or expected from the product, or death of the test animals.

The Commissioner is aware that intraperitoneal injection is seldom used clinically and that untoward reactions not caused by any toxic contaminants may result because of errors related to intraperitoneal injections of test animals. These errors are related to improper techniques in conducting intraperitoneal injections. The Commissioner finds that improper techniques and the infrequent use of intraperitoneal injection in clinical application has no bearing on the fact that the sensitivity of the test is increased by use of intraperitoneal injection as a route of administration of the product sample into the test animals.

8. Ten comments on proposed § 610.11 (c) stated that the intrinsic toxicity of the active components or vehicle of certain biological products, such as certain vaccines and some glycerinated products, will result in adverse reactions, even death, if the required test volumes are injected intraperitoneally into the test animals. These comments suggested that paragraph (c) be revised to permit reduced test volumes, maximum dose volumes tolerated by the test animals, or dilutions with physiological fluids.

As indicated in the Commissioner's response in item 6. of this preamble, proposed § 610.11(f) and certain additional standards already provide for variation in the general safety test procedures. In addition, paragraph (c) has been revised to reference the test variation provisions. Accordingly, the comments are rejected. However, approval of a request for variation in test volume will be based, in part, on the characteristics of the product and on the maximum volume tolerated by the animals, irrespective of the human dose.

9. One comment on proposed § 610.11 (c) requested confirmation that variations in test volume, which have been previously approved by the Director of the Bureau of Biologics in existing licenses, would be unaffected by the proposed standards in § 610.11.

The Commissioner finds that the proposed general safety test, which is being established by the publication of this final regulation, is significantly different from that currently prescribed in § 610.11. Therefore, all variations of the general safety test that are not prescribed in the additional standards for specific products must be a part of or an amendment to the product license and shall have the written approval of the Director of the Bureau of Biologics. The Commissioner advises all manufacturers who are presently conducting a general safety test in variance with this amended regulation to request approval as required by § 610.11(f). Requests for approval may be accompanied with documentation of previous approval, which may indicate the date in which the use of the modified test was initiated by the manufacturer.

10. One comment on proposed § 610.11 (c) requested clarification regarding the 12-day maximum proposed test period and suggested that other maximum test periods be established as multiples of 7 days. No data were provided with the comment other than the statement that multiples of 7 days provide more efficient testing schedules.

The Commissioner advises that the proposed maximum test period of 12 days was selected because data accumulated by the Bureau of Biologics indicate that 7 days are required for test animals to regain their original weights after testing with most biological products, and 12 days are required after testing with the other biological products. The Commissioner, however, recognizes that a test begun on Tuesday or Wednesday may require final observation on a Saturday or Sunday (12 days). Consequently, the 12-day maximum testing period may not provide the most efficient testing schedule. In addition, as a result of the variations permitted in paragraph (f) regarding volume and mode of administration, certain products may require more than the 12-day maximum testing period. For these reasons, the Commissioner has determined that the testing period for most products should be 7 days and that longer periods may be established for specific products, as necessary. Accordingly, paragraph (c) is revised to specify that the general safety test shall be conducted for a duration of 7 days, except that a longer period may be established for specific products in accordance with paragraph (f) of the section.

11. One comment on proposed § 610.11 (c) noted that the half-lives of some isotopes used in certain radiobiological products are shorter than the minimum 7-day testing period required and suggested that shipment of such products be permitted before the completion of the test.

The Commissioner advises that biological products containing radionuclides with short half-lives can be shipped before completion of the general safety test when authorized by the new drug or license application.

12. Two comments on proposed § 610.11(c) asked whether a single test period must be established by the manufacturers for all products or for a specific product manufactured by the company and whether the single test period is applicable to both the guinea pigs and mice.

The Commissioner advises that paragraph (c) is amended to require that the test period must be established by the manufacturer for a specific product, and the test period for such product is applicable to both species used in the test.

13. Two comments on proposed § 610.11(c) objected to the requirement that once the duration of the test period has been established for a specific product, it cannot be varied subsequently. The comments suggested that more flexibility be allowed.

The Commissioner advises that the duration of the test period established by the manufacturer must be one during which a positive animal reaction (weight loss, death, etc.) can be expected to be demonstrated in response to a toxic contaminant in the test sample. The duration of the test period established by the manufacturer for a specific product shall not be varied, except as prescribed in paragraph (f), in order to assure that any positive animal reaction resulting from any toxic contaminant in the test sample will occur and be determined within the established testing period. In addition, to assure reproducibility of the test results, the Commissioner believes that no deviation in the duration of the

test period established by the manufacturer should be allowed since the Bureau of Biologics also conducts general safety tests on biological products and follows the prescribed test period in the product license. Accordingly, the comments requesting flexibility in the test periods are rejected.

14. Ten comments stated that the proposed requirement in § 610.11(c) to weigh and observe the guinea pigs on "3 to 5 of the intervening days depending on the length of the observation period" is ambiguous, unnecessary, and needlessly increases cost of the test. These comments suggested that the requirement to weigh animals on the intervening day of the test period should be deleted because such information is not used to determine compliance with the test requirements of paragraph (d). One of these comments suggested that if interval weighings are to be required, it should only apply to workinig days. Another comment interpreted the requirement that, "at the time of each observation, the weight of each animal and any abnormal signs shall be recorded," to mean that it is unnecessary to observe the mice during the interval between the first and last days since interval weighing of the mice is not required.

The Commissioner proposed that the guinea pigs be weighed during the intervening days so that manufacturers may determine if a retest is indicated before the established test period is completed. The Commissioner agrees that such requirement may increase testing cost and its deletion would not affect the validity of the test. However, the Commissioner believes that it is necessary to observe frequently all the animals of both species in order to differentiate those responses which are expected from those which could be related or attributed to extraneous toxic contaminants. Accordingly, paragraph (c) of the final regulation is revised by deleting the interim weighing requirement for the guinea pigs and adding a requirement that all animals of both species be observed every working day.

15. One comment on proposed § 610.11 (c) objected to the phrase "any abnormal signs" and suggested that it be revised. The comment noted that certain products may elicit responses such as abnormal redness and hardness of the skin, or even localized death of living tissues. Although these responses are "abnormal," they are related to the tissue reactivity to the product's component and not to a toxic contaminant.

The Commissioner recognizes that certain products may elicit responses that could be considered "abnormal" but which are attributable to the intrinsic toxicity of the vehicle or the active component of the product. Since these responses may not be related or attributable to extraneous toxic contaminants, the Commissioner agrees with the comment that the phrase should be revised. However, animal responses that are not specific for or expected from the product may indicate a difference in the quality of the product. Therefore, paragraph (c) is revised to require that any animal response during the test period, including any which is not specific for or expected from the product and which may indicate a difference in the quality of the product, shall be recorded on the day that response is observed. Consistent with this revision, paragraph (d)(2) is also revised to prescribe that a test is satisfactory if all animals do not exhibit any response that is not specific for or expected from the product and which may indicate a difference in its quality.

16. Six comments suggested revisions of the proposed § 610.11(d)(3) to provide that animals need not regain their pretest weights by the end of the test. Three of the comments included data that indicate that environmental conditions and the stress generated by certain biological products may cause weight loss in young animals and the weight may not be regained within a 7-day test period.

The Commissioner advises that good animal husbandry practices require the quarantine of test animals after receipt from supplies, so that only healthy animals accustomed to environmental conditions will be selected for use in testing. To preclude weight loss because of environmental conditions, all test animals should be handled in accordance with good animal husbandry practices. The Commissioner recognizes that stresses inherent in certain biological products may cause weight loss in young animals and that this weight might not be regained within a 7-day test period thus causing a certain number of initial tests of these products to fail to meet the requirement of paragraph (d)(3). The Commissioner advises that in addition to good animal husbandry practices, a longer test duration or variations, such as in test volumes or route of administration, may be established when appropriate for certain products as prescribed in paragraph (f); and repeat tests may be conducted in accordance with paragraph (e)(1) and (2).

Moreover, the Commissioner advises that the general safety test, conducted by the Bureau of Biologics on a majority of biological products using animals from a number of suppliers, indicates that healthy animals weighing within the limits specified in paragraph (b) gain weight at a steady rate when provided with adequate food, water, and care.

Accordingly, these suggestions are rejected, and no change is made in paragraph (d)(3) in the final regulation.

17. Five comments suggested that the first and second repeat tests permitted in proposed § 610.11(e)(1) and (2) need only be conducted on the one species that fails to meet the test requirements of paragraph (d).

The Commissioner concurs with this suggestion because guinea pigs and mice differ in their sensitivity to toxic materials. Accordingly, the Commissioner is amending § 610.11(e)(1) and (2) to specify that repeat tests shall be performed only on the one species of animals that fails the initial test.

18. One comment on proposed § 610.11 (e)(2) requested clarification regarding the number of animals that must survive the initial and first repeat test before a second repeat test can be performed.

The Commissioner advises that a second repeat test may be conducted on that species which fails to meet the test requirements of paragraph (d), provided that 50 percent of the total number of animals of that species has survived the initial and first repeat tests. To clarify this requirement, paragraph (e)(2) of the final regulation is revised to specify that a second repeat test may be conducted on the species in which a filling fails to meet the test requirements of paragraph (d), provided that 50 percent of the total number of animals in that species has survived the initial and first repeat tests.

19. It is the Commissioner's intention that the second repeat test (referred to in paragraph (e)(2)) shall be conducted on twice the number of animals in that species that was used in the first repeat test. This intention was implicit in the proposed requirement that "at least 4 guinea pigs and 4 mice shall be used" in the second repeat test. This minimum number of test animals required in the second repeat test is twice the minimum number required (two guinea pigs and two mice) in the initial and first repeat tests. Accordingly, paragraph (e)(2) is revised to specify that the number of animals to be used in the second repeat test shall be twice the number used in the first repeat test.

20. Five comments on proposed § 610.11 (f) suggested that an objective word be used in place of the subjective word "safety."

The Commissioner used the word "safety" in paragraph (f) to imply sensitivity. The Commissioner accepts the comments and is substituting the word "sensitivity" for the word "safety" in paragraph (f) of the final regulation.

21. The Commissioner is also amending § 610.11(f) of the final regulation to indicate clearly that variations such as test dose, route of administration, or duration of the test may be offered as an amendment to the product license and must receive written approval of the Director, Bureau of Biologics.

22. One comment on proposed § 610.11 (g) indicated that there may be a few licensed injectable products, which are not exempted in paragraph (g), for which additional standards have not been established and upon which the general safety test or a similar test cannot be performed.

The Commissioner advises that proposed paragraph (g) listed all the currently licensed biological products except Platelet Concentrate (Human), upon which the general safety test cannot be performed. Additional standards for the manufacture of Platelet Concentrate (Human) were published in the FEDERAL REGISTER of January 29, 1975 (40 FR 4300). Accordingly, the Commissioner is adding Platelet Concentrate (Human) to the list of products exempted in paragraph (g) of the final regulation, inasmuch as each lot of this product consists of a single container.

the integrity of which would be destroyed by sampling.

23. One comment on proposed § 610.11 (g) requested that Source Plasma (Human) be included in the list of exempted products.

The Commissioner advises that Source Plasma (Human) is not a product intended for administration to humans. Rather, it is a source material intended for further manufacture into blood derivatives. Since the introductory paragraph of § 610.11 specifically provides that the general safety test is required for products intended for administration to humans, the test is not applicable to Source Plasma (Human). However, biological products manufactured from Source Plasma (Human) that are intended for administration to humans are subject to the general safety test requirements.

24. One comment asked whether the modification of the general safety test permitted in proposed § 620.6(a) is also applicable to products containing Pertussis Vaccine. A second comment suggested revision of proposed § 620.6(a) to include products that contain Pertussis Vaccine.

The Commissioner advises that the modification permitted in proposed § 620.6(a) is applicable to any product that contains Pertussis Vaccine. Accordingly, the Commissioner accepts the comment suggesting revision of proposed § 620.6(a). The first sentence of § 620.6 (a) is revised to include products that contain Pertussis Vaccine.

25. Two comments requested that the effective date of the general safety test final regulation be delayed until manufacturers have had sufficient experience with the prescribed specific test procedures and interpretations.

The Commissioner agrees that the effective date of the regulation should be delayed to provide manufacturers with sufficient time to gain experience with the prescribed specific test procedures and interpretations, and to request approval for any variation of the test as prescribed in § 610.11(f). Accordingly, the effective date of the final regulation is January 14, 1976.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 610 and 620 of Subchapter F of Title 21 of the Code of Federal Regulations are amended as follows:

1. In Part 610, by revising § 610.11 to read as follows:

§ 610.11 General safety.

A general safety test for the detection of extraneous toxic contaminants shall be performed on biological products intended for administration to humans. The general safety test is required in addition to other specific tests prescribed in the additional standards for individual products in this subchapter, except that, the test need not be performed on those products listed in paragraph (g) of this section. The general safety test shall be performed as specified in this section, unless: Modification is prescribed in the additional standards for specific products, or variation is approved as an amendment to the product license under paragraph (f) of this section.

(a) *Product to be tested.* The general safety test shall be conducted upon a representative sample of the product in the final container from every final filling of each lot of the product. If any product is processed further after filling, such as by freeze-drying, sterilization, or heat treatment, the test shall be conducted upon a sample from each filling of each drying chamber run, sterilization chamber, or heat treatment bath.

(b) *Test animals.* Only overtly healthy guinea pigs weighing less than 400 grams each and mice weighing less than 22 grams each shall be used. The animals shall not have been used previously for any test purpose.

(c) *Procedure.* The duration of the general safety test shall be 7 days for both species, except that a longer period may be established for specific products in accordance with paragraph (f) of this section. Once the manufacturer has established a specific duration of the test period for a specific product, it cannot be varied subsequently, except, in accordance with paragraph (f) of this section. Each test animal shall be weighed and the individual weights recorded immediately prior to injection and on the last day of the test. Each animal shall be observed every working day. Any animal response including any which is not specific for or expected from the product and which may indicate a difference in its quality shall be recorded on the day such response is observed. The test product shall be administered as follows:

(1) *Liquid product or freeze-dried product which has been reconstituted as directed on the label.* Inject intraperitoneally 0.5 milliliter of the liquid product or the reconstituted product into each of at least two mice, and 5.0 milliliters of the liquid product or the reconstituted product into each of at least two guinea pigs.

(2) *Freeze-dried product for which the volume of reconstitution is not indicated on the label.* The route of administration, test dose, and diluent shall be as approved by the Director, Bureau of Biologics, in accordance with paragraph (f) of this section. Administer the test product as approved on at least two mice and at least two guinea pigs.

(3) *Nonliquid products other than freeze-dried product.* The route of administration, test dose, and diluent shall be as approved by the Director, Bureau of Biologics, in accordance with paragraph (f) of this section. Dissolve or grind and suspend the product in the approved diluent. Administer the test product as approved on at least two mice and at least two guinea pigs.

(d) *Test requirements.* A safety test is satisfactory if all animals meet all of the following requirements:

(1) They survive the test period.

(2) They do not exhibit any response which is not specific for or expected from the product and which may indicate a difference in its quality.

(3) They weigh no less at the end of the test period than at the time of injection.

(e) *Repeat tests*—(1) *First repeat test.* If a filling fails to meet the requirements of paragraph (d) of this section in the initial test, a repeat test may be conducted on the species which failed the initial test, as prescribed in paragraph (c) of this section. The filling is satisfactory only if each retest animal meets the requirements prescribed in paragraph (d) of this section.

(2) *Second repeat test.* If a filling fails to meet the requirements of the first repeat test, a second repeat test may be conducted on the species which failed the test: *Provided*, That 50 percent of the total number of animals in that species has survived the initial and first repeat tests. The second repeat test shall be conducted as prescribed in paragraph (c) of this section, except that the number of animals shall be twice that used in the first repeat test. The filling is satisfactory only if each second repeat test animal meets the requirements prescribed in paragraph (d) of this section.

(f) *Test variations.* Variations in the general safety test, such as test dose, route of administration, or duration of the test period may be offered as an amendment to the product license and must receive written approval by the Director, Bureau of Biologics, Food and Drug Administration. Approval will be given only if the license amendment provides substantial evidence demonstrating that the proposed test variation will assure sensitivity equal to or greater than the test prescribed in this section.

(g) *Exceptions.* The test prescribed in this section need not be performed for Whole Blood (Human), Red Blood Cells (Human), Cryoprecipitated Antihemophilic Factor (Human), Platelet Concentrate (Human), or Single Donor Plasma (Human).

2. In part 620, by revising § 620.6(a) to read as follows:

§ 620.6 General requirements.

(a) *Safety.* Each lot of product containing Pertussis Vaccine shall be tested for safety by the procedures prescribed in § 610.11 of this chapter except that the test shall consist of the intraperitoneal injection of no less than one-half of the recommended largest human dose into each of the mice, and either the intraperitoneal injection of no less than three times the recommended largest individual human dose, or the subcutaneous injection of 5.0 milliliters into each of the guinea pigs.

* * * * *

Effective date. This regulation shall become effective June 14, 1976.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: March 9, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-7240 Filed 3-12-76;8:45 am]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 11—RESPIRATORY PROTECTIVE DEVICES; TESTS FOR PERMISSIBILITY; FEES

Gas Masks and Self-Contained Breathing Apparatus

On June 4, 1974, the Department of Health, Education, and Welfare, and the Department of the Interior, jointly published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 19783) to amend Title 30, Code of Federal Regulations, Part 11, to permit an increase in the permissible carbon dioxide concentration in certain closed-circuit self-contained escape breathing apparatus and to delete recommendations to gas mask users of the maximum concentrations of gases in which the masks should be used.

Interested persons were given an opportunity to submit comments on the proposed amendments and comments were received from the Industrial Safety Equipment Association, Inc. (ISEA); and the Atomic Energy Commission (AEC). The comments have been reviewed by the National Institute for Occupational Safety and Health (NIOSH) and the Mining Enforcement and Safety Administration (MESA). The comments and principal changes are discussed below by individual sections:

Section 11.90(a)(2). The ISEA requested deletion of references to "Type N" gas masks on the grounds that it is unnecessary to describe a mask with only one difference from other gas masks. MESA and NIOSH agree, yet the capability under § 11.90(b) for approving such a gas mask was retained by including "Other gas(es) and vapor(s)" as an additional category of front-mounted or back-mounted gas masks.

Section 11.90(b). The deletion of maximum use concentrations of gas or vapor in which a device could be used was questioned by ISEA which stated that until Government research results are published indicating that the vapor values are too high, the action of deletion could be interpreted as being arbitrary and without proper foundation. In this regard, investigations by the Lawrence Livermore Laboratory, performed under the auspices of the AEC, and investigations by NIOSH have shown that the service life of activated carbon varies considerably with both the specific sorbent and the type of solvent vapor adsorbed. Therefore, canister service life is not adequate for many gases and vapors if gas masks are used at the suggested maximum use concentrations. The joint American Industrial Hygiene Association/American Conference of Governmental Industrial Hygienists Respirator Committee has prepared a selection guide which recommends maximum use concentrations for many gases and vapors.

Because of these factors, in addition to such limiting factors as the heat of reaction between gas or vapor and solvent, warning properties of air contaminants, the air contaminant concentration immediately dangerous to life and health, and lower explosive limit; it was deemed advisable to eliminate the suggested maximum use concentrations. A joint OSHA/NIOSH standards completion project is underway to write a minimum regulatory standard for each substance listed in 29 CFR 1910.93. These standards will provide respiratory protection requirements for compliance with the permissible exposure limit. Until such standards are published, information on respirator selection and use can be obtained from the sources designated in this amendment. Because of the uncertainty of respiratory protection against some toxic gases and vapors when activated carbon is employed as the sorbent, and to assure that the user is provided with a comfortable and efficiently fitting facepiece, NIOSH is undertaking a research program to develop improved approval test methods and equipment to assure that adequate protection will be provided the users of gas masks. Results of the investigations will be available from NIOSH.

The ISEA also commented that the proposed amendment would immediately place many current users of gas masks in a position of noncompliance and administratively cause the equipment to be considered obsolete. MESA and NIOSH do not agree. The users of gas masks will not be in a position of noncompliance with regulatory standards since such standards will specify the maximum use concentration for a gas mask which, in most instances, will be much less than the recommended maximum use concentration in § 11.90(b). To protect the user, such limiting factors as the facepiece fit of the gas mask, expected service life of the sorbent, warning properties of the air contaminant, the lower explosive limit, and the concentration of the air contaminant immediately dangerous to life and health are considered in establishing the maximum use concentration of a gas mask in a regulatory standard. The deletion of the maximum use concentration will not administratively cause the equipment to be considered obsolete since the maximum use concentration for a gas mask is established by a regulatory standard and not by the suggested maximum use concentration in § 11.90(b).

Changes were made in the categories under the three types of gas masks in the form of additions of gas masks for "Other gas(es) and vapor(s)" and for combinations of gases or vapors. This change was made primarily to include, for purposes of clarification, types of gas masks previously listed in the footnotes.

The AEC recommended that the specific offices to be consulted for selection, use, and maintenance of gas masks, and for information on safe use concentrations, be named along with their addresses and telephone numbers. MESA and NIOSH have adopted part of this proposal and clarified the sources where the information may be obtained.

It was suggested by the AEC that instead of the proposed procedures, there should be testing and certifying of various sorbent canisters and cartridges for use against specific contaminants and concentrations, particularly to include provisions for specific testing of the various gas mask canisters for certification for use against specific contaminants of interest. In view of the extensive number of specific gases and vapors, MESA and NIOSH consider this suggestion impracticable at this time.

Section 11.102-5(c)(1). MESA and NIOSH agree with the suggestion of ISEA that the section be revised to require an indicator only for carbon monoxide because it is undetectable by odor or taste.

A change in the concentration of nitrogen dioxide in Tables 6 and 7 was suggested by ISEA. MESA and NIOSH agree with the suggestion and the nitrogen dioxide requirements were removed for all gas masks because the SO_2, CL_2 tests are considered adequate for evaluating the performance of acid gas canisters. A requirement was inserted in footnote 5 of § 11.90(b) that the applicant advise users, through means of instruction on labels, of the probability of certain gases and vapors not being removed by sorbents in the canister to that degree indicated by performance requirements in Part 11.

The ISEA also recommended a performance requirement to be added to Tables 6 and 7 which would be consistent with subpart L for chemical cartridge respirator approvals. The change would allow a reduction of service life requirements for all gas masks designed to provide respiratory protection against two or more types (classes) of gases and vapors. MESA and NIOSH are of the view that such a reduction is not in the best interest of the user's safety. The inconsistency with Subpart L is believed warranted because gas masks are for use against more hazardous atmospheres.

Therefore, Part 11 is amended as set forth below, effective April 14, 1976.

Dated: March 5, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

Dated: January 23, 1976.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

1. In § 11.85-12, paragraph (d) is revised to read as follows:

§ 11.85-12 Test for carbon dioxide in inspired gas; open- and closed-circuit apparatus; maximum allowable limits.

* * * * *

(d) In addition to the test requirements for closed-circuit apparatus set forth in paragraph (b) of this section, gas samples will be taken during the course of the man tests described in Tables 1, 2, 3, and 4. These gas samples will be taken from the closed-circuit apparatus at a point downstream of the carbon dioxide sorbent, and they shall not contain more than 0.5 percent carbon dioxide at any time, except on apparatus for escape only, using a mouthpiece only, the sample shall not contain more than 1.5 percent carbon dioxide at any time.

§ 11.90 [Amended]

2. In § 11.90, paragraph (a) is revised to read as follows:

(a) Gas masks including all completely assembled air purifying masks designed for use as respiratory protection during entry into atmospheres not immediately dangerous to life or health or escape only from hazardous atmospheres containing adequate oxygen to support life are described as follows:

3. In § 11.90, paragraph (a)(2) is deleted and paragraphs (a)(3) and (a)(4) are redesignated as paragraphs (a)(2) and (a)(3) respectively and the word "half-mask" is deleted from paragraph (a)(3).

4. In § 11.90, paragraph (b) is revised to read as follows:

(b) Gas masks shall be further described according to the types of gases or vapors against which they are designed to provide respiratory protection, as follows:

Type of front-mounted or back-mounted gas mask

Acid gas[3 4 5]
Ammonia
Carbon monoxide
Organic Vapor[3 4 5]
Other gas(es) and vapor(s)[3 4 5]
Combination of two or more of the above gases and vapors.[3 4 5]
Combination of acid gas, ammonia, carbon monoxide, and organic vaports.[5 4 3]

Type of chin-style gas mask

Acid gas[3 4 5]
Ammonia
Carbon monoxide
Organic vapor[3 4 5]
Other gas(es) and vapor(s)[3 4 5]
Combination of two or more of the above gases and vapors.[3 4 5]

Type of escape gas mask

Acid gas[3 4 5 6]
Ammonia[6]
Carbon monoxide
Organic vapor[3 4 5 6]
Other gas(es) and vapor(es)[3 4 5 6]
Combination of two or more of the above gases and vapors.[3 4 5 6]

NOTE: For information on safe use concentrations and for information governing the selection, use, and maintenance of gas masks, the gas mask user should refer to regulations issued by the Mining Enforcement and Safety Administration or by the Occupational Safety and Health Administration, and to other applicable regulations concerning gas masks. Recommendations based on such regulations may also be obtained from the National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505, Attention: Director, TCL; or from the NIOSH Regional Consultants for Occupational Safety and Health in the DHEW Regional Offices throughout the country.

§ 11.102–5 [Amended]

5. In § 11.102–5, paragraph (c)(1) is revised to read as follows:

(c)(1) Front-mounted, and back-mounted, and chin-style canisters designated as providing respiratory protection against gases, ammonia, organic vapors, carbon monoxide and particulate contaminants shall have a window or other indicator to warn the gas mask wearer when the canister will no longer satisfactorily remove carbon monoxide from the inhaled air.

6. In § 11.102–5, Tables 5, 6, and 7 have been revised consistent with the amendments to § 11.90 to read as follows:

[3] Approval may be for acid gases or organic vapors as a class or for specific acid gases or organic vapors.

[4] Not for use against gases or vapors with poor warning properties or which generate high heats of reaction with sorbent materials in the canister.

[5] Use of the gas mask may be limited by factors such as lower explosive limit, toxicological effects, and facepiece fit. Limitations on gas mask service life and sorbent capacity limitations, shall be specified by the applicant in instructions for selection, use and maintenance of the gas mask.

[6] Eye protection may be required in certain concentrations of gases and vapors.

TABLE 5.—*Canister bench tests and requirements for front-mounted and back-mounted gas mask canisters*

[30 CFR pt. 11, subpt. I, sec. 11.102–5]

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration (parts per million)	Test atmosphere: Flow rate (liters per minute)	Number of tests	Maximum allowable penetration (parts per million)	Minimum service life (minutes)[1]
Acid gas	As received	SO_2	20,000	64	3	5	12
		Cl_2	20,000	64	3	5	12
	Equilibrated	SO_2	20,000	32	4	5	12
		Cl_2	20,000	32	4	5	12
Organic vapor	As received	CCl_4	20,000	64	3	5	12
	Equilibrated	CCl_4	20,000	32	4	5	12
Ammonia	As received	NH_4	30,000	64	3	50	12
	Equilibrated	NH_4	30,000	32	4	50	12
Carbon monoxide	As received	CO	20,000	[2] 64	2	[3]	60
		CO	5,000	[4] 32	3	[3]	60
		CO	3,000	[2] 32	3	[3]	60
Combination of 2 or 3 of above types.[5]							
Combination of all of above types.[6]							

[1] Minimum life will be determined at the indicated penetration.
[2] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere will be 25±2.5° C.
[3] Maximum allowable CO penetration will be 385 cm^3 during the minimum life. The penetration shall not exceed 500 p/m during this time.
[4] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere entering the test fixture will be 0+2.5° C −0°.
[5] Test conditions and requirements will be applicable as shown above.
[6] Test conditions and requirements will be applicable as shown above, except the minimum service lives for acid as, organic vapor, and ammonia will be 6 min instead of 12 min.

TABLE 6.—*Canister bench tests and requirements for chin-style gas mask canisters*

[30 CFR pt. 11, subpt. I, sec. 11.102-5]

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration (parts per million)	Test atmosphere: Flow rate (liters per minute)	Number of tests	Maximum allowable penetration (parts per million)	Minimum service life (minutes)[1]
Acid gas	As received	SO_2	5,000	64	3	5	12
		Cl_2	5,000	64	3	5	12
	Equilibrated	SO_2	5,000	32	4	5	12
		Cl_2	5,000	32	4	5	12
Organic vapor	As received	CCl_4	5,000	64	3	5	12
	Equilibrated	CCl_4	5,000	32	4	5	12
Ammonia	As received	NH_3	5,000	64	3	50	12
	Equilibrated	NH_3	5,000	32	4	50	12
Carbon monoxide	As received	CO	20,000	[2] 64	2	([5])	60
		CO	5,000	[4] 32	3	([3])	60
		CO	3,000	[2] 32	3	([3])	60
Combination of 2 or 3 of above types.[6]							
Combination of all of above types [6]							

[1] Minimum life will be determined at the indicated penetration.
[2] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere will be 25±2.5° C.
[3] Maximum allowable CO penetration will be 385 cm³ during the minimum life. The penetration shall not exceed 500 p/m during this time.
[4] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere entering the test fixture will be 0+2.5° C −0°.
[5] Test conditions and requirements will be applicable as shown above.
[6] Test conditions and requirements will be applicable as shown above, except the minimum service lives for acid gas, organic vapor, and ammonia will be 6 min instead of 12 min.

TABLE 7.—*Canister bench tests and requirements for escape gas mask canisters*

[30 CFR pt. 11, subpt. I, sec. 11.102-5]

Canister type	Test condition	Test atmosphere: Gas or vapor	Test atmosphere: Concentration (parts per million)	Test atmosphere: Flow rate (liters per minute)	Number of tests	Maximum allowable penetration (parts per million)	Minimum service life (minutes)[1]
Acid gas	As received	SO_2	5,000	64	3	5	12
		Cl_2	5,000	64	3	5	12
	Equilibrated	SO_2	5,000	32	4	5	12
		Cl_2	5,000	32	4	5	12
Organic vapor	As received	CCl_4	5,000	64	3	5	12
	Equilibrated	CCl_4	5,000	32	4	5	12
Ammonia	As received	NH_3	5,000	64	3	50	12
	Equilibrated	NH_3	5,000	32	4	50	12
Carbon monoxide	As received	CO	10,000	[2] 32	2	([3])	[4] 60
		CO	5,000	[5] 32	3	([3])	60
		CO	3,000	[2] 32	3	([3])	60

[1] Minimum life will be determined at the indicated penetration.
[2] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere will be 25±2.5° C.
[3] Maximum allowable CO penetration will be 385 cm³ during the minimum life. The penetration shall not exceed 500 p/m during this time.
[4] If effluent temperature exceeds 100° C during this test, the escape gas mask shall be equipped with an effective heat exchanger.
[5] Relative humidity of test atmosphere will be 95±3 pct; temperature of test atmosphere entering the test fixture will be 0+2.5° C −0° C.

7. Section 11.93 is revised to read as follows:

§ 11.93 Canisters and cartridges; color and markings; requirements.

The color and markings of all canisters and cartridges or labels shall conform with the requirements of the American National Standard for Identification of Air Purifying Respirator Canisters and Cartridges, K 13.1–1973, obtainable from the American National Standards Institute, Inc.; 1430 Broadway; New York, N.Y. 10018.

(Secs. 202(h), 204, and 508, 83 Stat. 763, 803 (30 U.S.C. 842(h), 844, 957); Secs. 2, 3, 5, 36 Stat. 370, as amended 37 Stat. 681 (30 U.S.C. 3, 5, 7); Sec. 8(g), 84 Stat. 1600 (29 U.S.C. 657(g)))

[FR Doc.76-7095 Filed 3-12-76;8:45 am]

Title 36—Parks, Forests, and Memorials

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREA OF THE NATIONAL PARK SYSTEM

Shenandoah National Park; Camping

On November 24, 1975, there was published in the FEDERAL REGISTER (40 FR 54428), a notice of proposed rulemaking with a proposed amendment to Title 36 of the Code of Federal Regulations. The proposed amendment adding new paragraph (g) to § 7.15 should result in the better safeguarding of foods from wildlife in the Park, particularly from the American black bear.

Interested persons were given an opportunity to submit comments not later than December 24, 1975. Very few comments were received from the public, and none were of significant substance to alter the initial submission. Accordingly, paragraph (g) of § 7.15 is added to read as follows:

§ 7.15 Shenandoah National Park.

* * * * *

(g) *Camping.* At all campsites, food or similar organic material must be either: (1) Completely sealed in a vehicle or camping unit that is constructed of solid, nonpliable material; or (2) suspended at least ten (10) feet above the ground and four (4) feet horizontally from any post, tree trunk or branch. This restriction does not apply to food that is in the process of being transported, being eaten, or being prepared for eating.

This regulation will become effective April 14, 1976.

ROBERT R. JACOBSEN,
Superintendent,
Shenandoah National Park.

[FR Doc.76-7492 Filed 3-12-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 504-8]

PART 434—COAL MINING POINT SOURCE CATEGORY

Notice of Availability From an Inspection Standpoint Only "Cost for Treating Coal Mine Discharges"

On October 16, 1975, the Agency published a notice of interim final rule making establishing effluent limitations and guidelines based on best practicable control technology currently available for the Coal Mining Point Source Category (40 CFR 48830). Reference was made in the preamble to certain supplementary materials supporting the study of the industry which are available for inspection and copying.

An additional report entitled "Cost for Treating Coal Mine Discharges" detailing the cost of pollution control has been prepared and is now available for inspection, along with the supplementary materials cited previously, at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

Dated: March 10, 1976.

ANDREW W. BREIDENBACH, Ph.D.,
Assistant Administrator, For
Water and Hazardous Materials.

[FR Doc.76-7358 Filed 3-12-76;8:45 am]

[FRL 505-1]

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Availability From an Inspection Standpoint Only "Cost for Treating Mineral Mining Discharges"

On October 16, 1975, the Agency published a notice of interim final rule making establishing effluent limitations and guidelines based on best practicable control technology currently available for the Mineral Mining and Processing Point Source Category (40 CFR 48652). Reference was made in the preamble to certain supplementary materials supporting the study of the industry which are available for inspection and copying.

An additional report entitled "Cost for Treating Mineral Mining Discharges" detailing the cost of pollution control has been prepared and is now available for inspection, along with the supplementary materials cited previously, at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

Dated: March 10, 1976.

ANDREW W. BREIDENBACH, Ph.D.,
Assistant Administrator,
For Water and Hazardous Materials.

[FR Doc.76-7357 Filed 3-12-76;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5576]
[AA-5807]

ALASKA

Withdrawal of Land as a Communications Site for the Alaska Railroad

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:

Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, but not the mineral leasing laws, and reserved for The Alaska Railroad, Department of Transportation, for a microwave reflector site:

SEWARD MERIDIAN

PORTAGE COMMUNICATIONS SITE

In the SW¼ sec. 28, T. 9 N., R. 3 E. (unsurveyed), beginning at what will be, when surveyed, the section corner common to sections 28, 29, 32, and 33; thence east 759.00 feet; thence north 721.00 feet to a point which is the true point of beginning; thence north 220.00 feet; thence east 495.00 feet; thence south 220.00 feet; thence west 495.00 feet to the point of beginning.

Containing approximately 2.5 acres.

JACK O. HORTON,
Assistant Secretary
of the Interior.

[FR Doc.76-7221 Filed 3-12-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20553; FCC 76-189]

PART 76—CABLE TELEVISION SERVICES

Specialty Stations and Specialty Format Programming

In the matter of amendment of Part 76, Subparts A and D of the Commission's rules and regulations relative to adding a new definition for "specialty stations" and "specialty format programming" and amending the appropriate signal carriage rules.

1. On July 16, 1975, the Commission adopted a *Notice of Proposed Rulemaking* in the above-captioned proceeding, FCC 75-850, 54 FCC 2d 424 (1975), wherein comment was solicited on how best to define a "specialty station" and to what extent the Commission's cable television rules should be amended to remove the current limitations on their carriage.

2. In adopting the cable television rules in 1972 the Commission provided for cable carriage of distant educational stations and stations broadcasting predominantly in a foreign language without such signals counting against the system's quota of other distant non-network stations. Paragraphs 94-6, *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143, 180 (1972). The Commission noted that educational and foreign-language stations fulfill an important and specialized programming need for a limited audience. For this reason carriage of these stations, unlike carriage of regular independent stations, was not perceived as having a potentially adverse effect on local broadcast television service. The Commission declined, however, to classify religious and other specialty-programmed stations different from the generality of independent stations or to exempt these signals' carriage from the quotas applicable to carriage of independent signals. Paragraphs 21-2, *Reconsideration of Cable Television Report and Order*, FCC 72-530, 36 FCC 2d 326, 334 (1972). The Commission rejected arguments that religious stations, like foreign-language stations, generally attract small audiences and thus would not willingly be selected for carriage by cable systems as a part of the distant independent signal complement, and stated:

> While petitioners' assertions may be true, there is a fundamental difference between the considerations that prompted us to adopt a rule for non-English language stations and those pertaining to religious programming. In the case of the first, local service is available in very few places in the country. But religious programming is generally available both on radio and television broadcast stations throughout the country, and the resulting impact of unlimited carriage is likely to be more pervasive.

Id. With respect to other specialty-programmed stations the Commission decided that, "the lack of standards by which to measure 'specialty-programmed stations' and the failure of petitioners to demonstrate how the public interest would be served by assuming the risk of greater impact on local stations from widened distribution of the programming of such stations compel rejection of the proposal." *Id.*

3. In the intervening years since the issuance of the *Report and Order* and *Reconsideration* our particular experience with controversies involving carriage of these stations in combination with the general experience gleaned from four years' operation of our rules have led us to reassess our regulatory posture with respect to religious and other specially-programmed stations. *TelePrompTer Florida CATV Corp.*, FCC 75-276, 51 FCC 2d 1061 (1975), typified the problems arising from treating these stations no differently from regular independent stations for purposes of distant signal carriage. Specifically, *TelePrompTer Florida, supra*, illustrated that by classifying these stations as independent stations our signal carriage rules worked to frustrate, rather than further, the diversity of programming that carriage of independent signals was meant to provide. On the other hand, our continuing review of the cable television rules generally, as well as the comments received by the Re-Regulation Task Force, indicate that our reasons for not exempting these stations from the category of other independent stations in 1972—inability to define specialty programming or to surmise its effect on local broadcast television—may no longer be valid. Accordingly, in the *Notice of Proopsed Rulemaking, supra* at 426, we expressed the view that carriage of religious and other specialty-programmed stations would constitute a desirable means of providing added program diversity, and we sought recommendations from interested parties as to the best method of achieving the deregulation we sought. Numerous comments and replies have been received, reflecting a variety of opinion.

Summary of comments and proposals.

4. A majority of those commenting were in favor of the proposed rule. The proponents agree that exempting specialty stations from classification and carriage as independent stations would serve the public interest by permitting cable subscribers access to a diversity of programming not otherwise obtainable, and they concur that carriage of these signals would not prove inimical to the continuance of local broadcast television service. The proponents represent a cross-section of different interests, including the National Cable Television Association and numerous individual cable television systems, large and small, Jerrold Electronics, the Christian Broadcasting Network and National Religious Broadcasters, Inc.,[1] and Citizens for Cable

[1] The reply comment of National Religious Broadcasters, Inc., was late-filed. Because NRB is a national organization whose membership includes the licensees of stations prominently featuring religious programming, its observations are most pertinent. Section 1.415(d) of the Rules provides that, aside from comments and replies duly filed in the course of the pleading cycle, "no additional comments may be filed unless specifically requested or authorized by the Commission." To avail ourselves of the entirety of NRB's viewpoint, we will authorize the filing of its reply as an additional comment.

Awareness in Pennsylvania and the Philadelphia Community Cable Coalition.[2] The opponents are individual television broadcast station licensees and the Association of Maximum Service Telecasters. In general, the opponents contend that no basis exists in fact or theory for any change in our current policy. Several foresee and decry a flood of new independent programming to be made available to cable systems by amending our current rules, and several claim that the continued ability of local stations to offer specialized programming will be jeopardized. The National Association of Broadcasters supported the proposal in part and in part opposed it. We shall consider the comments of both sides at length.[3]

Comments supporting specialty station rule. 5. There is no consensus of opinion among the proponents as to which of the four alternative definitions proposed for comment in the *Notice* herein is preferable. To facilitate discussion, each of the four proposed definitions is set forth below, followed by a summary of the commenters' opinions thereupon.

6. *Proposal No. 1.* The first proposed definition would have defined a specialty station as follows:

§ 76.5(n)(1) *Specialty Station.* A commercial television broadcast station, broadcasting predominantly programming which consists of non-English, religious, ethnic, or automated services.

Generally, the parties favoring the first proposed definition were impressed by its flexibility, which they considered to be a desirable attribute. National Religious Broadcasters exemplified this view, being of the opinion that the definition of what is a specialty station should not depend upon any fixed percentage of programming. NRB submits that where a survey of a station's schedule leaves in question whether the amount of specialty programming can be said to predominate, the amount of specialty programming presented during prime time should be decisive. Warner Cable and TelePrompTer also favor the first definition but would change "predominantly" to "a significant part of." Similarly, CSRA Cablevision, Inc. suggests that we evaluate every station on an individual basis and accord specialty status to those broadcasting a substantial, if not predominant, amount of specialty programming. Warner, like NRB, also views the amount of specialty programming broadcast in prime time as decisive and recommends that any station offering more than 10 hours of prime time specialty programming per week is prima facie a specialty station. Cablevision of Augusta also advocates adoption of this proposed definition but recommends that the types of specialty programming enumerated be enlarged to include all those types of programs comprising the category of "other" programming as defined in Section 73.670 of our Rules.[4] Greeley, Bernard and Tierney, a law firm representing a number of cable television systems, supports the first definition but recommends that it specify that the "predominant" specialty programming may be comprised of several of the types enumerated rather than just one. Moreover, Greeley et al. suggests addition of a subscript to the rule stating that the Commission will consider a station's broadcasting of new types of programming developed to serve targeted audiences to qualify that station as a specialty station.

7. *Proposals #2 and #3.* The second and third proposed definitions would define specialty stations and independent stations in terms of fixed percentages of specialty and general-appeal programming broadcast. Specifically, proposal #2 provides as follows:

Section 76.5(n)(1) *Specialty Station.* A commercial television broadcast station of which at least 50 percent of its programming consists of non-English, religious, ethnic or automated programming.

Section 76.5(n) *Independent Station.* A commercial television station which generally devotes more than 50 percent of its total weekly hours to "entertainment/sports" programming.

Section 76.5(n) *Entertainment/Sports Programs.* Entertainment programs include all programs intended primarily as entertainment, such as music, drama, variety, comedy, quiz, etc. Sports programs included play-by-play and pre- or post-game related activities and separate programs or sports instruction, news, or information (e.g., fishing opportunities, golfing instruction, etc.).[5]

8. Whereas the proponents of the first proposed definition favor its flexibility, those advocating definitions patterned after either the second or third definitions preferred the certainty imparted by the fixed percentage to what they regarded as the imprecision of the terms "predominantly" or "substantially." WGPR, Inc., licensee of WGPR-TV, Detroit, Michigan,[6] generally favors the second proposal but would add specifications that the station be on-the-air for at least eight hours per day and that it devote 25 percent of its prime-time hours to specialty programming. These additional qualifications are needed, WGPR maintains, to assure that the station's commitment to specialty programming is bona-fide rather than token. Also favoring the second definition as an alternative is CSRA Cablevision, Inc.; however, CSRA suggests that the 50 percent quantum figure is too high and maintains that where 30 percent of a station's overall schedule, or 30 percent of its prime-time schedule, consists of special-format programs, the station is properly regarded as a specialty station.

9. The commenters supporting the third proposed definition do so because they argue that, while it may be difficult to encompass all specialty programming within the definition of a specialty station, it is possible to accomplish the same end by recasting the definition of an independent station to exclude those offering a preponderance of non-entertainment/sports programming. Colony Communications and its joint commenters, as well as Becker Communications Associates, Jerrold Electronics, and the National Cable Television Association, would redefine an independent station as any commercial broadcast station providing English-language entertainment/sports programming during 50 percent or more of the hours of the broadcast day and 50 percent or more of the prime-time hours. NCTA, like WGPR, would add a minimum broadcast day proviso, asserting that no station broadcasting fewer than 9 hours a day can be be said to offer the quantum of diverse programming the Commission sought to assure in providing for carriage of distant independent signals. Comments filed jointly by sixty-nine individual cable systems generally support the latter contention, and suggest a minimum 50-hour broadcast week. Cablecom General proffers for consideration an amalgam of proposals 1 and 3. It suggests that an independent station be defined as any station devoting 50 percent or more of its broadcast day, or 50 percent of its daily prime-time hours, to entertainment/sports programming; a specialty station would be any commercial television station not otherwise defined, or a commercial television station broadcasting predominantly non-English, religious, ethnic, or automated programming.

10. *Proposal #4.* The fourth proposed definition looked to defining what constitutes a special-format program, our intendment being to inquire whether carriage of such programs would be preferable to carriage of the entire signal. Proposal #4 read as follows:

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[2] Hereafter, CCAP *et al.* The latter's comment was late filed, and CCAP *et al.* requests that we consider it instead as a timely-filed reply comment. We shall do so.

[3] We note at this juncture that T.A.T. Communications Company also filed a comment, requesting that the Commission consider in the scope of the present inquiry the question of cable carriage of subscription television service. The latter subject is, as T.A.T. acknowledges, the subject of another pending proceeding. *Third Further Notice of Proposed Rulemaking in Docket No. 11279*, FCC 68-1175, 15 FCC 2d 601 (1968). We thus shall not respond dispositively to TAT's comment in the context of this proceeding but will reserve decision on this question for a later proceeding either in this docket or in the above-cited docket. *See* paragraph 43, *infra*.

[4] Section 73.670 concerns the classification and logging of television broadcast programming. Note 1 to that Section defines "other" programming as any that is not agricultural, entertainment, news, public affairs, religious, instructional, or sports programming as defined in that Section.

[5] The emphasis in this definition is to define what an independent station is, leaving all other non-network stations to be carried according to any new rules developed by this proceeding.

[6] WGPR-TV is the first Black-owned and operated television station in the United States, and its primary emphasis will be on presenting programs of particular interest to Blacks.

Section 76.5(n)(1) *Specialty Format Program.* Programming intended primarily for a targeted audience which is measured by the specialized nature of the broadcast. It includes non-English language, religious, ethnic, or automated mated services.

11. Most of the parties commenting were dissatisfied with proposal #4, and pointed out that defining a "target audience" would be unworkable practically and procedurally because the criteria for judgment would be unavoidably subjective and would involve the Commission in an endless succession of ad hoc judgments on the nature of individual programs. The Community Antenna Television Association, however, advocates such an approach but would use it in the context of defining a specialty station. CATA suggests that the enumerated list of types of specialty programming be enlarged to include children's programming, women's programming, ethnic and racial minority group programming, consumer-oriented programming, and commercial instructional programming, and offers a definition for each. Thereupon, CATA would define as a specialty station any station 50 percent of whose schedule is comprised of such programming. The National Association of Broadcasters also suggests an approach incorporating proposal #4; NAB opposes unrestricted carriage of specialty stations but favors carriage of special-format programs. NAB contends that a system's carriage of any station broadcasting less than 100 percent special-format programs introduces into its signal carriage complement a quantum of independent programming and, in effect, constitutes a fraction of another distant independent signal. NAB contends that this would perforce exceed the limits set on distant signal carriage in the *Report and Order, supra,* and thus be inconsistent with our Rules. NAB suggests that we adopt a list of specific program types that will constitute special-format programs, and would have included in this enumeration foreign-language, religious, and financial programming. NAB then favors adoption of a flexible definition for specialty-format stations, such as that advocated in proposal #1, allowing carriage of special-format programs from such specialty stations. NAB would not permit carriage of special-format programs from non-specialty stations. NAB emphasizes that should the Commission decide to adopt a rule providing for carriage of the entire program schedule of a specialty station rather than only its special-format programs, NAB would then favor a rigid definition of a specialty station as one broadcasting no mass-audience entertainment or sports programming.

12. *Other Proposals.* Two other commenters offer still other suggestions on how best to define a specialty station. Citizens for Cable Awareness in Pennsylvania et al. favor a 50 percent quantum of specialty programming to qualify a station as a specialty station, but would more broadly define special-format programming to include any program not usually seen on other broadcast stations. Christian Broadcast Network suggests that a religious-oriented specialty station would be aptly defined as any station 20 percent or more of whose broadcast schedule consists of programs reported to the Commission as being in the "all other" category of programs.[7] CBN suggests that this percentage accurately denominates those stations that are religious-oriented and recommends this approach for the ease with which such stations may be identified by reference to information on file with the Commission.

13. Spanish International Communications Corporation raises another issue.[8] It argues that the Commission's present policy of regarding Spanish-language stations as specialty stations is erroneous. SICC argues that Spanish-language stations are not specialty stations at all, but rather are stations broadcasting mass-appeal programming to a general audence which, by happenstance, is Spanish-speaking. Therefore, because it believes Spanish-language stations to be wrongly included as specialty stations, SICC generally favors adoption of the third proposed definition. Despite its apparent desire that Spanish-language stations be considered as independent rather than specialty stations, SICC proposes that we permit carriage of one distant Spanish-language station in every market[9] and preclude importation of distant Spanish-language stations in markets served by a local Spanish-language station. Failure to amend our rules in this manner will, SICC warns, create an unacceptable risk of adverse impact on local Spanish-language television service. SICC states than Spanish-language stations are peculiarly liable to be injured by duplicative distant-signal importation because of the discrete audience served. For this reason SICC argues that the Commission erred in allowing unrestricted carriage of foreign-language stations in 1972, and contends that the disparity between the protection afforded by the signal carriage rules to local English-language stations, especially UHF stations, when contrasted with the lack of same afforded to Spanish-language stations, militates a change in the Commission's Rules respecting the latter.

14. *Manner of Carriage.* In addition to our inquiry on how to define specialty stations and/or special-format programs, comment was also elicited on the terms pursuant to which such stations and programming might be carried. We particularly asked whether a specialty station's entire program schedule should be carried, as opposed to carriage of special-format programs only, and whether any limit should be imposed on the number of stations or amount of such programming carried. Numerous suggestions have been made, generally demonstrating more of a consensus than those respecting definitions.

15. In contrast to NAB's proposals, discussed more fully at paragraph 11 *supra,* the preponderance of the proponents have suggested that, once a station qualifies as a specialty station, its entire program schedule should be carried. This, of course, is the approach currently taken with respect to stations broadcasting predominantly in a foreign language. CSRA in particular argues that integral carriage of the signal is necessary. CSRA states that the cost of importing WHAE–TV, Atlanta, Georgia,[10] to its systems located in the Atlanta market would be $55,000. CSRA asserts that such a major investment might not be feasible if the system operator could carry only a portion of the programming broadcast, besides being faced with problems entailed in checking program schedules, determining which programs may be carried, and "switching" to delete those that may not. As Warner notes, substantial microwave costs plus the difficulties presented by switching would preclude many parties from adding merely special-format programs to their cable systems. CATA and CCAP et al. do, however, support program-by-program carriage as an alternative to carriage of the entire program schedule. Similarly, because of the small number of specialty stations and their limited appeal as well as the cost of importing them, the consensus of the commenters is that the Commission need not limit the number that may be carried. The majority of the commenters also urge that the rationale for establishing a separate category of specialty stations supports their being excluded from the quotas of distant independent signals established by our signal carriage rules. The cable interests and CCAP et al. argue most strongly that the Commission's traditional concern with the impact that distant signal carriage may have on local over-the-air television service is at best attenuated where distant specialty stations are concerned; it is noted that the demonstrably limited audiences these stations attract in their home markets militate against their attracting any substantial audiences in a distant one. For this reason these commentators argue that the specter of adverse economic impact ought not to preclude amendment of the rules; rather, the burden of establishing adverse economic impact ought to be placed on the party alleging same in the context of special relief proceedings.

16. Greeley et al. addressed itself briefly to the situation wherein a local

[7] This categorization appears on FCC Forms 301, 314, 315, and 303. It includes all programming that is neither news/public affairs nor entertainment/sports: *e.g.,* agricultural, religious, instructional, and "other" programs. *See* n. 3, *supra.*

[8] Spanish International Communications Corporation is the licensee of several U.S. Spanish-language television stations and permittee of KORO–TV, Corpus Christi, Texas.

[9] SICC would implement this approach for an interim experimental period; presumably it would ultimately look to increasing the number of allowable distant Spanish-language stations.

[10] WHAE–TV is licensed to Christian Broadcasting Network, and CSRA notes that it offers a substantial amount of religious programming.

specialty station might find itself competing with a distant, cable-imported one. Greeley would not preclude importation of the distant specialty station in such instances absent a showing similar to that which must be made by a local educational station seeking to preclude the otherwise permissible importation of a distant one.[11] In any event, Greeley submits that a local specialty station ought not to be protected against cable carriage of a distant one if the special-format programming of the two is not of the same type.

17. Warner also addresses itself to the procedural aspects of administering a new specialty-station rule. Should the Commission adopt a rule permitting carriage of specialty stations, Warner urges that we permit filing of applications for certification to add such signals pursuant to the procedures specified at Section 76.11(a) of the rule.[12] This, Warner asserts, would comport with the public interest by facilitating swift carriage of those stations whose qualifications and the impact of whose carriage is not disputed while preserving the procedural safeguards of interested parties where there is no concurrence on these questions. Finally, CBN parenthetically raises the issue of grandfathering the carriage of specialty stations once certification has been obtained. CBN notes the possibility of a specialty station changing its format so as no longer to qualify for carriage pursuant to our definition, and contends that in that event no grandfather rights should accrue for its continued carriage.

Comments against specialty station rule. 18. As remarked previously, a number of television broadcast licensees oppose a rule defining and providing for carriage of specialty stations. Representative comments submitted by Great Lakes Television Company and Golden Empire Broadcasting Company contend that the rationale expressed in the Commission's 1972 determination as to the inadvisability of extending exemptions from the signal carriage rules to religious and other specially-programmed stations continues valid, and they argue that the necessity for revising the current approach has not been demonstrated. It is maintained that the impact carriage of such stations would have on local television service would exceed that produced by carriage of distant educational and foreign-language stations. Kaiser Broadcasting Company particularly stresses that there is a difference between foreign-language and religious or ethnic stations: viewers of the former, Kaiser argues, are neither sought nor served by conventional broadcasters, whereas conventional broadcasters compete vigorously for the viewers of the latter by featuring programming of the same type. Pappas Television and KMSO–TV, Inc. particularly stress the problems of the smaller-market independent station broadcasting a quantity of special-format programming. These stations must offer programming for all segments of the viewing audience, but it is argued that cable importation of distant specialty stations would duplicate their specialty programming. Thus, these commenters fear that sponsors of specialty programming would be lost because they might choose to rely instead upon distant specialty stations imported by cable. AMST summarizes this point of view by stating that "inundating a television market" with specialty programming imported by cable may make it economically unfeasible for local stations to continue providing the current quality and quantity of specialty programming. Kaiser and AMST further maintain that no distinction can rightfully be drawn between specialty and independent stations. Because most independent stations offer religious and ethnic programming which is designed to reach general audiences, these parties contend that the difference between them is that of degree rather than kind. Thus, Kaiser contends that all our definitions must fail because specialty programs cannot be defined in terms of either content or targeted audience and, because they cannot be defined, they cannot be quantified.

19. Several of the commenters question whether the Commission's announced aim of furthering diversity of programming by cable carriage of specialty stations is sound. The KLIX Corporation and Great Lakes submit that the Commission ought not to be determining what types of programming a market needs, citing *Report and Statement of Policy re: Commission en banc Programming Inquiry*, FCC 60–970, ____ FCC 2d ____ (1960). On the other hand, AMST suggests that no lack of diversity exists: it contends that carriage of independent and network stations, with the specialty programming they feature, provides sufficient diversity. The comments of Meredith and Great Lakes exemplify the view shared by a number of the commenters that, "the carriage rules are not intended to foster diversity. They are designed to protect the economic base for the free over-the-air service on which the public and cable system, itself, depend."

20. Should the Commission nevertheless decide to adopt a rule respecting cable carriage of specialty stations, several suggestions are propounded. Great Lakes, Golden Empire and Meredith recommend that a specialty station be defined as one broadcasting the enumerated programming "predominantly," with not more than 10 hours of prime-time programming per week devoted to any nonspecialty programming except news and public affairs. KLIX and Golden Empire echo WGPR's concern that the definition be tightened to specify the hours during which specialty programming must be broadcast. Although Pappas dislikes all the proposed definitions, it maintains in the alternative that carriage of specialty stations should not be permitted within a 55-mile radius of any independent station located outside the 25 or 50 largest television markets. AMST submits that carriage should be limited to specialty programs only, pointing to the problems that might otherwise arise should a specialty station change its format after having enjoyed cable carriage for a period of time.

Discussion. 21. The Commission has long recognized that cable television's multi-channel capacity makes it singularly suited to provide an abundance of diverse programming not otherwise obtainable. In the *Cable Television Report and Order, supra* at 190, we expressed this viewpoint by specifying that the promotion of programming diversity is one of the fundamental goals of a national communications structure that cable development should further. There are two distinct sources of program diversity provided by cable: nonbroadcast programming, cablecast by subscribers or by the system operator, and broadcast programming not locally available but received and transmitted by the system. The Commission has attempted to foster the program diversity derived from nonbroadcast programming by its access and cablecasting rules.[13] With respect to diversity derived from distant-signal carriage, the Commission recognized in the *Report and Order, supra* at 177, that

> Clearly, cable service can provide greater diversity—can, if permitted, provide the full television complement of a New York or a Los Angeles to all areas of the country. Although that would be a desirable achievement, it would pose a threat to broadcast television's ability to perform the obligations required in our system of television service.

Thus, in adopting its signal carriage rules the Commission was required to strike a delicate balance: "to get cable moving so that the public may receive its benefits, and to do so without jeopardizing the structure of over-the-air television." *Id.* at 164. Facilitating cable's unique capability to provide program diversity in such a manner as not to seriously affect television broadcast service has been, and remains, of primary importance.[14]

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[11] This showing requires proffer of substantial allegations of fact supporting the objection; conclusory statements unsupported by probative evidence will not suffice. *Norristown Distribution Systems, Inc.*, FCC 72–1095, 38 FCC 2d 350 (1972), cited in *Cablecom-General, Inc.*, FCC 74–924, 48 FCC 2d 607 (1974) and *Bridgeport Community Antennae Television Company et al.*, FCC 74–371, 44 FCC 2d 711 (1974).

[12] Section 76.11(a) provides that applications for certification to add certain classes of signals to existing operations are duly filed by serving the prescribed notification on the Commission and all parties entitled to same. If no objection is filed within thirty days, the signal may be added.

[13] Sections 76.251 and 76.253 of the Rules, respectively.

[14] We might here note in answer to the argument of KLIX et al., that by framing and/or amending our rules to assure diversity of programming we are in no sense determining that certain programming is needed and must be offered in a specific market. Citation to the *Report and Statement of Policy re: Commission en banc Programming Inquiry, supra*, is inapposite.

22. In light of this twofold concern, our decision with respect to carriage of educational, foreign-language, religious, and other specially-programmed stations was entirely proper at that time. Having had no experience with the operation of our new Rules, we simply could not predict how added free carriage of religious and other types of specialty programming was liable to affect them; under such circumstances, to risk upsetting the newly-struck balance of interests implemented by our signal carriage rules would have ill-served the public interest. Four years' experience with our rules, however, has clarified this previous uncertainty. Our experience with cable carriage of educational and foreign-language stations demonstrates that our policy of permitting widespread carriage of these stations absent substantial objection thereto has furthered the Commission's policy of promoting program diversity without adversely affecting local television service. The benefits of an abundance of educational and foreign-language programming have been made available to large numbers of people. At the same time, we have limited diversity for the sake of preserving local television service in the exceptional case in which it was necessary to do so. *See*, e.g. *Norristown Distribution Systems, supra* at n.10; *Big Valley Cablevision, Inc.*, FCC 73-1245, 44 FCC 2d 3 (1973), modifying FCC 73-187, 30 FCC 2d 642 (1973); *recons. denied* FCC 74-947, 48 FCC 2d 94 (1974), *remanded for further proceeding, Big Valley Cablevision, Inc.* v. *FCC*, Civil No. 74. 1961 (D. C. Cir., January 12, 1976). The need for relief in such instances has proven to be the rarity rather than the routine; SICC's assertions to the contrary, foreign-language and educational stations continue to increase in number. This fortunate experience goes far to persuade us that deregulation of the existing restrictions on carriage of other specialty stations would be in the public interest.

23. The nature of speciality stations also convinces us that elimination of the current restrictions on their carriage would serve the public interest. All stations that could reasonably be placed in this category are struggling UHF stations. And they are generally not widely-viewed in their home markets.[15] Many operate with less than the maximum broadcast facilities authorized, and thus their signals do not extend far beyond their cities of license. Because of their limited audience appeal and the significant investment in microwave equipment needed to carry them, most system operators choose not to carry these signals as a portion of their elective independent signal complement. Thus, we are faced with an anomaly: on the one hand, a small group of extremely weak UHF stations that appeal to and attract limited audiences offer desirable diversity of programming; on the other hand, our signal carriage rules ostensibly limit but effectively preclude their carriage on the assumption that this is necessary to preserve local broadcast service. We are persuaded that resolving this inconsistency by amending the current rules respecting carriage of other types of specially-programmed stations would serve the public interest. In reaching our ultimate conclusion herein, we first examined all of the proffered proposals described above, found each of them wanting for the reasons hereafter discussed, and evolved our own final definition of which we feel best achieves our stated goal.

24. *Specialty Programming.* In order to proceed with any meaningful analysis of what should constitute a specialty station, it is first necessary to clearly identify specialty programming itself. It will be recalled that our first and second proposed definitions listed as types of specialty programming non-English, religious, ethnic or automated services.[16] We find that religious and automated programming are classic examples of special program types. They appeal primarily to discrete segments of the population with particularized programming interests not shared by the majority of other viewers, nor are these interests adequately compensated by other types of programming. Similarly, we cannot concur with SICC that Spanish-language programming ought not to be regarded as specialty programming. What we seek to isolate in the instant proceeding is programming which, by virtue of its nature or its content, is not of general interest to the average viewer. To subscribe to SICC's argument we must hold that the average television viewer would find a film, news program, or sporting event of equal interest regardless of whether it is presented in English or Spanish. Suffice it to say we cannot so decide: a program broadcast in a foreign language is of little interest to any but those fluent in the language. Nor has SICC demonstrated the necessity for amending our signal carriage rules with respect to carriage of Spanish-language stations; on this point its arguments are conclusory and generally restate those propounded and rejected in numerous prior proceedings.[17]

25. We shall not include English-language ethnic programming as a distinct type of special-format program at this time. We refrain from doing so not because of any inclination to think that such programming cannot be of especial, intrinsic interest to a particular ethnic minority. Rather, the relative paucity of such programming has resulted in our acquiring almost no experience with it as compared to that we have acquired with other types of specialty programming since the inception of our Rules in 1972. Because English-language ethnic programming is still evolving, we do not believe it prudent to attempt to define it at this juncture, or provide for its widespread carriage under the same assumptions made with respect to religious, foreign-language, and automated programming. Determining which English-language programs are of primary interest to one racial or ethnic group as opposed to the generality of viewers requires the making of many particularly refined judgments, and thus the lack of a significant body of such programming and the concomitant absence of standards by which it may be defined is particularly crucial. Accordingly, rather than to attempt to evolve a broad rule at this time, we feel it more appropriate to apply a case-by-case approach. With respect to waiver requests involving such stations, we will act on such requests giving due consideration to the question of minority participation and ownership. See *TV 9, Inc.* v. *FCC*, 495 F 2d 929 (D.C. Cir., 1973) and *Garrett* v. *FCC*, 573 F 2d 1056 (D.C. Cir., 1975).

26. We likewise shall not automatically classify independent stations broadcasting less than a minimum number of hours per day or week as specialty stations, as several of the commenters would suggest. As we stated before, we believe a specialty station is properly defined in terms of the quantum of stated classes of specialty programming broadcast rather than by the quantum of general-appeal programming not carried. While we appreciate the concern that independent stations offering drastically less than the average number of hours of programming per day or week may, like specialty stations, not provide the diversity of programming contemplated by our signal carriage rules, the problem is not solved by calling them specialty stations, where it is the amount, rather than the type, of programming offered that is unusual. Moreover, the nature and severity of the problem depends in each case upon such variables as the size of the market, how abbreviated the broadcast schedule is, which hours the station is "lit," whether the brevity of schedule is liable to be temporary or prolonged, and so forth. We thus believe that such cases are properly handled on an ad hoc basis in the context of a petition for special relief rather than by our carving out an anomalous prerequisite to our specialty station rule.

27. *Proposal #4.* We also hesitate to define as a specialty program any program presumably aimed at a "target audience," and for this reason we shall reject the fourth proposed definition. This standard impresses us as being too sub-

[15] Of stations offering significant amounts of special-format programming, the average audience share obtained is 2, and many obtain no measurable audience share at all.

[16] We wish to note here that the enumeration of specialty programming contained in the proposed rule is framed in the disjunctive to permit carriage of stations offering a combination of the listed types of specialty programming in the required amount.

[17] *See*, e.g., *Reconsideration, supra* at 334-5; *Santa Fe Cablevision Company*, FCC 73-1022, 43 FCC 2d 276 (1973); *General Communications and Entertainment Company, Inc.*, FCC 73-632, 41 FCC 2d 501 (1973); *Mickelson Media, Inc.*, FCC 73-119, 39 FCC 2d 602 (1973); *Sierra Vista CATV Company, Inc.*, FCC 73-1170, 43 FCC 2d 958 (1973); *Riverside Cable TV, Inc.*, FCC 75-172, 51 FCC 2d 551 (1975).

jective to insure reliably uniform and conclusive judgments in every case. Indeed, in this respect CATA's comment graphically demonstrates the difficulties attendant in administering such a standard, because it is surely arguable that most programs are "targeted" at some identifiable audience, whether it be women, children, consumers, etc. Moreover, we are loathe to embark upon an endless progression of ad hoc judgments on the essence of individual programs. Nor can we subscribe to the suggestion of CCAP et al. that specialty progamming be defined as that programming not usually seen on local television. Such a definition does not distinguish programs of unique appeal from those of general appeal and, moreover, would prove most difficult to administer as local stations adjust their program schedules.

28. Insofar as the thrust of proposal #4 is directed toward carriage of special format programs only, we must reject it as the preferred alternative. We do not, however, draw such a conclusion. Our rule with respect to carriage of stations broadcasting predominantly in a foreign language permits carriage of such a station's entire program schedule. None of the commenters has demonstrated any adverse economic impact deriving from the operation of this latter rule, nor has it been demonstrated that adverse economic impact is liable to result from carriage of these signals. In the absence of proof to the contrary, we do not believe that these signals are liable to prove any more popular in a distant market than in their home markets. In fact, it appears more likely that they would attract an even smaller audience, because whatever programming of local interest they present will be of no interest in a distant community. Neither can we perceive the likelihood that systems will import multitudes of such signals, thereby deriving a large amount of new nonspecialty programming in the aggregate. There are relatively few stations offering significant amounts of special-format programming, and these are scattered throughout the country. Their scarcity and weak signal strength virtually assures that in most instances microwave facilities will be needed to carry them. Microwave costs, coupled with the limited demand for such programming, make it unlikely that many system operators would carry more than one. Absent any demonstrated necessity to limit carriage of these stations to their special-format programming only, we shall proceed to consider which definition of "specialty station" proves the most feasible.

29. *Proposal #3.* Neither shall we amend our rules to define specialty stations by exclusion rather than inclusion, as we would do if we adopted the third proposed definition. We are not persuaded that the essence of a specialty station is to abstruse that we must resort to such a method. Additionally, by effectively defining as special-format programming all programming other than entertainment and sports, a large and amorphous body of programming is automatically doubled "specialty" programming, including, most notably, news and public affairs. We doubt whether it ought automatically to be assumed that all such programming is of inherently limited interest; we are quite certain, at least, that news and public affairs is not. Furthermore, an inherent assumption in this definition is that entertainment programming may never be of other than general appeal. We are not persuaded to indulge this assumption: for instance, the programming projections of WGPR indicate that it may indeed be possible to design an entertainment program that appeals primarily to those having certain interests different from those of the majority of viewers. In light of these considerations we find it preferable to define what constitutes a specialty station per se rather than to avoid that question and proceed by indirection. Accordingly, we shall next consider the merits of the first and second proposed definitions.

30. *Proposals #1 and #2.* With the exception of several stations broadcasting entirely in foreign languages, virtually all other stations offering significant amounts of special-format programming also offer some quantity of general appeal programming. The percentage of such non-specialty programming varies from less than 10 to more than 80 percent.[18] The first two definitions, however, would define a specialty station as one broadcasting "more than 50 percent" or "predominantly" specialty programming, and the crux of the problem is that only six stations not already eligible for carriage pursuant to our foreign-language station rule appear to broadcast more than 50 percent, and thus "predominantly," special-format programming, and three of these are located in the Los Angeles-San Bernardino-Fontana-Corona market.[19] Moreover, none of the stations licensed to the Christian Broadcasting Network, which might be presumed to present predominantly religious programming, would be eligible for carriage. The anomalies thus attendant upon the proposed definitions have led us to inquire whether the 50 percent benchmark is needed to accurately distinguish a specialty station from an independent station, or whether, as several of the comments infer, a lower percentage of programming can accurately be described as "predominant."

31. Statistics drawn from the Commission's 1974 Annual Programming Report for Commercial Television Stations indicate that the average independent station offered programming other than entertainment, sports, news, and public affairs for 13 percent of the average broadcast week[20] and 9.1 percent of weekly prime-time hours. These figures of course include a number of specialty-oriented stations whose percentage of such programming is accordingly untypically large, A more accurate picture of the amount of specialty programming presented by the typical independent station is garnered from looking at the median percentage thereof. The median amount of specialty programming presented per week was 8 percent: that is, 50 percent of independent stations offer nonentertainment, sports, news, and publnic affairs programming less than 8 percent of the average broadcast week and 50 percent offer such programming more than 8 percent. The most frequently-occurring percentage, however, was between 7 and 8 percent. Half the independents programmed less than 2.1 percent of weekly prime time with specialty programming. Significantly, the most frequently-occurring quantum of prime-time specialty programming is zero: fully one-third of the independent stations offered no specialty programming whatever during these hours.

Conclusion. 32. *Definition of Specialty Stations.* The percentage of specialty programming typically broadcast by independent stations being so low, we must conclude that establishment of a 50 percent guideline for defining a specialty station is, by comparison, artificially high. Given these figures, we find that one-third of the average broadcast week devoted to special-format programs is a reasonable standard, being roughly four times the amount of specialty programming presented by the average independent station.

33. These statistics moreover support the contentions of several of the commenters, proponents and opponents, that our definition be amended to include a provision specifying that specialty programming also be broadcast during a requisite number of prime-time hours. Such a requirement appears advisable for several reasons. First, because prime-time hours are the keystone of a station's programming, a station devoting substantial amounts of prime time to specialty programming can be regarded as genuinely basing its schedule on such programs. Those stations scheduling specialty programming only at odd, or less popular hours as "filler" will perforce be excluded. A provision of this type would also discourage independent stations from adding early—or late—scheduled specialty programming simply

[18] Warner Cable has submitted tabulations of the amount of specialty and non-specialty programming offered by those stations whose programming consists of more than 15 percent specialty programming per week. Thus, for instance, this data shows that, of those stations offering in excess of 15 percent religious-oriented programming per week, the station offering the lowest percentage offered 16.7 percent, and the highest, 83.2 percent.

[19] Warner's figures identify these six stations to be KHOF–TV, San Bernardino, California (83.2 percent); KXLA–TV, Fontana, California (88.7 percent); KWHY–TV, Los Angeles, California (93.9 percent); WCIU–TV, Chicago, Illinois (79.7 percent); WGGS–TV, Greenville, South Carolina (81.8 percent); and, WHMB–TV, Indianapolis, Indiana (66.9 percent).

[20] An "average broadcast week" consists of the programming presented during the hours of 6 a.m.–12 midnight, Sunday through Saturday.

to qualify for carriage as specialty stations. Finally, by requiring a stated percentage of prime-time programming we may further allay the reservations of local broadcasters as to the competitive impact of non-specialty programming in prime time. Accordingly, we shall define a specialty station as one broacasting specialty programming for one-third of its broadcast week and one-third of its weekly prime-time hours. The required one-third prime time percentage represents three times the average amount of specialty programming presented in prime time and sixteen times the median percentage presented, and for this reason we believe it will prove to be an adequate and reliable guideline for distinguishing specialty stations from independent stations. In determining the percentage of programming, we believe it appropriate to refer to the actual hours broadcast if less than the 6 a.m.–12 p.m. seven-day average. Similarly, with respect to prime time the percentage will be computed on the basis of the weekly prime-time hours during which the station is actually on-the-air, if less than the norm. This formula will produce the most accurate picture of a station's orientation based on the hours it is actually on-the-air, rather than upon some norm which, being inapplicable in the individual case, is also irrelevant to it.

34. *Carriage of Specialty Stations: Source and Number of Signals.* The question of whether there exists any justification for limiting the markets from which distant specialty stations should be selected for carriage has been mooted by the recently-issued *Report and Order in Docket 20487*, FCC 75–109, —— FCC 2d ——— (1975), wherein we abolished applicable to carriage of distant indethe leapfrogging restrictions formerly pendent signals. We perceive no reason for implementing such a rule with respect to specialty station carriage. In fact, we are persuaded that it would be patently futile to adopt such a limitation; the scarcity of these stations would make any prescription of that sort meaningless at best.

35. Nor are we convinced that it is necessary to set limits on the number of specialty stations that may be carried. As discussed previously at paragraph 28, above, the number of such stations that will qualify for carriage is extremely limited. The paucity of specialty stations and the weakness of the signals many broadcast will make it necessary to use microwave facilities to receive them in most cases. These microwave costs, coupled with the relatively small number of subscribers potentially attracted to these stations, will operate as a natural limitation on the number of such stations that can be offered for carriage.

36. The practical result of classifying specialty stations as distinct from independent stations is as follows: although specialty stations will retain their prerogatives as "must-carry" signals within their own markets, their carriage by systems in distant markets will no longer be counted against the systems' quota of distant independent signals. As we have stated, we are persuaded that the resulting unrestricted carriage of distant specialty stations will not produce adverse economic impact on local network and independent stations; neither do we believe it will prove injurious to local specialty stations. The market place limitations of cost and demand make it doubtful that system operators would incur the extra expense to carry a distant specialty station where there is a corresponding local one available for carriage. Nevertheless, there may well be instances wherein a distant specialty station is imported despite the presence of a local one, particularly where the local station presents a different type of special-format programming or has no clear predominance of one type of specialty program. In the former circumstances, we would not anticipate adverse economic impact on the local specialty station because the audiences which each type of specialty programming would attract will probably be different. Where the special-format programming of the local and distant specialty stations is of basically the same type, however, the unique circumstances pertaining in the individual situation will determine whether the effect of competition on the local specialty station is likely to be critically adverse. Thus, while we shall not limit the carriage of distant specialty stations in markets where there is a local one, we shall entertain petitions for special arelief on an ad hoc basis.

37. Because we are today separating specialty stations from the category of independent stations and exempting their carriage from the signal quotas applicable to carriage of independent stations, it may also occur that some systems located in markets to which a specialty station is licensed may be able to add another independent signal pursuant to the applicable signal carriage rule. Presumably this will not seriously affect any local non-specialty television station. Our signal carriage rules are framed on the presumption that local television service can in most cases withstand cable importation of a stated quota of independent signals without suffering critical economic impact. In such instance exemption of specialty stations from the limitations on carriage of independent signals should do no more than provide such markets with the number of true independent signals contemplated by our rules and should impose no more of a burden on local stations than that placed on other stations licensed to analogous television markets.[21] The effect that importation of another distant independent station may have on a local specialty station may admittedly be different, but this possibility does not persuade us to tailor our specialty station rule. Where the local specialty station is licensed to a major market, cable systems will presumably be carrying a significant amount of distant independent programming. Thus, the problem presented is not a sudden influx of independent programming but rather an increase in it. For this reason, the effect on the local specialty station is problematical, and we find it sufficient to consider whatever controversies may arise in the context of a petition for special relief. Where, on the other hand, the local specialty station is licensed to a smaller television market, the rule adopted today will result in carriage of a traditional independent station not previously allowed by the operation of Section 76.59(b) of the Rules.[22] Where a local specialty station has been carried as the sole permissible independent station, however, the diversity provided by its special-format programming is neutralized by the resulting absence of independent programming of general interest to most subscribers. Thus, in such instances the presence of the specialty station may be viewed as limiting rather than furthering program diversity because cable subscribers in the market cannot receive the one station of general-interest, non-network programming intended when the signal carriage rules were adopted. For this reason, we find the public interest particularly served by the carriage of a typical independent signal in such cases and, as in the instances enumerated above, we will treat the unusual situations wherein a waiver may be justified in the context of a petition for special relief.

38. *Carriage of Specialty Stations: Manner of Carriage.* It is our intention that systems taking advantage of the rule amendment adopted today to carry distant specialty stations will carry the full program schedule of the station without material deletion except insofar as required by our syndicated exclusivity rules. We will not countenance a system's obtaining certification to carry a distant specialty station only to delete the specialty programming therefrom. We trust, however, that this will not occur. Similarly, we do not anticipate that our syndicated exclusivity rules would accomplish virtually the same effect by requiring the deletion of so substantial an amount of special-format programming that the distant station can no longer be considered a specialty station. Again, in the unlikely event this should happen, we will take whatever action is necessary to assure that our specialty station rule is not used simply as a guise for carriage of independent programming.

39. Having settled upon a satisfactory definition of specialty stations and having determined that their entire program

[21] Local television licensees naturally remain free to rebut this presumption in an appropriate request for waiver of our rules.

[22] Section 76.59(b) permits carriage of one independent station, and unlike Sections 76.61(b) and derivative 76.63(a), no bonus independent signals may be carried. Thus, consistent with Section 76.59(b) the local specialty station would have been required to be carried as the sole permissible "independent" station.

schedule is properly carried we must next decide whether it would be in the public interest to permit cable systems to selectively carry individual specialty programs as well. We believe it would be. Our reasons for so deciding are several. First and foremost, it may be impossible for some smaller systems to afford the microwave costs necessary to bring in even one specialty station. By permitting "selective carriage" of specialty programming from nearer stations we will enable such systems to provide their subscribers with a modicum of specialty programming that would otherwise not be available to them. Nor do we find it necessary to limit cherry-picking privileges to only those systems that will not carry a full-time specialty station. The circumscribed popularity of such stations and the effort entailed in switching make it unlikely that many systems would trouble to cherry-pick additional specialty programming where a full-time specialty station is available locally or is being imported. Should a system nevertheless wish to do so, however, we will not limit the programming diversity sought to be attained by conditioning or prescribing such additional cherry-picking, especially because it is improbable that local stations would suffer any significant adverse effect from the cherry-picking of specialty programs alone. Again, we shall reserve the unusual circumstance for special relief. Finally, we cannot agree with NAB that any perceptible purpose is served by requiring that systems select specialty programs only from specialty stations; indeed, systems that cannot carry a full specialty station could not carry any specialty programming at all were such an approach to be implemented. This would effectively frustrate the added programming diversity that is sought to be achieved by our action today. Accordingly, we shall impose no restriction on this type but will permit cherry-picking of specialty programs from specialty and non-specialty stations alike.

40. *Certification for Carriage of Specialty Stations.* Those systems applying for certificates of compliance should specifically list the specialty stations to be carried, or the stations from which specialty programming will be selected, in enumerating the signals to be carried in accordance with Section 76.13(a)(1) and (a)(5) of the Rules. Although it has been suggested that those systems wishing merely to add a specialty station to a previously-certified level of service be permitted to utilize the expedited procedures of Section 76.11(a) of our Rules, we are not persuaded to implement this abbreviated procedure to addition of specialty stations at this time. The addition of those signals to which Section 76.11(a) applies is not normally a point of contention. However, the likelihood is that, upon the inception of our new rule, several disputes may arise with respect to precisely which stations are and are not eligible for carriage as specialty stations. Until these questions become somewhat settled, the utility of implementing an expedited application procedure is questionable. Accordingly, systems wishing to add distant specialty stations to existing operations shall comply with the application requirements of Section 76.13(b)(1) and (b)(5) of the rules.

41. There remains the problem of how best to handle the situation wherein a specialty station changes its format after having been carried for a significant amount of time. Our aim is to assure that only those stations that are, and intend to remain, predominantly specialty-oriented, are carried pursuant to this new rule. Accordingly, we agree that any specialty station that undergoes a format change will lose its specialty station status. Of course, we are not unaware that a situation may arise wherein a specialty station deletes an amount of specialty programming which, although relatively insignificant, is sufficient to drop the percentage of specialty programming broadcast below the requisite. Under such circumstances we will entertain a petition for special relief to continue the station's carriage. In deciding whether to grant a waiver of our rules, we shall look to see the amount of specialty programming deleted, the percentage by which the station now fails to qualify, how long the station has been a specialty station and whether the deletion promises to be temporary or continued, other equivalent sources of specialty programming available for carriage and so forth.

New rules. 42. The rule changes adopted herein can be summarized follows:

Section 76.5(ii) will be added to the Rules, defining as a specialty station any commercial television broadcast station which broadcasts foreign-language, religious, and/or automated programming during at least one-third of the average broadcast week and one-third total weekly prime-time hours.

Specialty stations will no longer be considered as independent stations. Therefore, for the purposes of distant-signal carriage, specialty stations will not be counted against the quota of independent signals that a system may carry, although as local stations they will retain their "must carry" prerogatives. There will be no limit on the number of specialty stations a system may carry.

Carriage of special-format programming from any station is permissible. No limit will be imposed on the amount of such specialty programming a system may carry.

43. We are confident that these new rules will further the realization of cable's unique potential to provide programming diversity and, at the same time, will not adversely affect standard television service. As with any new rule, we shall watch further developments to ascertain whether adjustments or additions to its terms may be needed. And as earlier noted, this docket shall be left open for potential future determination concerning ethnic and subscription television programming. The rule changes adopted today shall be effective on the date shown below.

44. Authority for the rules adopted is contained in sections 2, 3, 4(i) and (j), 301, 303, 307, 308, 309, 315, and 317 of the Communications Act of 1934, as amended.

Accordingly, *It is ordered*. That Part 76 of the Commission's Rules and Regulations, is amended, effective April 19, 1976, as set forth below:

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089, 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 315, 317.)

Adopted: February 26, 1976.

Released: March 10, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. A new § 76.5(kk) is added to read as follows:

§ 76.5 Definitions.

* * * * *

(kk) Specialty station. A commercial television broadcast station that generally carries foreign-language, religious, and/or automated programming in one-third of the hours of an average broadcast week and one-third of weekly prime-time hours.

2. Section 76.59(d)(1) is amended to read as follows:

§ 76.59 Provisions for smaller television markets.

* * * * *

(d) In addition to the television broadcast signals carried pursuant to paragraphs (a) through (c) of this section, any such cable television system may carry:

(1) Any specialty station and any station while it is broadcasting a foreign language, religious or automated program.

* * * * *

3. Section 76.61(e)(1) is amended to read as follows:

§ 76.61 Provisions for first 50 major television markets.

* * * * *

(e) In addition to the television broadcast signals carried pursuant to paragraphs (a) through (d) of this section, any such cable television system may carry:

(1) Any specialty station and any station while it is broadcasting a foreign language, religious or automated program.

* * * * *

[FR Doc.76-7263 Filed 3-12-76;8:45 am]

[Docket 20484; FCC 76-198]

PART 89—PUBLIC SAFETY RADIO SERVICES

Report and Order, Proceeding Terminated

In the matter of amendment of Part 89 of the Commission's rules concerning

[1] Dissenting statement of Commissioner Lee filed as part of original.

certain UHF band frequencies in the police radio service and the special emergency radio service.

1. On May 20, 1975, the Commission released a Notice of Inquiry and a Notice of Proposed Rule Making in the above entitled matter proposing amendment of its Police Radio Service Rules to delete the restriction limiting non-voice and digital uses of the police frequencies pairs 462.950/467.950 MHz and 462.975/467.975 MHz to eligibles located in the Nation's 30 largest cities. At the same time, the Commission inquired as to the merits of a proposal for exchanging these two Police pairs with two Special Emergency dispatching frequency pairs [1] in order to permit a continuum of emergency medical frequencies between 462/468 MHz in the Special Emergency Radio Service.[2] Comments on these proposals were solicited, and twenty-seven parties [3] filed comments, and two [4] submitted reply comments, within the prescribed period.

2. Generally, those who commented on the removal of the use restriction outside the Nation's thirty (30) largest cities supported this rule change. The City of San Francisco, however, objected to the removal of the limitation because San Francisco's own police non-voice requirements had practically saturated these channels and the city anticipated that these two pairs of police frequencies would be completely loaded by its own requirements.

3. One solution offered by San Francisco and the Northern California Chapter of the Associated Public-Safety Communications Officers, Inc., was that the Commission should consider the allocation of additional digital channels in the shared TV Channel 16 and 17 range. This is necessary, according to the latter.

If the proposal to expand the use of digital non-voice to beyond the 30 largest cities is to be viable and were to be accepted.

4. Since re-allocation of digital channels in the shared TV Channel 16 and 17 range is beyond the scope of this rule-making proceeding, we will not consider it further herein. However, the very sparse use being made by the police licensees in the nation's thirty largest cities of already available channels would seem to raise a question as to any national need for more than two pairs of exclusive non-voice channels at this time.

5. The Tennessee Chapter of the Associated Public Safety Communications Officers, Inc., although supporting the removal of the limitation, asked that a zone with a radius of 100 miles be established around areas having digital requirements for these frequencies and that beyond these areas these channels be made available for voice communications.

6. The Commission has considered all of these comments in the light of our original intent when we provided these exclusive frequencies, which was to satisfy a requirement among the Nation's police departments for dedicated channels for police non-voice operations in areas where they were needed. In view of our subsequent experience, it appears that while many licensees can use regularly assignable voice channels on a secondary basis to meet their non-voice needs, significant requirements exist for these channels to accommodate mobile computer terminals and other digital uses which cannot be met on a secondary basis or which would be incompatible with voice operations. Such needs could not be met, if we were to establish zones as suggested by Tennessee APCO. As to San Francisco's concern with respect to co-channel interference problems, we note that in addition to the geographic separation between most communities, the nature of non-voice transmissions and the number of technical and operational measures which can be employed should minimize difficulties in this regard.

7. For these reasons, we have determined to finalize our proposal which deletes the restriction on the use of the subject frequencies.

8. Our inquiry as to the proposal to exchange the two pairs of Police frequencies and the two Special Emergency dispatch frequencies elicited generally favorable reactions. The improved utilization of the spectrum, as well as the economic benefits to be derived from only having to purchase a single piece of equipment were pointed out by almost all who commented on the exchange.

9. The Massachusetts Office of Emergency Medical Services' reaction however was generally unfavorable to the exchange and gave as its reasons both the economic hardship it would entail and the necessary sacrifice of the capability for simultaneous dispatch and telemetry transmissions from an emergency vehicle.

10. As a result of questions raised in the comments of the Department of Health, Education, and Welfare and Motorola, the Commission's staff additionally studied the questions of intermodulation interference, receiver desensitization, and transmitter noise interference.[5] The results of our analysis indicated:

(1) Simultaneous operation on the 460/465 MHz medical dispatch frequencies and the 463/468 MHz medical telemetry channels creates more interference producing third and fifth order intermodulation products (IM) than does the same simultaneous operation on the 462/467 MHz channels and the 463/468 MHz channels.

(2) The severity of the IM product interference is greater when the 460/465 MHz frequencies are used than when the proposed 462/467 MHz frequencies are used.

(3) Use of the 462/467 MHz channels for medical dispatch will reduce transmitter noise interference and receiver desensitization significantly below levels that presently exist for co-located transmitters and receivers.

11. Our study further indicated that simultaneous operation on the 467 MHz channel and the 468 MHz channels can create significant IM interference to other 468 MHz channels when used by mobile units for mobile-to-mobile simplex operations. However, the likelihood of such interference causing significant problems appears small because the predominant mode of operation for such systems is not simplex. Furthermore, this type of interference can be remedied through proper frequency management and through the use of protective devices.

12. After a thorough consideration of all of the aspects of this proposal, the Commission has determined that the public interest will best be served by exchanging these four pairs of Police and Special Emergency channels. This should eliminate many of the interference problems under which existing systems operate. Medical users presently on 460/465 MHz pairs whether the licenses are held in the Special Emergency, Local Government or Fire Radio Services and all police licensees presently on 460/467 MHz will consequently be required to move.

13. In reaching this decision, the Commission is not unmindful, as so many of those who commented noted, that requiring licensees to re-crystal for use of the exchanged frequencies will require significant financial outlay. We are therefore ameliorating the economic effects of this action by permitting all Police and Special Emergency licensees on existing

[1] 460.425/465.525 MHz and 460.550, 465.550 MHz.

[2] At the present the two pairs of Police non-voice frequencies fall between the 460/465 MHz Special Emergency dispatch frequencies and the 463/468 MHz Special Emergency medical frequencies.

[3] Department of Electricity, San Francisco, California; American Hospital Association; Tennessee Department of Public Health; Dr. Fred S. Vogt; Mr. Norman R. Coltri; New River Valley Emergency Medical Services Advisory Committee and Western Virginia Emergency Medical Services Council; EMS Communications Interagency Work Group; State of North Carolina; Northern California Chapter of the Associated Public-Safety Communications Officers, Inc.; Tennessee Chapter of Associated Public Safety Communications Officers, Inc., Department of Health, Education and Welfare; State of Delaware; New Jersey Hospital Association; Nevada State Communications Board; Associated Public Safety Communications Officers, Inc.; Massachusetts Office of Emergency Medical Service; Motorola; City of Jersey City, New Jersey; State of Florida; New York City Health and Hospitals Corp.; Arizona Department of Public Safety; Michigan Department of Public Health; State of Illinois; Houston Fire Department; New York State Commission on Cable Television; Hennepin County, Minnesota (2 different organizations). Comments received too late for formal consideration were also submitted by the Office of the Sheriff of Jacksonville, Florida; the Emergency Medical Services Technical Assistance Program; and the Waterbury Hospital Health Center.

[4] Dr. Fred B. Vogt, State of Florida.

[5] Our analysis determined all intermodulation products for two signal frequency mixing of the proposed 462/467 MHz, and the 460/465 MHz medical dispatch channels, with the MED 8 telemetry channels (463/468 MHz). However, it should be pointed out that not all potential interference problems would be eliminated, but those problems will have to be resolved in each case through appropriate means, such as protective devices.

frequency assignments to be grandfathered on their respective frequencies until March 1, 1986. During this grandfathering period applications by Special Emergency eligibles for the 462/467 MHz pairs or by Police eligibles for the 460/465 MHz pairs will be accepted for processing only on a secondary non-interference basis in areas which have grandfathered licensees. The Commission will however consider applications from new Special Emergency licensees who will participate in already established EMS systems which are being grandfathered. This action should work no hardship in those few localities with overlapping grandfathered licensees, and with would-be applicants, because Special Emergency licensees can use the 463/468 MHz pairs for dispatching, while Police licensees may use voice channels for non-voice uses on a secondary basis. Grandfathered licenses will be permitted to expand their systems during the grandfathering period, but the Commission will grant no renewals beyond the one time herein adopted.

14. Those Fire Radio Service licensees who were previously authorized to continue to operate on the 460/465 MHz channel pairs after they were re-allocated for Special Emergency Radio Services medical systems will also be grandfathered on these frequencies for the balance of their present term, plus one renewal. In locations in which there are Fire Radio Service licensees on the 460/465 MHz pairs, we will accept applications for Police non-voice uses of these frequencies, during the grandfathering period, only on a secondary, non-interfering basis.

15. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules to provide for the exchange of these pairs of Police and Special Emergency frequencies and by removing the 30 largest city limitation from the use of those channel pairs allocated for non-voice police uses.

16. Accordingly, it is ordered pursuant to the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended that Part 89 of the Commission's Rules is amended effective April 16, 1976, as set forth below.

17. It is furthered ordered. That the proceeding in Docket 20484 is hereby terminated.

Adopted: March 3, 1976.

Released: March 12, 1976.

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

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

1. In § 89.309(g) table the frequencies 460.525–550, 462.950–975, 465.525–550, (5) amended, and (21), (22) & (23) and 467.950–976 are amended, par (h)

§ 89.309 Frequencies available to the Police Radio Service.

* * * * *

(g) * * *

Frequency or band	Class of station(s)	Limitation
*	* * *	*
460.500	Base and mobile	1, 2
460.525	do	5, 20, 22
460.550	do	5, 20, 22
*	* * *	*
462.950	do	5, 21
462.975	do	5, 21
*	* * *	*
465.500	Mobile only	1, 2, 4
465.525	do	2, 5, 20, 22
465.550	do	2, 5, 20, 22
*	* * *	*
467.950	do	2, 5, 21
467.975	do	2, 5, 21
*	* * *	*

(h) * * *

(5) This frequency is available for assignment without regard to the coordination requirements of § 89.15(b) for the development and operation of non-voice systems. F2, F4, or F9 emission will be authorized for use of this frequency, except that telemetry, telecommand, or automatic vehicle location systems may not be operated. F3 emission may also be authorized when required to supplement non-voice operation. Transmitters type-accepted under this part for use of F3 emission may also be used for non-voice operation on this frequency, provided that the audio keying signal is passed through the low pass audio frequency filter required in the transmitter for F3 emission, and provided further that the transmitter is so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission. Operation on this frequency is exempted from the station identification requirements of § 89.153.

* * * * *

(21) This frequency is shared until March 1, 1986, with Fire Radio Service licensees authorized for its use prior to July 16, 1974, and operations in the Police Radio Services are on a secondary basis to such Fire Radio Service use.

(22) This frequency is available in this service only for systems licensed in this service prior to April 16, 1976 until March 1, 1986. Use of this frequency is shared with, and is on a primary basis to, operations by licensees in the Special Emergency Radio Service.

(23) Until March 1, 1986 use of this frequency is on a secondary basis to Special Emergency Service licensees authorized prior to April 16, 1976.

2. In § 89.359(f) table the frequencies 460.525–550 & 465.525–550 are amended, and new subparagraph (g)(10) added to read as follows:

§ 89.359 Frequencies available to the Fire Radio Service.

* * * * *

(f) * * *

Frequency or band	Class of station(s)	Limitations
*	* * *	*
460.525	Base and mobile	10
460.550	do	10
460.575	do	1, 2
*	* * *	*
465.525	Mobile only	10
465.550	do	10
465.575	do	1, 2, 4
*	* * *	*

(g) * * *

(10) This frequency is available to Fire Radio Service licensees authorized prior to July 16, 1974, until March 1, 1986, on a shared basis with, and primary to, operations in the Police Radio Service.

3. In § 89.525(e) table the frequencies 460.525–550 are amended, 462.950–975 added, 465.525–550 amended, 467.950–975 added, and subparagraphs (f)(23) & (24) added to read as follows:

§ 89.525 Frequencies available to the Special Emergency Radio Service.

* * * * *

(e) * * *

Frequency or band	Class of station(s)	Limitations
*	* * *	*
458.175	Mobile only	1, 11, 20
460.525	Base and mobile	1, 8, 23
460.550	do	1, 8, 23
462.950	do	1, 8, 24
462.975	do	1, 8, 24
*	* * *	*
463.175	Base and mobile	1, 2, 19, 20
465.525	Mobile only	1, 8, 22, 23
465.550	do	1, 8, 22, 23
467.950	do	1, 8, 22, 24
467.975	do	1, 8, 22, 24
*	* * *	*

(f) * * *

(23) This frequency is available in this service only for systems licensed in this service prior to April 16, 1976 until March 1, 1986. Use of this frequency is shared with, and is primary to, operations in the Police Radio Service.

(24) Until March 1, 1986 use of this frequency is on a secondary basis to Police Radio Service licensees authorized prior to April 16, 1976.

[FR Doc.76-7264 Filed 3-12-76;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR-3; Notice 3]

PART 218—RAILROAD OPERATING RULES

On July 21, 1975, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (40 FR 30495) stating that the Federal Railroad Administration (FRA) was considering the issuance of a safety regulation which would require railroads to take certain protective measures to assure the safety

of railroad employees engaged in the inspection, testing, repair and servicing of locomotives and other rolling equipment. The NPRM proposed to require each railroad to display a blue signal on rolling equipment or at the end of a track to indicate that workmen were working on, under or about rolling equipment under conditions which subject them to the possibility of personal injury should such equipment be moved. The NPRM further proposed to prohibit the movement of or coupling to such equipment, and the placement of other equipment on the same track so as to obstruct the view of the blue signal.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments before September 5, 1975, and by appearing at a public hearing on September 5, 1975 in Washington, D.C. In addition, the Railroad Operating Rules Advisory Committee reviewed the docket in this proceeding and made some additional comments for consideration by the FRA in developing the final regulation. This Committee is composed of twelve nongovernmental members representing rail labor, rail management and State regulatory agencies. These comments were made during discussions at a public meeting of the Committee in Atlanta, Georgia on November 11, 1975. The interest and comments expressed by all participants in this rulemaking proceeding are appreciated by the FRA.

After considering all the comments, the FRA has decided to adopt the proposed regulation with a number of editorial and organizational changes, as well as minor clarifications.

The FRA is presently devoting a significant portion of its efforts in the area of railroad safety regulation to the study and evaluation of existing railroad operating practices. This study and evaluation has led to the publication in the FEDERAL REGISTER of several notices proposing the revision and standardization of individual operating rules and their issuance as minimum Federal standards. It is expected that many of these proposals will result in the issuance of minimum operating rules.

To date, the FRA has issued a regulation requiring each railroad to file with the FRA its code of operating rules, timetables and timetable special instructions (49 CFR Part 217, 39 FR 41175). This part also required each railroad to conduct periodic operational tests and inspections to determine the extent of compliance with its operating rules, and periodically to instruct its employees on the meaning and application of its operating rules to ensure that each employee understands the rules. These filing, testing and instructional requirements apply to operating rules presently issued by each railroad. They will apply equally to each rule issued by the FRA as a Federal minimum operating rule.

In order to simplify reference to, and location of, individual Federally-prescribed minimum operating rules the FRA has decided to consolidate all individual operating rules in a single part of Title 49 of the Code of Federal Regulations. This part will be located in close proximity to the operating rules filing, testing and instruction requirements of Part 217. To accommodate this organizational arrangement, Part 217 will be amended in a separate notice so that its title reads "Railroad Operating Rules; Filing, Testing, and Instruction". A new Part 218 will be created for this and subsequent individual operating rules. This part will be titled "Railroad Operating Rules".

The part and section number designations used in the NPRM in this docket have been changed in the final rule from Part 221 to Part 218. In order to clarify references to both the NPRM and this final rule in the discussion which follows, the final rule designation will be used with the corresponding NPRM reference appearing in parentheses.

SUBPART A—GENERAL

Section 218.1 Purpose. This section prescribes the purpose of the part as being the issuance of minimum requirements for railroad operating rules and practices. It also clearly indicates that these requirements are intended to establish a minimum standard for each of the operating rules issued under this part, and that railroads will be free to prescribe additional or more stringent requirements if they desire to do so. This purpose reflects the FRA's intent to consolidate all Federally-prescribed operating rules in a single part of the Code of Federal Regulations. Although this provision did not appear in the NPRM in this docket, it is merely an editorial change which imposes no additional burden. Therefore, it will not require prior notice and comment.

Section 218.3 Application. (221.3). FRA proposed to make these regulations applicable to railroads that are part of the general railroad system of transportation. Railroads that operate only inside an installation which is not part of the general railroad system of transportation and rapid transit railroads that operate only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area would not be subject to these regulations. This section has been adopted as proposed.

One commenter requested that the FRA reconsider its exclusion of rapid transit railroads from the requirements of this operating rule. In view of the many operational differences between urban rapid transit railroads and railroad operations in the general railroad system of transportation, the FRA decided, prior to issuance of the NPRM, that the application of identical operating rules in this instance would not be appropriate. The FRA continues to believe that operating rules for rapid transit railroads should be addressed separately. Also, since application of these blue signal rules to rapid transit would go beyond the scope of the notice in this proceeding, no change has been made in the exclusion of rapid transit railroads as was provided in the NPRM.

Section 218.5 Definitions. (221.5). This section defines several terms used in the rule. As a result of several comments, changes have been made in each definition included in this section.

The NPRM specifically excluded train crews from the scope of the definition of "workmen". One commenter suggested that the definition of "workmen" be modified so as to clearly exclude both train and yard crews. The intent of this rule is to provide protection for workmen engaged in inspection, testing, servicing and repair activities, rather than for operating department employees. To clarify this intent, §§ 218.5(a) (221.5(a)) has been modified to expressly exclude both train and yard crews.

Another commenter took exception to the requirement for blue signal protection during initial terminal brake tests. This commenter felt that the need for protection should be determined by the position of the workers in relation to the cars and not by the particular activity being performed. The FRA intends that blue signal protection will be provided to workmen engaged in the inspection, repair and servicing of rolling equipment undergoing initial terminal and other air brake tests. To amplify, during an initial air brake test, after the air brakes are applied on a standing train, the workmen will inspect the train to insure that all brakes have applied and perform other visual inspection of the brake equipment. It is true that this visual inspection will place the workman in a position along side the equipment, rather than under or between. However, this inspection can and does reveal defects in not only the air brake system, but also in other component parts. If repairs can be made, the workman will do so in many cases, and it is in so doing that his position in relation to the equipment subjects him to the potential for serious personal injury should the equipment on which he is working be moved. For this reason, the FRA intends that the blue signal protection should be provided for air brake testing.

The proposed rule would include "other track vehicles" in the definition of the term "rolling equipment" which is used throughout Part 218(221). Several commenters felt that this term was too broad and could be interpreted to include a wide variety of maintenance-of-way equipment the operation of which is governed by other operating rules. The FRA agrees that the wording "other track vehicles" creates a degree of ambiguity in the definition which could result in varying interpretations, and does not add materially to the scope of the rule's application. Therefore, the definition of "rolling equipment" in § 218.5(b) (221.5(b)) has been revised, eliminating the "other track vehicles" language. In addition, another commenter suggested the inclusion of the definition of a "train" (§ 221.5(c) of the NPRM) in a broader definition of "rolling equipment". This change has also been included in § 218.5(b), and the definition of "train" has been eliminated.

Section 218.5(c) (221.5(d)) defines a "blue signal". One commenter asked for a modification of the definition to provide the option of installing remotely controlled blue signals at locations such as in proximity to remotely-controlled switches. The FRA believes that a blue signal illuminated by electricity or other means, if placed in the appropriate location, and if as conspicuous as a blue flag, would provide the intended degree of safety. Therefore, the definition has been modified to permit the use of a "blue flag or blue light by day".

Another commenter expressed concern over the condition of the flagging equipment used to provide the blue signal protection. The commenter cited the frequent use of worn and dirty flags which are difficult to distinguish as "blue" flags. The FRA agrees that flags used in compliance with this part must be of a condition which can readily communicate their intended message to railroad personnel working around rolling equipment. To do this they must be clearly distinguishable as *blue* signals. The definition has been so modified.

Comments with respect to the blue signal were also submitted by the U.S. Department of Commerce, National Bureau of Standards. These comments noted a conflict between the NPRM's proposed use of the color blue and the use prescribed by the "American National Standards Safety Color Code for Making Physical Hazards". The ANS Safety Color Code assigns blue to the function of indicating non-safety-related information. The presently proposed use of the color blue originated with the adoption of Rule 26 by the Association of American Railroads on April 14, 1887. Thus, the color blue to indicate dangerous conditions for workmen has been an ingrained signal to railroad employees for about 88 years. The railroad environment represents a closed system on which only railroad employees operate rolling equipment. The FRA believes that the discontinuance of the use of blue, or its use in conjunction with red as the commenter suggested, would serve only to create confusion, and would reduce rather than enhance the safety of railroad operations. For this reason the FRA has decided to retain the traditional blue color to indicate the presence of workmen in the vicinity of rolling equipment.

Section 218.9 Civil penalty (221.9). This section proposed a civil penalty of not less than $250 nor more than $2500 for each violation of the rule. One commenter expressed the fear that a disgruntled employee could in effect "set up the company" for a fine related to violations of the rule. The FRA believes that compliance with the regulation will require constant surveillance and monitoring by railroad supervisory personnel as well as periodic monitoring by FRA field inspection forces. The civil penalty provision as it was proposed reflects the statutory penalty provisions established by the Federal Railroad Safety Act of 1970, 45 U.S.C. 438, under which these rules are being issued. The FRA does not possess the authority to alter such statutory penalty provisions. This section remains the same as proposed.

Section 218.11 Filing, testing and instruction. This section was not included in the NPRM, but is being added to the final rule to clarify the relationship between a Federal-prescribed operating rule and an existing FRA regulation, Part 217 of Title 49 of the Code of Federal Regulations, which requires each railroad to file with the FRA a copy of its operating rules and practices, and a description of its testing and instructional program. Under this part, each railroad will be required not only to adopt a rule which at least meets the prescribed minimum standards, but also must define a program of operational testing to assure compliance and must develop an instructional program to assure employee understanding of each operating rule.

SUBPART B—BLUE SIGNAL PROTECTION OF WORKMEN

Section 218.21 Scope. (221.1). This section appeared as the "scope of part" section of the NPRM. Due to the reorganization of the part to accommodate operating rules in general, this section has been moved to Subpart B which prescribes the minimum standards of blue signal protection for railroad workmen engaged in the inspection, testing, repair and servicing of rolling equipment.

One commenter submitted a copy of their presently existing safety rules for the protection of employees engaged in the activities identified by § 218.21 (221.1), and expressed the opinion that its present rules are in some respects more stringent than the proposed rule. The issuance of this proposed rule as a Federal regulation will not prevent the continuation of any protective practices which are more stringent than Part 218. This is intended, rather, to establish a minimum standard of blue signal protection which all carriers will be required to meet. Any carrier which desires to provide a greater measure of protection for employees engaged in inspection, testing, repair and servicing of rolling equipment will be free to do so.

This same commenter also requested that certain activities be excluded from the requirement for blue signal protection. These included such activities as cleaning car exteriors, making visual inspections, operating retaining valve handles with extension poles, pulling rods to drain air lines, using coupling irons to couple air hoses, and watering and icing passenger cars. The FRA believes that these types of activities do place the railroad employee in a situation in which he is exposed to the danger of personal injury due to movement of the equipment upon which he is working. For example, cleaning cars often involves the use of ladders or platforms which place the employee on cars; the workman making visual inspections is often expected to perform minor repairs if possible; retaining valves are often difficult to operate with extension tools leading to use of other tools which require the workmen to come in contact with rolling equipment; coupling irons are likewise sometimes difficult to use causing the workman to position himself between equipment; and watering and icing cars presents the hazard of using ladders to water overhead tanks and load ice bunkers, and of passing water hoses under or between cars. The FRA believes that all of these activities present the potential of placing the employee in close proximity or contact with rolling equipment creating the danger of serious personal injury in the case of the unexpected movement of the equipment. Section 218.21 (221.1) has been revised slightly by the addition of language to more clearly define the hazard to which this subpart is addressed.

Section 218.23 Blue Signal Display (221.21). This section proposed that blue signals be placed at one or both ends of rolling equipment or track where workmen are on, under or about equipment, and that such equipment may not be coupled to or moved, nor may other rolling equipment be placed on the track. In addition, only the craft which placed the signals could remove them.

One commenter stated that § 218.23 (221.21) was not sufficiently broad to include automatic arrangements of blue flags and/or derail devices employed at passenger terminals, for camp cars, and certain mechanized car repair facilities. The proposed rule is specifically directed to blue signal protection, regardless of the means by which it is provided. This commenter specifically cited that practice at certain passenger terminals of providing permanent wayside blue flag lights along the station platforms for equipment being inspected. The commenter felt that it ought to be permissible for equipment to enter a protected track so long as equipments are not coupled. This commenter alleged that the prohibition of this practice would result in major delays and inhibit maximum utilization of station track capacity. The FRA believes that a blanket exclusion for such operations as described by this commenter would seriously dilute the rule and would not contribute to safety. Therefore, no change has been made in response to these comments. If certain railroads conduct terminal operations which can demonstrate an equal degree of safety as is sought by these rules without complying with the prescribed restrictions, they may petition the FRA for a waiver and an individual exclusion may be granted or denied on the merits of each case.

Another commenter stated that flags and lights are often placed where they are not readily visible to working crews. The proposed regulation requires blue signals to be displayed at one or both ends of rolling equipment, one or both ends of a track, in a readily visible location on a locomotive cab, and at each manually-operated switch providing access to a track occupied by workmen in a hump-yard. The FRA believes that compliance with the various require-

ments of this regulation will result in a conspicuous display of blue signals whenever their use is required.

Another commenter stated that the provisions of this section would be unworkable in a derailment situation. The use of blue signal protection for post-derailment operations was not contemplated in the proposed rule. The rule is intended to apply to inspection, testing, servicing and repair activities only. The track or tracks involved in post-derailment operations are frequently protected by train orders or other forms of instructions. The proposed blue signal regulation is not designed or intended to provide a catch-all protection of all railroad employees.

Another commenter sought to exclude from the blue signal requirement the temporary placement of rolling equipment between a blue signal and entrance switch if the workmen are notified of the placement. The FRA foresees the creation of conditions hazardous to workman if there is a communication failure between train or yard crews and the workmen. Such an exclusion has been rejected because it would dilute the level of safety contemplated by the rule as proposed.

Another commenter requested the exclusion from blue signal requirements where occupied camp cars are located on industrial tracks, are protected by blue signals, and placement of industry cars would block the view of signals. This commenter uses blue signals for the protection of occupied camp cars as well as the common usage to protect workmen on, under or between rolling equipment. Except when camp cars are being inspected, tested, serviced or repaired, the FRA believes that the carrier should devise a means of protection other than the use of blue signals. Under no condition may equipment be placed on any track so as to block the view of a blue signal.

Several commenters questioned the meaning of the word "about" as used in "under, on or about the equipment". Many felt that it was too ambiguous and could be subject to different interpretations and applications by FRA inspections. The basic intent of the rule is to protect a workman in such close proximity to rolling equipment that movement of such equipment could result in contact between the workman and the equipment causing serious personal injury. This "danger zone" would include any situation in which a workman was on or under equipment, or between two pieces of equipment. To clarify this intent, the language of this section, and all other provisions containing parallel terms, has been revised to read "on, under or between". Finally, with reference to paragraph (c), a common practice within the railroad industry to indicate the presence of workmen is the use of a blue flag to which each craft working on the equipment attaches a separate disc identifying its craft. Provided that each craft attaches its disc to the blue flag, and that only the craft identified by the disc can remove it from the blue flag, this practice would meet the requirements of paragraph (c) with respect to placement and removal of blue signals.

Section 218.25 Workmen on other than a hump-yard track. (§ *221.23*). This section proposed the details of the placement of blue signals for the protection of workmen under, on or about rolling equipment on track other than hump-yard track. As proposed, it provided for the placement of signals at each end of the rolling equipment or at each entrance to the track. Where work is being performed on a locomotive or rolling equipment coupled to a locomotive the proposal would require the blue signal to be attached to the controlling locomotive at a location readily visible to the operator. Provision was also made for protection during the performance of emergency repair work. With the exception of the substitution of the word "between" for the word "about", this section has been adopted as proposed.

Another commenter cited post-derailment operations in connection with this section. As stated previously post-derailment operations are beyond the scope of this rulemaking proceeding and are not intended to be included in those situations requiring blue flag protection.

One commenter suggested that the rule be revised to allow work to be done on equipment without use of blue signals through taking the track out of service. It was suggested that this could be done by establishing direct communications between working crews and a single individual who has authority over all track entrances and exists. The FRA has rejected this suggestion because it does not believe that such a method of operation provides an equal degree of safety for the workman. The alternate method of operation would be subject to breakdowns in the communication link or to misunderstandings between the train yard supervisor and a working crew. The placement of blue signals does not cause any great loss of time and will afford positive protection to workmen.

Another commenter sought a revision which would allow the placement of the blue signal on the track ahead of the locomotive and in plain view rather than attached at a location on the controlling locomotive where the signal is readily visible to the operator of the locomotive. The FRA is concerned that the blue signal placed on the track can be unwittingly overlooked, particularly under adverse weather conditions. The proposed rule offers greater protection; it has been retained without change.

One commenter wanted to exclude blue signals "where a locomotive, or a consist of locomotives, is receiving sand, fuel, or other servicing attention or where locomotives are being coupled to form a power consist (with workers connecting the power cables between the consists) and where there is, in each instance, * * * clear understanding between the engineer and servicing employee." The cited work is often performed by several different crafts of employees who may or may not know of the whereabouts of other workers. Considering the high noise level associated with the cited work, there are possibilities of verbal misunderstandings which would create a hazardous environment for servicemen. The FRA believes that a blue signal displayed where it is readily visible to the operator of the locomotive is the preferred means of providing adequate protection.

Section 218.27 Workmen on hump-yard track. (§ *221.25*). This section proposed the details for the protection of workmen under, on or about rolling equipment on hump-yard track. As proposed, it provided that workmen could not work under, on or about rolling equipment on a hump-yard track unless each manually-operated switch providing access to that track was lined for movement to another track, a blue signal was placed at each such switch; and each remotely-controlled switch providing access to that track was lined for movement to another track and locked as provided in § 221.27 of the proposed rule. Except for the substitution of the word "between" for the word "about," and the express inclusion of "crossover switches" in § 218.27(a)(1) (§ 221.25(a)(1)), this section has been adopted as proposed.

One commenter expressed the opinion that the provisions of paragraphs (a)(1) and (2) of this section are redundant, and that either switches should be lined as provided, or blue signals should be displayed, but not both. The FRA believes that lining switches away from movement into the affected track provides safety and the placement of the blue signal at the switch enhances safety. The FRA is particularly concerned with the danger of a manually-operated switch being inadvertently relined for movement into a track occupied by workmen. The required placement of the blue signal at the switch should effectively prevent this from happening. Both requirements are significant elements of the protection intended by this rule, and both shall be required for each manually-operated switch affected.

Another commenter proposed the addition of a new paragraph providing that the "use of air hose coupling irons by workmen, not involving their being between or under cars in any way, will waive the requirement of (a) above". For reasons cited above under § 218.21, the FRA believes that the use of coupling irons would expose workmen to the type of hazards to which this rule is addressed. For this reason this proposed new provision has been rejected by the FRA.

Another commenter stated that the requirement of the placement of a blue signal at or near each manually-operated switch would also "affect their operation of a trimmer engine as they now place a blue flag at or near the end of the cut of cars". The purpose of this rule is to prevent operating movements on tracks occupied by workmen. While a cautious movement into such a track

might be thought to be safe, the FRA foresees such hazards as an unexpected separation of rolling equipment, brake failures, or misunderstood hand or radio signals which would result in uncontrolled movement into rolling equipment being inspected, tested, repaired or serviced by workmen. The FRA believes this danger potential justifies the proposed level of protection.

Another commenter inquired whether (a)(1) of this section is intended to include crossover switches. Again the intent of this rule is to protect against movement at all switches, either at the end of the track or crossover switches leading into the track. To leave a crossover switch unprotected would invite movement onto the track and would nullify the protection afforded at the ends of the track. As stated above, crossover switches have been expressly included in the scope of the rule.

Another commenter felt that remotely-controlled switches should be designed to accommodate manual locking in the yard by employees. While this suggestion could add a measure of safety in the handling of remotely-controlled switches, the FRA believes that compliance with the requirements of § 218.27 (c) and 218.29 will provide effective protection for railroad workmen. If a railroad elects to require manually-applied switch locks in addition to the required protection prescribed by this rule, it may do so.

Section 218.29 Remotely-controlled switches (§ 221.27). This section proposed measures to insure that remotely-controlled switches would be lined and secured so as to provide the workmen on a particular track the intended level of protection against movement of equipment onto that track. The provision also would require the maintenance for 30 days of a record of each instance in which an operator of remotely-controlled switches was requested to provide the prescribed blue signal protection for tracks under his control. The provisions of this section have been adopted as proposed.

One commenter stated that this provision obviously is intended to apply to remotely-controlled switches in yards and terminal areas, where the turnouts are usually visible from the controlling tower. Where a carrier has installed remotely-controlled switches in other areas, this commenter believes the requirements of this section are less practical. This possibility led this commenter to the conclusion that alternate methods of protection, such as mechanically locking the switch at the field location, should be provided. Such an alternate, it was felt, would be more practical than requiring a communications link between a geographically remote switch location and the "control operator". This commenter is correct in assuming that this rule is designed primarily to apply in yard and terminal areas. This is where the greatest exposure to the dangers posed by movement of rolling equipment exist, and where the greatest number of accidents and personal injuries of this type occur. If a railroad with remotely-controlled switches at distant locations desires such relief from the requirements of this section, it may petition the FRA for a waiver. The FRA believes that such operations should be addressed on a case-by-case basis in which adequate alternate means of providing the intended protection for workmen can be ensured.

Another commenter concluded that this section does not require the use of a switch lock. This commenter is correct. Although an electric lock or a manual switch lock may be utilized as an additional precaution, the FRA believes that the common methods of electric lining and locking remotely-controlled switches will provide the protection intended by this rule.

Several commenters objected to the recordkeeping requirements of § 218.29 (c) (§ 211.27(c)). They believe this provision to be burdensome and not related to the improvement of railroad safety. The written record requirement is designed to complement the requirements for the handling of remotely-controlled switches. The FRA agrees with the concept that the production of a written record enhances attention to safety requirements. A common example of the railroad industry's acceptance of this principle is the wide-spread use of train dispatcher's train order books and train sheets which are used to avoid any mental lapse by personnel handling several operations simultaneously. Such a record will also serve as a valuable tool for use by a railroad's supervisory personnel, as well as by FRA inspectors, in assuring that the requirements of this Federal regulation are being met as a daily practice and not merely because of the periodic presence of supervisors or government inspectors.

The provisions of Part 218 will become effective on June 1, 1976. This will provide railroads with sufficient time to revise present rules or issue new rules in keeping with this part, as well as to develop a program of instruction for employees to ensure their understanding, and a program of operational testing to ensure their compliance with the minimum standard requirements of Part 218. Earlier compliance with the provisions of this part is also authorized.

In light of the foregoing discussion, Chapter II of Title 49 of the Code of Federal Regulations is amended by adding a new Part 218 as follows:

Subpart A—General

Sec.
218.1 Purpose.
218.3 Application.
218.5 Definitions.
218.7 Waivers.
218.9 Civil penalty.
218.11 Filing, testing and instruction.

Subpart B—Blue Signal Protection of Workmen

218.21 Scope.
218.23 Blue signal display.
218.25 Workmen on track other than a hump-yard track.
218.27 Workmen on hump-yard track.
218.29 Remotely-controlled switches.

AUTHORITY: Secs. 202 and 209, 84 Stat. 971 and 975 (45 U.S.C. 431 and 438), and § 1.49 (n), regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Subpart A—General

§ 218.1 Purpose.

This part prescribes minimum requirements for railroad operating rules and practices. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other special instructions.

§ 218.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation, or

(2) A rapid transit railroad that operates only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

§ 218.5 Definitions.

As used in this part—

(a) "Workmen" means railroad employees assigned to inspect, test, repair or service railroad rolling equipment, or their components including train brake systems. It does not include train or yard crews.

(b) "Rolling Equipment" includes locomotives, railroad cars, and one or more locomotives coupled to one or more cars.

(c) "Blue signal" means a clearly distinguishable blue flag or blue light by day and a blue light at night.

§ 218.7 Waivers.

(a) A railroad may petition the Federal Railroad Administrator for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, is published in the FEDERAL REGISTER.

§ 218.9 Civil penalty.

Each railroad to which this part applies that violates any requirement prescribed by this part is liable to a civil penalty of at least $250 but not more than $2,500 for each violation. Each day of each violation constitutes a separate offense.

§ 218.11 Filing, testing and instruction.

The operating rules prescribed in this part, and any additional or more strin-

gent requirements issued by a railroad in relation to the operating rules prescribed in this part, shall be subject to the provisions of Part 217 of this chapter, Railroad Operating Rules; Filing, Testing and Instruction.

Subpart B—Blue Signal Protection of Workmen

§ 218.21 Scope.

This subpart prescribes minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair and servicing of rolling equipment whose activities require them to work on, under or between such equipment subjecting them to the danger of personal injury posed by any movement of such equipment.

§ 218.23 Blue signal display.

(a) A blue signal displayed at one or both ends of rolling equipment signifies that workmen are on, under or between the equipment and that it may not be coupled to nor moved. Other rolling equipment may not be placed on the same track so as to block or reduce the view of the blue signals.

(b) A blue signal displayed at one or both ends of a track signifies that workmen are working on, under or between rolling equipment on the track and that other rolling equipment may not enter the track.

(c) Blue signals must be displayed by each craft or group of workmen and may only be removed by the same craft or group that placed them.

§ 218.25 Workmen on a track other than a hump-yard track.

(a) When workmen are on, under or between rolling equipment on a track other than a hump-yard track, a blue signal must be displayed at each end of the rolling equipment to which a coupling can be made, or at each entrance to the track.

(b) When workmen are working on, under or between a locomotive or rolling equipment coupled to a locomotive, a blue signal must be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

(c) When emergency repair work is to be done on, under or between a locomotive or one or more cars coupled to a locomotive, and a blue signal is not available, the engineman or operator must be notified and appropriate measures must be taken to protect the railroad employees making the repairs.

§ 218.27 Workmen on hump-yard track.

(a) Workmen may not work on, under or between rolling equipment on a hump-yard track unless—

(1) Each manually operated switch, including crossover switches, providing access to that track is lined for movement to another track;

(2) A blue signal has been placed at or near each manually-operated switch; and

(3) The person in charge of the workmen has notified the operator of the remotely-controlled switches of the work to be performed, and has been informed by the operator that each remotely-controlled switch providing access to the track has been lined against movement to that track and locked as prescribed by § 218.29(a).

§ 218.29 Remotely-controlled switches.

(a) After the operator of the remotely-controlled switches has received the notification required by § 218.27(a)(3), he must line each remotely-controlled switch against movement to that track and apply an effective locking device to the lever, button, or other device controlling the switch before he may inform the employee in charge of the work to be performed that protection has been provided.

(b) The operator may not remove the locking device unless he has been informed by the person in charge of the workmen that it is safe to do so.

(c) The operator must maintain for 30 days a written record of each notification which contains the following information:

(1) The date and time he received notification of work to be performed;

(2) The name and craft of the employee in charge who provided the notification;

(3) The number or other designation of the track involved;

(4) The date and time he notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and

(5) The date and time he was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

This amendment is effective June 1, 1976. Compliance with these regulations, however, is authorized immediately.

Issued in Washington, D.C., on March 8, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-7244 Filed 3-12-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1235]

PART 1033—CAR SERVICE

Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees, Authorized To Operate Over Tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 10th day of March 1976.

It appearing, That, because of washouts at mileposts 2.2 and 6.0 of the Reno Industrial track of the Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees (PC) is unable to transport traffic over its line between Polk Junction, Pennsylvania, and Reno, Pennsylvania, that the Erie Lackawanna Railway Company, Thomas F. Patton, and Ralph S. Tyler, Jr., Trustees (EL) has consented to operate over a portion of this PC line in order to provide continued railroad service to shippers served by such portion; that the PC has consented to use of its aforementioned line by the PC; that the Commission is of the opinion that operation by the EL over the aforementioned trackage of the PC is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1235 Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees, authorized to operate over tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees.

(a) The Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees (EL) be, and it is hereby, authorized to operate over tracks of the Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees (PC), Reno Industrial branch between milepost 9.0 in the vicinity of Franklin, Pennsylvania, and PC branch milepost 14.9 in the vicinity of Reno, Pennsylvania, a distance of approximately 5.9 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the EL over tracks of the PC is deemed to be due to carrier's disability, the rates applicable to traffic moved by the EL over the tracks of the PC shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 10, 1976.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association, and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Com-

mission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple and William J. Love. Member Thomas J. Byrne not participating.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7351 Filed 3-12-76;8:45 am]

[Ex Parte Nos. MC-5; 159]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

PART 1084—SURETY BONDS AND POLICIES OF INSURANCE

Security for Protection of the Public

MARCH 10, 1976.

At a Session of the INTERSTATE COMMERCE COMMISSION, the Insurance Board, held at its office in Washington, D.C., on the 3rd day of March, 1976.

In the matter of security for the protection of the public as provided in part II of the Interstate Commerce Act, and of the rules and regulations governing filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by motor carriers and brokers subject to part II of the Interstate Commerce Act.

In the matter of security for the protection of the public as provided in part IV of the Interstate Commerce Act, and of the rules and regulations governing filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by freight forwarders subject to part IV of the Interstate Commerce Act.

It appearing, That notice was given by Notice of Proposed Rule Making, dated December 30, 1975, published in 41 F.R. 779, January 5, 1976, pursuant to Section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003) of the proposed amendment of § 1043.2(b) of Part 1043 (49 C.F.R. 1043.2(b)) of the Code of Federal Regulations governing the filing of insurance or other security for the protection of the public, under the authority contained in Section 215 of the Interstate Commerce Act (49 Stat. 557, as amended; 49 U.S.C. 315), and of the proposed amendment § 1084.3(a) of Part 1084 (49 C.F.R. 1084.3(a)) of the Code of Federal Regulations governing the filing of insurance or other security for the protection of the public, under the authority contained in Section 403(c) of the Interstate Commerce Act (56 Stat. 285; 49 U.S.C. 1003):

It further appearing, That written statements were received from the Drug and Toilet Preparation Traffic Conference, the National Small Shipments Traffic Conference, the American Home Products Corporation and the Shippers National Freight Claim Council, Inc., within thirty days from the publication date and that all parties support the amendments and urge their adoption by the Commission;

And it further appearing, That the adoption of the increased cargo limits has been given consideration and has been found to be reasonable;

It is ordered, That § 1043.2(b) of Title 49 of the Code of Federal Regulations be, and it is hereby modified by substituting in lieu thereof the following:

§ 1043.2 Insurance, minimum amounts.

* * * * *

(b) Motor common carriers; cargo liability. Security required to compensate shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into the possession of motor carriers in connection with their transportation service, (1) for loss of or damage to property carried on any one motor vehicle—$5,000; (2) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place—$10,000.

(Sec. 215, 49 Stat. 557, as amended; 49 U.S.C. 315)

It is further ordered, That § 1084.3(a) of Title 49 of the Code of Federal Regulations be, and it is hereby modified by substituting in lieu thereof the following:

§ 1084.3 Limits of liability.

* * * * *

(a) Cargo. Limits for loss of or damage to property with respect to which a freight forwarder performs service subject to Part IV of the Act:

(1) For loss of or damage to property while carried on or resting in any one conveyance other than a watercraft—

(2) For loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place, or while carried on or resting in any one watercraft—$10,000.

(Sec. 403(c), 56 Stat. 285, 49 U.S.C. 1003)

It is further ordered, That the rules prescribed herein, are hereby prescribed to become effective July 1, 1976.

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 for inspection, and by filing a copy with the Director, Office of the Federal Register;

By the Commission, Insurance Board, Board Members Teeple, Schloer, and (vacant).

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

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7350 Filed 3-12-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7412]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Percentage To Be Used by Foreign Life Insurance Companies in Computing Income Tax for the Taxable Year 1975 and Estimated Tax for the Taxable Year 1976

MARCH 10, 1976.

This document contains the proclamation of the Secretary of the Treasury of a percentage to be used in determining a "minimum figure" for each foreign corporation carrying on a life insurance business, as provided for under section 819 of the Internal Revenue Code of 1954.

Where this minimum figure exceeds such a corporation's surplus held in the United States, the amount of the "policy and other contract liability requirements" (determined under section 805 without regard to section 819), and the amount of the "required interest" (determined under section 809(a) without regard to section 819), must each be reduced by an amount determined by multiplying such excess by the "current earnings rate" (as defined in section 805(b)(2)).

Proclamation. It is hereby determined that for purposes of computing the 1975 income tax for foreign corporations carrying on a life insurance business a percentage of 14.8 shall be used in determining the "minimum figure" under section 819.

It is presently anticipated that the data with respect to domestic life insurance companies for 1975 required for the computation of the percentage to be used by foreign corporations carrying on a life insurance business in computing their estimated tax for the taxable year 1976 will not be available in time for the filing of the declaration of estimated tax for such taxable year. Accordingly, it is hereby determined that for purposes of computing the estimated tax for the taxable year 1976 and payments of installments thereof by such corporation a percentage of 14.8 (the percentage applicable for 1975) shall be used in determining the minimum figure under section 819. No additions to tax shall be made because of any underpayment of estimated tax for the taxable year 1976 which results solely from the use of this percentage.

Because the percentage announced in this Treasury decision is computed from information contained in the income tax returns of domestic life insurance companies for the year 1974, which are not open to public inspection, the public accordingly cannot effectively participate in the determination of such figure. Therefore, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon

under subsection (b) of 5 U.S.C. 553 or subject to the effective date limitation of subsection (d) of that section.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

MARCH 11, 1976.

[FR Doc.76-7530 Filed 3-12-76;9:20 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15461; Admt. No. 121-127]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Aviation Security: Screening of Checked Baggage

• Purpose: The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to require the use of screening procedures that are designed to prevent or deter the carriage of any explosive or incendiary device in checked baggage abroad aircraft being operated by Part 121 certificate holders subject to § 121.538. •

Information available to the FAA indicates that the threat of aircraft hijacking and sabotage remains significant throughout the world. Although there has been no successful hijacking of a U.S. air carrier aircraft since 1972, it is apparent that the danger to lives and property from explosive or incendiary devices is increasing. This danger has been highlighted by the discovery of live bombs aboard passenger-carrying aircraft and by the recent tragic and senseless bombing at La Guardia International Airport, Flushing, New York, in which 11 persons were killed and 54 injured. That bombing did an estimated $750,000 in property damage and closed the airport to travelers for approximately 24 hours.

Section 121.538(b) presently requires, among other things, the adoption and use of a screening system, acceptable to the Administrator, that is designed to prevent or deter the carriage aboard the certificate holder's aircraft of any explosive or incendiary device or weapon in carry-on baggage or on or about the person of passengers, except as provided in § 121.585. (Section 121.585 provides for the carriage of a weapon aboard a certificate holder's aircraft by certain authorized persons when specific conditions are met.) Paragraph (c) of § 121.538 requires that certificate holders prepare and submit for approval by the Administrator a security program that includes, among other things, the screening system required by § 121.538(b).

Section 121.538 does not presently require the certificate holder to have a screening system for checked baggage. Because of the increased danger of the concealment of explosive and incendiary devices in checked baggage, the FAA has determined § 121.538(b) should be amended to provide for the expansion of the screening programs required by that section to include the screening of checked baggage for explosive or incendiary devices.

It should be noted that, in connection with these screening procedures, passengers may be required to submit their baggage to inspection. They may also be asked to provide positive identification. To the extent that this may result in minor inconvenience to some passengers, the FAA believes that they will understand the need for this screening and accept it as necessary for safety in air transportation, as they have accepted the screening of carry-on baggage.

In view of the La Guardia incident and the catastrophe that would result should a bomb explode aboard a passenger-carrying aircraft, I find that notice and public procedure on this amendment is impracticable and contrary to the public interest.

(Sections 313(a), 315(a), 316(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356(a), 1357(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective April 15, 1976, by amending § 121.538(b) to read as follows:

§ 121.538 Aircraft security.

* * * * *

(b) Each certificate holder shall adopt and put into use a screening system, acceptable to the Administrator, that is designed to prevent or deter the carriage aboard its aircraft of any explosive or incendiary device or weapon in carry-on bagagge or on or about the persons of passengers, except as provided in § 121.585, and the carriage of any explosive or incendiary device in checked baggage. Each certificate holder shall adopt and put into use its security program prescribed in paragraph (c) of this section.

* * * * *

Issued in Washington, D.C. on March 12, 1976.

JOHN MCLUCAS,
Administrator.

[FR Doc.76-7562 Filed 3-12-76;12:01 p.m.]

proposed rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Amendment for State Cooperative Agreements, and Miscellaneous Amendments

The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the respective Service) hereby issues a proposed rulemaking which would amend certain provisions of Part 17, Chapter I, Title 50, Code of Federal Regulations, concerning Endangered and Threatened Wildlife.

On September 26, 1975, the Service published a rulemaking on Part 17 which revised the regulatory procedures implementing the Endangered Species Act of 1973 (hereinafter the Act) (40 FR 44412). This rulemaking contained provisions concerning the Act's prohibitions; the issuance of permits and other exceptions to those prohibitions; the maintenance and amendment of the List of Endangered and Threatened Species; the listing of species under the "similarity of appearance" provision; and the establishment of provisions for the determination of "captive, selfsustaining populations" of Endangered animals. This rulemaking also removed the American alligator in three Louisiana parishes from the list of Endangered Species, and based upon the "similarity of appearance" provision, treats it as a Threatened Species.

Since publication some clerical errors and ambiguities in the regulations have been identified. Amendment number 1, below, concerns the inaccurate common name listing for the Santa Cruz Longtoed Salamander in § 17.11 on page 44422 of the FEDERAL REGISTER. The present common name listing refers to the "Santa Cruz Longtailed Salamander." Amendment number 1 corrects this misnomer.

Section 17.40(b) sets forth the special rules concerning the taking and commerce prohibitions regarding the grizzly bear. In particular, § 17.40(b)(1)(i)(E) authorizes the hunting of grizzly bears in limited circumstances: "If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bears in the Flathead National Forest, the Bob Marshall Wilderness Area and the Mission Mountains Primitive Area of Montana: *Provide*, That if in any year in question, 25 grizzly bears have already been killed for whatever reason in that part of Montana, including the Bob Marshall Wilderness Area and the Mission Mountains Primitive Area * * *." Since the grizzly bear can be hunted in the Flathead National Forest, that Forest was intended to be included within the overall area subject to the annual quota of 25 bears. The Flathead National Forest was erroneously omitted from the quota area and part of amendment number 2 remedies this omission.

Three other subsections of § 17.40(b) allow "Federal or State employees' to take and import grizzly bears for scientific or research proposes. §§ 17.40(b)(i)(D); (ii)(B), and (iii)(A)(1). It has been argued that this language exempts a potentially broader category of people from the taking requirements than was intended. Only those State or Federal employees whose jobs are related or connected with wildlife management were intended to be exempted. The latter part of amendment number 2, below, clarifies this situation by inserting the world "authorized" before "Federal or State employees."

The Service recognizes that many scientific or conservation programs, such as bird banding, require the repetitive handling and taking of listed species over an extended period of time. Rather than requiring a permit application for each anticipated taking, the Service has developed a flexible concept of permits in which one permit could authorize a series of transactions over a period of time. This concept is set forth for Threatened Species in the following language in § 17.32: "Such permits may authorize a single transaction, a series of transactions, or activities over a specified period of time." Amendment number 3, below, incorporates this flexible approach into § 17.22 for Endangered species.

In addition to the above amendments to Part 17, the Service proposes a substantive amendment to § 17.21 which would incorporate the State Cooperative Agreement programs, authorized pursuant to section 6(c) of the Act, into the prohibition provisions for Endangered Species. Section 6(c) authorizes the Director to enter into a Cooperative Agreement with a State which has established an "adequate and active" program for the conservation of Endangered and Threatened Species. Such a finding requires the satisfaction of the criteria set forth in subsections 6(c)(1) through (5) of the Act, pertaining to the adequacy of the State's authorities for law enforcement, research, habitat acquisition and conservation programs. Each State must submit extensive documentation of these authorities to the Service. Only after a careful review of the submitted information will the Service certify or reject the "adequacy and activeness" of a State's Endangered and Threatened Species conservation program.

It is the opinion of the Service that upon the approval of a State's Endangered and Threatened Species conservation program and negotiation of its Cooperative Agreement, a State should be accorded a greater degree of flexibility in the conservation of such species. Additionally, it is believed that the degree of continual supervision provided for by the permit requirements of § 17.22 is unnecessarily burdensome for a responsible State program operated under a Cooperative Agreement.

For these reasons, it is proposed in amendment number 4 that, except in four specific situations, authorized State personnel operating under a Cooperative Agreement be allowed to take Endangered Species for conservation purposes without individual permits. If the taking of the species would involve one of the four situations set forth in subsections (i) through (iv) of amendment number 4, then a separate permit issued in accordance with § 17.22 would be required. For instance, if a State conservation program would involve the avoidable or intentional death of an individual of an Endangered Species, the State agency would have to obtain a § 17.22 permit, regardless of the existence of a Cooperative Agreement. It was felt that the standard permit procedure should apply in those four situations because of the greater need to monitor and provide coordination to biologically sensitive situations, thereby further reducing the possibility of duplication and lessening the impact upon the species.

It is believed, however, that the majority of the State conservation programs implemented under a Cooperative Agreement will not fit into either of the four situations which require permits issued pursuant to § 17.22. This will free responsible State agencies, who are party to Cooperative Agreements, from the day to day burden of acquiring permits to carry out basic conservation programs. Similar flexibility currently exists in § 17.31(b) for the taking of Threatened Species under a Cooperative Agreement.

While the amendment significantly reduces the amount of paper work required of a State and of the Service, it would not eliminate the Service's ability to monitor the overall impact of State takings of Endangered species under Cooperative Agreements. The Service will require, as one of the conditions for the renewal of a Cooperative Agreement, that the State provide an annual accounting of its Endangered and Threatened Species taken for conservation programs.

In addition to listing the numbers of individual Endangered and Threatened Species taken, the State would be required to describe the conservation pro-

grams involved and any mortalities that result from the programs. The Service will evaluate carefully the above information in determining whether the State has maintained an "adequate and active" Endangered Species conservation program under the Cooperative Agreement. Failure to maintain such a program would prevent the renewal of the Cooperative Agreement as well as its matching Federal grant-in-aid funding arrangements.

The Service will retain the power to terminate a Cooperative Agreement, upon 60 days written notice, if abuse of these exemptions is brought to its attention. In addition, the Cooperative Agreement will provide for suspension of authority for a particular project if abuses are uncovered. In this fashion, the Service believes that a workable balance has been struck between the desirability of minimizing a State's permit paperwork obligations and the need to maintain a coordinated review of the status of listed species.

The adoption of amendment number 4 in its entirety would require a slight modification of § 17.31(a) dealing with the prohibitions applicable to Threatened Species. Section 17.31(a) presently states that with a few specific exceptions, all of the provisions of § 17.21, for Endangered Species, shall apply to Threatened Species. While it has been noted that a provision similar to amendment number 4 already exists in § 17.31(b) for Threatened Species, it is not identical because it does not require the State to get a permit in the four situations proposed for § 17.21(c)(5).

The present language of § 17.31(a), in stating that all of the provisions of § 17.-21, including proposed § 17.21(c)(5), apply to Threatened Species, thus creates confusion as to the circumstances under which a Threatened Species may be taken without a permit under a Cooperative Agreement. The transference of the provisions of § 17.21 to Threatened Species would include the four restrictions on taking without a permit, while the present language in § 17.31(b) does not.

The Service proposes, in amendment number 5, below, to eliminate this confusion by expressly excluding the transference of the provisions of § 17.21(c)(5) in § 17.31(a). This reaffirms the intent of the present language of § 17.31(b) to provide the maximum State autonomy possible under a Cooperative Agreement for the conservation of Threatened Species.

Another proposed amendment is also related to the Cooperative Agreement program. At the time of final publication of Part 17 last September, the Cooperative Agreement program had not been fully developed and it was expected to be months before the first Cooperative Agreement could actually be signed.

The management flexibility afforded States with Cooperative Agreements in § 17.31(b) would therefore have no immediate impact. Yet it was recognized that during the interim period in certain situations it might be advantageous to authorize the issuance of a broadly worded permit for the management of Threatened Species, hence Section 17.32 was accordingly drafted to provide for the issuance of a permit for "management by State conservation agencies."

By the beginning of February, however, nine States had their Endangered Species programs provisionally approved and were preparing to negotiate Cooperative Agreements with the Service. The previously mentioned interim period had come to an end, therefore, and the justification for a "management" permit no longer exists. Amendment number 6, below, proposes to eliminate this "management" provision in § 17.32.

The Service also believes the elimination of the "management" authorization under § 17.32 would provide State agencies an added incentive to seek Cooperative Agreements. Such an elimination would leave § 17.31(b) as the only provision granting the States significant independence for the management of Threatened Species. If a State agency desires that degree of autonomy, it would have to insure that its Endangered Species authorities could satisfy the Cooperative Agreement criteria in section 6(c) of the Act. Accordingly, amendment number 6, below, proposes to eliminate this "management" provision in § 17.32.

One final amendment is necessitated by the Cooperative Agreement program. It was the intent of the Service that any taking of Threatened wildlife by State conservation agencies under § 17.31(b) for scientific research or conservation programs, would be pursuant to the terms of, a Cooperative Agreement with the Service. Amendment number 7, below, attempts to clarify this position. Amendment number 7 also deletes the present reference in § 17.31(b) to Cooperative Agreements with the National Marine Fisheries Service. Since the regulations for threatened species in Part 17 cover only those species under the jurisdiction of the United States Fish and Wildlife Service, the present reference to the National Marine Fisheries Service is inappropriate.

Public Comments Solicited. The Director intends that finally adopted rules be responsive in promoting the highest degree of cooperation possible between the States and the Service in conducting conservation programs for Endangered and Threatened Species; he therefore desires to obtain the comments and suggestions of the public, State agencies, other concerned governmental agencies, and conservation organizations, on these proposed rules.

Final promulgation of the regulations on these proposals will take into consideration the comments received by the Director. Such comments and any additional information received, may lead the Director to adopt final regulations that differ from this proposal.

Submittal of Written Comments. Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received no later than April 14, 1976, will be considered. Comments received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C. 20240.

(16 U.S.C. 1531–43).

Dated: March 10, 1976.

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

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of CFR, as set forth below:

1. Amend page 44422 by deleting the present Common Name listing for the "Salamander, Santa Cruz Long-tailed" and substituting "Salamander, Santa Cruz Long-toed".

2. Amend § 17.40(b)(1)(i)(E) by adding the words "the Flathead National Forest" after the word "including" and before the words "the Bob Marshall Wilderness * * *." Furthermore, amend § 17.40(b)(1)(i)(D), § 17.40(b)(1)(ii)(B) and § 17.04(b)(1)(iii)(A)(1) by adding the word "Authorized" before the words "Federal or State employees may * * *."

3. Amend § 17.22 by adding the sentence "Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time," at the end of the first, preambular paragraph, before the words "(See § 17.32 for permits for * * *").

4. Amend § 17.21(c) by adding a new subparagraph (5), reading as follows: "(5) Notwithstanding paragraph (c)(1) of this Section, any employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species for conservation programs in accordance with the Cooperative Agreement, provided that such taking will not result in: (i) the avoidable or intentional death of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 30 consecutive days."

5. Amend § 17.31(a) by adding the following after "§ 17.21" and before the words "shall apply": "(a) through (c)(4)".

6. Amend § 17.32 by deleting the words "* * * or management by State Conservation Agencies * * *" in the first preambular paragraph.

7. Amend § 17.31(b) by deleting the word "under" and substituting in its place the words, "a conservation program pursuant to the terms of". Fur-

thermore, amend § 17.31(b) by deleting the words, "or with the National Marine Fisheries Service", which are presently before the words "in accordance with section 6(c) of the Act".

[FR Doc.76-7235 Filed 3-12-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 205]

STATE EMERGENCY WELFARE PREPAREDNESS

Federal Financial Participation

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Acting Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The purpose of the proposal is to transfer from Part V of the Handbook of Public Assistance Administration to the Code of Federal Regulations the provisions for Federal matching in emergency welfare preparedness activities under the financial assistance titles. The basis for the amendment is the Department's belief that planning to assure continuity of public assistance during emergency situations is necessary for the proper and efficient operation of the State plan.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Acting Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013, on or before April 14, 1976. Comments received will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, S.W., 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. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid))

Dated: February 27, 1976.

DON I. WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: March 8, 1976.

MARJORIE LYNCH,
Acting Secretary.

Part 205, Chapter II, Title 45 of the Code of Federal Regulations is amended by adding a new § 205.45 as set forth below:

§ 205.45 Federal financial participation in relation to State emergency welfare preparedness.

(a) Under title IV-A, Federal financial participation is available at the rate of 50 percent in expenditures for development and planning activities for emergency welfare prepardness as prescribed in "Guidelines for the Preparation of State Emergency Welfare Services Plan" issued by Social and Rehabilitation Service, DHEW publication No. (SRS) 72-23004. These activities include:

(1) Safekeeping essential documents and records;

(2) Planning and developing emergency operating capability for providing food, lodging, clothing, and welfare registration and inquiry;

(3) Assuring that qualified individuals are responsible for the planning and operation of each welfare function essential under emergency conditions for care and services for public assistance recipients and potential recipients;

(4) Coordinating with other government and voluntary welfare agencies, and welfare-related business and professional organizations and associations, in developing emergency operating plans and attaining operational readiness;

(5) Preparing and maintaining data on kinds, numbers, and locations of essential welfare resources, including manpower;

(6) Developing ability to assess emergency welfare resources and determining requirements necessary to care for public assistance cases in the event of disaster or attack;

(7) Preparing plans for claiming and distributing the above resources;

(8) Developing mutual aid agreements at State and local levels with neighboring welfare organizations;

(9) Preparing and distributing written emergency operations plans for public assistance agencies and operating units;

(10) Participating in preparedness exercises for the purpose of testing plans and determining the role of public assistance programs in relation to the overall preparedness program; and

(11) Travel incidental to any of the above activities.

(b) Federal financial participation is available at 75 percent for providing training in emergency welfare preparedness for all staff and for volunteers except that, for Guam, Puerto Rico and the Virgin Islands under title IV-A, the rate is 60 percent.

(c) For Guam, Puerto Rico, and the Virgin Islands, this section is also applicable to public assistance under titles I, X, XIV, and XVI (AABD) of the Social Security Act.

(d) The cost of these activities must be allocated to all programs benefited in accordance with Part 74, Subtitle A of Title 45 of the Code of Federal Regulations.

[FR Doc.76-7293 Filed 3-12-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

United States Coast Guard

[33 CFR Part 117]

[CGD 76-034]

DRAWBRIDGE OPERATION REGULATIONS

Notice of Proposed Rule Making

At the request of the Penn Central Transportation Company, the Coast Guard is considering revising the regulations for the Penn Central drawbridge across the Housatonic River, Mile 3.9, to permit more restrictive operations. Generally, the draw would open on signal from 5 a.m. to 7 a.m., 9 a.m. to 4 p.m., and 5:45 p.m. to 9 p.m. From 9 p.m. to 5 a.m. the draw would open on signal if notice is given by 4 p.m. This change is being considered because of limited openings from 9 p.m. to 5 a.m. The regulations for the highway drawbridge across the Housatonic River are being revised for clarity.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before April 20, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communication received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.125 to read as follows:

§ 117.125 Housatonic River, Conn.; bridges.

(a) *US1 bridge, mile 3.5.* (1) The draw shall open on signal, except that from 7 a.m. to 9 a.m., Monday through Friday, and from 4 p.m. to 5:45 p.m., daily, the draw need not open for the passage of vessels.

(2) *Signals.* (i) The opening signal from a vessel is one long blast followed by one short blast.

(ii) The acknowledging signal from the drawtender is one long blast followed by one short blast when the draw will open; or four short blasts when the draw will not open. A red flag by day or a red light at night may also be used to indicate that the draw will not open.

(b) *Penn Central Railroad Bridge, mile 3.9.* (1) The draw shall open on signal from 5 a.m. to 9 p.m. except that—

(i) Monday through Friday, excluding holidays or an emergency, the draw need not open from 7 a.m. to 9 a.m., and from 4 p.m. to 5:45 p.m.; and

(ii) the draw need not open more than once in any 60 minute period from 5:30 a.m. to 7 a.m.; and from 5:45 p.m. to 8:15 p.m., except on Saturdays, Sundays, and federal holidays.

(2) From 9 p.m. to 5 a.m., the draw shall open on signal if the vessel operator gives notice to the chief dispatcher of the railroad before 4 p.m. on the day of the intended passage.

(3) A delay of up to 20 minutes in the opening of the draw may be expected if

a train is approaching the bridge so closely that the train may not be safely stopped.

(4) The signals for the railroad bridge are as follows:

(i) The opening signal from a vessel is one long blast followed by two short blasts.

(ii) The acknowledging signal from the drawtender is one long blast when the draw will open, and four short blasts when the draw will not open. A red flag by day or a red light at night may be used to indicate that the draw will not open.

(c) The owners of the bridges shall post notices on both the upstream and downstream side of each bridge setting forth the requirements in this section for each bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: March 9, 1976.

R. I. PRICE,
Rear Admiral, U.S. Coast Glard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-7294 Filed 3-12-76;8:45 am]

[46 CFR Part 151]

[CGD 75-226]

UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

Use of Copper and Copper Alloys With Caustic Soda and Caustic Potash Cargoes

The Coast Guard is proposing amendments to the bulk dangerous cargoes regulations to remove restrictions against the use of copper and copper alloys in construction materials for tanks, pipelines, valves, fittings, and other equipment that may come in contact with caustic soda liquid or vapor and caustic potash liquid or vapor.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (G-CMC/81), Washington, D.C. 20590 (Telephone 202-426-1477). Each person submitting comments should include his name and address, identify the notice, and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81. All communications received before April 29, 1976 will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received. No hearing is contemplated but may be held at a time and place set in a later notice in the FEDERAL REGISTER, if requested by an interested person desiring an opportunity to comment orally at a public hearing and raising a genuine issue.

Section 151.55-1(b) and Table 151.05 prohibit the use on unmanned barges of copper and copper alloys in construction materials for tanks, pipelines, valves, fittings, and other equipment that may come in contact with caustic soda liquid or vapor cargoes and caustic potash liquid or vapor cargoes. This prohibition is intended to preclude possible corrosion of this equipment because of contact with those caustic cargoes that would make their handling and transport unsafe.

The Coast Guard is proposing these amendments to remove this prohibition of the use of copper and copper alloys. The Coast Guard has determined from a survey of the use of bronze and brass parts that come in contact with those caustic cargoes on conventional tankers that there has been no corrosion problem. Therefore, this prohibition is unnecessary for the safe handling and transport of those caustic substances.

In accordance with the foregoing, it is proposed to amend Part 151 of Chapter I of Title 46, Code of Federal Regulations as follows:

1. By revising § 151.55-1 by adding a paragraph (j) to read as follows:

§ 151.55-1 General.

* * * * *

(j) Zinc and aluminum shall not be used as materials of construction for tanks, pipelines, valves, fittings, and other items of equipment that may come in contact with the cargo liquid or vapor.

§ 151.05 [Amended]

2. By revising Table 151.05, "Summary of Minimum Requirements," under "Caustic potash solution" and under "Caustic soda solution" by deleting the number "151.55-1(b)" in column 14, "Special requirements (Section)," and substituting the number "151.55-1(j)" in its place.

(80 Stat. 937; 46 U.S.C. 170, 391a, 375, 416; 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Dated: March 8, 1976.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.76-7295 Filed 3-12-76;8:45 am]

[Docket No. 75-NW-33-AD]

Federal Aviation Administration

[14 CFR Part 39]

BOEING MODEL 727 SERIES AIRPLANES

Proposed Airworthiness Directives

WITHDRAWAL OF NOTICE OF PROPOSED AIRWORTHINESS DIRECTIVE

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an inspection of the main landing gear trunnion links on Boeing Model 727 series airplanes which have been overhauled and/or reworked in a manner which does not provide the intended smooth transition (blend-out) and chrome plate run-out was published in 40 F.R. 54260.

Upon further consideration, and based on the comments received in response to the Notice of Proposed Rule Making, the FAA has determined that an airworthiness directive is not required at this time. Service experience has shown that trunnion links with less than recommended radii have uniformly performed satisfactorily without cracking or failure.

Withdrawal of this Notice of Proposed Rule Making constitutes only such action, and does not preclude the FAA from issuing another Notice in the future, or commit the agency to any course of action in the future.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), the proposed airworthiness directive published in the FEDERAL REGISTER on November 21, 1975, (40 F.R. 54260), is hereby withdrawn.

Issued at Seattle, Washington, March 5, 1976.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.76-7232 Filed 3-12-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-62]

ALTERATION OF TERMINAL CONTROL AREA AT PITTSBURGH, PENNSYLVANIA

Proposed Rule Making

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Pittsburgh, Pa., Terminal Control Area (TCA) by redefining certain lateral boundaries and floor altitudes in the vicinity of Pittsburgh, Pa.

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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 14, 1976, 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, AGC-24, 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.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Information Services, Attention: Public Information Center,

AIS–230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would:

a. Reconfigure the east and west extensions.

b. Redesignate the reconfigured east and west extensions of Area B as new Area C with a floor altitude of 3,000 feet MSL.

c. Add a new southeast extension to Area B to accommodate ILS approaches to Runway 32 with a floor altitude of 3,000 feet MSL. This extension will be designated as part of new Area C.

d. Redesignate old Area C as new Area D.

Due to recent changes in arrival procedures based on existing Instrument Landing Systems (ILSs) serving Runways 10 and 28 at Greater Pittsburgh Airport and the pending commissioning of a new ILS to serve Runway 32 it is necessary to alter the TCA configuration to insure that turbojet aircraft are contained within TCA airspace. This necessitates an altered east and west extension for Runways 10 and 28 plus a southeast extension to accommodate the new ILS approach to Runway 32.

In consideration of the foregoing, it is proposed to amend Part 71 of the Federal Aviation Regulations by revising the description of Areas B and C and adding a new Area D to the Pittsburgh, Pa., Group II TCA to read as follows:

Area B. That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL within a 10-mile radius of latitude 40°29'12" N., longitude 80°14'03" W., excluding Area A.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10-mile and 12.5-mile radii of latitude 40°29'12" N., longitude 80°14'03" W., extending from the 076° T (081° M) bearing clockwise to the 106° T (111° M) bearing excluding Areas A and B; between the 10-mile and 12-mile radii, of latitude 40°29'12" N., longitude 80° 14'03" W., extending from the 117° T (122° M) bearing clockwise to the 147° T (152° M) bearing excluding Areas A and B; between the 10-mile and 14-mile radii of latitude 40°29'12" N., longitude 80°14'03" W., extending from the 259° T (264° M) clockwise to the 288° T (293° M) bearing excluding Areas A and B.

Area D. That airspace extending upward from 4,000 feet MSL and including 8,000 feet MSL within a 20-mile radius of latitude 40°29'12" N., longitude 80°14'03" W., and between the 20- and 30-mile radii of latitude 40°29'12" N., longitude 80°14'03" W., extending from the 076 T (081° M) bearing clockwise to the 106° T (111° M) bearing and from the 259° T (264° M) bearing clockwise to the 288° T (293° M) bearings; excluding Areas A, B, and C.

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

Issued in Washington, D.C., on March 5, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76–7233 Filed 3–12–76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76–SW–8]

DESIGNATION OF TRANSITION AREA

Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Brinkley, Ark.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before April 14, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the 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 the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (41 FR 440), the following transition area is added:

BRINKLEY, ARK.

That airspace extending upward from 700 feet above the surface within a 7 statute mile radius of Frank Federer Memorial Airport, Brinkley, Ark. (latitude 34°52'45" N., longitude 91°10'40" W.); and within 3.5 statute miles each side of the 030° T bearing from Brinkley NDB (latitude 34°52'49" N., longitude 91°10'43" W.), extending from the 7-mile-radius area to 11.5 statute miles northeast of the NDB.

The proposed transition area will provide controlled airspace for aircraft executing a proposed NDB (Original) instrument approach procedure.

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

Issued in Fort Worth, TX, on March 3, 1976.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76–7234 Filed 3–12–76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 217, 241, 249, 371, and 389]

[EDR–294, SPDR–42, ODR–12; Docket No. 28852]

ECONOMIC SPECIAL AND ORGANIZATION REGULATIONS

Charter Flights

Correction

In FR Doc. 76–4348, appearing at page 7417 in the issue for Wednesday, February 18, 1976, and corrected at page 9189, in the issue for Wednesday, March 3, 1976, the headings should read as set out above.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20642]

CLEAR CHANNEL BROADCASTING

Order Extending Time for Filing Comments and Reply Comments

In the matter of clear channel broadcasting in the Standard Broadcast band.

1. On December 4, 1975, the Commission adopted a Notice of Inquiry and Notice of Proposed Rule Making in the above-mentioned proceeding (40 FR 58467). The dates for filing comments and reply comments are presently March 18 and April 19, 1976, respectively.

2. On February 1, 1976, Nebraska Broadcasters Association ("NBA") requested that the time for filing comments be extended for a period of six months. NBA states that the Commission in its Notice invites comments on a host of technical and complicated subjects and because of their enormous impact socially, technically and servicewise, and great complexity, an additional six months is necessary for the completion and submission of comments. Motions in support of NBA's request were filed by Clear Channel Broadcasting Service and the Association for Broadcast Engineering Standards, Inc.

3. The parties urge that the subject proceeding involves extremely complex issues and that a six-month extension is needed to permit development of meaningful comments. While the Commission seeks to develop a sound record, it is not persuaded that a six-month extension is warranted. To accommodate those parties who desire to submit comments that reflect a coordinated effort on the part of their members, the Commission finds that a two-month extension would be sufficient.

4. Accordingly, *it is ordered*, That the dates for filing comments and reply comments are extended to and including May 21 and June 25, 1976, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act

of 1934, as amended, and § 0.281 of the Commission's Rules.

Adopted: March 9, 1976.

Released: March 10, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-7266 Filed 3-12-76;8:45 am]

[47 CFR Part 73]

[Docket No. 20364; RM-2336]

FM BROADCAST STATIONS, TABLE OF ASSIGNMENTS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202 (b), table of assignments, FM broadcast stations. (Tawas City and Oscoda, Michigan).

1. On December 11, 1975, the Commission adopted a Further Notice of Proposed Rule Making in the abovementioned proceeding (40 FR 59452). The present dates for filing comments and reply comments are March 5 and March 19, 1976, respectively.

2. Lawrence Norman DeBeau, by counsel, requested that the time for filing comments be extended to and including March 19, 1976. Counsel states the additional time is necessary in order to permit Mr. DeBeau's consulting engineer sufficient time to complete an engineering showing. Counsel notes that the press of other business has prevented the engineer from completing the showing in sufficient time to permit review by counsel's office and incorporation of his findings. The original petitioner and only other participant in this proceeding has consented to this extension.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, it is ordered, that the dates for filing comments and reply comments are extended to and including March 19 and April 2, 1976, respectively.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Adopted: March 5, 1976.

Released: March 8, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-7267 Filed 3-12-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 217]

[Reg. Q; Docket No. R-0024]

INTEREST ON DEPOSITS

Pooling of Funds

The Board of Governors proposes to amend Regulation Q (12 CFR 217) to prohibit member banks from paying interest on time deposits of $100,000 or more at rates in excess of those established by Regulation Q for deposits of less than $100,000, where the bank knows or has reason to know that such time deposits consist of funds acquired or solicited for the purpose of pooling such funds primarily to obtain the exemption from interest rate ceilings provided in § 217.7(a).

In 1968 and again in 1970 the Board considered whether the interest rate limitations set forth in § 217.7 of Regulation Q prohibit member banks from issuing a Certificate of Deposit of $100,000 or more when funds to establish the deposit have been pooled. The Board stated that pooling primarily to obtain a higher rate of interest was an evasion of its interest rate regulations and expressed the view that a bank which pays a rate in excess of the applicable Regulation Q rate on a deposit that it knows or has reason to know results from pooling principally for the purpose of obtaining a higher rate of interest would be acting contrary to the spirit of the interest rate limitations. In proposing this amendment to Regulation Q, the Board intends to clarify the application of its policy regarding pooling.

Public Law 93-123 directs the Board to establish the maximum interest rates which may be paid by member banks on time deposits of less than $100,000. However, the statutory requirement does not apply to time deposits in excess of $100,000 and the interest rates on such deposits may be determined by negotiation between the bank and the depositor. In periods when high rates of interest are available on money market instruments, including bank Certificates of Deposit of $100,000 or more, individuals, including money brokers, banks, as well as financial intermediaries such as open and closed end funds have in the past actively solicited funds from the public in order to purchase Certificates of Deposit in denominations of $100,000 or more. In light of the potentially adverse effects that pooling may have on member and nonmember financial institutions due to potentially disruptive shifts of funds, the Board believes it appropriate to amend Regulation Q to specifically prohibit the payment of interest in excess of the rate established for deposits of less than $100,000 on pooled deposits.

Section 217.3(a) of Regulation Q prohibits the payment of interest on a time or savings account at a rate in excess of the applicable maximum rate established by the Board. The Board proposes to add a new sentence to this section prohibiting the payment of interest at a rate in excess of that prescribed in § 21.7 (b) or (d) on a time deposit where the bank knows or has reason to know that such time deposit consists of funds acquired or solicited for the purpose of pooling primarily to achieve such higher rate.

In proposing this amendment, the Board does not intend to disrupt certain well-established practices which incidentally involve pooling of funds but which are not intended primarily for the purpose of achieving a higher rate of interest and do not interfere with the regulation of interest rates. For example: (1) For purposes of economy and administrative efficiency, trust department officers frequently combine temporarily idle balances from a number of trust accounts. Provided such pooling activity is only an incidental part of a bona fide trust relationship, it would not violate the Board's policy on pooling. (2) A related situation occurs when an attorney or other person acting in a custodial or fiduciary capacity holds funds in escrow. The Board would not consider the combination of funds held in escrow to be a violation of its pooling policy where such pooling is only an incidental part of the custodial or fiduciary relationship. (3) An individual or an organization may consolidate its funds previously held in various accounts into a single large account. (4) Mutual funds which have a stated investment objective of investing in other than deposit obligations and whose deposit obligaitons normally constitute a minimal percentage of the fund portfolio may be offered a large denomination Certificate of Deposit by a member bank.

To assist the Board in its consideration of this matter, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than May 10, 1976. All material submitted should include the docket number R-0024. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

This amendment is proposed pursuant to the Board's authority under § 19 of the Federal Reserve Act (12 U.S.C. 371b and 461) to prescribe rules governing the payment of interest on deposits including limitations on the rates of interest which may be paid by member banks and to prescribe such regulations as it may deem necessary to effectuate the purposes of § 19 and to prevent evasions thereof. To implement its proposal, the Board proposes to amend § 217.3(a) of Regulation Q (12 CFR 217.3(a)) by adding the following new sentence at the end thereof.

§ 217.3 Interest on time and savings deposits.

(a) * * * No member bank shall pay interest at a rate in excess of that prescribed in § 217.7(b) or § 217.7(d) on a time deposit where the bank knows or has reason to know that the time deposit consists of or represents funds obtained or solicited by the bank, a depositor, or any other person, for the purpose of pooling such funds primarily to achieve the exemption from interest rate ceilings provided in § 217.7(a).

* * * * *

By order of the Board of Governors, March 8, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-7258 Filed 3-12-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INTEREST UPON OBLIGATIONS OF A STATE, TERRITORY, ETC.

Extension of Time for Comments and Public Hearing on Proposed Regulations

Proposed regulations under section 103 of the Internal Revenue Code of 1954, relating to interest upon obligations of a state, territory, etc., appear in the FEDERAL REGISTER for February 2, 1976 (41 FR 4829).

Written comments or suggestions pertaining to the proposed regulations were required to be submitted by March 18, 1976. The time for submission of written comments or suggestions pertaining to the proposed regulations is hereby extended to April 9, 1976.

A public hearing on the provisions of such proposed regulations will be held on April 26, 1976, beginning at 10 a.m. in the George S. Boutwell Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3) persons who have submitted written comments within the time prescribed in the notice of proposed rule making (or in the extension of time), and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 9, 1976. Such outlines should be submitted to the Commissioner of Internal Avenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

Persons who desire a copy of such written comments or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by April 16, 1976. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is ten cents ($0.10) per page.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on April 23, 1976, by telephoning (Washington, D.C.) 202–964–3935.

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76–7529 Filed 3–12–76;9:20 am]

notices

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20724, 20725; File Nos. BPH-8942, BPH-9472]

CHILLI COMMUNICATIONS, INC. AND CENTRAL ILLINOIS BROADCASTING CORP.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Chilli Communications, Inc., Chillicothe, Illinois, requests: 94.3 MHz, Channel No. 232; 3 kW; 300 feet (Docket No. 20724; File No. BPH-8942); and Central Illinois Broadcasting Corp., Chillicothe, Illinois, requests: 94.3 MHz, Channel No. 232; 3 kW; 220 feet (Docket No. 20725; File No. BPH-9472) for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications by Chilli Communications, Inc. [Chilli], and Central Illinois Broadcasting Corporation [Central], which are mutually exclusive in that they seek the same channel in Chillicothe, Illinois.

2. Chilli's proposed transmitter site meets the required mileage separations of section 73.207 of the Commission's rules with respect to all existing stations and other vacant assignments except for station WJVM(FM), Sterling, Illinois, channel 232. The spacing between Chilli's proposed transmitter site and that of WJVM is 63.6 miles, 1.4 miles short of the required 65 miles. Central's proposed site, however, being 65.1 miles from WJVM's transmitter site, meets the spacing requirements. Chilli has requested a waiver of section 73.207.

3. In support of the requested waiver, Chilli states that Chillicothe lies in the broad river valley of the Illinois River, with high bluffs several miles out from the city to the east and west. The site meets the requirements of the Federal Aviation Administration regarding proximity to area airports, and is on a bluff overlooking the city to provide an excellent signal in the valley. Chilli states that if a site were chosen farther southwest along the bluff, it would be moving into a highly developed residential area and closer to the Mount Hawley Airport. If it were necessary to locate a site on the east side of the river, difficulty could be experienced getting to the site from Chillicothe because bridges are located approximately five miles south and four miles north of the city. Since there is no direct route across the river in Chillicothe, a site east of the river which could meet the required mileage spacing would be somewhat less accessible. No showing, however, has been made that a site meeting the separation requirements is unavailable or that operation from the proposed site would better serve the public interest. Therefore, we have concluded that Chilli's request for waiver should be denied.

4. Nevertheless, since Chilli's application was tendered for filing in its present form approximately a year prior to Central's, we believe it would be inequitable to reject Chilli's application without affording it an oportunity to amend before acting on Central's application. On the other hand, it would serve no purpose to delay action on both applications pending receipt of the amendment. Thus, Chilli will be afforded 45 days from the release of this document within which to amend its proposal to specify a site meeting the applicable separation requirements.[1] Failure to submit the amendment within the specified period will result in dismissal of the application with prejudice. This procedure was followed in *Keith L. Reising*, 1 FCC 2d 1082, 6 RR 2d 431 (1965).

5. Analysis of Central's financial data shows that $86,460 will be required to construct and operate the proposed station for one year, without revenue, itemized as follows:

Down payment on equipment	$8,740
First-year payments on equipment with interest	10,050
Building	3,000
Miscellaneous	7,550
Loan repayment with interest	18,000
First-year working capital	39,120
Total	86,460

Central plans to finance construction and operation with a $100,000 loan from a banking institution. However, since the letter from the bank specifies neither the interest to be paid nor the collateral needed as required by section III, page 3, paragraph 4(e), of FCC Form 301, the loan must be considered to be unavailable. Therefore, a financial issue will be specified.

6. Central has failed to comply with the requirements of the *Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1501 (1971). From the information before us, it appears that the applicant has failed to survey leaders of significant population groupings set forth in its demographic study. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 1127 (1974). For example, while Central states that manufacturing is the predominant industry in Chillicothe and that farming is a major economic concern, there is no indication that any representatives of these groups have been contacted. Further, Central has not shown that it has complied with question and answer 29, *Primer, supra*. The anticipated time segment, duration and frequency are given for only one program—"Farm Report." See *Charles W. Holt*, 37 FCC 2d 64, 24 RR 2d 1002 [Rev. Bd., 1972]. Accordingly, an appropriate issue will be specified.

7. Although Chilli indicates that manufacturing constitutes an important segment of Chillicothe's economy, no representatives of this group have been consulted. Accordingly, an issue will also be included with respect to their ascertainment efforts.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Central Illinois Broadcasting Corporation is financially qualified to construct and operate as proposed.

2. To determine the efforts made by the applicants to ascertain the community needs and interests of the area to be served and the means by which the applicant propose to meet those needs and interests.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

[1] Assuming that Chilli amends its transmitter site, there may be a significant difference in the areas and populations the applicants propose to serve. In that event the areas and populations which would receive FM service of 1.0 mV/m or greater, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

11. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

Adopted: March 3, 1976.

Released: March 8, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-7269 Filed 3-12-76;8:45 am]

[Report No. I-212]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

MARCH 8, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

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

SATELLITE COMMUNICATIONS SERVICES

236-DSE-P-76 RCA Alaska Communications, Inc., Kotzebue, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 66°53'52" Long. 162°35'46". Rec. freq: 3700–4200 MHz. Transmit freq: 5925–6425 MHz. Emission 4500F9. Using a 10 meter antenna.

237-DSE-P-76 RCA Alaska Communications, Inc., Adak, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 51°52'25" Long. 176°38'25". Rec. freq: 3700–4200 MHz. Transmit freq: 5925–6425 MHz. Emission 4500F9. Using a 10 meter antenna.

238-DSE-P-76 RCA Alaska Communications, Inc., Barrow, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 71°16'16.4" Long. 156°46'11.8". Rec. freq: 3700–4200 MHz. Tranmit freq: 5925–6425 MHz. Emission 4500F9. Using a 10 meter antenna.

199-DSE-P/L-76 Teleprompter Corporation, Santa Maria, California. Authority to construct, Own and Operate a Domestic Communications Receive-Only satellite earth station at this location. Lat. 34 36 32. Long. 120 08 45. Rec. freq: 3700–4200 GHz. Emission 36000F9. Using a 10 meter antenna.

239-DSE-MP-76 GTE Satellite Corporation (KB32), Triunfo Pass, California. Modification of construction permit for authority to construct a third antenna.

240-DSE-MP-76 GTE Satellite Corporation (KB33), Sunset, Hawaii. Modification of construction permit to permit a 9° minimum elevation angle and operations with satellites located between 87° West and 130° West Longitude.

241-CSG-R-76 Communications Satellite Corporation (WA25), Clarksburg, Maryland. Renewal of license for a developmental earth station located at Clarksburg, Maryland. Expiration date: March 3, 1977.

242-CSG-P/L-76 COMSAT General Corporation, Clarksburg, Maryland. Application for construction permit and license to establish a communications satellite developmental earth station at Comsat Laboratories in Clarksburg, Maryland. The station would be operated at L-band frequencies with the MARISAT satellite positioned over the Atlantic Ocean for the purpose of conducting tests and experiments directed toward improvements in maritime satellite communications.

18-CSS-P-76 Communications Satellite Corporation, for such authority as may be necessary in order for it to participate in a program for the construction of seven high capacity INTELSAT V communications satellites to be used as part of the INTELSAT communications satellite system.

241-DSE-P-76 RCA Global Communications, Inc. (as Trustee) Point Reyes, California. For authority to construct a third antenna at the Point Reyes, California domestic communication satellite earth station for operation with a domestic communication satellite system. The third antenna will be 13 meters.

[FR Doc.76-7274 Filed 3-12-76;8:45 am]

[Report No. 796]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MARCH 8, 1976.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act of 1934) or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning any of these applications on or before April 14, 1976.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it 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 the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21505-CD-P-(3)-76 Western Communications Service (KKG416) C.P. to relocate facilities and replace transmitters operating on 152.03 MHz (Base) and 459.050 MHz (Repeater) at Loc. #5: 2 miles NW of City limits of Sterling City, Texas; also to add control facilities to operate on 454.050 MHz at Loc. # 1: 320 West 26th Street, San Angelo, Texas.

21506-CD-P-76 Radio Dispatch Company (NEW) C.P. for a new 1-way-signaling station to operate on 35.58 MHz (Base) to be located at 2210 Boardwalk, Atlantic City, New Jersey.

21507-CD-P-76 Southwest Communications Corporation (KUS269) C.P. for additional control facilities to operate on 459.250 MHz to be located at new Loc. # 2: 525 Kresky Road, Centralia, Washington.

21508-CD-P-76 William L. Eisele, d/b/a Lake Shore Communications (KJU804) C.P. to relocate facilities operating on 152.18 MHz (Base) to be located 4 miles NNW of LaPorte, Indiana.

21509-CD-P-(2)-76 West Carolina Rural Telephone Coop., Inc. (NEW) C.P. for a new 2-way station to be operated on 152.600 MHz (Base) and 152.78 MHz (Base) to be located on West Side of West Front Street, 70 feet S. of Broad Street Intersection, Iva, South Carolina.

21511-CD-P-76 New York Telephone Company (KEA763) C.P. to relocate auxiliary Test facilities operating on 43.50 and 43.66 MHz and to replace transmitter operating on same, located at 199 Fulton Avenue, Hempstead, New York.

21512-CD-P-(2)-76 Radio Broadcasting Company (NEW) C.P. for authority to establish 2-way developmental service on the split frequency 152.165 MHz (Base) at Loc. # 1: 3600 Conshohocken, Philadelphia, Pennsylvania and 152.195 MHz (Base) at Loc. # 2: N Market & East 10th Streets, Wilmington, Delaware.

21513-CD-P-(5)-76 Indiana Bell Telephone Company (KSD326) C.P. for additional facilities to operate on 152.84 MHz (Base) at the following new locations: Loc. #6: 1100' West of S. 23rd Street, Anderson, Indiana; Loc. # 7: 801 North Washington Street, Bloomington, Indiana; Loc. # 8: 1 mile NW of Columbus, Indiana; Loc. # 9: 116 East Taylor Street, Kokomo, Indiana; Loc. # 10: 329 East Jackson Street, Muncie, Indiana.

21514-CD-P-76 Dee Westmore d/b/a Westside Answering Service (NEW) C.P. for a new 1-way-signaling station to operate on 43.22 MHz (Base) to be located at 3717 Spruce St., Tampa, Florida.

21515–CD–P–76 Answer, Inc. of San Antonio (KKG559) C.P. to relocate facilities operating on 152.12 MHz at Loc. # 4: NE corner of N. Main & E. Myrtle St., San Antonio, Texas.

21516–CD–P–76 Phone Depots, Inc. d/b/a Mobilfone Radio System (KEA254) C.P. for additional facilities to operate on 152.21 MHz (Base) at new location described as Loc. # 6: 901 Ocean Avenue, Asbury Park, New Jersey.

21517–CD–P–76 Radio Enterprises of Ohio, Inc. (KUS280) C.P. for additional facilities to operate on 35.22 MHz (Base) at new location described as Loc. # 5: Jefferson Road, Conneaut, Ohio (1-way-signaling).

21518–CD–P–76 Tony H. Scamardo d/b/a Industrial Electronics (NEW) C.P. for a new 2-way station to be operated on 152.66 MHz (Base) to be located 4.5 miles N. of Brenham, Texas.

Renewal of License expiring April 1, 1976. TERM: April 1, 1976 through April 1, 1979.

Maine

A–R Microwave Corporation, KCA752.

Wyoming

Collins Radio Communications Corporation, KUO574.

Informative

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reasons of potential electrical interference.

Illinois frequency: 158.10 MHz, call sign, and file number

Illinois Bell Tel Co., Chicago, Illinois (KTS 203), 20657–CD–P–(11)–76.

Burlington, Brighton, Wheatland Tel. Co., Burlington, Somers, Delavan, Wisconsin, (KUO636), 20963–CD–P–(3)–76.

Applications Accepted For Filing:

POINT-TO-POINT MICROWAVE RADIO SERVICE

1915–CF–P–76 The Mountain States Telephone and Telegraph Company (KXR22), 75 East 1st North, Provo, Utah. Lat. 40 14 08 N. –Long. 111 39 23 W. C.P. to add frequency 2124.0V MHz toward Payson, Utah on azimuth 221.0°.

1916–CF–P–76 Same (KPQ23), 5.5 Miles NW of Payson, Utah. Lat. 40 05 21 N. Long. 111 49 19 W. C.P. to add frequencies 2174.0V MHz toward Provo, Utah on azimuth 40.89°, and 2166.0V MHz toward a new station at Nephi, Utah on azimuth 181.23°.

1917–CF–P–76 Same (NEW), 10 North 1st East, Nephi, Utah. Lat. 39 42 32 N. Long. 111 49 52 W. C.P. for a new station on frequency 2116.0V MHz toward Payson, Utah on azimuth 01.22°.

1953–CF–P–76 United Telephone Company of Florida (KRT57), Broadway & Copeland Avenues, Everglades, Florida. Lat. 25 51 32 N. –Long. 81 22 23 W. C.P. to add frequency 2175.4V MHz toward Monroe Station, Florida on azimuth 89° 45'; delete frequencies 6286.2V MHz toward Monroe Station, and 2129.0V MHz toward Pinecrest, Florida.

1954–CF–P–76 Same (KY084), U.S. .41, 0.8 Mile West of Monroe Station, Florida. Lat. 25 51 57 N. –Long. 81 06 57 W. C.P. to add frequencies 2125.4V MHz toward Everglades, Florida on azimuth 269° 46', and 2121.8V MHz toward Pinecrest, Florida on azimuth 122° 33'; delete 6034.2V MHz toward Everglades.

1955–CF–P–76 Same (KSV), Pinecrest, 11.8 Miles SE of Monroe Station, Florida. Lat. 25 45 50 N. –Long. 80 56 23 W. C.P. to add frequencies 2171.8V MHz toward Monroe Station, Florida on azimuth 302° 38'; replace transmitter and increase power output on 2175.4V MHz toward Flamingo, Florida and delete 2179.0V toward Everglades, Florida.

1956–CF–P–76 Same (KSV80), Flamingo, 36 Miles SW of Florida City, Florida. Lat. 25 08 48 N. –Long. 80 55 12 W. C.P. to add antenna, replace transmitter and increase power output for frequency 2125.4V MHz toward Pinecrest, Florida on azimuth 358° 20'.

1958–CF–P–76 The Pacific Telephone and Telegraph Company (KNL90), 1638 Pine Street, Redding, California. Lat. 40 34 59 N. –Long. 122 23 18 W. C.P. to add frequencies 10875V 11035V MHz toward Sugarloaf Mtn., California on azimuth 352.6°.

1959–CF–P–76 Same (KMN21), Sugarloaf Mtn., 4 Miles SSW of Delta, California. Lat. 40 54 28 N. –Long. 122 26 38 W. C.P. to add frequencies 11325V 11485V MHz toward Redding, California on azimuth 172.6°, and 11325V 11485V MHz toward Soda Creek Ridge passive reflector on azimuth 25.6°, and from passive reflector toward a new station at Dunsmuir, California on azimuth 235.3°.

1960–CF–P–76 Same (NEW), 964 Shasta Avenue, Dunsmuir, California. Lat. 41 12 29 Long. 122 16 22 W. C.P. for a new station on frequencies 10875V 11035V MHz toward Soda Creek Ridge passive reflector on azimuth 55.2°, and from passive reflector toward Sugarloaf Mtn., California on azimuth 205.7°.

2178–CF–ML–76 American Telephone and Telegraph Company (KMJ86), 434 S. Grand Avenue, Los Angeles, California. Lat. 34 03 02 N. –Long. 118 15 08 W. Mod. of License to delete frequency 4010H MHz toward Padua Hills, California as a partial transfer to Pacific Telephone and Telegraph Company's co-located station, and add 3850H MHz toward Padua Hills as a partial transfer from Pacific Telephone and Telegraph Company.

2179–CF–ML–76 Same (KJM87), Padua Hills, 3 Miles North of Claremont, California. Lat. 34 08 33 N. –Long. 117 43 17 W. Mod. of License to delete frequencies 3970V MHz toward Los Angeles, California, and 3970H MHz toward Strawberry Peak, California as a partial transfer to Pacific Telephone and Telegraph Company's co-located station, and add 3810V MHz toward Los Angeles, California, and 3810H MHz toward Strawberry Peak, California as a partial transfer from Pacific Telephone and Telegraph Company.

2180–CF–ML–76 Same (KJM88), Strawberry Peak, 9 Miles North of San Bernardino, California. Lat. 34 13 55 N. –Long. 117 14 04 W. Mod. of License to delete frequency 4010V MHz toward Padua Hills, California as a partial transfer to Pacific Telephone and Telegraph Company's co-located station, and add 3850V MHz toward Padua Hills, California as a partial transfer from Pacific Telephone and Telegraph Company.

2479–CF–A1(2)–76 Ohio Bell Telephone Company. Consent to Assignment of Licenses from Ohio Bell Telephone Company, ASSIGNOR, to Western Reserve Telephone Company, ASSIGNEE, for station KQN55: Thompson, Ohio, and KQN56: Ashtabula, Ohio.

2448–CF–AL–(9)–76 Wyoming Microwave Corporation. Consent to assign the following licenses to its parent corporation, Western Tele-Communications, Inc.: WAN91–Casper Mountain, Wyoming; KOS62–Red Clouds Lookout, Wyoming; KPS63–Cedar Mountain, Wyoming; KPS25–Kingsbury, Wyoming; KTG48–Dome Mountain, Wyoming; KPB65–Cooper Mountain, Wyoming; WAY75–Morse Heaven, Wyoming; WAY74–Bear Park, Wyoming; WAY 73–Summit, Wyoming.

[FR Doc.76–7275 Filed 3–12–76; 8:45 am]

[Docket Nos. 20505, 20506; File Nos. BPH–8918, BPH–9235; FCC 76R–76]

COMMUNITY NORTH BROADCASTERS, INC. AND TEETER-TAYLOR ENTERPRISES

Memorandum Opinion and Order Enlarging Issues

In the matter of Applications of Community North Broadcasters, Inc., Soddy-Daisy, Tennessee (Docket No. 20505, File No. BPH–8918); and Richard B. Teeter, Rheubin M. Taylor and Ward Crutchfield, a partnership, d/b as Teeter-Taylor Enterprises, Soddy-Daisy, Tennessee (Docket No. 20506, File No. BPH–9235) for construction permits.

1. This proceeding involves the mutually exclusive applications of Community North Broadcasters, Inc. (Community) and Teeter-Taylor Enterprises (Teeter-Taylor) for authorization to construct a new FM broadcast station at Soddy-Daisy, Tennessee. By Order of the Chief of the Broadcast Bureau, acting construct a new FM broadcast station at 26061, published June 20, 1975, these applications were designated for consolidated hearing on various issues. The Review Board now has before it a motion to enlarge issues,[1] filed October 23, 1975, by Community, requesting the addition of misrepresentation and Rule 1.65 issues against Teeter-Taylor.

2. In support of its motion to enlarge issues, Community alleges that Claude E. Carson, a proposed limited partner of Teeter-Taylor,[2] is licensed by the Commission as a third class radio telephone operator, but that an affidavit of Carson, dated October 2, 1975, and submitted to the Commission by Teeter-Taylor on October 10, 1975,[3] represents that he holds a first class license. Community further alleges that Teeter-Taylor violated Rule 1.65 by failing to inform the Commission until August 14, 1975 of Carson's interest in the Zanzibar Record Store which had opened on February 11, 1975. Community argues that the opening of the record store was a significant

[1] The Board also has before it the following related pleadings: (a) supplement to motion to enlarge issues, filed October 30, 1975, by Community; (b) partial opposition, filed November 19, 1975, by the Broadcast Bureau; (c) opposition, filed December 10, 1975, by Teeter-Taylor; and (d) reply, filed December 31, 1975, by Community. The Board will not consider Community's supplemental pleading since the applicant has not pleaded good cause for its acceptance. *In re Filing of Supplemental Pleadings Before the Review Board*, 40 FCC 2d 1026 (1972).

[2] Community submits with its motion a part of Teeter-Taylor's amended application, which identifies Carson as "a proposed limited partner in the applicant, [who] will be a full-time employee of the applicant as Chief Engineer." According to Community, Carson will be the only principal at the station between the hours of 9:30 a.m. and 4:00 p.m. on a daily basis.

[3] The affidavit was attached to Teeter-Taylor's request for permission to adduce additional evidence, filed October 10, 1975.

development, and thus was required to be reported to the Commission under Rule 1.65 since Teeter-Taylor was relying at that time on a $5,000 capital contribution from Carson and Carson's balance sheet filed with Teeter-Taylor's application indicated only $2,000 in liquid assets and a mortgage liability of $11,204. Moreover, Community submits a copy of a sworn statement from the United States Small Business Administration indicating that, on November 6, 1974, a $13,500 loan was disbursed to Carson for use in establishing the Zanzibar Record Shop with collateral of machinery and equipment and a deed of trust on Carson's residence.[4] According to movant, Teeter-Taylor failed to disclose Carson's involvement with the record store in order to conceal Carson's additional financial obligations and disclosure occurred "only at the precise time when Teeter-Taylor changed its financial proposal to eliminate reliance on Mr. Carson's contribution."[5] Finally, Community alleges that Rheubin Taylor, an attorney and a general partner in Teeter-Taylor, has misrepresented his ability to meet his management commitment to the proposed station. Specifically, Community claims that Taylor cannot be at the station from 4:00 to 8:00 p.m., Monday to Friday, as he claims he will be, since Taylor is a practicing attorney as well as an active participant in numerous civic groups which allegedly hold meetings between the hours of 3:30 p.m. and 8:15 p.m. Community further asserts that Taylor testified at hearing that the courts in which he appears in Chattanooga are generally dismissed around 4:00 p.m. at the latest and that it takes him ten minutes to drive from Chattanooga to Soddy-Daisy. According to Community, the trip requires at least 25 minutes to be made lawfully, since the distance from the courthouse in Chattanooga to the Soddy-Daisy city limits is 13.3 miles along a road with a number of traffic signals and speed limits ranging from 25 to 55 miles per hour.

3. In opposition, Teeter-Taylor asserts that Community's allegation of Carson's misrepresentation of his operator's license was a surprise to the general partners of Teeter-Taylor. The Applicant states that it investigated this allegation and found it to be true. Teeter-Taylor claims that Carson has now been disassociated from the applicant and that, on December 10, 1975, it filed an amendment to its application to reflect Carson's resignation. Teeter-Taylor's position is that, in view of Carson's separation from the applicant, his misrepresentation of his operator's license does not warrant addition of an issue since the general partners had no knowledge of his misreprsentation prior to the filing of Company's motion to enlarge, and since Carson was "a rather minor principal of the applicant." Teeter-Taylor asserts further that Carson was not proposed to have any management function, that he has not contributed any funds for the prosecution of the application, and that he will not share in any reimbursement of expenses to be paid to Teeter-Taylor pursuant to a settlement agreement between the parties to this proceeding which is now pending before the Presiding Judge.[6] With respect to Carson's record store, Teeter-Taylor alleges that it voluntarily reported the existence of the store to the Commission and deleted its "rather minor reliance on Carson's financial commitment"[7] in an amendment filed on August 14, 1975. Teeter-Taylor also states that its three general partners were unaware of the Small Business Administration loan for the record store until August 1975, at which time they decided to delete from the application their reliance upon Carson's contribution. In response to the allegations of Taylor's lack of candor at the hearing, Teeter-Taylor alleges that Taylor's testimony concerning driving time between Chattanooga and Soddy-Daisy was merely an estimate, and that "any minor discrepancy in the record" concerning this estimate was unintentional. Teeter-Taylor further states that Taylor's civic activities will not interfere significantly with his commitment to the proposed station. Specifically, the applicant argues that the maximum conflict would be 3 hours per month, or 2.3 percent of the 128 hours Taylor proposes to be at the station each month, and that Taylor could make up this time when necessary.[8] In the view of the applicant, any inaccuracy in Taylor's testimony as to details of the meetings is the result of his being asked the general question, "Do any of these meetings ever commence, between the hours of 3:30 p.m. and 8:15 p.m.?" (Tr. 245), rather than specific questions about times and meetings of specific organizations.

4. The Review Board will grant in part Community's motion to enlarge issues. First, with respect to Claude Carson's alleged misrepresentation to the Commission, although Teeter-Taylor has attempted to disassociate Carson from its application, the petition for leave to amend to effectuate that separation has not yet been acted upon by the Presiding Judge. Accordingly, we are required to consider Teeter-Taylor's application as it exists prior to its December 10, 1975 proposed amendment and to consider Carson as a proposed limited partner in Teeter-Taylor. *Cf. Community Broadcasting Co., Inc.*, 48 FCC 2d 489, 31 RR 2d 164 (1974). We believe a misrepresentation issue is warranted against Teeter-Taylor based on the admitted fact that Carson does not have a first class operator's license as apparently represented by him in a pleading filed October 10, 1975 by Teeter-Taylor with the Commission. Because Carter is a proposed limited partner as well as the applicant's proposed chief engineer, we believe his conduct could affect Teeter-Taylor's qualifications, and must be further examined at hearing.[9] We will decline however to add the requested Rule 1.65 issue relating to Carson's involvement with the Zanzibar Record Shop. Although we are not shown how the existence of the business could in itself be decisionally significant, we do believe that the omission of any mention of the outstanding Small Business Administration loan either in the application or on Carson's balance sheet could have been of decisional significance in view of Carson's financial commitment to the applicant. However, in light of the undisputed circumstances that the applicant amended to delete reliance on Carson's financial contribution when it became aware of the loan to him, we believe an evidentiary inquiry into this matter would be inappropriate. Finally, we will not add an issue regarding Taylor's testimony concerning drive tme between Chattanooga and Soddy-Daisy. Although Taylor concedes that he was mistaken in his testimony as to the time required to make the trip, we do not believe that this one erroneous response considered in light of the explanation contained in his affidavit is sufficient to raise a substantial question regarding his candor. Similarly, the allegations that Taylor misrepresented the time devoted to his civic activities are based on Community's unfounded assumption that Taylor plans to attend meetings of each of the organizations in question subsequent to the construction of the proposed station both punctually and on a regular basis.[10] In

[4] Community notes that on February 12, 1975, Teeter-Taylor filed an amendment to its application indicating, *inter alia*, reduction of Carson's proposed contribution to $2000, but failing to report either the loan or the encumbrance on his property. Failure to report the loan itself requires addition of Rule 1.65 and character issues, petitioner submits.

[5] Community refers here to Teeter-Taylor's amendment of August 14, 1975.

[6] The agreement and a joint request for approval were filed on December 22, 1975.

[7] The applicant states that its February 12, 1975 amendment showed a first year cost requirement of $94,373.78 to be met by available resources of $104,657.95, including $2000 from Carson.

[8] In an attached affidavit, Taylor indicates that his attendance at meetings of the civic organizations in question has sometimes been irregular, and that his presence throughout the entire meetings is often not necessary.

[9] We reject the suggestion in Community's reply that we reach a final decision on the merits of the issue leading to an immediate grant of Community's application "since the facts regarding Mr. Carson are admitted." The cases cited by Community in support of this procedure predate the revision of Rule 0.365(b)(2), under which the Review Board formerly has jurisdiction over joint requests for approval of agreements between broadcast applicants. See *Hearing Proceedings—Presiding Officer Authority*, 26 FCC 2d 331, 20 RR 2d 1613 (1970). Moreover, unlike the cited cases the outstanding issues in this proceeding cannot be resolved on the basis of the pleadings before the Board.

[10] In fact, Taylor's affidavit indicates that his testimony at the hearing was based on the expectation that he could leave afternoon meetings early when necessary and arrive late at conflicting nighttime meetings. He further indicates an intent to attend, for example, only a majority of the meetings of the Young Democrats. Also, a letter from the executive director of the National Business League states that "staff presence is on a request basis only."

sum, we see no substantial question as to whether Taylor has misrepresented his intention or his ability to spend the hours in question at the proposed station.

5. ACCORDINGLY, IT IS ORDERED, That the motion to enlarge issues, filed October 23, 1975, by Community North Broadcasters, Inc., IS GRANTED to the extent indicated herein, and IS DENIED in all other respects, and

6. IT IS FURTHER ORDERED, That the issues herein ARE ENLARGED to include the following issue:

To determine whether Claude E. Carson has misrepresented to the Commission that he possesses a first class radio telephone operator's license and, if so, to determine the effect upon the qualifications of Teeter-Taylor Enterprises to be a Commission licensee.

7. IT IS FURTHER ORDERED, That the burden of proceeding with the introduction of evidence under the issue added herein SHALL BE on Community North Broadcasters, Inc., and the burden of proof thereunder SHALL BE on Teeter-Taylor Enterprises.

Adopted: March 5, 1976.

Released: March 11, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-7270 Filed 3-12-76;8:45 am]

[Docket No. 19660; RM-690; FCC 76-192]

INTERNATIONAL RECORD CARRIERS' SCOPE OF OPERATIONS

Order Regarding Stay

1. On January 7, 1976, we issued a Report and Order and Notice of Proposed Rulemaking in the above-captioned matter, FCC 75-1430, ____ FCC 2d ____, in which we (a) found the formula governing distribution by The Western Union Telegraph Co. (WU) among the international record carriers (IRCs) of outbound unrouted international message telegraph traffic (international formula) which we had prescribed in 1943 pursuant to 47 U.S.C. § 222(e)(1) (1971), is unjust, unreasonable, inequitable and not in the public interest, (b) instituted an inquiry into the legal, economic and operational implications of placing distribution of such traffic on the basis of required customer routings[1] and (c) pending outcome of the above inquiry, prescribed an interim distribution of outbound traffic (interim formula) to become effective upon repeal of the present international formula on March 1, 1976.

2. The Commission has before it for consideration the following petitions and motions, addressing the above Report and Order:

(a) A Petition for Reconsideration filed by Western Union International, Inc. (WUI) on February 11, 1976, seeking, inter alia, postponement of the effective date of the interim formula until January 1, 1977;

(b) A Petition for Stay filed by RCA Global Communications, Inc. (RCA) on February 11, 1976 seeking a stay pending review of our Report and Order in the Court of Appeals; [2] and

(c) A Motion for Extension filed by WU on February 19, 1976 seeking extension until March 21, 1976 of the date for implementing the interim formula in which WU states that it needs the extra time to complete modifications of its facilities and the augmenting and training of its personnel necessary to implement the interim formula.[3]

3. Under our rules, the filing of a petition for reconsideration does not itself suspend the effectiveness of a Commission order for which reconsideration is sought. *See* Section 1.429(k) of the Commission's Rules, 41 F.R. 1286, January 7, 1976. However, in the exercise of our discretion, we believe that the public interest will be best served by staying the effectiveness of our January 7 Report and Order until we have resolved the matters raised in the above petitions. In the first instance, we believe that WU has justified its request for additional time to prepare for implementing the interim formula and that the three-week period requested in reasonable.[4] Beyond this, moreover, we believe that a stay will be conducive to the orderly resolution of the formula matter. In their respective petitions, both RCA [5] and WUI raise specific challenges to our Report and Order which, because of the common subject matter, we believe should be considered together. However, because of the notice and comment provisions of Section 1.429 (g)-(h) of our rules, we will not be able to act on the WUI petition before the March 1 effective date. Consolidated handling is particularly desirable in the present instance because RCA has sought judicial review of our Report and Order. Since RCA raised essentially the same matters before us in its Petition for Stay as those before the court in its Petition for Review, we believe it important that the court have the benefits of our consideration of those matters. Therefore, to allow WU additional time for its preparation and facilitate orderly review of our Report and Order, we will stay the effectiveness of our Report and Order pending resolution of the WUI and RCA petitions.[6]

4. Accordingly, it is ordered, on our own motion, that paragraphs 63 and 65 of the above-referenced Report and Order and Notice of Proposed Rulemaking are hereby stayed until further order of the Commission.

Adopted: February 26, 1976.

Released: March 5, 1976.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-7268 Filed 3-12-76;8:45 am]

[Docket No. 20720; File Nos. BR-4014, BRH-1688; FCC 76-144]

STATE COLLEGE COMMUNICATIONS CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

1. The Commission has before it: (i) the above-captioned applications of State College Communications Corporation (SCCC) for renewal of licenses of Stations WRSC and WQWK(FM), State College, Pennsylvania; (ii) a petition to deny these applications filed June 26, 1975, by Nittany Communications, Inc. (NCI); (iii) licensee's opposition to the petition filed August 4, 1975; (iv) NCI's reply of August 14, 1975; (v) various related and responsive pleadings.

2. On March 20, 1975, NCI, petitioner herein, filed an application for a construction permit to build UHF Channel 29 in State College. On May 16, 1975, licensee of WRSC and WQWK(FM) in State College filed a petition to deny that application. In the instant pleading NCI contends that the SCCC petition "is nothing more than a sham pleading which is designed to delay the processing of the Nittany television application and accordingly postpone whatever economic competition it may pose" to licensee's stations. For the reasons set forth herein, we find that substantial and material questions of fact have been raised as to whether SCCC's action was a "strike" petition and, thus, whether SCCC is qualified to remain a Commission licensee.

3. Initially, petitioner sets forth the four guidelines of the *Grenco, Inc.*, deci-

[1] Concurring statement of Board Member Ohlbaum filed as a part of the original document.

[1] Our action herein will not affect that inquiry or the timetable for its prosecution set forth in the above Report and Order.

[2] RCA filed on February 13, 1976 a Petition for Review with the United States Court of Appeals for the Second Circuit, RCA Global Communications, Inc. v. FCC, Docket No. 76-4054, in which it seeks reversal of our January 7 Report and Order.

[3] Although not so denominated, both the WUI and the WU requests for postponement of the effective date of the interim formula procedurally amount to petitions for stay of our Report and Order and will be so treated.

[4] In view of our action herein, however, we need not act on the WU Petition at this time. If we have resolved the other matters discussed herein before March 21, 1976, there will be time to take appropriate action on that request. We expect WU to continue its preparations expeditiously so that it will be able to implement the interim formula without delay.

[5] The RCA Petition for Stay was opposed by ITT World Communications Inc. and TRT Telecommunications Corp. Since we are deferring action on RCA's petition we need not consider the arguments of the opponents until we consider that petition.

[6] We are acting here on our own motion and do not express any opinion on the merits of those petitions. If, after we have completed our review, we should deny RCA's Petition for Stay, we will allow it opportunity to seek a stay from the reviewing court.

sion, 28 FCC 2d 166 (1971), for determining whether an application qualifies as a "strike" application. These are: (1) timing of the application, (2) economic and competitive benefit occurring from the application, (3) good faith of the applicant, and (4) questions concerning a frequency study. Petitioner then notes, correctly, that the Commission has extended the "strike" concept to petitions to deny. See *Radio Carrollton*, 52 FCC 2d 1173 (1975). It alleges that SCCC filed its petition on the very last permissible day, one month after the release of the public notice on NCI's application. It claims licensee's petition was filed on the last day purely to delay for as long as possible processing of its application. Concerning the frequency study criterion, petitioner claims that SCCC commissioned an engineering study regarding the signal coverage of Nittany, a study NCI contends was not pertinent to SCCC's broadcast operation.

4. Regarding economic benefit and good faith of the licensee, petitioner submits four affidavits from persons who had been contacted by Robert Zimmerman, Vice President and General Manager of WRSC and WQWK—i.e., Drs. Ronald Delmonico and Thomas Nardozzo, both NCI directors; James Colpetzer, a local businessman; and Mat DeVincenzo, the president of a local car dealership. Based on these affidavits, NCI contends that Zimmerman's views on the economic impact of the proposed UHF facility may be summarized as follows: that (1) the State College advertising market was saturated and the introduction of another medium would adversely effect the market; (ii) historically, UHF television stations have faced insurmountable economic hardships; and (iii) the addition of the TV station would reduce the advertising income of Zimmerman's stations and would adversely effect his equity interest in them.

5. Specifically, Dr. Delmonico's affidavit, in pertinent part, states: " . . . he [Zimmerman] conveyed to me his view that if the television station would go on the air it would take substantial advertising dollars from WRSC and WQWK and would cuase the radio stations to decrease in value. . . . He indicated to me that he opposed the the television facility, wished for its failure and wished that I would not participate in the venture. . . . Stated that Wolfram J. Dochtermann, the man promoting NCI, was in his view a con artist and had a bad reputation."

6. Dr. Nardozzo stated, in pertinent part: "Mr. Zimmerman explained . . . it [the TV station] would signal at least a $50,000 loss in value of his broadcast investment property. . . . he could envision a $75,000 reduction in broadcast advertising income. . . . castigated me by saying that I . . . did not realize that we would be taking bread out of the mouth of someone who made a living from advertising sales. . . . stated that he hoped that if the television station went on the air it would take only national advertising and would stay away from his college area business. . . . Mr. Zimmerman stated 'I hope you (expletive deleted) fall on your face and lose your ass and go broke.' Also he told me that the Nittany investors were in for the biggest fight we had ever been in, and that he was going to fight us in every way he knew how."

7. Mr. Colpetzer related, in pertinent part: "[Zimmerman] stated his view that there is not enough advertising money in this area to support a television station because the advertising market was saturated. . . . He said his attorneys were looking into the application of Nittany Communications, Inc., and that he was going to stop the station in any way he could. . . . He said he had to oppose the television station because he would be a fool not to fight something which would come into State College and take away some of his business and compete with him. . . . [he] proceeded to tell me their [the NCI investors] investment was 'sap money' and that the promoter of the venture would be taking the investors for a ride."

8. In his affidavit, Mr. DeVincenzo stated: [Zimmerman] said that if the television station came into the market it would diminish the value of WRSC and would reduce its marketability should he attempt to sell it. Mr. Zimmerman stated to me that he was sure that he could not stop the television station from coming into State College, but that he would try to slow its progress down."

9. Petitioner contends that SCCC's real purpose in filing its petition to deny was to gain economic benefit by delaying and blocking the NCI application and thereby staving off economic competition, and to discourage the NCI investors in the prosecution of their application. NCI argues also that the SCCC petition to deny is merely a "smoke screen," without substance on the merits and filed merely for obstructional purposes. Specifically, NCI defends its demographic study, community leader survey, and financial qualifications, which were attacked by SCCC in its petition to deny.

10. In opposition, SCCC contends that NCI's claim of standing based upon residency is lacking in support as it has not raised any complaints about the actual operation of WRSC or WQWK(FM), and that it doesn't have standing as a mere applicant in the market. Licensee claims that an analysis of its petition to deny reflects substantial public interest questions and, thus, does not fit the "strike" petition criteria in the *Radio Carrollton* decision, *supra*. In response to the *Grenco* guidelines, mentioned above, licensee states that its petition to deny, 59 pages with 20 exhibits, was filed within the 30-day period specified by Section 1.580(i) of the Rules, and, thus, was not intended to delay the proceeding. While conceding that its interests stand to be adversely effected if NCI's application is granted, SCCC contends that does not raise a presumption that it filed a "strike" petition. Rather, it claims, citing authority, that economic injury is a basis for its standing in the proceeding. Such economic interest, it contends, triggered its investigations. Specifically, SCCC states that it investigated whether a *Carroll* economic question was raised and determined that it was not.

11. Concerning the four affidavits allegedly exhibiting Mr. Zimmerman's lack of good faith and concern for future economic competition, SCCC replies that those conversations as portrayed by NCI are a "gross distortion" of the actual conversations. It claims that all four persons were either friends of Mr. Zimmerman or persons known to him and within his normal scope of contact. Both Colpetzer and DeVincenzo are said to have initiated the contact about the UHF station with Zimmerman. SCCC contends that Zimmerman did not know the other principals of NCI and made no effort to contact them. It states also that "(w)hile Zimmerman's words may well indicate competitive interest, his words do not in any way indicate that Mr. Zimmerman planned to stop or delay the NCI application by abusing Commission process."

12. SCCC submits an affidavit from Zimmerman detailing his account of the conversations. Regarding the Delmonico affidavit, he states: "I did not pinpoint radio stations as the target but said that all media would have to contribute to the facility. . . . I did not state that Mr. Dochterman was a 'con artist' or had a bad reputation. . . . I did not state that I wanted the television facility to fail. I did state that it would be bad economically for all of the other media including the radio stations."

13. Concerning the Nardozzo affidavit, he states: "I did not ask Dr. Nardozzo to withdraw his investment. I did not castigate him for refusing to withdraw his investment. I did not urge him to withdraw it. . . . I did not tell him that I hope you fall on your face, lose your ass and go broke. I did not use any expletives. I did tell him that once the TV station got on the air we would fight him as competitors as hard as we know how. . . . The whole tone of the meeting was friendly."

14. With regard to Colpetzer's affidavit, Zimmerman states: "I told him that our lawyers were looking into the application. . . . I said that I was not sure who would oppose it but that I could understand the reluctance and fear on the part of existing media owners to challenge such a powerful local group with economic and political ties and interests throughout the community. . . . I did not say that the promoter was taking the investors for a ride. I did not state that we were going to stop the station in any way we could. I did not state that the station would not open. I did state that if it did open it would not, in my opinion, get off the ground in the sense of becoming profitable."

15. In answer to DeVincenzo's affidavit, Zimmerman explains that he and DeVincenzo are "personal" friends, and that: "I did not say the television station would reduce the value of the radio station, although I believe that to be a fact. . . . I did not say I was sure I could not stop the television station nor did I say I would

try to slow it down. I did say our lawyers were looking into the application to determine whether it met all of the Federal Communications Commission requirements."

16. Regarding the *bona fides* of its petition against NCI's construction application, SCCC refers to its petition and reply filed in that case which it claims raise numerous meritorious issues. In conclusion, SCCC contends that NCI's reading of precedent in "strike" petition cases would deny competitors the right to petition to deny, and is contradictory to the meaning of *Radio Carrollton, supra*. It also notes that a party in interest need not perfect, at peril of having its license renewal denied, its proof regarding NCI's ascertainment, financial qualifications, the role of Dochterman, and environmental and site suitability issues.

17. In reply, NCI states that as long as one of the purposes of SCCC's petition to deny was to impede or stop the television station application, its pleading was a "strike" petition. Therefore, it is not persuasive that any portion of the SCCC petition is well intended. Petitioner also points to the contradictions in the testimony provided in the four affidavits attached to its petition and that of Mr. Zimmerman, which, it claims, raise an issue for hearing on the "strike" petition and further raise the issue of Zimmerman's candor.

18. Initially, the Commission finds that NCI has standing as a party in interest under Section 309(d) of the Communications Act of 1934, as amended, since its principals are members of the listening audience of licensees' stations. See *Office of Communication of United Church of Christ* v. *FCC*, 359 F. 2d 994 (D.C. Cir. 1966); *The A. H. Belo Corporation*, 30 RR 2d 289, 291 (1974); *Hale* v. *FCC*, 425 F. 2d 556 (D.C. Cir. 1970).

19. The applicable criteria for determining whether a pleading filed by a competitor is a "strike" application are set forth in *Grenco, supra*, and these same criteria were used by the Commission with respect to petitions to deny in *Radio Carrollton, supra*. See paragraph 3, *supra*. But it is important to be aware of the policy behind the standard, as well. The Commission stated in *Asheboro Broadcasting Company*, 20 FCC 2d 1, 3 (1969):

> Any licensee who is found to have participated in the filing of an application, *one of whose purposes* is the obstructing, impeding, or delaying of a grant of another application, places in jeopardy the authorization for the existing station which is the intended beneficiary of the strike application. This policy obtains even if the intention to obstruct, impede or delay is not the sole reason for participation . . .

The Commission exists to ascertain and carry out the public interest, and petitions to deny must, therefore, serve the public interest rather than the selfish or private interests of any person or group of persons. In fact, in a recent decision, the Commission stated that the filing of a petition to deny was a "serious step" and, in seeking to further the public interest, "* * * citizens ought not ignore or abuse processes which are designed for the careful and orderly preservation of that interest." *Harrea Broadcasters, Inc. WKBO*, 52 FCC 2d 998, 1003 (1975). Thus, it is in this good faith role of "private attorney general" that persons are presumed to act when filing petitions to deny or other pleadings or applications with the Commission. *Office of Communication of United Church of Christ v. FCC*, 359 F. 2d 994, 1003 (D.C. Cir. 1966). While we in no way intend to cast a chilling effect upon the filing of applications, petitions to deny or other pleadings by licensees against competitors or potential competitors, we will not hesitate to take appropriate and necessary action where information comes to our attention which indicates that a licensee may have filed in bad faith—i.e., to block, impede or delay the grant of another application.

20. The sole issue for our consideration is whether the SCCC petition to deny filed against the NCI construction application qualifies as a "strike" petition. In the instant case, we believe that the information submitted by NCI in its petition to deny and the information supplied by the parties in their responsive pleadings raises such a question.

21. In our view there is a substantial and material conflict in the statements made in the affidavits between Mr. Zimmerman for SCCC and Dr. Delmonico, Dr. Nardozzo, Mr. Colpetzer, and Mr. DeVincenzo regarding the reasons behind the filing of SCCC's petition to deny. These conflicting statements raise an issue of whether SCCC's filing was in bad faith, designed to block or delay a grant of the UHF application and, thus, whether it constitutes an abuse of Commission process. Having determined that extrinsic evidence exists that licensee may have filed its petition to deny in bad faith, we need not reach at this time the question of whether all of the *Grenco* tests are satisfied.

22. Likewise, we do not find it necessary to make any findings on the merits of SCCC's petition to deny against the NCI application, incorporated by reference by licensee. While the merits of a petition to deny may be further evidence relating to the good faith of an alleged strike application, as in *Radio Carrollton, supra*, it is clear that extrinsic evidence of intent to impede another application, as is present here, is sufficient alone to warrant designation of an issue. See *Asheboro Broadcasting Company, supra*, at 3.[1] Furthermore, licensee's efforts to distinguish *Radio Carrollton* from the instant case are of little value since, in our view, a particular factual situation need not be identical to that case in order to warrant designation for hearing on a "strike" issue. Therefore, having found a substantial question as to whether licensee filed its petition to deny NCI's application to block or impede Commission action on that application, it is irrelevant that some elements of *Radio Carrollton* may not be present.

23. In sum, the Commission finds that NCI has raised a substantial and material question of fact whether SCCC went beyond a petitioner's permissible role of asserting the public interest, and engaged in abuse of Commission process in filing its petition to deny against NCI's application.

24. Accordingly, It is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application for renewal of license, Is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

(i) To determine whether State College Communications Corporation, its principals or agents, filed a petition to deny the application of Nittany Communications, Inc., for a construction permit for a UHF station Channel 29 in State College, Pennsylvania, for the purposes of impeding, obstructing, or otherwise delaying grant of that application.

(ii) To determine in light of the evidence adduced under the foregoing issue, whether grant of the applications for renewal of licenses of Stations WRSC and WQWK(FM) submitted by State College Communications Corporation would serve the public interest, convenience and necessity.

25. It is further ordered, That the petition to deny the above-captioned license renewal application, filed by Nittany Communications, Inc., IS GRANTED to the extent indicated herein, and is denied in all other respects.

26. It is further ordered, That Nittany Communications, Inc., request for official notice filed July 14, 1975, is denied.

27. It is further ordered, That Nittany Communications, Inc., is made a party to the hearing ordered herein.

28. It is further ordered, That, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence upon the first issue shall be upon petitioners, Nittany Communications, Inc., since Nittany has come forward with allegations of improper conduct by the licensee, and the burden of proof shall be upon the applicant, State College Communications Corporation, with respect to all issues herein.

29. It is further ordered, That to avail themselves of the opportunity to be heard, applicant and petitioner shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the Order.

30. It is further ordered, That State College Communications Corporation shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hear-

[1] Since we find it unnecessary under the circumstances to consider SCCC's petition on the merits, we will deny NCI's motion for official notice of these pleadings.

ing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the rules.

Adopted: February 18, 1976.

Released: March 8, 1976.

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

[FR Doc.76-7271 Filed 3-12-76;8:45 am]

[Docket No. 20268; File No. BPH-8250 etc.; FCC 76R-N]

TOWN AND COUNTRY RADIO, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In the matter of Applications of Town and Country Radio, Inc., Suffolk, Virginia, (Docket No. 20268, File No. BPH-8250); John Laurino, Gordon L. Hood and Vernon S. Lee, d/b/a Voice of the People, Suffolk, Virginia, (Docket No. 20269, File No. BPH-8405); and Tidewater Sounds, Inc., Suffolk, Virginia, (Docket No. 20270, File No. BPH-9036) for construction permits.

1. The Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the mutually exclusive applications of Town and Country Radio, Inc., John Laurino, Gordon L. Hood and Vernon S. Lee, d/b/a Voice of the People (Voice) and Tidewater Sounds, Inc. (Tidewater), for hearing by Orders, 49 FR 2472, published January 13, 1975, and 40 FR 2613, published January 14, 1975. Following approximately three weeks of hearing, the record in this proceeding was closed on January 5, 1976.

2. On October 15, 1975, the Presiding Administrative Law Judge in this proceeding released a Memorandum Opinion and Order, FCC 75M-1767, granting Tidewater's October 2, 1975 petition for leave to amend and accepting the financial amendment tendered therewith. The amendment substituted a bank loan commitment letter from the District of Columbia National Bank, dated October 1, 1975, for one from the Bank of Virginia that had expired on September 30, 1975.[1] However, stating that the October 1 commitment letter made "no showing as to what collateral will be required or as to Tidewater's ability to meet any collateral requirement,"[2] the Presiding Judge also certified the matter to the Review Board for a determination as to "whether any additional issue is required" and authorized the filing of comments by the parties. Subsequently, on October 28, 1975, in order to clarify the situation as to collateral, Tidewater filed a further petition for leave to amend in which it furnished, inter alia, an additional commitment letter, dated October 28, 1975, from the new lending bank.[3] In a Memorandum Opinion and Order, FCC 75M-1931, released November 12, 1975, the Presiding Judge, stating that "the [October 28] bank letter may obviate the need for enlargement of the issues," granted Tidewater's petition for leave to amend, accepted the amendment tendered therewith, and certified the Order to the Review Board "for consideration in conjunction with the matter certified * * * on October 15, 1975." The Presiding Judge again authorized the filing of comments. Now before the Board is the certified question of whether an additional issue is required in this proceeding.[4]

3. Initially, Voice contends that a funds availability issue is required since the representations regarding collateral in the October 28 bank commitment letter, see note 3, supra, fail to meet the explicit requirement of FCC Form 301, Section III, page 3, item 4e, i.e., that a commit-document specify the security required. In support, Voice asserts that the statement in question does not comport with representations that have in the past been found to be adequate, citing, *inter alia, Teche Broadcasting Corporation*, 52 FCC 2d 970, 33 RR 2d 902 (1975); and *Prairieland Broadcasters*, 48 FCC 2d 1216, 31 RR 2d 701 (1974). Moreover, Voice maintains that Hall's hearing testimony establishes that the value and availability of the noncash assets listed on Hall's May 20, 1974 balance sheet "is open to severe question."[5] Specifically Voice asserts that Hall's testimony indicates that none of the various assets relied on by Hall are free of prior encumbrances and Hall's interests in several of those assets are in fact substantially overvalued. In addition, Voice alleges that the bank's statement that it has been advised of "certain litigation" affecting Hall's interest in the Spring Knoll Farm Venture "raises * * * serious questions as to that [litigation] of which it [the bank] obviously has not been advised."[6] In light of the above, Voice concludes that, absent a specific representation by the bank that it is aware of these facts or a submission to the Board of the underlying information upon which the bank relied in giving the loan letter, the bank's willingness to accept a second or third position as security cannot be presumed, citing *cf. WWKY, Inc.*, 44 FCC 2d 239, 28 RR 2d 1551 (1973).

4. Voice also argues that since the terms of the proposed loan defer the commencement of payment of $75,000.00 in principal until the second year of operation, see note 1, supra, a substantial question is raised as to whether Tidewater can meet its [the Commission's] second year financial requirements, citing *Ultravision Broadcasting Co.*, 1 FCC 2d 544, 5 RR 2d 343 (1965). In this regard, Voice contends that, even assuming that Tidewater will receive second year revenues equal to its projected but unsubstantiated first year revenue estimate of $100,000.00, the revised financial figures in Tidewater's October 28 amendment indicate that Tidewater will have only $106,702.00 available to meet total second year expenses of $260,-

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[1] Both letters extended a $300,000 line of credit and provided for deferral of principal payments during the first year, with amortization of the balance in equal quarterly principal and interest payments over the next four years. The letter from the new funding bank, however, offered a 10% interest rate, as opposed to 12% offered by the Bank of Virginia.

[2] The letter stated, in pertinent part, that the "loan will be subject to final review of the personal financial statements of [Tidewater's principals] and satisfactory collateral for the loan at the time FCC approval is obtained."

[3] The October 28 letter states in pertinent part:

> Your [Michael T. Hall's, Tidewater president, treasurer, and 50% stockholder] most recent financial statement, supplemented by other documentation, shows sufficient assets which, if pledged, would be adequate collateral for the loan at this time. I would also like to indicate that you have advised me of certain litigation affecting your interest in Spring Knoll Farm Venture in Stafford County, Virginia.
>
> In addition, the amendment includes a statement from Hall in which he indicates his willingness to "pledge to the bank such of my assets held by me presently or in the future as the bank may require as adequate collateral for the line of credit in the amount of $300,000 . . .".

[4] The following pleadings regarding this matter have been filed: (a) comments on certification, filed October 22, 1975, by Voice; (b) comments on certification, filed October 22, 1975, by the Broadcast Bureau; (c) comments on certification and motion for extension of time for filing reply comments, filed October 22, 1975, by Tidewater; (d) motion for leave to file supplemental comments, filed October 28, 1975, by Tidewater; (e) supplemental comments concerning certification, filed October 28, 1975, by Tidewater; (f) reply to (a) and (b), filed October 29, 1975, by Tidewater; (g) reply to (d) and (e), filed November 7, 1975, by Voice; (h) further comments on certification, filed November 19, 1975, by Tidewater; (i) comments on certification, filed November 19, 1975, by the Broadcast Bureau; and (j) reply to (h) and (i), filed November 26, 1975, by Voice. Tidewater's unopposed motion for leave to file supplemental comments will be granted and the supplemental comments accepted.

[5] In his May 1974 balance sheet, Voice asserts, Hall lists the following principal noncash assets:

Minnieville Development Corp	$450,000.00
H. D. Hall, Inc	427,166.67
Spring Knoll Farm Venture (25 pct)	300,000.00
H. D. Hall of Virginia, Inc	214,667.33
Total	1,391,834.00

According to Voice, Tidewater will secure its proopsed loan solely with Hall's non-cash assets. In support, Voice cites a Tidewater pleading dated February 12, 1975, wherein the applicant allegedly admitted that the decision to reply on a $300,000.00 bank loan in lieu of its original proposal to rely on Hall's liquid assets for $300,000.00, was reached because "business ventures are best launched on borrowed * * * capital" and because a bank loan would not impair Hall's liquidity.

[6] Apparently, Voice refers to a suit filed by American Realty Trust involving the Spring Knoll Farm Venture, referred to in Tidewater's amendment of September 17, 1975.

131.50.[7] Furthermore, continues Voice, Tidewater has created an extremely thin corporate structure with a very high debt to asset ratio.[8] In support of its request, Voice cites *5 KW, Inc.*, 33 FCC 2d 895, 23 RR 2d 1015 (1972), *Robert Cowan Wagner*, 38 FCC 2d 1187, 26 RR 2d 429, (1973), *Greenfield Broadcasting Corp.*, 32 FCC 2d 135 (1971) and *A–C Broadcasters*, 10 FCC 2d 256, 11 RR 2d 359 (1967), in which cases, it claims, the Board added second year financial issues in "identical situations." Finally, with regard to the propriety of the Board's consideration of a second year financing issue at this time, Voice argues that it previously raised these questions before the Presiding Judge at the time he ruled on Tidewater's petition for leave to amend, that the Presiding Judge certified the entire matter to the Board to resolve "whether any additional issue is required" and that the need for this issue meets the requirements of the test set forth in *The Edgefield-Saluda Radio Co.*, (*WJES*), 5 FCC 2d 148, 8 FR 2d 611 (1966).

5. Opposing the addition of an availability of funds issue, Tidewater argues that the bank letters of October 1 and 28, read in conjunction with the personal guarantee offered by Hall's signed agreement to pledge the assets required by the bank, indicate that Tidewater has reasonable assurance of the availability of its loan. In support, Tidewater cites, *inter alia, Deep South Radio, Inc.*, 47 FCC 2d 1045, 30 RR 2d 1474 (1974), wherein it claims the Board rejected a similar request for a financial issue based on a bank letter which stated that a $150,000.00 loan would be secured by real and personal property "* * * and/or other collateral deemed to be sufficient by the bank * * *".[9] Next, Tidwater maintains that Voice's request for a second year financial issue is untimely since the amendments in question only provide for a change in the proposed funding institution and in fact contain more favorable lending terms. Moreover, continues Tidewater, the inquiry into the viability of second year operation is not appropriate in the instant case since Tidewater has not deferred anything beyond the first year except for principal repayments on its bank loan, which it asserts is an accepted practice. In fact, Tidewater observes that it will pay off approximately one-half of the $215,000.00 equipment loan and $30,000.00 in interest on the bank loan during the first year.[10] Finally, Tidewater submits that the case principally relied on by Voice, *5 KW, Inc., supra*, is inapplicable. Contrary to the circumstances in that case, Tidewater asserts that it is not relying "heavily" on bank loans which are to be fully repaid in lump sums in the second year of operation and its principals are taking their share of risk by personally endorsing the loan commitment which is collateralized.[11]

6. The Review Board will deny Voice's request for a funds availability issue.[12] We agree with Tidewater that the bank credit letters of October 1 and October 28, considered together, provide reasonable assurance of the availability of the proposed loan, and Voice's allegations regarding the nature and/or availability of the proposed collateral do not raise a substantial doubt to the contrary. As a general policy, the Board will not question the availability of a loan commitment when the bank's letter expresses a firm agreement to extend credit to an applicant for a broadcast permit. See e.g. *Town and Country Radio, Inc.*, 53 FCC 2d 401, 33 RR 2d 1589 (1975); *Commercial Radio Institute, Inc.*, 48 FCC 2d 323, 31 RR 2d 12 (1974). The October 28 bank credit letter submitted by the applicant in this case indicates that the bank has examined Hall's financial statement in conjunction with other relevant documentation and that it is satisfied with the proposed security. The October 1 letter is clear and specific as to the other significant terms and no question has been raised as to the bank's satisfaction with these arrangements. With respect to alleged encumbrances on certain of Hall's assets, there is no indication in the bank's letters that a pledge of unemcumbered assets is required and we find Voice's charges in this respect to be purely speculative.[13] *Cf. Buffalo Broadcasting Co.*, 25 FCC 2d 505 (1970). Moreover, assuming *arguendo* the validity of Voice's allegations concerning Hall's non-cash assets, Hall's most recent balance sheets shows available liquid assets in excess of liabilities in the amount of $336,700.00[14] and his willingness to pledge any or all of these assets as collateral is clearly evidenced by his statement in the October 28 amendment to Tidewater's financial proposal. Accordingly, in light of the above considerations, the Board will not add the requested funds availability issue.

7. However, the Board believes that it must add a limited issue to inquire into Tidewater's financial qualifications to operate for a second year. Despite the untimeliness of Voice's request, the Board is nonetheless persuaded that it raises a substantial public interest question which requires consideration on the merits. *The Edgefield-Saluda Radio Co. (WJES), supra.* First, we find it significant that not only has Tidewater failed to effectively contest the allegation that $102,187.50 in principal and interest payments will be due on its proposed bank loan during its second year of operation, but by the terms of the credit agreement with its equipment supplier, Tidewater will be responsible for deferred payments to its supplier in the amount of $51,648.00 in the second year. In addition, Tidewater must meet second year operating costs, which, assuming previously estimated operating costs remain constant, will total $106,296.00. Furthermore, regardless of the fact that Tidewater will not be burdened by nonrecurring start up costs, Tidewater's second year obligations cannot be met even if the applicant is permitted to rely on projected revenues from the first or second year or its $6,702.00 first year surplus.[15]

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[7] Specifically, the October 28 amendment indicates that Tidewater's proposed first year costs total $398,746.00, that to meet these costs the applicant relies on the above-noted $300,000.00 line of credit and $105,448.00 in net deferred credit from its equipment supplier and that there exists a first year surplus of $6,702.00. Based on that amendment, Voice calculates that Tidewater's second year expenses are: $75,000.00 principal and $27,187.50 interest payments on the proposed bank loan; $51,648.00 principal and interest on the proposed equipment loan; and $106,296.00 in operating expenses.

[8] According to Voice, the "thinness" of Tidewater's corporate structure is evident in that its only capital asset is $2,500.00, measured against its planned debt of $405,448.00.

[9] Tidewater also notes that in Deep South, supra, the Board rejected contentions that two of the same cases cited by Voice, *Jackson Missouri Broadcasting Co.*, 14 RR 2d 445 (1968) and *Louis Vander Plate*, 13 FCC 2d 1040 (1968), were applicable.

[10] With regard to Voice's allegations which involve Tidewater estimates of revenues, Tidewater responds that since it does not rely on revenues as a necessary element of its financial plan, it has not substantiated the figures in question. However, it claims its estimate is a reasonable one based on an analysis of the market to be served.

[11] The Broadcast Bureau argues that enlargement of the issues is unwarranted since Tidewater "has now explained the nature and availability of the collateral to be furnished." However, the Bureau submits that certification of the matter in question was error since it "has resulted in an unnecessary expenditure of time and energy by [the judge] as well as the involvement of the Review Board on a matter which was clearly within the Judge's discretion."

[12] We agree with Voice that certification of the question after acceptance of the amendment was within the discretion of the Presiding Judge and fully in accord with the authority delegated to him. See Section 0.341 of the Commission's Rules.

[13] As a related matter, the Board also rejects as totally unsupported Voice's allegation regarding Tidewater's failure to report certain litigation to the bank. See Section 1.229(c) of the Commission's Rules. Absent more specific information, the bank's statement that it has been advised of litigation affecting one of Hall's interests must be accepted.

[14] In addition to the above-noted non-cash assets, Hall's May 20, 1974 balance sheet shows liquid assets of $345,700.00 consisting of: cash on hand and in banks, $341,700.00; cash value of life insurance, $2,500.00; and readily marketable securities, $1,500.00. After Hall's liabilities of $9,000.00 are subtracted, his net liquid assets total $336,700.00. In this regard, we are of the view that Voice has not established that Tidewater's statements in support of its decision to seek institutional funding, see note 5, supra, in any way excludes reliance on Hall's non-cash assets for security.

[15] With respect to revenues, Tidewater merely states that "based on the applicant's analysis of the market to be served" the $100,000.00 estimate for the first year "appears reasonable" and that second year revenues "should exceed the first year projection by a substantial margin." No substantiation for these projections is offered.

Moreover, although Tidewater argues that its principals are assuming a significant risk, we note that Tidewater's financial proposal is thinly structured. According to the October 28 amendment, the applicant is relying solely on a loan and a deferred credit arrangement to finance its operation. In our view, these circumstances raise a serious question as to whether Tidewater will be able to sustain itself during the second year of operation. See *Maranatha, Inc.*, FCC 75R–382, released October 20, 1975; *Robert Cowan Wagner, supra; 5 KW, Inc., supra; Greenfield Broadcasting Corp., supra.*

8. Accordingly, it is ordered, That the motion for leave to file supplemental comments, filed October 28, 1975, by Tidewater Sounds, Inc., IS GRANTED; and the supplemental comments are accepted; and

9. It is further ordered, That the record in this proceeding IS REOPENED; and

10. It is further ordered, That the issues in this proceeding ARE ENLARGED to include the following issue:

To determine whether Tidewater Sounds, Inc., will have available sufficient funds to sustain its proposed station during the second year of operation and, in light of the evidence adduced pursuant thereto, whether the applicant is financially qualified.

11. And, it is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added herein SHALL BE on Tidewater Sounds, Inc.

Adopted: March 2, 1976.

Released: March 9, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[10]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76–7272 Filed 3–12–76;8:45 am]

[Docket No. 20722; File No. BR–1444, FCC 76–172]

VOGEL-HENDRIX CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

1. Before the Commission for its consideration are: (1) the renewal application of standard broadcast station WAMA, Selma, Alabama (hereinafter "applicant" or "WAMA"), filed December 29, 1972, by Vogle-Hendrix Corporation (with amendments);[1] (2) a petition to deny that application, timely filed March 1, 1973, by Rev. L. L. Anderson individually and on behalf of the Dallas County Progressive Movement for Human Rights (hereinafter "petitioner" or "MHR"); (3) an opposition to MHR's petition, filed late (May 7, 1973) by WAMA with our permission; (4) petitioner's reply to the opposition of applicant, filed with our permission on June 25, 1973; and (5) related documents.[2]

2. Petitioner's request that the instant application be denied contains allegations of (i) inadequate ascertainment of the needs and interests of Selma's Black community; (ii) deficient programming service, both as measured against those needs and interests and by comparison with broad representations made in the 1970 renewal application; (iii) proposals for future non-entertainment programming said to be inadequate based on a defective ascertainment; (iv) failure to provide equal employment opportunity to area Blacks; and (v) overcommercialization. These assertions are discussed in order below.[3]

ASCERTAINMENT

3. Petitioner alleges that 1970 census figures show the community of license, Selma, to be 50 percent Black, while surrounding Dallas County is 53 percent Black. Petitioner contends that despite this, WAMA's original ascertainment omitted a proper demographic compositional statement and its subsequent March amendment fails to cure that deficiency. MHR further alleges that licensee's initial ascertainment of community leaders failed to contact a single Black community leader in the community of license, and suggests that the inability of WAMA to specify the race of members of the general public consulted as part of the original ascertainment is due to applicant's exclusive use of the telephone when canvassing the general public. WAMA does not dispute that it initially omitted a proper compositional statement, failed to interview a single Black leader in its community of license, and was unable to identify a single Black citizen ascertained in the survey of the general public, but urges that subsequent amendments to its application, filed March 19, and May 14, 1973, cure these oversights.

4. *Demographic Analysis.* Applicant's March amendment was submitted to cure deficiencies first noted by Commission staff letter with regard to applicant's demographic analysis of the community, as well as proposed programming and commercial policies. It lists a sampling of civic and charitable organizations in "Selma and Dallas counties" [sic]. Petitioner replies that Black groups are excluded from this list. While the applicant's listing of the United Appeal Agency, Lions Club and the like might satisfy the *Primer*[4] in a community where Blacks comprise only a small fragment of the overall population, it clearly requires explanation from licensee—absent from the record before us—as to how we may consider descriptive of Selma a compilation of community organizations in the compositional study which lists no clearly Black-oriented civic or charitable organizations, when WAMA's community of license is as much Black as white. We noted in *Radio Marion, Inc.* (*WJAM*), 52 FCC 2d 1229, 1232 (1975), that while "we allow the licensee great discretion in formulating and submitting compositional information, we do require that an accurate picture of the community result. Without such information, we are unable to review the actual ascertainment efforts of the licensee since we are unable to determine whether a representative sample of community leaders and members of the general public have been contacted." Here, despite the amendment, further inquiry is necessary to determine whether WAMA is sufficiently familiar with its community of license to conduct a proper ascertainment.

5. *Ascertainment Interviews.* Petitioner asserts that WAMA failed to interview any Black community leaders in its original ascertainment, and conducted its general public survey in such a manner as to preclude identification of Black respondents or their comments. WAMA asserts that although no Black leaders were successfully ascertained in its initial survey, their opinions were sought but "unfortunately, all of these leaders, for one reason or another, failed to respond to the stations' inquiries." (opp. at 17). No specifics describing the original unsuccessful attempts are adduced, and MHR replies that the quoted explanation is incredible.

6. The May amendment submitted by WAMA contains "interview reports" of 14 Black community leaders and seven Black members of the general public, as well as signed statements on WAMA's letterhead from the interviewed Black leaders. Petitioner notes the leaders' statements are typed in the same distinctive typeface used by applicant in earlier correspondence with the Commission, but

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[10] Dissenting statement of Board Member Ohlbaum filed as part of the original document.

[1] Included in the application are a February 9, 1973 letter from the Chief of the Renewal and Transfer Division informing WAMA of shortcomings in its original application, and two amendments. Applicant's amendment of March 19, 1973 concerned compositional analysis of Selma, proposed programming, and commercial policy; its May 14, 1973 amendment furnished supplemental ascertainment interviews and proposed additional public affairs programming. On December 1, 1975, WAMA timely filed its 1976 application as a supplement to its 1973 application.

[2] On August 22, 1975, applicant submitted copies of two letters sent by WAMA's general manager to Selma High School and Selma University, requesting referral of Black applicants for an open position at the station. Also included was a letter from the manager to one of the licensee corporation's principals, William Vogel, reporting a frustrated attempt to hire a part-time Black announcer from another Selma station.

[3] Petitioner also filed a motion to strike WAMA's amendments to its application because filed late, not timely served on MHR, and posing disincentives to citizen intervention such as were cautioned against by the court in *Stone* v. *FCC*, 466 F.2d 316, *reh. den.*, 466 F.2d 331 (D.C. Cir. 1972). We believe the case cited by petitioner supports amendment as to such future-oriented matters as ascertainment, proposed programming and on-going EEO efforts. Accordingly, we shall accept the amendments and give them such weight as they deserve.

[4] *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971).

do not indicate why this would invalidate the survey. Petitioner also asserts that one Leslie Moore, a Selma Police Department Officer ascertained as part of WAMA's supplemental effort, is the former station employee, L. D. Moore, whose unsworn statement is offered in the opposition as support for licensee's claims concerning past programming. We see no conflict in Moore's roles as interviewee and affiant. However, our own analysis discloses more significant deficiencies in the amended ascertainment.

7. Even when read together with the various amendments,[5] WAMA's application fails to provide a listing of problems ascertained through interviews with Black leaders, making Commission evaluation of programming proposals impossible and violating a basic *Primer* requirement. The *Primer* states (at 671) that such a list of ascertained problems shall include all ascertained needs and interests, not just those the licensee has chosen to meet through its programming. The failure to list such ascertained needs is especially aggravated where, as here, a large racial group in the service area was clearly ignored, at least at the leadership level, in the initial survey. In light of the foregoing discussion of ascertainment deficiencies, an appropriate issue will be designated.

PAST PROGRAMMING

8. Petitioner asserts generally that applicant's public affairs programming has virtually ignored "every single need or problem it ascertained in 1970," particularly with regard to Black-oriented problems, and also failed to serve its community of license with responsive nonentertainment programming in "other" categories such as instructional programming. MHR asserts also that while there are repeated inaccuracies on composite week logs which make analysis of actual program performance difficult, it believes there is a substantial quantitative aspect to the deficiencies in nonentertainment programming.

9. *Promise vs. Performance.* Petitioners contend that the composite week shows WAMA aired only three of ten proposed program series. Nine program categories appear in the 1970 application (Exhibit F.)[6] Applicant proposed, as one of these nine categories, play-by-play broadcast of high school and university sports. Specific representations in the opposition, supported by then-manager Harry Bolen's affidavit, establish the broadcast of 28 football and 58 basketball games as well as other sporting events. However, petitioner notes that these claims are limited to 1972 and later (opp. at paras. 9–12). The list of games and other sports events broadcast (opp. at 7–9) simply begins with a period after the dates specified for the composite week. Applicant could easily have offered specifics on games broadcast before September 1972 but did not. Other claims by petitioner similarly question the generally-unexplained absence from the composite week logs of other promised programs. *Face the Nation* does not appear in the composite week logs for Sunday, October 17, 1971. Applicant asserts only that the program was commenced January 23, 1972. Petitioner in its reply calculates this as 22 months into the term directly under review here.

10. Other specific program proposals made in the 1970 application appear to have been either belatedly implemented or not acted on at all. First, petitioner alleges in its reply a 22-month delay in commencement of broadcasting reports from Craig Air Force Base. Licensee has provided an unsworn letter from Sgt. David Reeder which, at best, only indicates that the reports began in February of 1972.[7] The composite week logs nowhere show *Craig Airbase News* as a segment of WAMA's local newscasts, or of any other program on those days. Applicant tendered that week's logs as representative of past programming; without more, we cannot determine whether the air base reports were broadcast regularly, infrequently or not at all prior to January of 1973. Secondly, WAMA proposed "live coverage" of local government meetings in its 1970 application "if possible"—but MHR alleges no such coverage occurred during the composite week. In the opposition, WAMA asserts coverage on a regular basis of city council and county commission meetings, but whether this treatment was "live" or not is unclear. Petitioner specifically alleges that there was a city council meeting on Tuesday, February 1, 1972[8] of the composite week but that no live coverage occurred during the composite week. The composite week logs show no entry for continuous coverage of council proceedings at any time on that Tuesday, nor do the Wednesday entries reflect any specific programming devoted to the meeting.

11. Thirdly, petitioner alleges that the Social Security program proposed in 1970 did not appear on the composite week logs. In response, WAMA submits an unsworn letter from the District Manager of the Social Security Administration thanking WAMA for its cooperation with PSAs and the use of one five-minute program, purportedly aired weekly. The opposition itself does not claim such a program was broadcast but discusses only the broadcast of PSAs. Since the Commission's review of the composite week logs discloses no Social Security programs, apart from announcements, a question arises whether the licensee lived up to its 1970 proposals in this regard. Fourth, petitioners assert that a program titled Agricultural Extension Service proposed in 1970 is also missing from composite week program logs. Applicant states that such programs were regularly aired in the 1970–1973 term and supports this with an unsworn statement from two persons administering the extension program. Commission review of the composite week program logs discloses that two-minute *Farm Reports* were aired separately,[9] as well as in segments of five-minute newscasts,[10] although nothing styled *Agricultural Extension Service* appears anywhere in the composite week logs. We are unable to determine whether these farm reports and news segments were intended to fulfill the extension service proposal.

12. Petitioner also asserts that even by applicant's composite week logs overall public affairs performance fell short of the 1970 proposals by 100%. The composite week logs in the 1973 application show no public affairs, despite applicant's answer to Question 3A of Section IV–A indicating that it had broadcast 2:01 hours, or 1.4% in the composite week.

13. It is well settled that a licensee possesses broad discretion in adjusting its program service to meet changing problems and interests of its service area, as well as its own fluctuating business circumstances. *The Evening News Association*, 35 FCC 2d 366, 391 (1972). At the same time, the representations in a renewal application must be such as to permit Commission reliance upon them. *KORD, Inc.*, 31 FCC 85 (1961). If it becomes necessary to make substantial changes in programming over that proposed earlier, the licensee should notify us accordingly. *AM & FM Program Form*, 1 FCC 2d 439, 441 (1965). The evidence before us suggests that five program types or titles proposed in 1970—play-by-play sports, *Face the Nation*, *Craig Airbase News*, and Social Security and Agricultural Extension Service programs—if offered at all, were either delayed in presentation until well into the 1970–1973 term or were broadcast in such different form as not to be recognizable on the face of the pleadings. Further licensee has not supplied us with any information to indicate that any other programs were broadcast in their stead at any time during the license term. Taken singly, or even two or three at once, none of these omissions, delays or modifications would necessarily be so far beyond licensee discretion as to raise an issue of promise versus performance. However, their cumulative effect, we believe, is to raise just such a substantial question, and one is designated accordingly.

[5] The May amendment was limited to the submission of letters and a list of Blacks ascertained.

[6] Exhibit F listed: (1) religious live broadcasts such as First Presbyterian Church, Central Baptist Church, etc.; (2) *Swap Shop*—a service to the general public; (3) Craig Air Force Base news; (4) Social Security programs; (5) Agricultural Extension Service programs; (6) *Farm Market Reports;* (7) Play-by-play of high school and university sports; (8) *Face the Nation* (CBS); and (9) Live broadcasts of city and/or county governmental proceedings, if possible.

[7] The letter is defective under Section 309 (d)(1) of the Communications Act because unsworn and failing to assert properly specific personal knowledge. Further, the letter's reference to calls to the station begun by Sgt. Reeder's predecessor February of 1972 is not based on Reeder's personal knowledge. Reeder's own reports apparently began in January of 1973.

[8] Petitioners inadvertently stated 1973 in their reply, but the specification of day and date within the composite week is clear.

[9] At 12:10 p.m., Tuesday, Wednesday, Thursday, Friday.

[10] 5:30 a.m., Tuesday, Wednesday, Thursday, Friday (*Newswatch*).

14. *Logging Errors.* Logging of public affairs programs during the composite week repeatedly conflicts with other representations by WAMA. While the composite week program logs show no public affairs programming whatever, the 1973 application (Exhibit H) claims two hours weekly of such programming. Specifically, *Community Hour* (5:00–7:00 a.m. Sunday) is logged as entertainment for that entire two-hour period although Exhibit H states that the 6:00–7:00 a.m. period was devoted to public affairs. Similarly, a second Sunday morning program, *Family Hour* (7:30–8:00 a.m.), was logged as religious during the composite week. While applicant supports its characterization as public affairs programming because it has "featured people from all parts of the local Black community" (Opp., p. 3), no properly verified affidavits are offered in support of this claim. Similar assertions of public affairs programming on *Community Hour* were offered in the form of unsworn statements by former program hosts (Opp., Appendixes B and C), which, in addition, are insufficiently specific to be accorded much weight. WAMA has nowhere offered any particular instances of topics discussed, or persons appearing, on such programs as *Family Hour* or *Community Hour* to rebut its own logging classification of those programs as entertainment and religion, respectively.[11]

15. WAMA also asserts that its broadcast of an eight-minute *Championship Fishing* program weekly, two short weekday *Farm Reports* (two and five minutes in length) and the four-minute *Cooking Thing* weekdays all qualify as instructional programming. However, the characterization of some of these programs is complicated by the composite week logs. As noted by MHR, *Cooking Thing* was inconsistently logged as either entertainment or news, never as instructional. *Farm Report* is logged as news, in some instances "local-live" and elsewhere as "network" in origin. Finally, MHR alleges the application's description of *Swap Shop* is inconsistent with its title and nature. From Tuesday through Friday the composite week logs show the program as "entertainment" but the March amendment to the application reclassifies it as "all other."[12] The latter is correct, but since the previous classification provided no renewal benefit to licensee, we see it as harmless error.

16. The overall review of WAMA's trusteeship ordered infra will necessarily include examination of logging practices in order to evaluate programming responsiveness. We find that the errors discussed here do not warrant designation of a separate logging issue in the absence of any evidence of intent to deceive the Commission or to establish a pattern of misclassification which would in itself call into question the licensee's overall service to the community. *Compare Chicago Federation of Labor and Industrial Union Council*, 47 FCC 2d 308 (1974).

17. *Program Service.* Petitioner contends that WAMA broadcast no programs dealing with the local problems of Selma and Dallas County in the term under review, except for sponsored programming involving white religious groups. Specifically, it states that of 10 programs listed as typical and illustrative of its public service programming designed to meet community needs (Exhibit H), four are sports programs, two are CBS network programs not especially related to local problems, and two are the white religious programs. Of the remaining two, classified as public affairs, one is *Swap Shop* ("designed to help listeners sell, give away, or receive merchandise") and one is *Community Hour*, which appears to be all entertainment and in addition is scheduled at 6:00 A.M. on Sunday when it can be expected to be least effective. Petitioner also alleges that Blacks have suffered a "total dearth" of participation on the station, contending that no Black church services were aired,[13] and WAMA's public affairs programming generally failed to respond to the Black community's particular needs.

18. Applicant responds that it has met community needs by public affairs programming in *Family Hour* and *Community Hour*. Its response is based on four unsworn statements of three hosts of *Family Hour* and *Community Hour* and of Richard Bean, a WAMA employee who states that he has covered various enumerated Black news events.[14] Since these statements are unsworn, they are clearly defective under Section 309(d) of the Communications Act, 47 U.S.C. 309(d), and can be given no weight to rebut petitioner's allegations. Further, the statements and allegations in the opposition are so general that, even if they were not defective, they do not present us with enough substantive information to enable us to determine what programming WAMA presented to meet community problems.

19. The statement of Erskine Clemons (Opp. App. C) concerning the "Sunday morning shift," presumably *Community Hour*, refers to "occassional (sic) guests from a wide range of the Black community" and "material taped elsewhere in the Black community covering a wide range of subjects," but does not give a single example of the guests interviewed, issues discussed or time spent on the discussions during the program. The statement (Opp. App. B) of L. D. Moore, Mr. Clemons' predecessor, indicates that the "Sunday morning shift" was composed of "Negro Gospel Music" and also featured PSAs for Black groups. He states, "I had guests on the air with me and interviewed them when I deemed it appropriate * * *" Rev. J. D. Hunter (Opp. App. A) describes *Family Hour* as an "all Negro religious program" and states:

> This program has been the only program in the area that gave Black [sic] the opportunity to serve their own community by providing a forum for the community * * * We have had local ministers, church groups, the Black American Legion Post, a local action group made up of young Blacks, members of the Selma University faculty and student body all appear or our program. Many times these folks would conduct the entire program ranging in subject matter from religion to social action to political matters.

20. The quoted portions of the statements show the lack of specificity in WAMA's description of the programs.[15] We simply are unable to tell how much time was devoted to discussion of local problems during the license term—whether it was a regular and substantial part of the programs or whether it was an infrequent or insignificant part of them. Accordingly, an appropriate issue will be specified.

21. Petitioner also specifically complains that the composite week logs demonstrate an "incredible paucity" of instructional, educational or political programming. (Pet., p. 10; Reply, p. 38) There is, of course, no requirement that a licensee broadcast programs in every specific category of programming, only that it broadcast some programming to meet community needs. Thus, we will not frame our issue as to WAMA's past programming service in such specific categories. Rather, licensee's overall program service of every category will be exam-

[11] Section 73.112 of our Rules clearly permits a program containing segments of varying types to be logged as to its "primary" character. However, a licensee who wishes credit for, e.g., a non-entertainment segment different from the primary classification should make the appropriate distinction in its logs. *Voice of Dixie*, 53 FCC 2d 679, 681–684 (1975).

[12] WAMA was notified that the 1970 application's characterization of *Swap Shop* as public affairs appeared improper. No amendment was requested by the Commission at that time, because the total listing of public service programs seemed sufficient to provide the proposed one hour per week of public affairs programming (0.77%).

[13] This is not disputed by applicant (opp. at p. 2), who responds that the broadcast of only white religious services was due to the absence of any Black religious group seeking to sponsor such services. Since applicant has clearly broadcast Black-oriented religious programming (if not actual church services) on a regular basis, the narrow question of religious programming raises no substantial and material question of fact. However, because the Commission has consistently refused to allow delegation of programming responsibility, we reiterate that failure of, e.g., racially representative sponsors to come forward would not be a valid explanation for any future failure to present proposed programming.

[14] There is a general affidavit from WAMA's general manager Harry Bolen, but licensee elects to rely on the specific statements mentioned.

[15] In addition to petitioner's challenge to the nature of the service rendered by *Community Hour* and *Family Hour*, it is made clear in paragraph 13, supra, that WAMA itself produced the need to explain the apparent discrepancy between the logging of the programs as "entertainment" and "religion", respectively, and their characterization in the opposition as partly public affairs.

ined under the general past programming issue.

PROPOSED PROGRAMMING

22. Petitioner contends that the proposed programming of WAMA is inadequate because the only two clearly local public affairs programs will be insufficient to meet the needs of the community, including a substantial Black population. The allegations directed against WAMA's program proposals spring from two concerns: first, that a defective ascertainment cannot generate responsive programming, and second, that the conflicting history of *Community Hour* sufficiently casts doubt on the nature and responsiveness of this program. WAMA notes in its May 14th amendment that it has scheduled a second installment of *Community Hour* (for 9:00–10:30 a.m. Sunday), and will add two program series [16] as well as network-originated public affairs programming.

23. As noted by petitioner, it is impossible to tell from applicant's May amendment whether the proposed 9:00–10:30 a.m. segment of *Community Hour* will indeed focus on public affairs. We are unable to determine from the record before us if this proposal is for a tape-delay rebroadcast of the earlier program or for additional hours of actual origination. While Exhibit F of the application implies that the 6:00–7:00 a.m. segment is to be devoted to public affairs, the additional program time proposed by the amendment is not classified. When coupled with the absence of any credible evidence as to the public affairs orientation of *Family Hour*, the difficulty in evaluating WAMA's proposals is exacerbated.

24. Since by this time most of the 1973–1976 license term has passed, it is now possible to determine what programming WAMA actually broadcast. Accordingly, we will designate an issue to determine whether WAMA's programming was actually responsive to community needs during the 1973–1976 period.

EMPLOYMENT

25. Petitioners assert that two of 15 WAMA employees, or some 13% of applicant's labor force, is Black and that this constitutes a violation of equal employment opportunity. WAMA does not dispute the employment figures asserted by MHR, but states it posted conspicuously a pledge of non-discrimination in hiring and states:

> WAMA, whenever it is in need of an employee for the Station uses the services of Columbia School of Broadcasting in Birmingham, Alabama * * *. However, the agency has never been able to place a Black employee with the Station since is has had no qualified candidates requesting positions. [Opp. at 18]

26. Applicant's EEO program, which does not mention the Columbia School of Broadcasting, states that non-discrimination placards will be posted in various station locations. It further states that if media are used for recruitment they will include media significantly circulating among minority groups and women. In the same vein, if recruitment occurs through schools and colleges it will include the use of schools having significant minority group and female enrollment. Applicant also asserts that department heads and news personnel will encourage the referral of qualified minority applicants. WAMA states that it gave one Black announcer "his first opportunity to be employed in radio" and continues to employ another Black announcer fulltime (Opp. at 18).

27. Commission policy in this area goes beyond the condemnation of actual discrimination in employment to require "a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice." 47 CFR § 73.125(b). Further, where a station's program fails to improve an unreasonably low minority or female employment profile, further efforts have been required of licensees. *Certain Florida Stations*. 44 FCC 2d 735 (1974).[17]

28. While the Opposition refers to Mr. Erskine Clemons as a fulltime Black announcer, no such individual appears in applicant's annual employment reports (Form 395) for 1972, 1973, or 1974. In fact, no fulltime Black employees are listed on any of those forms, though one parttime Black technician is entered for all three years. Even assuming Mr. Clemon's inadvertent omission from the annual reports, difficulties remain with the EEO program. Further, another Alabama radio station also claims to employ Mr. Clemons as a Sunday morning announcer,[18] and the information before the Commission in this proceeding does not resolve this possible conflict.

29. In view of the shortcomings in WAMA's EEO program and the lack of results from the program evidenced by continuing low minority employment, an issue will be specified as to WAMA's compliance with § 73.125 of the Rules.

OVER-COMMERCIALIZATION

30. In its 1970 application WAMA proposed some 18 minutes hourly as a normal commercial limit, and 21 minutes for exceptional periods. Petitioners state that the advertising limits of the 1970 application were exceeded in WAMA's composite week logs, but do not give specific dates or times.[19] The 1973 application (Exhibit K) specifically admits seven such excesses which applicant states ranged from 19 to 23 minutes, and explains them in terms of Christmas period advertising (December 1, 1971) and political campaign demands for advertising (April 28, 1972). Because of repeated ambiguities in applicant's composite week logs, we are unable to calculate commercial time definitely for these specific periods, but each instance seems to involve commercial time up to some 25 minutes per hour. This substantially exceeds both the *WXCL* guidelines [20] and the applicant's 1970 application proposals. Further, since no political announcements are logged for April 28, no explanation for that day's excess is before us. Nor are the admitted excesses isolated instances. Although not specifically alleged by petitioner, it is clear from staff review of the composite week logs that on the two specific days in question other deviations from the 1970 application's policy occurred. Notwithstanding various logging ambiguities, it seems clear that approximately 25 minutes of commercials were broadcast between 7:00 and 8:00 a.m., April 28, and none of them is identified as political. In two other hours the same day (4:00–5:00 and 5:00–6:00 p.m.) applicant aired approximately 22 and 24 minutes of commercial matter respectively. These excesses are not mentioned or explained in the 1973 application. When combined with logging errors (which make a full evaluation of the composite week impossible without further information), they raise unresolved questions about applicant's commitment to its 1970 commercial policy representations. Accordingly, an appropriate issue will be designated.

CONCLUSION

31. As indicated in the preceding discussion, substantial and material questions of fact have been raised concerning the ascertainment, past and proposed programming, employment practices and commercial practices of Station WAMA. We are therefore unable to make the statutory finding that a grant of the renewal application for Station WAMA is consistent with the public interest, convenience, and necessity, and we find that these matters should be explored in an evidentiary hearing.

32. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the efforts made by applicant to ascertain the community problems and needs of the area served by its station; and the means by which applicant responded to those problems and

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[16] In its March amendment licensee proposed a Sunday afternoon program, *Focus*, to be aired 5:00–5:30, and five-minute editorials to be aired nightly before sign-off and 5:00–5:30 Sunday afternoon.

[17] These further efforts ordinarily have involved additional EEO reporting. Here, however, since a hearing must be conducted on other issues, it is convenient to explore the EEO problem at the same time.

[18] See *Radio Marion, supra*.

[19] Applicant has modified its commercial practice proposals, which petitioner also challenged (Opp. at 19–20, letter of March 19, 1973), to comply with guidelines which this Commission has described as acceptable in the past and hence the prospective issue is mooted. *Letter to WXCL*, Mimeo #8425, February 13, 1970.

[20] *Letter to Station WXCL, supra*, The guidelines are substantially those found in § 0.281(a)(7) of the Commission's rules—i.e., a normal ceiling of 18 minutes of commercial matter per hour, to be exceeded up to 20 minutes in no more than 10% of the operating hours in any week.

needs during the period the 1973 application was in deferred status (i.e., April 1, 1973, to date); [2]

(2) To determine whether Vogel-Hendrix Corporation made reasonable and good faith efforts to carry out its non-entertainment programming proposal as set forth in its 1970 application for renewal of license for station WAMA during the 1970–1973 license term;

(3) To determine whether Vogel-Hendrix Corporation's non-entertainment programming (i.e., news, public affairs, and other) of station WAMA was reasonably responsive to the community problems, needs and interests during the 1970–1973 license term;

(4) To determine whether Vogel-Hendrix Corporation has met the requirements of the Commission's equal employment opportunity rules and policies, in the formulation and implementation of its non-discrimination and affirmative action programs;

(5) To determine the incidence of excessive commercialization in the past term, measured against the policy represented by applicant in its 1970 renewal application;

(6) To determine, in light of the resolution of all the above issues, whether grant of the above-captioned application wil serve the public interest, convenience and necessity.

33. It is also ordered, That in accordance with § 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence upon issues 1–3 shall be upon petitioners L. L. Anderson and the Dallas County Progressive Movement for Human Rights, because petitioners raised these issues and there is no indication that they lack access to the necessary information, and that the burden of proceeding with the introduction of evidence upon issues 4 and 5 shall be upon Vogel-Hendrix Corporation because they depend on information peculiarly within its control and the burden of proof shall be on the applicant Vogel-Hendrix Corporation, with respect to all issues herein.

34. It is further ordered, That Rev. L. L. Anderson and the Dallas County Progressive Movement for Human Rights are made parties respondent to the hearing ordered herein.

35. It is further ordered, That to avail themselves of the opportunity to be heard, Vogel-Hendrix Corporation and Parties Respondent, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

36. It is further ordered, That Vogel-Hendrix Corporation shall, pursuant to Section 3.11(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the rules.

Adopted: February 19, 1976.

Released: March 8, 1976.

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

[FR Doc.76-7273 Filed 3-12-76;8:45 am]

[2] Ordinarily, the purpose of such an issue would be to examine the program proposals.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER GUARD FORCE

Appointment as Special Policemen

Pursuant to the authority vested in me by Treasury Department Order No. 217-1, approved Feb. 25, 1976 all members of the Federal Law Enforcement Training Center uniformed guard force are hereby appointed as Special Policemen for duty in connection with the policing of the public buildings and grounds under the charge and control of the Director of the Federal Law Enforcement Training Center. Such uniformed guards appointed as Special Policemen shall have the same powers as sheriffs and constables upon the premises of the Federal Law Enforcement Training Center to enforce the laws enacted to protect persons and property and to prevent breaches of the peace, to suppress affrays, or unlawful assemblies, and to enforce the rules and regulations made and promulgated by the Director, Federal Law Enforcement Training Center, for the protection of persons and property at the Federal Law Enforcement Training Center.

Dated: March 8, 1976.

[SEAL] ARNOLD J. LAU,
Acting Director, Federal Law Enforcement Training Center.

[FR Doc.76-7304 Filed 3-12-76;8:45 am]

[Supplement to Department Circular; Public Debt Series—No. 7-76]

Office of the Secretary

TREASURY NOTES OF SERIES C-1980

7½ Percent Annum Interest

The Secretary of the Treasury announced on March 5, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 7-76 dated February 27, 1976, will be 7½ percent per annum. Accordingly, the notes are hereby redesignated 7½ percent Treasury Notes of Series C-1980. Interest on the notes will be payable at the rate of 7½ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76-7223 Filed 3-12-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on 31 March 1976 at the Pentagon, Washington, D.C. The meeting will commence at 9:00 a.m. and terminate at 5:30 p.m.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including presentations on the Navy's strategic concept, naval missions and capabilities, naval limitations, Navy basing posture, and their relation to geographic areas of naval and national concern. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552(b(1)of Title 5, United States Code.

Dated: March 9, 1976.

LARRY G. PARKS,
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.76-7213 Filed 3-12-76;8:45 am]

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on 7 and 8 April 1976 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem area for possible implementation within the Department of Defense.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically Subparagraph

(1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MARCH 10, 1976.

[FR Doc.76-7282 Filed 3-12-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 75-14]

YORK PHARMACY, INC. — Revocation of Registration

On May 27, 1975, the then Administrator of the Drug Enforcement Administration (sometimes hereinafter, "DEA") directed to the York Pharmacy, Inc., of Honolulu, Hawaii, an Order to Show Cause as to why the DEA should not revoke, pursuant to Section 304 of the Controlled Substance Act (21 U.S.C. 823), the DEA Certificate of Registration previously issued to York Pharmacy, Inc. (hereinafter, "Respondent"), for reason that on February 19, 1974, in the United States District Court for the District of Hawaii, Respondent's president, Mr. William K. Ikehara, was convicted of two violations of 21 U.S.C. 841(a)(1), felonies relating to the distribution of controlled substances. Furthermore, citing numerous violations of DEA regulations, the then Administrator, under the authority of 21 U.S.C. 824(d), ordered the immediate suspension of Respondent's DEA Registration (AY1080910) during the pendency of these proceedings.

On July 15, 1975, Respondent, through its attorney, requested a hearing on the Order to Show Cause. Following a lengthy exchange of prehearing correspondence and a prehearing conference in San Francisco, California, the hearing on the Order to Show Cause was held on September 11, 12, 15 and 16, 1975, at Honolulu, Hawaii. The Honorable Francis L. Young, Administrative Law Judge, presided. On February 3, 1976, Judge Young filed, pursuant to Title 21, Code of Federal Regulations, § 1316.65, his report containing findings of fact, conclusions of law and a recommended decision, and certified to the Administrator the record of these proceedings including, *inter alia*, the transcripts of the prehearing conference and the four days of hearings, all of the exhibits which had been placed in the record, and the proposed findings of fact and conclusions of law filed on behalf of the Government and the Respondent. The Administrator's final order is based on this entire record.

At the outset of these proceedings, both the Government and the Respondent stipulated with regard to Mr. Ikehara's felony convictions for unlawfully distributing controlled substances. Hence, Judge Young found that there is a legal basis for the revocation of Respondent's registration pursuant to 21 U.S.C. 824(a)(2). The ultimate issue in this proceeding, therefore, is whether the Administrator should, in the exercise of his discretion, revoke, suspend or reinstate Respondent's registration.

Judge Young found, *inter alia*, that Mr. Ikehara had diverted several thousands of dosage units of controlled substances to Honolulu area organized crime figures in partial payment of $100,000 in gambling debts; that Mr. Ikehara had falsified prescription blanks in an attempt to cover Respondent's shortages of controlled substances; that Respondent's records for receipt and distribution of controlled substances were not kept or filed in any readily retrievable manner, nor had Respondent, in many instances, indicated on his Schedule II Order Forms the dates of receipt and the amounts of controlled substances received; that on at least one occasion, an employee of Respondent dispensed a Schedule II controlled substance not pursuant to a prescription and without proper labelling; and that on March 4, 1975, Mr. Ikehara reported a burglary of Respondent's premises, in the course of which burglary only Schedule II controlled substances were taken, and that by a preponderence of the evidence, no such burglary had taken place. The last finding leading to the conclusion that this incident was staged in order to cover shortages in the substances allegedly taken. These findings are evidence of continuing violations of, and disregard for, the requirements levied upon registrants by the Controlled Substances Act and the regulations promulgated pursuant thereto. The Administrator hereby adopts the Administrative Law Judge's findings of fact.

The Administrator concludes, as did the Administrative Law Judge, that there is only one reasonable remedy by which to serve the public's interest in preventing future diversion of controlled drugs from Respondent's premises, and that remedy is to prohibit Respondent from handling controlled substances. Judge Young concluded that "it is abundantly clear from this record that Mr. Ikehara and York Pharmacy cannot be relied upon to adequately control drugs or to keep the records pertaining to them." Judge Young recommended, therefore, that the registration of York Pharmacy, Inc., be revoked as to all classes of controlled substances. The Administrator adopts the Administrative Law Judge's conclusion and recommendation.

Accordingly, under the authority vested in the Attorney General by Section 304 of the Controlled Substances Act (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the registration of York Pharmacy, Inc., (DEA Registration No. AY1080910) be, and hereby is, revoked.

The Administrator further finds that there is sufficient reason to believe that the public health and safety would be adversely affected if this registrant were to resume handling controlled substances for however brief a period. Therefore, having found emergency conditions to exist, it is hereby ordered that the foregoing final order shall be effective immediately.

Dated: March 5, 1976.

JERRY N. JENSON,
Acting Administrator.

[FR Doc.76-7248 Filed 3-12-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

EUGENE DISTRICT ADVISORY BOARD — Notice of Meeting

Notice is hereby given that the Eugene District, Bureau of Land Management Multiple Use Advisory Board will meet April 27, 1976 at 9:00 a.m. in the conference room of the Eugene District Office, 1255 Pearl Street, Eugene, Oregon 97401.

Subjects to be discussed at the meeting include: the district's oil and gas leasing program, status of the district's timber sale plans, transfer of road maintenance operation from Federal Highway Administration to Bureau of Land Management, and the election of a chairman and vice-chairman.

The meeting will be open to the public. In addition to discussion of agenda topics by board members, there will be time for brief statements by non members. Persons wishing to make oral statements must notify the District Manager by April 27, 1976. Any interested person may file a written statement for consideration by the board by sending it to the District Manager, Bureau of Land Management, P.O. Box 10226, Eugene, Oregon 97401.

Further information concerning the meeting may be obtained from James E. Hart, Acting District Manager, at the above address. Telephone number is 503-687-6650.

JAMES E. HART,
Acting District Manager.

MARCH 4, 1976.

[FR Doc.76-7278 Filed 3-12-76;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT — Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Northern Rocky Mt. Wolf Recovery Team, Montana Department of Fish and Game, Box 5 MSU Campus, Bozeman, Montana 59715, Dennis L. Flath, Leader.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. Possess and transport live specimens of *Canis lupus irremotus*. Possess and transport dead specimens or parts thereof. Trap, mark and/or instrument and release specimens. Kill physically debilitated or injured specimens. Conduct all forms of surveillance. Obtain all forms of scientific data from specimens.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dennis L. Flath, Leader 406-994-4241
Northern Rocky Mt. Wolf Recovery Team
Montana Department of Fish & Game
Box 5 MSU Campus
~~Bozeman, MT 59715~~

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT	WEIGHT
	5'8"	135 lbs.
DATE OF BIRTH	COLOR HAIR	COLOR EYES
12-17-41	Blond	Blue
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
406-994-4241	502-44-2608	

OCCUPATION
Biologist

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
States of Montana, Wyoming and Idaho

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
State permit being obtained pursuant to Sec. 26-1806(4), R.C.M. 1947.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
17 December 75

11. DURATION NEEDED
Indefinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23(a) (1), (3) and (4).

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not) Dennis L Flath — DATE 13 Nov, 1975

3-200
6/74

The following information is provided as supplementary to the enclosed application for an endangered species permit. Since this permit application does not deal with importation of endangered foreign wildlife, only those portions of 50 CFR 17.23 which are appropriate have been treated here.

50 CFR 17.23(a)(1): Permit is requested for an unlimited number of specimens of the Northern Rocky Mountain wolf (*Canis lupus irremotus*). Specimens may be juvenile, subadult or adult and of either sex.

50 CFR 17.23(a)(3): The Northern Rocky Mountain Wolf Recovery Team is currently working on a comprehensive recovery plan for *Canis lupus irremotus*. Proposed research and management activities will be detailed in that plan, which is due during FY 76. Pending completion of that plan it is necessary for myself, as team leader, to obtain a permit to possess specimens or parts thereof for the purpose of obtaining scientific data which would otherwise be lost or unobtainable.

50 CFR 17.23(a)(4): Live specimens will be released at point of capture, except for those specimens which must be removed for reasons of excessive livestock depredations and/or their own safety. These will be placed in a holding facility in the Lamar Valley of Yellowstone National Park, to be gentle released at such time as ecological conditions warrant.

Dead specimens or parts thereof will be processed for collection of scientific data at the Montana Department of Fish and Game Wildlife Research Laboratory, Box 5, Montana State University, Bozeman, Montana 59715. Skulls will be forwarded to Mr. Ron Nowak, U.S. Fish and Wildlife Service, Washington, D.C. for examination and subspecific determination. Final deposition of specimens or parts thereof will be at the Wildlife Research Lab, Bozeman, Montana.

November 13, 1975.

DENNIS L. FLATH,
Leader, Northern Rocky Mountain Wolf Recovery Team.

Mr. A. EUGENE HESTER,
Special Agent in Charge of Permits, USDI Fish and Wildlife Service, Division of Law Enforcement, Washington, D.C. 20240

FEBRUARY 17, 1976.

DEAR MR. HESTER: The reference to the holding facility in my application is based on the intent of the National Park Service to build such a facility. At present, funds have not become available to build the facility, nor has an environmental assessment been prepared. The recovery team feels that should wolves begin preying on domestic livestock it would be better to live-trap and transplant those individuals rather than have them killed by the stockgrowers.

At present, this is the only viable option we have for transplanting wolves. Without it, there simply will be no transplanting of wolves. This may result in elimination of some individuals from an already low population. We have received several rumors that stockgrowers have killed wolves in the past. Unfortunately, these rumors can never be proven true or false since there is no evidence available to confirm or deny them. If a transplant option existed some individuals could possibly be kept alive through use of this technique.

I might also point out that this particular transplant proposal is only meant to handle emergency situations pending completion of the final Recovery Plan. We hope to treat this situation in more detail in the Recovery Plan.

Sincerely,

DENNIS L. FLATH,
Nongame Species Biologist.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before April 14, 1976, will be considered.

Dated: March 9, 1976.

MARSHALL L. STINNETT,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-7261 Filed 3-12-76;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Rocky Mountain/Southwestern Peregrine Falcon Recovery Team, 7977 Durango Street, Denver, Colorado 80221, Gerald R. Craig, Team Leader.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
See Attachment

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Gerald R. Craig, Team Leader
Rocky Mountain/Southwestern Peregrine Falcon Recovery Team
7977 Durango Street
Denver, CO 80221 428-1651

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6' 2" WEIGHT: 165 lbs.
DATE OF BIRTH: Feb. 24, 1947
COLOR HAIR: Brown COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED: 825-1192 ext. 214
SOCIAL SECURITY NUMBER: 521-70-5679
OCCUPATION: Raptor Biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Wildlife Agencies of States listed in #6 and

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
States of Arizona, Colorado, Idaho, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming, Canada and Mexico

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Approval is being or will be obtained.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
No fee

10. DESIRED EFFECTIVE DATE: Feb. 1, 1976

11. DURATION NEEDED: Indefinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 C.F.R. 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. Information required by 17.22 of Title 50 Code of Federal Regulations published in the September 26, 1975 issue of the Federal Register is attached.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Gerald R. Craig
DATE: January 13, 1976

3-200
(6/74)

ROCKY MOUNTAIN/SOUTHWESTERN PEREGRINE FALCON RECOVERY TEAM

APPLICATION FOR ENDANGERED SPECIES PERMIT

As required by the Endangered Species Act of 1973, the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team is hereby making application to initiate and continue ongoing research and management programs directed toward restoration of the American peregrine falcon. We are making application to engage in the activities listed below in item (1)c) and further are requesting that the authority of this permit be extended to team members and other persons cooperatively working with the team to restore the peregrine falcon.

As required in Section 17.22 of Title 50 of the Code of Federal Regulations (September 26, 1975), the following information is provided:

(1) a) Species: American peregrine falcon (*Falco peregrinus anatum*).

b) Number, age and sex: At this point, it is difficult to list the number, age and sex of the peregrine falcons which will eventually be involved in the activities requested. However estimates are provided in (1)c) where applicable.

c) Activities sought to be authorized:

(i) Conduct scientific research on the American peregrine falcon (*Falco peregrinus anatum*) including: 1) continuance and expansion of censuses of eyrie sites to establish productivity and population trends; 2) collection of infertile eggs and shell fragments for analysis; 3) international and interstate receipt and transport of carcasses, eggs and shell fragments for analysis; and 4) capture, band, color mark and radio tag wild peregrines to monitor movements and behavior and establish mortality factors. An effort will be made to visit all productive eyrie sites and place U.S. Fish and Wildlife Service bands on all nestlings. In addition, color bands as approved by the Banding Office of the Fish and Wildlife Service will be placed upon the nestlings. The total number of nestlings to be banded are not expected to exceed twenty-five nestlings annually. At present, only captively propagated falcons which are released into the wild will be radio tagged. If effective, this tecchnique may eventually be placed upon wild falcons.

(ii) Augment production of wild peregrines through double clutching. Some eyrie sites will be visited at egg laying and the first clutch removed; second clutches will remain with the pair. The first clutch will be artificially incubated and upon hatching, will be returned to the original eyrie, or placed with other wild adults. Within the next two years, it is doubtful if this technique will be attemped at more than three sites each year.

(iii) Introduce captively produced peregrine falcons by the release or placement of eggs, young, or adults at active, historic or potential eyries to augment the wild population. Within the next two years, it is doubtful that more than twenty falcons annually will be introduced by this method. The eggs, young, or aduits which will be utilized for reintroduction purposes will be obtained from captive propagation programs underway at Cornell University in Ithaca, New York, and the cooperative propagation program between Cornell University and the Colorado Division of Wildlife located at Fort Collins, Colorado. The propagation projects are currently authorized through Special Use Permit Number 5-SP-565 issued by the Fish and Wildlife Service to Dr. Tom Cade of Cornell University.

(iv) Increase heterogeneity of stock held for captive propagation by: (1) exchange of captively produced eggs and/or young for wild produced eggs and/or young; (2) in extreme cases, removal and retention of eggs or young from eyries which are jeopardized or removal of small numbers of eggs and/or young from reproductively stable local populations, and (3) international, interstate and intrastate transfer, exchange or loan of propagation stock. As in item (iii), the captive eggs or young which will be exchanged for wild eggs or young will be obtained from the propagation projects at Cornell University and at Fort Collins. Those wild eggs or young which are obtained through the exchange will also be maintained at the above facilities.

(v) Photograph and film eyrie sites, young and adults in the wild to document research efforts and provide material for conservation education purposes.

(vi) Rehabilitate injured peregrines and salvage of dead specimens. In cases when rehabilitated falcons are incapable of sustaining themselves in the wild, they will be retained for captive propagation at state and federally approved facilities.

The recovery team realizes that all of these activities are not to be undertaken simultaneously, and several of the proposed activities are likely to occur rarely, if ever. Due to the serious nature of the problems affecting the peregrine and the prompt action which must be taken in emergency situations, we expect latitude to be permitted for the team to act in the best interest of the peregrine. These activities may be undertaken only with the approval and supervision of the team and responsible state wildlife agencies. Persons possessing copies of the permit must have an attachment specifying restrictions.

(2) (i) Each of the activities described in (1) (c) indicates the status (whether wild or captive) of the falcons which will be involved.

(3) Not applicable.

(4) The breeding stock currently in possession at the propagation facilities at Cornell University and Fort Collins were obtained prior to December 28, 1973, with exception of one adult male peregrine falcon (*Falcon peregrinus anatum*) which was illegally removed from a wild nest in California in 1974 and was later confiscated by the California Fish and Game Department.

As the falcon was determined to be sufficiently incapacitated for release to the wild, it was retained for propagation purposes. Other exceptions to the above are the progeny of those pre-act breeders which have been produced at the facilities subsequent to December 28, 1973. A complete listing of the status of all the falcons currently possessed at the Cornell and Fort Collins facilities are provided in reports submitted as required by the Special Use Permit issued to Dr. Tom Cade of Cornell University.

(5) Those falcons which are obtained from the wild as well as those which will be held for captive propagation purposes will be maintained in the Cornell facilities (consisting of 35 individual breeding lofts measuring 10 feet wide, 20 feet long and 18 feet high) located at the Laboratory of Ornithology and in the facilities (consisting of 24 individual breeding lofts of identical construction and dimensions to those at Cornell University) located at the Colorado Division of Wildlife's Wildlife Research Station northeast of Fort Collins at 1424 Northeast Frontage Road, Fort Collins, Colorado, 80521.

Whole eggs, shell fragments and carcasses of peregrine falcons which are obtained for pesticide analysis will be shipped to the Fish and Wildlife Service's facilities at Patuxent, Maryland, or to the Denver Federal Center, Denver, Colorado, for analysis. Should it be desirable to involve other laboratories in the analysis at a later date, the names and addresses of the institutions will be supplied.

(6) Information in this section is not applicable since any wild peregrine falcons held in possession will be maintained at facilities currently possessing the necessary Federal permits (Cornell University and Fort Collins).

(7) Not applicable as no agreements or contracts have been arranged.

(8) (i&ii) Activities for which authorization is being sought are delineated in (1) (c).

(iii) The above mentioned activities are essential to effect the recovery of the peregrine falcon in the western United States and have been incorporated into the recovery plan which is being developed by the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team.

(iv) Since it has been estimated that the reintroduction program will require between ten and twenty years to begin to show substantial results, it is premature at this time to concern ourselves with disposition of the peregrine falcons upon termination of activities authorized by this permit.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director, (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before April 14, 1976, will be considered.

Dated: March 8, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-7259 Filed 3-12-76;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Ms. Venita Basham, 321 Redondo Court, Stockton, California 95207.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
observation of light-footed clapper rail - Rallus longirostris levipes. No eggs, nests or specimens of the bird will be taken. This is strictly for observation, which may be construed as harassment under

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Venita A. Basham
321 Redondo Ct.
Stockton CA 95207
(209) 477-6684

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☒ MS.
HEIGHT: 120 WEIGHT: 5'0
DATE OF BIRTH: 09-19-53
COLOR HAIR: Blonde
COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED:
SOCIAL SECURITY NUMBER: 569-98-8547
OCCUPATION: Graduate Student
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
USFWS
Ojai, CA.

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Carpenteria Marsh & Goleta Marsh, Santa Barbara Co. CALIFORNIA

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: Feb. 1, 1976
11. DURATION NEEDED: Feb. 1, 1976-July 1, 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (To ink): Venita Basham
DATE: January 22, 1976

3-200
10/74
GPO 895-042

JANUARY 24, 1976.

DIRECTOR,
U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20038.

DEAR SIR: This letter is in regards to a Federal Permit and answers the conditions as set forth in 50 CFR 17.22.

17.22 No. 1. The species to be studied is the light footed clapper rail, *Rallus longirostris levipes*. The approximate population of the study area is 25. The age and sex of the species is unknown. I want to observe the bird.

No. 2. This species is in the wild and remain so.

No. 3. I do not want to capture, band or remove any of the species effects i.e. eggs, nests, etc. in this study. The species casts off pellets that will be collected and dried and then observed under the microscope to determine the species' food habits.

No. 4. N/A.

No. 5. The species will remain in its natural habitat; the Carpenteria Marsh. This is an area of 200 acres that contains salt marsh vegetation (mostly Salicornia sp.) and is under private ownership. It is located 7 miles south of Santa Barbara, California.

No. 6. N/A.

No. 7. See third enclosure.

No. 8. I feel this permit request is justified due to the endangered status of the species. The practices to be carried out under the study may be construed as harassment

and therefore must be under permit. The activities that need to be permitted are: observation of the animals and their nests, feeding habits—including collecting and analyzation of their pellets, and possible annoyance of the species while performing a vegetation analysis on the marsh.

The vegetation study will be done by using the linequadrat method (a series of transect lines will be layed out over the marsh and quadrat samples will be taken along the line at specified intervals) Food habits of the species will be determined by observation of feeding rails and analyzation of their pellets. Censusing of the rail population will be done by using taped rail calls and also by locating rails during very high tides (the marsh should be covered by water and the rails will be forced into open habitat). Nests will be located and staked and observed every few days. The dragline technique will be used to flush out any rails in the marsh (this consists of dragging a rope through cover).

It is hoped that this study will provide information useful to the determination of the type of habitat that is necessary to the rail's survival and increase. The rails will be left in the marsh at the end of the study.

This study will fulfill a part of the requirements for a Master of Science in Natural Resources, emphasis on Wildlife Management, for Humboldt State University, Arcata, Ca.

I hope this fulfills the conditions. If not, would you please inform me as soon as possible as three weeks have already been lost due to my previous application's obscurity.

Thank you.

VENITA BASHAM,
321 Redondo Court,
Stockton, California 95207.

In accordance with CFR 50 17.22-7&8, I, *Venita Basham*, want to engage in an activity that might be construed as harassment, towards the light footed rail, *Rallus longirostris levipes*. The study will last from Feb. 1, 1976 to July 1, 1977. I will be the only person involved.

I feel the permit is justified due to the endangered status of the rail. This study may provide information necessary to the determination of suitable habitat type for the rail's reproduction and survival.

The activities to be permitted are: observation of the rail and their nest, feeding habits—including collecting and analyzation of their pellets, and possible annoyance of the species while performing a vegetation analysis of the marsh.

The vegetation study will be done by using the line-quadrat method (a series of transect lines will be layed out over the marsh and quadrat samples will be taken along the line at specified intervals). Food habits of the species will be determined by observation of feeding rails and analyzation of their pellets. Censusing of the rail population will be done by suing taped rail calls and also by locating rails during very high tides (the marsh should be covered by water and the rails will be forced into open habitat).

Nests will be located and staked and observed every few days. The dragline technique will be used to flush out any rails in the marsh (this consists of dragging a rope through cover).

It is hoped that this study will provide information useful to the determination of the type of habitat that is necessary to the rail's survival and increase.

The rails will be left in their natural habitat, the marsh, at the end of the study.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before April 14, 1976, will be considered.

Dated: March 8, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-7260 Filed 3-12 76;8:45 am]

National Park Service

COMMITTEE FOR THE RECOVERY OF ARCHAEOLOGICAL REMAINS

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Committee for the Recovery of Archaeological Remains will be held at 9 a.m., e.s.t., on April 1 and 2, 1976, in Washington, D.C. The meeting of April 1 will convene in the conference room of the Office of Archeology and Historic Preservation, 1100 L Street NW., Room 5126. On April 2, the meeting will convene in the Federal Maritime Commission Hearing Room #1 in the Lobby, 1100 L Street NW.

The purpose of the Committee for the Recovery of Archaeological Remains is to provide independent advice and assistance to Government agencies, through the Interagency Archeological Services Division of the Office of Archeology and Historic Preservation, administered by the National Park Service, in order to provide an effective program for the recovery of archeological and historic remains threatened with loss by reason of Federal programs and activities.

The members of the Committee are as follows:

Dr. Raymond H. Thompson (Chairman), Tucson, Arizona.
Dr. J. O. Brew, Cambridge, Massachusetts.
Dr. Charles E. Cleland, Jr., East Lansing, Michigan.
Dr. Charles R. McGimsey III, Fayetteville, Arkansas.
Dr. Michael J. Moratto, San Francisco, California.
Dr. Irving Rouse, New Haven, Connecticut.
Dr. Douglas Schwartz, Santa Fe, New Mexico.
Dr. Patty Jo Watson, St. Louis, Missouri.
Dr. Fred Wendorf, Dallas, Texas.

The Committee will meet in open session with members of the National Park Service on April 1, 1976. The matters to be discussed at this meeting include:

1. The redesigned external archeological programs of the National Park Service.

2. The implementation and program review of Public Law 93-291.

3. The status of the Executive Order 11593 program with regard to lease stipulations for the protection of cultural resources.

4. Revision of the uniform rules and regulations for the Antiquities Act of 1906.

This meeting will be open to the public. However, facilities and space are limited and it is expected that not more than 10 persons can be accommodated. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

The Committee will meet in general session with representatives from other Federal agencies on April 2, 1976. The matters to be discussed at this session include:

1. The role of the Interagency Archeological Services within the Office of Archeology and Historic Preservation.

2. Activities of the agencies represented regarding the protection and preservation of archeological remains on lands under their control. Brief reports will be presented to the Committee by agency representatives.

This meeting session will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 10 persons can be accommodated. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Mr. Rex L. Wilson, Departmental Consulting Archeologist, National Park Service, Department of the Interior, Washington, D.C., at 202-523-5293. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Departmental Consulting Archeologist.

Dated: March 9, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

[FR Doc.76-7289 Filed 3-12-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A313]

COLORADO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Delta County, Colorado, as a result of a severe freeze October 23 and 24, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard D. Lamm that such designation be made.

Applications for Emergency loans must be received by this Department no later

than April 20, 1976, for physical losses and November 22, 1976, 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 area 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 of March 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-7238 Filed 3-12-76;8:45 am]

Forest Service

RIO GRANDE NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The annual meeting of the Rio Grande National Forest Grazing Advisory Board will be held March 31, 1976, at 1:30 p.m. at the Forest Supervisor's Office, Monte Vista, Colorado.

The purpose of the meeting will be to discuss any problems arising from approval of ten year term permits and to act on any permittee grievances that may be forthcoming.

The meeting will be open to the public. Persons who wish to attend should notify Mr. James R. Mathers, Forest Supervisor at Monte Vista, Colorado, telephone 852-5941. Written statements may be filed before or after the meeting. Public participation during the meeting will be only at the pleasure of the chairman.

Dated: March 3, 1976.

RONALD R. SCHULZ,
Acting Forest Supervisor.

[FR Doc.76-7276 Filed 3-12-76;8:45 am]

Soil Conservation Service

JORDAN CREEK WATERSHED PROJECT, INDIANA

Notice of Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Jordan Creek Watershed Project, Warren County, Indiana, USDA-SCS-EIS-WS-(ADM)-75-2(F)-IN.

The environmental impact statement concerns a plan for watershed protection, flood prevention, drainage, erosion control, and land and water management. The planned works of improvement include conservation land treatment supplemented by channel work. Structural measures will consist of approximately 13.7 miles of multiple-purpose flood prevention and drainage channel work. This work will be enlargement, deepening, debris removal, and minor realignment. All work will be performed on manmade or modified channels of which 2.5 miles are considered as having perennial flow and the balance intermittent or ephemeral. Other structural measures consist of approximately 14.7 miles of new or reconstructed open ditches, 46.7 miles of surface drains, 5.1 miles of grassed waterway construction, and 19.8 miles of title in conjunction with surface drains and grassed waterways.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224.

Dated: March 4, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

[FR Doc.76-7217 Filed 3-12-76;8:45 am]

SOUTH FOURCHE WATERSHED PROJECT, ARKANSAS

Notice of Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the South Fourche Watershed Project, Perry, Yell, Saline, and Garland Counties, Arkansas, USDA-SCS-EIS-WS-(ADM)-76-2-(F)-AR.

The EIS concerns a plan for watershed protection, flood prevention, and municipal and industrial water supply. Planned works of improvement include conservation land treatment measures, six floodwater retarding structures, and one multiple purpose structure for flood prevention and municipal and industrial water supply.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 700 West Capitol, Little Rock, Arkansas 72201.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: March 4, 1976.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-7216 Filed 3-12-76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

STAINLESS STEEL AND ALLOY TOOL STEEL INDUSTRY

Study of the Producing Firms

SUMMARY

The U.S. Department of Commerce has conducted a study of the firms producing stainless steel and alloy tool steel as required by Section 264 of the Trade Act of 1974. It has analyzed the number of firms in the industry which have been or are likely to be certified as eligible to apply for trade adjustment assistance and the extent to which the orderly adjustment of the firms may be facilitated through the use of existing programs. Such a study by the Department is required whenever the U.S. International Trade Commission ("USITC") makes an import relief investigation under Section 201 of the Trade Act.

In its report to the President on January 16, 1976, the USITC determined that increased imports of stainless steel and alloy tool steel are a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported items. The USITC found that quotas on imports based on individual products and countries and geared to U.S. consumption are necessary to remedy the injury to the domestic industry.

In 1974, the specialty steel industry produced about 1.2 million tons of stainless steel products and 104,555 tons of tool steel with a total value of approximately $2 billion. Strong cyclical fluctuations in shipments are characteristic of the industry. Stainless and alloy steels are relatively expensive to produce. The rare metals such as chromium, nickel and tungsten used in alloys are costly and so are the production processes. Principal shapes of stainless steel produced are plate, sheet, strip, bar, and rod; tool steel may be in the form of rod, plate, sheet or bar.

According to the USITC, specialty steel industry employment averaged 29,468 in 1974, while 21,194 persons were employed during the period January-September 1975. Man-hours worked for the nine-month periods were 38.4 million in 1974 and 22.3 million in 1975, a decline of 35 percent. During the first nine months of 1975, domestic shipments declined to 549,161 tons, 43 percent below the comparable 1974 period. For the same periods, imports increased 23 percent to 127,123 tons. The ratio of imports to domestic shipments increased from 10 percent in January-September 1974 to 23 percent in the comparable 1975 period.

To be certified eligible to apply for trade adjustment assistance, a firm must domonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and separation, or threat of separation, of the firm's workers. Following certification, a firm can apply for technical and financial assistance to develop a program of economic recovery for the firm. As of the date

of this report, no firm in the stainless and alloy tool steel industry has submitted a petition to the Department of Commerce for certification of eligibility to apply for trade adjustment assistance.

Of the 20 firms in the specialty steel industry, those affiliated with the major steel companies and others which are diversified or affiliated with firms in other industries are unlikely to be able to meet the criteria for certification of eligibilty, since they probably would be unable to demonstrate that increased imports of specialty steels were an important cause of any declines experienced in total production or sales and employment by the firm. Consideration may also have to be given to the relative impact on individual firms of other factors such as the 1974–75 recession.

The likelihood of the four or five independent companies in the specialty steel industry petitioning for certification may depend on whether the President imposes the quantitative limitations on imports recommended by the USITC. With import quotas, certifiable firms may not seek trade adjustment assistance. On the other hand, if quotas are not imposed or other import relief measures adopted, trade adjustment assistance may be a viable alternative for the smaller independent specialty steel firms. In any event, the number of qualifying firms is unlikely to exceed the four or five independent producers.

Under the program of trade adjustment assistance for firms authorized by the Trade Act, financial assistance to certified firms may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Firms may also benefit indirectly from financial assistance available to trade-impacted communities under provisions of the Trade Act in a manner similar to the public works, business development and Title IX programs administered by the Department's Economic Development Administration ("EDA") pursuant to the Public Works and Economic Development Act of 1965. These other programs of EDA provide business development loans to assist firms in certain designated places identified on the basis of economic distress such as unemployment; loans and grants to states, redevelopment areas and other nonprofit local entities for public works projects and development facilities and for a comprehensive program of adjustment to an actual or threatened economic dislocation or adjustment problem.

Another Federal program which might be of some interest to firms in the specialty steel industry is the program administered by the Farmers Home Administration, Department of Agriculture, of direct and guaranteed loans to firms which may be located in areas other than cities having a population of more than 50,000 persons.

Additional information about the adjustment assistance program and copies of the report, *Prospects for Trade Adjustment Assistance for Firms in the Stainless Steel and Alloy Tool Steel Industry*, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/967–5113).

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76–7262 Filed 3–12–76;8:45 am]

[Docket No. S–499]

Maritime Administration
AQUARIUS MARINE CO.
Notice of Application

In the matter of Aquarius Marine Company, Aeron Marine Shipping Company, Aries Marine Shipping Company, American Shipping, Inc., Atlas Marine Company, Pacific Shipping, Inc., Worth Oil Transport Company.

Notice is hereby given that the above referenced companies (the Applicants) have filed a joint application dated February 3, 1976, with the Maritime Subsidy Board, for modification of the service descriptions contained in the respective operating-differential subsidy agreements of the Applicants.

It is proposed that each of the subject service descriptions be changed to read as follows:

. . . , provided, that said vessel shall not carry liquid and dry bulk cargoes subject to the cargo preference statutes of the United States, including, but not limited to, 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616(a), unless the agencies administering such statutes determine that the cargoes involved would otherwise be waived to, or allocated for, foreign flag carriage.

It is intended that the applicants would participate in the carriage of cargoes subject to the cargo preference statutes utilizing U.S.-flag subsidized vessels, but only when it has been determined by the agencies administering the statutes that foreign flag vessels would otherwise be utilized, that the cargoes would be lifted at rates comparable to the rates offered by foreign flag vessels and the tonnage lifted by them would not be computed by the agencies involved in a manner which would adversely affect the availability of cargo preference cargoes which are usually carried by U.S. flag vessels at premium rates.

Any person, firm or corporation having any interest in these modifications to the Applicants' operating-differential subsidy agreements and desiring a hearing on issues pertinent to section 605(c) of the Act (46 U.S.C. 1175), should by the close of business on March 25, 1976, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file a petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be appropirate.

Dated: March 10, 1976.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

[FR Doc.76–7348 Filed 3–12–76;8:45 am]

[Docket No. S–498]

PACIFIC FAR EAST LINE, INC.
Notice of Application

Notice is hereby given that Pacific Far East Line, Inc. has filed an application under the Merchant Marine Act, 1936, as amended (the Act), for domestic rights and approvals which are to be related to the services to be covered by a proposed new twenty-year operating-differential subsidy contract commencing after December 31, 1978, pursuant to section 805(a) of the Act.

Pacific Far East Line, Inc. (PFEL) is requesting that the authority pursuant to section 805(a) of the Act which PFEL now has be granted to cover operations under the proposed twenty-year subsidy contract.

PFEL requests written permission pursuant to section 805(a) of the Act for the subsidized combination passenger-freight vessels SS MARIPOSA and SS MONTEREY to carry passengers, their baggage, and accompanying automobiles (a) between California and Hawaii, (b) between any United States ports in connection with cruises authorized pursuant to section 613 of the Act, and (c) between ports in California on regularly scheduled voyages on the subsidized Trade Route 27 Service.

PFEL also requests written permission pursuant to section 805(a) of the Act for its subsidiary, American Bear Steamship Company, to own and/or operate one U.S. flag bulk carrier engaged in the transportation of bulk cargoes in domestic intercoastal or coastwise service.

As information, the U.S. flag bulk carrier owned by the subsidiary of PFEL is the SS AMERICAN BEAR (ex-AMERICAN WHEAT).

Any person, firm, or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on March 25, 1976 file same with the Secretary, Maritime Administration, in writ-

ing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest. and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: March 10, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-7349 Filed 3-12-76;8:45 am]

National Oceanic and Atmospheric Administration

[Docket Number MMPAH No. 1, 1975]

THE FOUKE CO.

Supplemental Decision in the Matter of Application To Waive the Moratorium on the Importation of Sealskins

On February 12, 1976, I decided to waive the moratorium with respect to the importation of marine mammals imposed by the Marine Mammal Protection Act of 1972 (the Act) to allow, under certain conditions and circumstances, the importation of up to 19,180 skins of Cape fur seals harvested in the Republic of South Africa. I reserved judgment on the question of whether skins of Cape fur seals harvested in Namibia would be subject to a waiver, pending further study of certain international issues raised at the hearing. My decision was published on February 19, 1976, at 41 FR 7537.

From the evidence of record it is clear to me that, under present circumstances, it would not be consistent with the foreign policy of the United States to waive the moratorium on importation to allow for the importation of skins of Cape fur seals harvested in Namibia. In exercising the authority delegated to me to administer the Act, I have concluded that, where appropriate, the exercise of that authority should be consistent with the United States foreign policy. Consequently, I have decided not to waive the moratorium on importation imposed by the Act, with respect to skins of Cape fur seals harvested in Namibia. In view of this decision, it is not necessary to amend the waiver and implementing regulations published on February 19, 1976, at 41 FR 7510.

Dated: March 10, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76-7246 Filed 3-12-76;8:45 am]

SUSAN SHANE

Notice of 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.

Ms. Susan Shane, Graduate Student, Texas A&M, Wellborn, Texas 77881, to take up to 150 marine mammals by tagging for scientific research.

The Applicant proposes to mark up to 150 Atlantic bottlenosed dolphins (*Tursiops truncatus*), by applying a non-lead base paint from a pressurized container on a long pole with a trigger mechanism. The proposed research will be one phase of a study on the population biology of *Tursiops truncatus* in the Aransas Pass area of the Texas coast. The goals of the study are: (1) to estimate population numbers; (2) to determine daily and seasonal population movements; (3) to gather data on herd and pod composition; (4) to record behavior; (5) to compile information on human-dolphin interactions; and (6) to collect data on stranded animals. The Applicant states that there is no known possibility of mortality associated with paint-tagging. In the past all dead cetaceans have been collected by Texas A&M, and the skulls have been deposited in the Museum of the Texas Cooperative Wildlife Collection. This procedure will be followed if any cetaceans die during the course of the research project.

Ms. Susan Shane, a Graduate Student, at Texas A&M, has experience working with dolphins in captivity and has made observations on the Tursiops population to be paint-tagged.

The tagging procedures will be conducted in the Aransas Pass area of the Texas coast. The research is to be conducted starting in June 1976 and continuing through May 1977.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235; the Office of the 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 the Application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before April 14, 1976. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this Notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: March 5, 1976.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-7247 Filed 3-12-76;8:45 am]

CAPE FUR SEALSKINS

Decision on Whether To Waive Moratorium Regarding Importation

Pursuant to 50 CFR 216.90(c) the Supplemental decision of the Director, National Marine Fisheries Service, on the proceeding to waive the moratorium imposed by the Marine Mammal Protection Act of 1972, on the importation of skins of Cape fur seals (*Arctocephalus pusillus pusillus*) is published.

This decision supplements the decision of the Director, dated February 12, 1976, and published February 19, 1976, at 41 FR 7537.

The Director's supplemental decision not to waive the moratorium on importation to allow for the importation of skins of Cape fur seals harvested in Namibia is final.

Dated: March 10, 1976.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.76-7243 Filed 3-12-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of April 1976:

BOARD OF SCIENTIFIC COUNSELORS, NIMH

April 1-3.

April 1, 9:30 a.m., Conference Room 512, William A. White Building, St. Elizabeths Hospital, Washington, D.C.

April 2-3, 9:00 a.m., Building 36, Conference Room 1B-07, National Institutes of Health, Bethesda, Maryland.

Open—April 1, 9:30-10:00 a.m.

Closed—Otherwise.

Contact Dr. John C. Eberhart, Building 36, Room 1A-05, National Institutes

of Health, Bethesda, Maryland, 20014, 301–496–3501.

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in the William A. White Building, Conference Room 512, St. Elizabeths Hospital, Washington, D.C., for approximately 30 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the three-day session will be devoted to the review of intramural research projects from the Laboratory of Neuropharmacology and the Laboratory of Preclinical Pharmacology, and the evaluation of individual scientific programs, and these sessions will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552 (b)(6), Title 5 U.S. Code and Section 10 (d) of Public Law 92–463 (5 U.S.C. Appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE

April 4, 1:00 p.m.; April 5–7, 8:30 a.m.

Marshall Room, Taft Room, and Vincent Room, Sheraton Park Hotel, 2600 Woodley Road, N.W., Washington, D.C.

Open—April 4, 4:00–5:00 p.m.

Closed—Otherwise.

Contact Mary E. Enyart, Parklawn Building, Room 10C–14, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–4337.

Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 4:00 to 5:00 p.m., April 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above.

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

April 26; 9:30 a.m.

Conference Room 14–105, Parklawn Building, Rockville, Maryland.

Open—April 26, 9:30–10:00 a.m.

Closed—Otherwise.

Contact Mrs. Zelia Diggs, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–4333.

Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: From 9:30–10:00 a.m., April 26, the meeting will be open for discussion of administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of new and supplemental continuing education training grant applications for Federal assistance, and this session will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552(b)(5) and 552(b)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from Mrs. Jane Perry, Executive Assistant to Acting Director, Division of Manpower and Training Programs, NIMH, Room 8–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–1277.

The NIMH Information Officer who will furnish summaries of the meetings and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, National Institute of Mental Health, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301–443–3600.

Dated: March 9, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76–7236 Filed 3–12–76;8:45 am]

Office of Education

VETERANS' COST-OF-INSTRUCTION PROGRAM

Notice of Closing Date for Receipt of Applications Regarding Payments to Institutions of Higher Education

Notice is hereby given that pursuant to the authority contained in Section 420 of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070e–1), applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-Instruction Program.

Applications must be received by the Veterans' Programs Branch, U.S. Office of Education on or before May 17, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Veterans' Programs Branch, U.S. Office of Education, ROB #3, Room 4613, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention 13.540. An application sent by mail will be considered to be received on time by the Veterans' Programs Branch if:

(1) The application was sent by registered or certified mail not later than May 12, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Programs Branch, Room 4613, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Veterans' Programs Branch, U.S. Office of Education, Room 4613, ROB #3, 7th and D Streets, SW., Washington, D.C. 20202, or from the various Regional Offices of the Office of Education.

D. *Applicable regulations.* The regulations applicable to this program appear at 45 CFR Part 189.

Dated: March 9, 1976.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Program No. 13.540, Higher Education—Cost of Veterans' Instruction (VCIP)).

[FR Doc.76–7281 Filed 3–12–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Membership and Designation of Members Representing the General Public

The purpose of this notice is to make public the membership of the National

Motor Vehicle Safety Advisory Council and designate the members who represent the public.

The National Motor Vehicle Safety Advisory Council was created by section 104 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1939) to advise the Secretary of Transportation on motor vehicle safety standards promulgated under that Act. Under that Act, the majority of Advisory Council members must represent the "general public." Section 107(a) of the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492) amended section 104 of the National Traffic and Motor Vehicle Safety Act by defining "representative of the general public" to mean an individual (a) who is not an employee of, or is not holding "any official relation" to, a manufacturer, dealer, or distributor, or supplier thereof, of motor vehicles or motor vehicle equipment, or (b) who does not own stock or bonds of substantial value in such firms, or (c) who is not in any other manner directly or indirectly pecuniarily interested in such firms.

The 1974 amendments also require annual publication of the Council's membership and identification of those members designated as representatives of the general public.

With the appointment of new members to the Council on February 12, 1976, the members of the National Motor Vehicle Safety Advisory Council are as follows:

Mr. Harry H. Brainerd, Former Executive Director, Vehicle Equipment Safety Commission, Washington, D.C.; Mr. Judson B. Branch, Allstate Insurance Company, Northbrook, Illinois; Mr. Colver R. Briggs, Ford Motor Company, Dearborn, Michigan; Dr. B. J. Campbell, University of North Carolina, Chapel Hill, North Carolina; Mrs. Julie Candler, WOMAN'S DAY Magazine, Birmingham, Michigan; Mr. Gilbert E. Carmichael, The Carriage House, Meridian, Mississippi; Mr. Richard L. Day, Petersen Publishing Company, Los Angeles, California; Dr. Harold Allen Fenner, Jr., Orthopedic Surgeon, Hobbs, New Mexico; Mr. Joel K. Gustafson, Gustafson, Caldwell, Stephens & Ferris P.A., Fort Lauderdale, Florida; Mr. George Hildebrand, Pratt Institute, Southbury, Connecticut; Mr. Dale C. Hogue, Attorney at Law, Charlottsville, Virginia; Mr. Robert D. Knoll, Consumers Union, Orange, Connecticut; Mr. George Nield, Automobile Importers of America, Washington, D.C.; Mr. John N. Noettl, Automobile Club of Missouri, St. Louis, Missouri; Mr. Arthur Railton, Volkswagen of America, Englewood Cliffs, New Jersey; Mr. Archie G. Richardson, Jr., Automobile Owners Action Council, Washington, D.C.; Mr. Gene Roberts, Fire and Police Department, Chattanooga, Tennessee; Dr. Kenneth Saczalski, Office of Naval Research, Arlington, Virginia; Mr. Gordon M. Scherer, Cors, Hair & Hartsock, Cincinnati, Ohio; Dr. Basil Y. Scott, Department of Motor Vehicles, Albany, New York; Mr. Herbert D. Smith, Uniroyal, Inc., Rumson, New Jersey; Mr. J. W. "Bill" Stevens, Broward County Board of Commissioners, Fort Lauderdale, Florida; Dr. Julian A. Waller, University of Vermont, Burlington, Vermont; Dr. Ruth E. Winkler, Optometrist, Tulsa, Oklahoma.

Of the above members, the following have been designated by the Secretary as representatives of the general public:

Mr. Brainerd, Dr. Campbell, Dr. Fenner, Mr. Gustafson, Mr. Knoll, Mr. Noettl, Mr. Richardson, Mr. Roberts, Dr. Saczalski, Mr. Scherer, Dr. Scott, Dr. Waller and Dr. Winkler.

Questions concerning the membership of the National Motor Vehicle Safety Advisory Council and the Secretary's designation of those members representing the general public should be directed to the Executive Secretary, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 or telephone 202-426-2872.

This notice is filed under the requirements of section 104, Pub. L. 89-564; section 107, Pub. L. 93-492 (15 U.S.C. 1393).

Issued: March 8, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76-7088 Filed 3-12-76;8:45 am]

[Docket No. EX75-21; Notice 3]

TRAVEL BATCHER CORP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Travel Batcher Corporation of Salt Lake City, Utah, has applied for a renewal of its temporary exemption from Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, on the basis that compliance would cause it substantial economic hardship.

In the calendar year 1975 Travel Batcher manufactured five motor vehicles (ready-mix trucks). It normally produced 10 vehicles a year before the advent of Standard No. 121 on March 1, 1975. Since its temporary exemption expired on February 1, 1976, it has shut down production. In the fiscal year ending July 31, 1975, it had a net loss of almost $47,000 which increased its retained deficit to almost $80,000. Travel Batcher requests an exemption until February 1, 1977. Because of the specialized nature of its vehicles and small production, it was impossible for it to meet Standard No. 121 on the effective date, and to find a supplier to fill its needs. While its temporary exemption was in effect it located a supplier who appears confident of supplying it with conforming axles during the first quarter of 1977. Travel Batcher believes an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act because "of an outstanding record of safety for all the years of our manufacturing. . . ." The alleged effect of a denial is that it would bankrupt the company.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Travel Batcher Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., 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. Notice of action upon the petition will be published in the FEDERAL REGISTER.

Comment closing date: April 15, 1976.

(Sec. 3, Pub. L. 92-548, 88 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on March 9, 1976.

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

[FR Doc.76-7344 Filed 3-12-76;8:45 am]

[OST File No. 43; Notice 76-3]

Office of the Secretary

POTENTIAL IMPACT OF NON-MARKET CARGO ALLOCATION IN UNITED STATES FOREIGN TRADE

Request for Public Comment

On December 20, 1973, the President's Interagency Committee on Export Expansion (PICEE) was established under the chairmanship of the Secretary of Commerce to assure that programs and policies that affect United States export performance are coordinated to achieve common public objectives. Reporting to PICEE is the Transportation Economics Working Group (TEWG) under the chairmanship of the Assistant Secretary of Transportation for Policy, Plans, and International Affairs.

TEWG has recently completed a draft report to PICEE on the potential impact of non-market cargo allocation in United States foreign trade. The report includes an analysis of the possible effect of the Code of Conduct for Liner Conferences of the United Nations Conference on Trade and Development (UNCTAD).

Prior to the transmittal of a final report to PICEE, the draft report is available for public review and comment. Copies are available from the Docket Clerk, Office of the General Counsel, TGC, Department of Transportation,

Washington, D.C. 20590, telephone 202–426–4723. Comments (three copies, if possible) should include the file number (OST File No. 43) and be sent to the same address. All comments received by Monday, April 12, 1976, will be considered prior to preparation of a final report. All comments received will be available for public inspection and copying, and responsive comment, in the Office of the Assistant General Counsel for Operations and Legal Counsel, room 10100 Nassif Building, 400 Seventh Street, S.W., Washington, D.C., from 9:00 a.m. to 5:30 p.m. local time Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on

ROBERT HENRI BINDER,
Assistant Secretary of Transportation for Policy Plans, and International Affairs.

[FR Doc.76–7303 Filed 3–12–76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93–580), as amended, that hearings related to their proceedings will be held in conjunction with Commission Task Force #1's investigation of the Federal-Indian Relationship; Treaties and Trust Responsibilities.

Hearings have been scheduled March 17, 1976, from 9:00 a.m. to 5:00 p.m., at the Standing Rock Sioux Tribal Council Meeting Hall, Fort Yates, North Dakota and March 18 and 19, from 9:00 a.m. to 5:00 p.m., at the Northern Hotel in Billings, Montana.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. These hearings will focus on issues related to the studies of Task Force #1's investigation of the Federal-Indian Relationship, Treaties and Trust Responsibilities.

Persons wanting to submit testimony for the hearings may call Task Force #1 Chairman Hank Adams or Task Force Specialist Kevin Gover at the Commission offices in Washington, DC, 202–225–1284 or 225–3526.

Dated: March 8, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76–7218 Filed 3–12–76;8:45 am]

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93–580), as amended, that Joint hearings related to their proceedings will be held in conjunction with Task Force #4's investigation on Federal, State and Tribal Jurisdiction and Task Force #3's investigation on Federal Administration and the structure of Indian Affairs. An informal hearing to cover the Great Lakes States of Michigan, Minnesota and Wisconsin will be held on March 19th and 20th, 1976 from 9 am–5 pm, at the auditorium, Old Main Building, University of Wisconsin, Superior, Wisconsin.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

The actual investigations are conducted by eleven Task Forces in designated subject areas. These hearings will focus on issues related to the studies of Task Force #4 and Task Force #3.

Persons interested in submitting testimony for the hearings should contact Paul Alexander, Don Wharton or Rudy Ryser at 202–225–1284, 3446 or 3526 or write to them at the American Indian Policy Review Commission, HOB Annex #2, Second and D Streets SW, Washington, D.C., 20515.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76–7277 Filed 3–12–76;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

AMERICAN REVOLUTION BICENTENNIAL ADVISORY COMMITTEE ON RACIAL, ETHNIC AND NATIVE AMERICAN PARTICIPATION IN THE BICENTENNIAL

Rescheduled Meeting

In FR Document 76–6356, appearing on page 9586, in the issue for Friday, March 5, 1976, notice was given pursuant to Section 10(a) of the Federal Advisory Committee Act, (Public Law 92–463) that a meeting of the American Revolution Bicentennial Committee on Racial, Ethnic and Native American Participation in the Bicentennial would be held on March 27, 1976, at the Elma Lewis School, 122 Elmhill Avenue, Roxbury, Massachusetts.

The date of this meeting has been changed to April 10, 1976.

JOHN W. WARNER,
Administrator.

[FR Doc.76–7219 Filed 3–12–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 26973]

AEROMAR, C.POR A.

Notice of Prehearing Conference Regarding Remanded Proceeding

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 5, 1976, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Richard V. Backley.

Dated at Washington, D.C., March 9, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76–7283 Filed 3–12–76;8:45 am]

OMEGA AIRWAYS, LTD.

Notice of Prehearing Conference and Hearing Regarding Canada-U.S. Charter Service (Small Aircraft)

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 5, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

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 March 24, 1976.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., March 9, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76–7285 Filed 3–12–76;8:45 am]

[Docket 23004]

PACIFIC OVERSEAS FARES INVESTIGATION

Notice of Postponement of Prehearing Conference

Pursuant to the request of Pan American World Airways, Inc., by letter dated March 5, 1976, to which no objection has been entered, notice is hereby given that the prehearing conference in the above-entitled matter, heretofore assigned to be held on March 17, 1976 (41 F.R. 4963, February 3, 1976), is postponed to March 25, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room D, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., March 9, 1976.

[SEAL] RALPH L. WISER,
Administrative Law Judge.

[FR Doc.76–7284 Filed 3–12–76;8:45 am]

[Docket 28961]

SACRAMENTO-DENVER NONSTOP PROCEEDING

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 11, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Ralph L. Wiser.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before April 22, 1976, and the other parties on or before May 3, 1976. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., March 9, 1976.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-7286 Filed 3-12-76;8:45 am]

[Docket 28146]

WESTERN AIR LINES, INC.

Notice of Hearing Regarding U.S.-Mexico Passenger Fares

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 6, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on January 13, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 10, 1976.

[SEAL] WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.76-7287 Filed 3-12-76;8:45 am]

[Docket 27923; Order 76-3-54]

UNITED AIR LINES, INC.

Order Dismissing Proceedings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of March, 1976.

By Order 75-6-67, June 12, 1975, the Board granted review of an order, issued by the Postmaster General on May 29, 1975, requiring United Air Lines, Inc. (United) to retain a Salt Lake City-Chicago flight for mail transportation purposes, and postponed the effective date of the Postmaster General's order pending review. By Order 76-2-4, February 2, 1976, the Board directed interested persons to show cause why the Board should not deny United's application and effectuate the Postmaster General's order upon final adoption of a proposed minimum temporary service mail rate; and institute an investigation to determine the fair and reasonable final rate.

On February 12, 1976, the U.S. Postal Service filed an answer to the order to show cause and a motion to dismiss these proceedings because the Postmaster General has revoked his order of May 29, 1975. In light of the foregoing, it is found that the proceedings in this docket are moot and should be dismissed.

ACCORDINGLY, IT IS ORDERED THAT: The application of United Air Lines, Inc., and the related proceedings instituted by the Board in Docket 27923, be and they hereby are dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-7288 Filed 3-12-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON DEFINITION AND REGULATION OF MARKET INSTRUMENTS

Notice of Change in Meeting Date and Agenda

Notice is hereby given of a change in the meeting date for the Advisory Committee on the Definition and Regulation of Market Instruments, Cash Commodity Markets Subcommittee. The Subcommittee will meet on March 22, 1976 at the Madison Hotel, 15th and M Streets, NW., Washington, D.C. in the Arlington Room, beginning at 9:30 a.m., rather than meeting at the Sheraton Carlton Hotel on the evening of March 18 as previously stated in the FEDERAL REGISTER of March 4, 1976 (41 F.R. 9418).

In addition, the agendas for the Advisory Committee meetings being held on March 18 and 19 at the Sheraton Carlton Hotel, 16th and K Streets, NW., Washington, D.C. in the Mount Vernon Room, beginning at 9:30 a.m. each day, have been changed. The amended agendas are as follows:

MARCH 18, COMMODITY OPTIONS SUBCOMMITTEE

The Subcommittee will continue its discussion of the various forms of commodity options trading which it believes should be permitted in the U.S. and of the regulatory requirements necessary for each. It will seek to finalize its recommendations to the full Advisory Committee in these areas.

MARCH 19, FUTURES, FORWARD AND LEVERAGE CONTRACTS SUBCOMMITTEE

The Subcommittee will continue its discussion of what specific types of regulations should be adopted by the Commission (a) to prevent fraud and manipulation in connection with the offer and sale of leverage transactions, and (b) to insure the financial integrity of leverage transactions. It will seek to finalize its recommendations to the full Advisory Committee in this area.

Dated: March 10, 1976.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-7270 Filed 3-12-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PROCUREMENT POLICY ADVISORY COMMITTEE

Notice of Determination To Establish

MARCH 8, 1976.

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), I hereby certify that the establishment of a Procurement Policy Advisory Committee as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration (ERDA) by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63 (Revised).

1. *Name of Advisory Committee.* Procurement Policy Advisory Committee.

2. *Purpose.* To advise the Energy Research and Development Administration on procurement policy matters to promote the accomplishment of ERDA's missions.

3. *Effective Date of Establishment and Duration.* The Advisory Committee is established, effective 15 days after publication of this notice and after filing the charter with the standing committees of Congress having legislative jurisdiction of the Energy Research and Development Administration. The Advisory Committee's duration shall be to February 1, 1977.

4. *Membership.* The membership of the Advisory Committee shall be fairly balanced in terms of the points of view represented and the Advisory Committee's function. There will be no discrimination on the basis of race, color, creed, national origin, religion, or sex.

5. *Advisory Committee Operation.* The Advisory Committee will operate in accordance with provisions of the Federal Advisory Committee Act (P.L. 92-463), ERDA policy and procedures, OMB Circular No. A-63 (Revised) and other directives and instructions issued in im-

plementation of the Act. The Advisory Committee will be provided the necessary support to accomplish its purpose.

ROBERT C. SEAMANS, JR.,
Administrator.

[FR Doc.76-7411 Filed 3-12-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CANADIAN ALLOCATION PROGRAM

Notice for the January 1, 1976 Allocation Period

In accordance with the provisions of FEA's Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the allocation notice specified in § 214.32 for the allocation period commencing January 1, 1976 is hereby published.

The total volume of Canadian crude oil currently being authorized by Canada for export to the United States, and therefore subject to allocation under Part 214, for the allocation period commencing January 1, 1976, is 510,000 barrels per day. Any change in the current export level effective for this allocation period would be reflected in revised allocations for this period pursuant to a supplemental allocation notice.

The issuance of Canadian crude oil rights for the January 1, 1976 allocation period to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists the name of each refiner and other firm to which rights have been issued, the number of rights, expressed in barrels per day, issued to each such refiner or other firm and, for the months April, May and June 1976, the specific first or second priority refineries for which such rights are applicable.

In accordance with the provisions of § 214.31(a)(3), in calculating the Canadian crude oil rights issuances applicable for the months January through March 1976, FEA has given full effect to the export licenses issued by the Canadian National Energy Board. Accordingly, the listing sets forth the issuances of crude oil rights for these months to refiners or other firms but does not specify particular refineries or other facilities that would ultimately consume Canadian crude oil, as such export licenses were issued by Canada only with specification as to the refiner or other firm receiving the license.

The issuance of Canadian crude oil rights for the months April, May and June is made pursuant to the provisions of § 214.31, which provide that rights are issuable to refiners or other firms that own or control a first or second priority refinery based on the number of barrels of Canadian crude oil included in the refinery's volume of crude oil runs to stills or consumed or otherwise utilized by the facility during the base period, November 1, 1974 through October 31, 1975. These calculations have been made and are shown on a barrels per day basis.

The listing contained in the Appendix also reflects any adjustments made by FEA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions as provided by § 214.31(d).

Based on its review of information contained in affidavits and initial reports filed pursuant to Subpart D of Part 214, information contained in any comments submitted as to those affidavits, and other information relating to the capability of each refiner or other firm to replace reported base period volumes of Canadian crude oil with other crude oil, FEA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21, in accordance with the procedures specified in § 214.33. If a refinery or other facility has not been designated as a priority refinery by FEA in this notice, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e) each refiner or other firm which has been issued Canadian crude oil rights is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian crude oil subject to allocation under Part 214 equal to the number of rights specified in the Appendix.

Adjustments to issuances of rights to reflect reductions in export levels of Canadian crude oil have been made pursuant to § 214.31(b) as to second priority refineries. No adjustments thereunder have been made as to rights issuances for first priority refineries. In this regard the adjusted base period volumes for all first priority refineries total 268,694 barrels per day, and those for second priority refineries total 465,539 barrels per day. To conform to the current Canadian export levels, a factor of .518337 was applied to all second priority base period volumes which, as so adjusted, total 241,306 barrels per day.

Finally, FEA has evaluated the comments received with respect to the regulatory provision setting forth the 25% minimum Canadian crude run volume for first priority status, pursuant to FEA's invitation therefor in the final rule for the program (41 FR 4716; January 30, 1976). Comments were received that both favored and opposed this test. FEA has concluded from consideration of these comments, its own analysis and the rationale underlying the 25% test, as set forth in January 30, 1976 preamble to Part 214, that the provision should be retained.

On or prior to the fiftieth day preceding the allocation period commencing July 1, 1976, each refiner or other firm that owns or controls a first priority refinery shall file with FEA the supplemental affidavit specified in § 214 41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit, upon which the initial designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the fiftieth day preceding the allocation period commencing July 1, 1976.

Within 30 days following the close of the allocation period commencing January 1, 1976, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period commencing January 1, 1976.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 14, 1976.

Issued in Washington, D.C. on March 9, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX.—*Canadian allocation program—rights for Jan. 1, 1976, allocation period*[1]

Refiner/refinery	Priority	January to March	April to to June	Total
Amoco		23,453	20,242	21,848
Whiting, Ind	II		13,866	
Casper, Wyo	II		1,550	
Mandan, N. Dak	II		4,662	
Sugar Creek, Mo	II		164	
Arco		29,277	23,340	25,309
Cherry Point, Wash	II		17,740	
East Chicago, Ind	II		5,600	
American Petrofina		0	102	51
El Dorado, Ark	II		102	
Ashland		58,810	64,896	61,853
Buffalo, N.Y	II		19,050	
Findlay, Ohio	II		1,139	
St. Paul Park, Minn	I		44,707	
Apco		0	40	20
Arkansas City, Kans	II		40	
Dow		3,000	2,767	2,884
Bay City, Mich	I		2,767	
Clark		7,645	9,726	8,686
Blue Island, Ill	II		9,726	
Consumers Power		40,147	41,178	40,663
Essexville, Mich	I		13,872	
Marysville, Mich	I		27,306	
Continental		50,909	49,666	50,288
Billings, Mont	I		25,994	

Refiner/refinery	Priority	January to March	April to to June	Total
Denver, Colo	II		2,405	
Ponca City, Okla	II		616	
Wrenshall, Minn	I		20,651	
CRA		485	463	474
Coffeyville, Kan	II		165	
Phillipsburg, Kan	II		90	
Scottsbluff, Neb	II		208	
Crystal Refining		692	572	632
Carson City, Mich	II		572	
Detroit Edison		267	628	448
River Rouge, Mich	II		628	
Exxon		16,446	15,908	16,177
Billings, Mont	I		15,908	
Farmers Union		14,621	13,439	14,030
Laurel, Mont	I		13,439	
Gladieux		365	401	383
Fort Wayne, Ind	II		401	
Gulf		6,921	6,870	6,896
Toledo, Ohio	II		6,870	
Husky		340	2,940	1,640
Cheyenne, Wyo	II		2,522	
Cody, Wyo	II		418	
Koch		67,904	74,383	71,143
St. Paul, Minn	I		74,383	
Lake Superior District Power		0	125	63
Ashland, Wis	I		125	
Laketon		86	73	80
Laketon, Ind	II		73	
Lakeside		991	643	817
Kalamazoo, Mich	II		643	
Little America		3,165	1,165	2,165
Casper, Wyo	II		1,165	
Marathon		3,889	5,339	4,614
Detroit, Mich	II		5,339	
Mobil		40,321	44,083	42,202
Buffalo, N.Y	II		12,956	
Ferndale, Wash	II		23,555	
Joliet, Ill	II		7,571	
Murphy		23,409	25,625	24,517
Superior, Wis	I		25,625	
NCRA		485	433	217
McPherson, Kans	II		433	
Pasco		845	368	607
Sinclair, Wyo	II		368	
Phillips		2,451	2,370	2,411
Great Falls, Mont	II		633	
Kansas City, Kans	II		1,737	
Rock Island		0	551	276
Indianapolis, Ind	II		551	
The Refinery Corp		0	90	45
Commerce City, Colo	II		90	
Shell		36,090	33,480	34,785
Anacortes, Wash	II		28,985	
Wood River, Ill	II		4,496	
Sun		17,038	8,515	12,777
Toledo, Ohio	II		8,515	
Standard Oil of Ohio		5,243	15,128	10,185
Toledo, Ohio	II		15,126	
Tenneco		0	916	458
Chalmette, La	II		916	
Tesoro		106	350	228
Newcastle, Wyo	II		350	
Texaco		29,203	22,731	25,967
Anacortes, Wash	II		21,371	
Casper, Wyo	II		715	
Lockport, Ill	II		645	
Thunderbird (Canadian Hydro)		3,000	2,493	2,747
Cut Bank, Mont	II		287	
Kevin, Mont	I		2,206	
Total Leonard		9,395	5,042	7,219
Alma, Mich	II		5,042	
Union		5,996	6,070	6,033
Lemont, Ill	II		6,070	
United		6,467	6,851	6,659
Warren, Pa	II		5,140	
West Branch, Mich	I		1,711	

[1] Expressed in average barrels per day.

[FR Doc.76-7143 Filed 3-9-76;4:44 pm]

CANADIAN CRUDE OIL ALLOCATION

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. sec. 4332(2)(c), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement concerning the operation of regulations to allocate dwindling supplies of Canadian crude oil, 10 C.F.R. Part 214. That program provides for a priority allocation scheme insuring a first call on Canadian crude oil imports for those refiners and end-user utilities which have no alternative source of crude oil supply, and distributes any shortage evenly among those refiners and end-users.

Single copies of the draft environmental impact statement may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the draft statement will also be available for public review in the FEA Information Access Reading Room, Room 3116, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the draft statement to Executive Communications, Room 3309, Federal Energy Administration, Box GF, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Draft EIS—Canadian Allocation." Fifteen copies should be submitted. All comments should be received by FEA by April 14, 1976, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to detremine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., March 9, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-7226 Filed 3-10-76;11:05 am]

FUTURE PLANNING SUBCOMMITTEE OF THE FOOD INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Future Planning Subcommittee of the Food Industry Advisory Committee will meet Friday, April 2, 1976, at 1:30 p.m., Room 3000B, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The objectives of this Subcommittee are to advise the parent Committee about food industry interests and problems as these relate to national energy conservation programs.

The agenda for the meeting is as follows:

1. Review of Proposed Energy Conservation Factual Status Reports on:

a. Food Packaging.
b. Equipment Efficiency Labeling.
c. Energy Waste through Food Waste.
d. Recycling & Resource Recovery.
e. Energy Use vs. Nutritional Content.

2. Review of Consumer Comments on Proposed Factual Status Reports.

3. Review of Industrial Trade Association Comments on Proposed Factual Status Reports.

4. General Discussion of Priorities.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management

(202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, DC.

Issued at Washington, D.C. on March 10, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-7323 Filed 3-10-76:4:10 pm]

FEDERAL MARITIME COMMISSION

CANADIAN NATIONAL RAILWAY CO. AND CANADIAN NATIONAL STEAMSHIP CO., LTD.

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-54 and Certificate of Financial Responsibility

Whereas, Canadian National Railway Company and Canadian National Steamship Company, Limited, c/o CANADIAN NATIONAL, BOX 8100, MONTREAL, H3C 3N4, QUEBEC, CANADA, have ceased to operate the passenger vessel S.S. *Prince George*.

It is ordered, That Certificate (Performance) No. P-54 and Certificate (Casualty) No. C-1,047 covering the S.S. *Prince George* be and hereby revoked effective March 4, 1976.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served on the Certificants.

By the Commission March 4, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-7305 Filed 3-12-76;8:45 am]

Bureau of Compliance

INACTIVE TARIFFS

Notice of Cancellation

MARCH 10, 1976.

By Notice published in the FEDERAL REGISTER on January 19, 1976, the Commission notified the carriers named therein of its intent to cancel their domestic offshore tariffs 30 days thereafter, in the absence of a showing of good cause why such tariffs should not be cancelled. Three carriers replied to this Notice requesting that their tariffs not be cancelled. Accordingly, the tariffs of the following carriers will be retained in the Commission's files as active:

Arrow-Lifschultz Freight Forwarders, Inc., 386 Park Avenue South, New York, New York 10016.

Century Mills, Inc., 152-50 Rockaway Boulevard, Jamaica, New York 11434.

Northwest Consolidators, Inc., P.O. Box 3583, Terminal Annex, Seattle, Washington 98124.

Aero-Nautics Forwarders, Inc., 1167 N.W. 22nd Street, Miami, Florida 33127, advised the Commission that it would voluntarily cancel its effective tariffs. These tariffs will be cancelled upon the effective date of appropriately filed cancellation supplements.

Pacific Freight Forwarding Co., 2800 West Bayshore Road, Palo Alto, California 94107, replied that it was inactive and requested that its tariff be cancelled.

The remaining carriers failed to respond to this Notice. Accordingly, by authority delegated by Section 4.08 of Commission Order No. 201.1 (Revised) dated June 30, 1975, the tariffs of the carriers listed in Appendix I and the tariff of Pacific Freight Forwarding Co., were cancelled on February 19, 1976.

N. THOMAS HARRIS,
Director,
Bureau of Compliance.

APPENDIX I

All Hawaii Cargo Consolidation, Inc., P.O. Box 398, La Marada, California 90638.
Allied Industrial Distribution, 711 First Street, Oakland, California 94607.
All Pacific Freight, Inc., P.O. Box 3760, Anaheim, California 92803.
Calrob Forwarding Corp., 5107 University Boulevard West, Jacksonville, Florida 33216.
Caribbean Ferry Service, Inc., 760 Ponce De Leon Avenue, Miramar, Puerto Rico 00907.
Distribution International Service Company, 201 N. Federal Highway, Deerfield Beach, Florida 33441.
Eller and Company, Port Everglades Station, Ft. Lauderdale, Florida 33316.
El Viejo San Juan Moving & Shipping, Inc., 862 Southern Boulevard, Bronx, New York 10459.
Florida Towing Corp., P.O. Box 544, Jacksonville, Florida 32201.
Hawaiian Freight Service, Inc., Bush Terminal Building 57, Brooklyn, New York 11231.
La Isla Shipping Co., 399 Hooper Street, Brooklyn, New York 11211.
Lifschultz Fast Freight, Inc., 28 North Franklin Street, Chicago, Illinois 60606.
Mid-Pacific Freight Forwarders, 3770 E. 26th Street, Vernon, California 90023.
Midwest Caribe Service Corporation, 55-80 47th Street, Maspeth, Long Island, New York, New York 11378.
Murphy's Refrigerated Express, Inc., 112 Poinier Street, Newark, New Jersey 07114.
Norwegian Mayflower Lines, P.R., Inc., P.O. Box 4351, San Juan, Puerto Rico 00905.
Pacific Consolidators, 1910 North Main Street, Los Angeles, California 90031.
Pacific Hawaiian Terminals, Inc., 99 Mississippi Street, San Francisco, California 94107.
Puerto Rican Freight Co., Inc., P.O. Box 146 International Airport Branch, Miami, Florida 33148.
Sea Progress, Inc., 144-29 156th Street, Jamaica, New York 11434.
Shippers Imperial, Inc., P.O. Box 5790, San Jose, California 95150.
Siegmund's, Inc., P.O. Box 1205, Hato Rey, Puerto Rico 00919.
Skip's Trucking, Inc., 1291 63rd Street, Emeryville, California 94608.
States Marine International, Inc., High Ridge Park, P.O. Box 1540, Stamford, Connecticut 06904.
United Freightways Corporation, P.O. Box 1844, Old San Juan, Puerto Rico 00903.
United Shipping Agents, Inc., P.O. Box 58361, Los Angeles, California 90058.
Universal Trailer Express, Inc., P.O. Box 985, Miami, Florida 33144.
Valencia Baxt Express, Inc., P.O. Box 3886, San Juan, Puerto Rico 00904.

[FR Doc.76-7306 Filed 3-12-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI75-583]

ANADARKO PRODUCTION CO. (ABANDONMENT APPLICATION)

Withdrawal

MARCH 8, 1976.

On February 17, 1976, Anadarko Production Company filed a motion to withdraw its abandonment application and rate schedule supplement filed on March 21, 1975 in the above-designated proceeding.

Notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application shall become effective on March 18, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7316 Filed 3-12-76;8:45 am]

[Docket No. ER76-533]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Tariff Change

MARCH 9, 1976.

Take notice that Central Vermont Public Service Corporation, (Central Vermont) on March 1, 1976, tendered for filing a proposed R-5 Rate, consisting of Rate R-5A which is applicable to Connecticut Valley Electric Company Inc. and Rate R-5 which is applicable to four municipal customers (Hyde Park, Johnson, and Ludlow, Vermont and Woodsville, New Hampshire), one cooperative customer (New Hampshire Electric Cooperative) and three investor owned customers (Allied Power and Light Company, Rochester Electric Light and Power Company, and Vermont Marble Company). The filing is proposed to become effective for deliveries of power and energy on and after April 1, 1976.

Central Vermont states that the filing would increase revenues from the jurisdictional sales by $926,668 or 18.4%, on a 1976 test year basis. Central Vermont states further that the filing contains a fuel clause designed to comply with the requirements of the Commission's Order No. 517 and eliminates the former rate level distinction between full and partial requirements service except that, because of alleged differences in cost to serve, the Rate R-5A capacity charge to Connecticut Valley Electric Company Inc. is higher than the Rate A-5 capacity charge to other customers.

Central Vermont states that it has made this filing because it is currently experiencing a negative return on its jurisdictional business and that it cannot afford to absorb further losses on this business.

Copies of the filing were served upon the Central Vermont's affected jurisdictional customers, the Vermont Public Service Board and the New Hampshire Public Utilities Commission.

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 N.E., Washington, D.C. 20426,

in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7332 Filed 3-12-76;8:45 am]

[Docket No. ER76-534]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Service Agreement Filing

MARCH 9, 1976.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on March 1, 1976, tendered for filing a service agreement with the New Hampshire Electric Cooperative, Inc. (Cooperative) which provides that Central Vermont will supply the Cooperative's full service requirements for a portion of its service area. Central Vermont states that service will be rendered under its currently effective tariff rate applicable to full-requirements service. Central Vermont states further that it previously did not provide service directly to the Cooperative and requests that the agreement be allowed to become effective on April 1, 1976.

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 Sections 1.8 and 1.10 of the Commission's Rules of Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7339 Filed 3-12-76;8:45 am]

[Project No. 2016]

TACOMA CITY

Application for Amendment of License

MARCH 5, 1976.

Power notice is hereby given that application has been filed under the FEDERAL POWER ACT (16 U.S.C. 791a-825r) by the City of Tacoma (correspondence to: Mr. A. J. Benedetti, Director, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, Washington 98411) for amendment of license for its constructed Cowlitz River Project No. 2016, located on the Cowlitz River in Lewis County, Washington.

The application seeks Commission approval to install a fourth generating unit at the Mayfield Development of Project No. 2016. The proposed addition would provide peaking capacity to the Applicant and increase the average annual energy produced to meet its demand or be sold through existing interchange agreements.

This hydroelectric project was licensed effective January 1, 1952 and has two developments. The lower development, Mayfield, was completed in 1962 with space in the powerhouse and a penstock for a fourth unit as authorized under the terms of the license. The fourth unit would be a vertical turbine-generator with an installed capacity of 40,000 kW having the same characteristics as the three existing units. A new transformer and a transmission line from the transformer to the existing switchyard would be installed. The forebay and power intake parapet walls would be raised five feet due to the increased height of surge with four units operating. The estimated cost of the plan is $10.7 million.

According to the application the installation and operation of the new unit would not alter: (a) the amount of reservoir storage; (b) the maximum or minimum reservoir elevations; (c) the maximum or minimum downstream flow releases, as provided in Articles 34 or 35 of the license, nor (d) the rate of change of discharge, as provided in Article 35 of the license. The connection of the transmission line from the new unit to the ring bus in the switchyard would permit partial operation of Mayfield on the existing power lines when the first three units are out of service for maintenance.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 26, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein. Applicant has requested that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7310 Filed 3-12-76;8:45 am]

[Docket Nos. CP76-182 and CP76-183]

COLUMBIA GAS TRANSMISSION CORP.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity and Permitting and Approving Abandonment

MARCH 8, 1976.

On December 3, 1975, Columbia Gas Transmission Corporation (Applicant) filed applications pursuant to Section 7 of the Natural Gas Act, as implemented by Sections 157.7(b) and 157.7(g), of the Regulations thereunder (18 CFR 157.7(b) and 157.7(g)), in Docket No. CP76-182 for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing March 1, 1976, and operation of certain natural gas facilities to take natural gas which will be purchased from producers, or other similar sellers, thereof and in Docket No. CP76-183 for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the twelve-month period commencing March 1, 1976, and operation of filed gas compression and related metering and appurtenant facilities, all as more fully set forth in the applications in these dockets.

The purposes of these budget-type authorizations are (1) to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system and to the systems of other natural gas companies authorized to transport for or exchange with Applicant, additional supplies of natural gas in areas generally coextensive with such systems, and to exchange or transport for other natural gas companies gas purchased by them, and (2) to enable Applicant to construct and abandon field gas compression and related facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the application in Docket No. CP76-183.

The total cost of the gas purchase facilities will not exceed $4,000,000, with no single project to exceed a cost of $1,000,000. The total cost of the proposed construction, relocation, removal, or abandonment of field compression facilities

will not exceed $3,000,000, with no single project to exceed a cost of $500,000. These costs will be financed from funds generated from internal sources.

After due notice by publication in the FEDERAL REGISTER on January 8 and 9, 1976 (41 FR 1529 and 1628), no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on March 2, 1976, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds: (1) Applicant, Columbia Gas Transmission Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order, issued March 10, 1971, in Docket No. CP71-132 (45 FPC 398).

(2) The facilities to be constructed, as hereinbefore described and as more fully described in the applications in these dockets, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The facilities hereinbefore described, as more fully described in the application in Docket No. CP76-183 are used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the abandonment thereof is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(6) The abandonments proposed by Applicant are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

The Commission orders. (A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Columbia Gas Transmission Corporation, to construct under Section 157.7(b) of the Regulations, during the twelve-month period commencing March 1, 1976, the proposed facilities hereinbefore decribed, as more fully described in the application in Docket No. CP76-182, and to operate such facilities only to take natural gas supplies from producers or other similar sellers, thereof who have received authorizations from the Commission to sell natural gas to the gas purchaser and to permit the delivery of natural gas to implement authorized exchange and/or transportation arrangements with other pipeline companies.

(B) Upon the terms and conditions of this order, a certificate of public covenience and necessity is issued authorizing Applicant, Columbia Gas Transmission Corporation, to construct under Section 157.7(g) of the Regulations, during the twelve-month period commencing March 1, 1976, the proposed facilities hereinbefore described, as more fully described in the application in Docket No. CP76-183, and to operate such facilities only to transport natural gas supplies from existing sources of supply.

(C) The certificates issued by paragraphs (A) and (B) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (b) and (g) of Section 157.7, as applicable, and in paragraphs (a), (e), and (f) of Section 157.20 of such Regulations.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(E) The total expenditures for facilities to be constructed under the authorization granted by paragraph (A) above are limited to a maximum of $4,000,000, with no single project to exceed a cost of $1,000,000.

(F) Upon the terms and conditions of this order, permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application in Docket No. CP76-183, are granted.

(G) The permission and approval for the abandonment granted by paragraph (F) above are conditioned upon Applicant's compliance with Section 157.7(g) of the Regulations under the Natural Gas Act and are limited to the twelve-month period commencing March 1, 1976.

(H) The total cost of constructing the new or additional field compression and related metering and appurtenant facilities and the total out-of-pocket cost of abandoning, removing, and relocating existing compression and related metering and appurtenant facilities shall not exceed $3,000,000 and the cost of any single project shall not exceed $500,000.

(I) The grant of the certificates herein is conditioned upon Applicant's certifying to the Commission within 60 days after all construction is completed under the instant authorizations, that it has fully complied with the provisions of Section 2.69 of the Commission's General Policy and Interpretations.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7326 Filed 3-12-76;8:45 am]

[Docket No. R-427]

CONNECTICUT LIGHT AND POWER CO.

Extension of Time

MARCH 5, 1976.

On February 19, 1976, Connecticut Municipals filed a motion to extend the time for filing briefs on exceptions to the initial decision issued on January 28, 1976, in Docket No. R-427.

Notice is hereby given that the time for filing briefs on exceptions in the above-indicated docket is extended from February 27, 1976 to and including March 22, 1976. The time for filing briefs opposing exceptions is extended to and including April 12, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7311 Filed 3-12-76;8:45 am]

[Docket No. ER76-541]

CONNECTICUT LIGHT AND POWER CO.

Proposed Rate Schedule

MARCH 9, 1976.

Take notice that The Connecticut Light and Power Company (CL&P), on March 3, 1976, tendered for filing a proposed Emergency Power Transmission Agreement, dated March 1, 1976, between CL&P, the City of Norwich and the Town of Wallingford, Connecticut.

CL&P states that the proposed rate schedule provides for emergency transmission service to the municipal electric systems of the City of Norwich and the Town of Wallingford from the proposed effective date of April 1, 1976 until December 31, 1976 through CL&P's transmission facilities.

CL&P states that copies of this proposed schedule have been delivered to all those rendering or receiving service under such rate schedule.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7338 Filed 3-12-76;8:45 am]

[Docket No. RP72-157 (Refunds)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Refund Plan

MARCH 8, 1976.

Take notice that on February 9, 1976, Consolidated Gas Supply Corporation

(Consolidated) filed a proposed refund plan. Consolidated states that it has received a refund in the amount of $101,616.85 from Texas Eastern Transmission Corporation. Consolidated states further that of that amount, it intends to put $97,172.53 into Account 191. Unrecovered Purchased Gas Cost in accordance with Section 12 of its FPC Gas Tariff, as this amount represents those monies applicable to Consolidated's sales which are subject to the jurisdiction of the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-733 Filed 3-12-76;8:45 am]

[Docket No. ER76-522]

CONSUMERS POWER CO.

Termination

MARCH 3, 1976.

Take notice that on February 20, 1976 Consumer Power Company (Company) tendered for filing copies of its notice of intent to terminate its existing contract for electric service with:

City of Bay City (Bay City). Contract dated February 13, 1967. Rate Schedule FPC No. 1. Proposed termination date: February 24, 1977.

The Company states that this termination notice was sent in accordance with contract provisions, the commitment of the Company to place its wholesale for resale customers on THE SCHEDULE OF RATES GOVERNING WHOLESALE FOR RESALE ELECTRIC SERVICE, and consistent with the order of the Federal Power Commission in Docket No. ER76-45 dated August 29, 1975. The Company states that it intends to submit the Standard Service Agreement for the supply of wholesale energy to Bay City at an early date for consideration.

The Company states that the contract termination is caused only by the Company's desire to have one standard Rate Schedule for wholesale service.

The Company states that copies of the filing were served on the City of Bay City, its counsel and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7340 Filed 3-12-76;8:45 am]

[Docket No. RP 72-134 (PGA 76-10B)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

MARCH 10, 1976.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on March 1, 1976, tendered for filing Third Revised Seventeenth Revised Sheet No. 3A and Third Revised Seventeenth Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. These revised tariff sheets, to become effective March 1, 1976, were submitted to coincide with Transcontinental Gas Pipe Line Corporation's (Transco) filing of January 15, 1976, in Docket Nos. RP 75-75 and AP 76-5. Eastern Shore's tariff filing reflects Transco's tariff changes. Its revised tariff sheets will increase the commodity or delivery charges under Rate Schedules CD-1, CD-E, G-1, E-1, I-1, and PS-1 by .007 cents per Mcf.

Pursuant to Section 154.51 of the Regulations under the Natural Gas Act, Eastern Shore respectfully requests waiver of the notice requirements of Section 154.22 of those Regulations and of Section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the tariff sheets submitted to become effective as of March 1, 1976, to coincide with the proposed effective date of Transco's rate changes. In support thereof, Eastern Shore states that it inadvertently neglected to forward the subject tariff sheets to counsel before February 29, thereby preventing compliance with the applicable notice requirements.

Copies of this 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, N.E., Washington, D.C. 20426, in accordance with Sections 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 March 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7307 Filed 3-12-76;8:45 am]

[Docket No. ER76-397]

GEORGIA POWER CO.

Revised Rates and Charges Pursuant to Commission Order

MARCH 8, 1976.

Take notice that Georgia Power Company ("Georgia Power") on February 20, 1976, tendered for filing Revised Sheet Nos. 24 and 25 to its FPC Electric Tariff, Original Volume No. 1. Georgia Power avers that the rates and charges contained in the tendered tariff sheets reflect an amended fuel cost adjustment clause for its full requirements tariff which conforms to Order No. 517, issued November 13, 1974, in Docket No. R-479 and the deficiency letter of the Commission dated January 23, 1976. The revised rates and charges would be made effective as of February 1, 1976.

Georgia Power states that it served copies of the filing on its jurisdictional customers, including all parties appearing on the official service list compiled in the captioned Docket.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7327 Filed 3-12-76;8:45 am]

[Docket Nos. E-6730; E-6893]

GEORGIA POWER CO., REEVES BROTHERS, INC. AND ALABAMA POWER CO.

Granting Petition for Hearing and Partial Waiver of Penalties, Dismissing Applications for Rehearing and Denying Motion for Stay or Extension, and Consolidating Proceeding

Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt; Headwater benefits; Hearing; Denying motions; Rehearing.

On February 9, 1976, Alabama Power Company filed a protest and application

for rehearing concerning a bill dated January 15, 1976, rendered by direction of the Commission for charges for headwater benefits in Docket No. E–6893. On February 11, 1976, Georgia Power Company filed a protest, request for hearings, and petition for immediate declaratory order or waiver and motion for stay or extension, in response to a similar bill in Docket No. E–6730. On February 13, 1976, Reeves Brothers, Inc. filed its protest and application for rehearing regarding a bill submitted to it in Docket No. E–6730.

Alabama Power Company protests the amount of its bill, and applies for rehearing on the grounds that the bill for headwater benefits was not submitted in accordance with Section 11.30 of the Commission's Regulations (18 C.F.R. § 11.30 (1975)); that Staff's methodology for calculating dependable capacity gains has been rejected by this Commission in *Alabama Power Company*, 42 F.P.C. 1124 (1969); and that Staff's methodology was otherwise erroneous and improper.

Georgia Power Company protests Staff's methodology for calculating capacity benefits; requests a hearing pursuant to Section 11.31 of the Commission's regulations (18 C.F.R. § 11.31 (1975)); petitions for immediate declaratory order or waiver relieving it of any obligation to make headwater benefits payments until a Commission determination after this hearing; and requests a motion for stay or extension of the March 15, 1976 deadline for payment established by its bill, pending consideration of the above matters.

Reeves Brothers, Inc. protests the amount of its bill and applies for rehearing on the grounds that the bill for headwater benefits was not submitted in accordance with Section 11.30, and that the bill is inconsistent with the Article 12 of the license issued on April 29, 1975, to Reeves Brothers, Inc. for Project No. 2655.

These allegations regarding the submission of the January 15, 1976 bills to these companies can be reduced to the following contentions:

(1) The bills have been submitted contrary to the provisions of Section 11.30 of the Regulations.

(2) The bill to Reeves Brothers, Inc. did not reflect a determination by the Commission of the proper amount, within the meaning of Section 10(f) of the Federal Power Act (16 U.S.C. § 803(f)) and Article 12 of the license for Project No. 2655.

(3) The method used by Staff to calculate the charges incorporated a methodology previously rejected by this Commission.

(4) There is an insufficient factual basis at present to support a requirement that full payment of the amount billed should be made.

(5) Submittal of a bill for headwater benefits payments based on Staff studies and responses thereto from the companies involved, prior to formal administrative hearings in the matter as ordered by this Commission, is a violation of the due process clause of the Fifth Amendment of the United States Constitution.

(6) The methodology used by Staff is erroneous and is improperly applied in the present case.

(7) Pending consideration of the matters raised by Georgia Power Company, a stay or extension of the March 15, 1976 deadline for payment of the bills should be granted.

(8) A rehearing should be granted. These allegations will be discussed individually, in the disposition of the variously styled protests, requests, petitions, applications, and motions.

All three companies have apparently misconstrued the provisions of 18 C.F.R. § 11.30. This section of our Regulations does not specify an exclusive procedure according to which all headwater benefits payments are to be made. Section 11.30 instead applies to the particular circumstance wherein an average annual payment for headwater benefits has already been determined. In such a case, Section 11.30 provides that a bill in that amount will thereafter be submitted on an annual basis, unless and until a change in that amount is properly warranted. The Regulations do not provide, however, that such a determination of an avcrage annual payment is a necessary pre-requisite for the submission of any bills for headwater benefits payments. Section 10(f) of the Federal Power Act provides that the owner of a headwater development shall receive appropriate payments from downstream beneficiaries thereof. Such a beneficiary cannot escape this statutory obligation to make payment for a year in which benefits were received, merely because there may not previously have been conducted an appropriate study to establish the beneficiary's obligation on an average annual basis. The January 15, 1976 bills, therefore, do not conflict with the provisions of Section 11.30.[1]

With regard to the second allegation, suffice it to say that bills rendered by direction of this Commission, in an amount calculated by the Commission's Staff based on its studies and the comments of the billed parties submitted in response to these studies, constitute a determination by this Commission within the meaning of Section 10(f) of the Act, subject to adjustment by this Commission following any further administrative proceeding as ordered to be held in the matter.

Thirdly, the two power companies cite *Alabama Power Company*, 42 FPC 1124 (1969), in support of the allegation that this Commission has previously rejected the methodology regarding dependable capacity gains utilized by Staff in the computation of the January 15, 1976 bills. In that case, the Commission stated the acceptable method for determining such gains as follows (42 FPC 1124, 1136 (1969)):

"In making studies to determine gains in dependable capacity, the energy available from downstream plants under adverse flow conditions, both with and without the headwater improvement, may be fitted on a system load duration curve to determine the maximum capacity that could be utilized under each condition."

Two witnesses in that proceeding made this analysis, and both reached the conclusion, adopted by the Commission, that Alabama Power Company had not received any dependable capacity gains as a result of the flow regulation provided by the upstream Federal Allatoona project during 1961–1963. In calculating the January 15, 1976 bills, it appears that Staff has determined dependable capacity gains in accordance with this method of approved analysis. The conclusion reflected in the January 15, 1976 bills, that capacity gains have been realized, is an effect of the data for the appropriate years, not the result of a departure from the approved methodology.[2] As Alabama Power Company and Georgia Power Company have each pointed out, we have found in our order of January 14, 1976, rejecting a proposed settlement for headwater benefits in this matter, "that the Staff's position with regard to dependable capacity gains is not on its face without merit." It would be difficult for this to be so if Staff's position directly contravened an established policy of this Commission.

The foregoing is not meant to preclude any party from introducing relevant and material evidence on the question of Staff's calculation of dependable capacity gains at the administrative hearings which we are hereinafter ordering in this matter. The discussion only points out that the Staff calculations appear to be in harmony with prior Commission action, and they thus legitimately form the basis for portions of the January 15, 1976 bills.

With respect to the fourth allegation, Georgia Power Company asserts that the Commission lacks a sufficient factual basis at present to support a finding that the January 15, 1976 bills are payable in full. It apparently believes that the development of a formal evidentiary record through the administrative hearing process is an absolute pre-requisite to any billing.

Initially, it must be noted that, while there has not yet been an administrative hearing in this matter, there is a factual process is an absolute prerequisite to basis for the figures calculated by Staff

[1] There is no distinction in § 11.30 between bills submitted prior to or following the issuance of a Commission opinion based on a record developed at an administrative hearing.

[2] What was rejected in *Alabama Power Company* was the position of two other witnesses to the effect that dependable capacity gains could be shown from peak period studies of the years in question. The Commission found that supposed "gains" shown by these methods did not fall within the definition of "dependable capacity gains" for the purpose of Section 10(f) assessments (42 FPC 1124, 1137–38 (1969).

and incorporated into the January 15, 1976 bills. Staff's initial reports on energy and dependable capacity gains to downstream hydroelectric plants owned by Georgia Power Company and Reeves Brothers, Inc. during 1956–1965 were issued in October 1968 and February 1972.[3] These initial reports have been commented on, added to, revised, modified, and restudied by various parties over periods of seven and four years, respectively. Staff's final recommendations, resulting in the January 15, 1976 bills, are the product of extensive data-gathering, analysis, and revision. It seems therefore inaccurate to refer to a billing based on the Staff studies as being made "in an evidentiary vacuum", as Georgia Power Company puts it. No capricious assessment has been made. The voluminous data base acumulated by Staff is certainly adequate to support rendition of bills at this time. The fact that Georgia Power Company disagrees with Staff's findings based on this research, and the import thereof, does not permit the denigration of the extent of the factual basis for these findings.

Our Regulations anticipate and specifically provide a procedure for billings followed by hearings, if the latter are necessary. Section 11.31(a) provides that headwater benefits bills are to be paid within 60 days of rendition. If there is a protest to the assessment or a request for hearings, Section 11.31(c) provides for the filing of such a protest or request within the same 60 day period. This section also establishes the rules regarding burden of proof, and suggests that payment of the amount in question can be made under protest within the time provided. Such payment would ensure that no penalties would accrue under the provisions of Section 11.31(e), in the event the assessed party is subsequently affirmed to be liable for the payment of the disputed amounts.

In the instant case, all three companies have protested their assessments within the 60 days period. We hereinafter find it appropriate to order an administrative proceeding in this matter. The companies can choose to pay their bills in full, under protest, thus obviating the possibility that any penalties under Section 11.31(e) will accrue. If, after the hearings, this Commission decides that the bills are excessive, that portion paid under protest over and above what is ultimately determined to be owed will be returned to the companies.[4] Alternatively, the companies can choose to withhold payment entirely, pending an ultimate decision regarding their obligations. In this case, the provisions of Section 11.31(e), regarding penalties, would apply. Georgia Power Company has requested a waiver of such penalties as may accrue prior to hearings. We believe that the full burden of Section 11.31(e) is inappropriate in this case.[5] We do not believe, however, that a total waiver is appropriate. Instead, we believe that an adequate penalty in this case would be the time value to the companies of the funds withheld, represented by an annual interest figure. This would adequately recompense the government for its loss in being denied the use of these funds from the due date of the bill until the time appropriate payment is made. The companies would, as nearly as possible, be in the same position economically as would be the case if payment is made within the 60 day period. Thus, we will herein order a partial waiver of the Section 11.31(e) penalties, in the event payment of the full amount due from a company is not made by March 15, 1976, in an amount equal to the excess of the Section 11.31(e) rate over a rate of 9 percent per annum.[6]

The companies have a third option. They could pay a portion of their bill under protest, withholding the rest.[7] In that case, penalties would be applied only to that portion of the bill not paid under protest and ultimately affirmed to be owed. This procedure might be particularly attractive to the companies here where, as we indicated in our order of January 14, 1976, the discrepancy between the amount that has been billed and that which has previously been offered is caused principally by differing opinions on the subject of capacity gains. Timely payment by the companies of those amounts of the bills not in dispute would limit the imposition of penalties to that portion of the bills which could possibly be eliminated after hearings, if the companies' position is accepted. We do not by this discussion mean to imply that less than the full amounts of the bills now outstanding is currently due. We only indicate thereby that our Regulations permit a wide variety of actions to be taken by the companies, according to the risk[8] they voluntarily wish to assume.

Georgia Power Company has requested a hearing pursuant to Section 11.31 of the Regulations on the amount of headwater benefits that should be paid by the Company for the years 1956–1973. While we believe the January 15, 1976 bills were rendered in a proper fashion, it appears appropriate to order a hearing as requested in order to allow the Georgia Power Company the opportunity to demonstrate why it believes its bill to be incorrect and what an appropriate payment would be. The charges assessed Reeves Brothers, Inc., for benefits received in the same river basin, will also be made a subject of these hearings. Furthermore, because of the operational interelationship of Georgia Power Company and Alabama Power Company, as part of the Southern Company power pool, it is appropriate to order the consolidation of the matters concerning the charges for headwater benefits assessed against Georgia Power Company and Reeves Brothers, Inc. for the years 1956–1973 in Docket No. E–6730 and against Alabama Power Company for the years 1964–1973 in Docket No. E–6893.[9] This will permit the consideration of capacity gains on a system basis. Thus, all three companies will be afforded an opportunity for hearings by the provisions of this order. We believe that this opportunity to be heard with regard to the facts in controversy satisfies the requirements of the Fifth Amendment regarding due process; thus, the fifth allegation made above is, in our opinion, without merit.

We believe that an insufficient showing has been made in support of the sixth allegation, that Staff's methodology is erroneous and improperly applied. However, the companies will have the opportunity, during the hearings we will order, to support this allegation by an appropriate factual showing.

We have become increasingly concerned with the tendency of headwater benefits investigations to run on for excessive lengths of time between the issuance of Staff's initial report for a particular river basin and the ultimate disposition of the case. While we do not ascribe complete responsibility for this state of affairs to either Staff or the beneficiaries of headwater improvements, we note that, in the absence of some monetary penalty for dilatory payment, it is usually in the interest of a party which has received such benefits to delay payment as long as possible.[10] It is our hope and expectation that more expeditious billing

[3] The February 1972 report was also concerned with dependable capacity gains by Alabama Power Company.

[4] The amounts paid under protest are kept in a special account, and no disbursements are made therefrom until specific direction is given by the Commission. 18 C.F.R. § 11.31 (d) (1975).

[5] Section 11.31(e) calls for a penalty of 5% the first month of delinquency in payment, and 3% each month thereafter.

[6] In Order No. 513, issued by this Commission October 10, 1974 (39 Fed. Reg. 37357 (1974)), we promulgated an interest rate of 9 percent to be applied to amounts subject to refund (See 18 C.F.R. § 35.19a (1975)). While the subject of refunds is not related to charges for headwater benefits, the economic logic of Order No. 513 is applicable here. The penalty we propose in this case on overdue charges serves two purposes. The first is to compensate the government for the use of its money. More importantly, however, this rate, reflecting approximately the opportunity cost of funds to the companies, ensures that the companies will not be unjustly enriched by delaying payment.

[7] Alabama Power Company has previously followed the procedure of making an interim payment for headwater benefits prior to a hearing on the matter. See 36 FPC 701 (1966); 42 FPC 1124, 1140 (1969).

[8] The risk is then the chance that, if payment is not timely made and the bills are later deemed correct, penalties will have to be paid.

[9] Georgia Power Company has made an interim payment, for energy gains only, for the years 1956–1965. See 50 FPC 243 (1973).

[10] We note that Alabama Power Company stated in its protest that "it • • • has not undertaken the expensive studies necessary to vertify the staff's energy calculations." Alabama Power Company has had staff's dependable capacity calculations for 1964–1965 since September, 1972, and staff's energy and dependable capacity calculations for 1964–1973 for approximately a year and a half. After being billed on January 15, 1976, Alabama Power Company now says that it will "undertake such studies as it can prior to March 15, 1976 • • • "

and the application of the provisions of Section 11.31(e) will take most of the profit out of delay, resulting in a more rapid culmination of headwater benefits investigations, reduction of Staff's backlog in this area, and reduced costs to the parties involved. For this reason, and for others stated above, we do not agree with the seventh allegation, that a stay or extension of the March 15, 1976 due date for payment of the January 15, 1976 bills is warranted, and we will deny herein the motion made therefor.

The eighth allegation is in respect to the application of Alabama Power Company and Reeves Brothers, Inc. for a rehearing in this matter. We do not believe that rehearing properly lies at this time, and thus dismissi these applications. We are herein ordering hearings for the purpose of affording the companies the opportunity to demonstrate what, if any, adjustments to the amounts billed are appropriate. Our actions to date are therefore interlocutory in nature, and no application for rehearing will be entertained at this time. See 18 C.F.R. § 1.30(e) (1975). Rehearing may of course be appropriate following issuance of a further and final Commission order in this proceeding.

The Commission finds. (1) The January 15, 1976 bills submitted to Alabama Power Company, Georgia Power Company, and Reeves Brothers, Inc. for payment of headwater benefits charges, were rendered in accordance with the Federal Power Act and the Commission's Regulations, and these amounts are due and owing in accordance with the provisions of Section 11.31 of the Regulations (18 C.F.R. § 11.31 (1975)).

(2) It is appropriate and in the public interest for the purposes of administration of the Federal Power Act that the matters concerning payments for headwater benefits by Alabama Power Company, for the years 1964–1973, and by Georgia Power Company and Reeves Brothers, Inc., for the years 1956–1973, be consolidated for the purpose of holding hearings as hereinafter provided.

(3) It is appropriate and in the public interest as provided herein to hold a prehearing conference and such hearings as may be required respecting the issues hereinafter specified relating to the payment of headwater benefits charges by Alabama Power Company, Georgia Power Company, and Reeves Brothers, Inc.

(4) It is not in the public interest to stay or extend the March 15, 1976 due date for the payment of the January 15, 1976 bills.

(5) Prehearing is not proper at this time, because of the interlocutory nature of the Commission's actions to date.

The Commission orders. (A) The matters concerning payments for headwater benefits by Alabama Power Company, for the years 1964–1973, and by Georgia Power Company and Reeves Brothers, Inc., for the years 1956–1973, are consolidated for purposes of the hearings provided below.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 10(f) and 308 thereof, and the Commission's Rules of Practice and Procedure, a prehearing conference in these consolidated proceedings shall be held before an Administrative Law Judge at 9:30 a.m. on April 1, 1976, in a hearing room at the Federal Power Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, to consider the following issues:

(1) Whether the bills submitted January 15, 1976, by direction of the Commission, to Georgia Power Company and Reeves Brothers, Inc. in Docket No. E–6730, and to Alabama Power Company in Docket No. E–6893, represent the proper payments owed under Section 10(f) of the Federal Power Act and Part 11 of the Commission's Regulations with respect to headwater benefits?

(2) If not, what are the correct amounts owed for these benefits?

(C) The Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (*See* 18 C.F.R. § 3.5(d) (1975)), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(D) If the Administrative Law Judge finds that there is disagreement on the facts bearing on liability for the payment of headwater benefit charges, he shall schedule a hearing on the remaining factual issues to be followed by briefing and an initial decision in accordance with §§ 1.29 and 1.30 of the Rules of Practice and Procedure.

(E) If the Administrative Law Judge finds no disagreement on material facts bearing on liability for payment of headwater benefit charges, he shall provide a briefing schedule to be followed by an initial decision in accordance with §§ 1.29 and 1.30 of the Rules of Practice and Procedure.

(F) Penalties for payment after March 15, 1976, of the bills for headwater benefits charges submitted January 15, 1976 by direction of the Commission to Georgia Power Company, Reeves Brothers, Inc., and Alabama Power Company are waived to the extent that the penalties specified in Section 11.31(e) of the Commission's Regulations exceed a rate of 9 percent per annum.

(G) The motion of Georgia Power Company for a stay or extension of the March 15, 1976 date for payment of the January 15, 1976 bill is denied.

(H) The applications of Alabama Power Company and Reeves Brothers, Inc. for rehearing are dismissed.

Issued: March 8, 1976.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76–7321 Filed 3–12–76;8:45 am]

[Docket No. RP75–94]

GREAT LAKES GAS TRANSMISSION CO.

Further Extension of Procedural Dates

MARCH 10, 1976.

On February 23, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 13, 1975, as most recently modified by notice issued January 5, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, March 26, 1976.
Service of Intervenor Testimony, April 26, 1976.
Service of Company Rebuttal, May 28, 1976.
Hearing, June 29, 1976 (10 a.m., e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–7308 Filed 3–12–76;8:45 am]

[Docket No. ER76–537]

GULF STATES UTILITIES CO.

Temporary Electric Interconnection

MARCH 9, 1976.

Take notice that on March 1, 1976, Gulf States Utilities Company (Gulf States) tendered for filing an amendment to its service agreement with the City of Liberty, Texas. This amendment provides for the establishment of a temporary metering point to serve a 250 KW load. Gulf States states that the temporary metering point was connected on January 26, 1976 and will be in service for approximately two months.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–7331 Filed 3–12–76;8:45 am]

[Docket No. E–9520]

ILLINOIS POWER CO.

Order Denying Motion To Reject, Modifying Proceedings, and Ordering Refunds

On October 29, 1975 the Commission issued an order which accepted for filing and suspended until January 1, 1976 certain changes in rates charged by Illinois Power Company (IP) to the Village of Ladd (Ladd), City of Oglesby (Oglesby), and Cedar Point Light and

Water Company (CPL&W) (collectively, Intervenors). The filing had been made June 27, 1975 and completed on September 30, 1975. In the October 29 order the Commission deferred action on certain issues raised by Intervenors concerning the validity of the filing under the rule of *Mobile-Sierra*.[1] In this order the Commission disposes of those issues.

The CPL&W contract reads in pertinent part as follows:

It is understood that Utility's Electric Rate Schedule which consists of all Service Classifications, any Riders thereto, the Standard Terms and Conditions, and the Rules, Regulations and Conditions Applying to Electric Service, or any part thereof (including but not limited to portions thereof fixing charges for service to the Customer) is subject to change, from time to time, by addition, amendment or substitution, all as provided by law. In the event of any such change in the Rate Schedule or any part thereof, the Utility agrees to supply and the Customer agrees to accept and pay for service thereafter and during the remainder of the term of this contract in compliance with and at the charges provided for by the Rate Schedule as changed, and such Rate Schedule as changed, to the extent applicable to service to Customer, shall thereupon be incorporated in and made a part of this contract the same as if fully set forth herein.

Such language clearly contemplates a "going rate".[2] The contract states clearly that the rates are subject to change from time to time by "addition, amendment, or substitution, all provided by law". Such language is comparable to the language which the Court found reserved to United Gas Pipeline (United) the right to unilaterally file for rate increases in the *Memphis* case, i.e.:

"All gas delivered hereunder shall be paid for by Buyer under Seller's Rate Schedule [the appropriate rate schedule designation is inserted here], *or any effective superseding rate schedules*, on file with the Federal Power Commission. This agreement in all respects shall be subject to the applicable provisions of such rate schedules and to the General Terms and Conditions attached thereto and filed with the Federal Power Commission which are by reference made a part hereof." (Emphasis by the Court, 358 U.S. at 105)

In comparing the two contracts we note that the first part of the language quoted establishes the fact that variation in rates is contemplated. Then the parties state that any change will occur pursuant to the rules of law. In the case of the IP contract, the general statement "all as provided by law" is made while in the *Memphis* case Commission procedure is specified. We note also that the form of the contracts are similar in that they are "tariff and service" arrangements which was sufficient for the Court in *Memphis* to sustain the right of United to file unilaterally for changes in rates.[3] Accordingly, the Commission rejects Intervenor's *Mobile-Sierra* contentions with respect to CPL&W.

With respect to Ladd and Oglesby the following provisions govern changes in rates:

. . . Municipality hereby agrees to pay Utility Monthly for electric service rendered during the preceding month, at the rate and charges due and payable therefor, pursuant to Utility's Electric Price Schedule, Ill. C. C. No. 5, Service Classification No. 40, as now on file with or hereafter modified by order of the Illinois Commerce Commission.

In construing this contract provision the Commission must look to state law. This conclusion is based upon the Court's holding in *Richmond Power & Light* v. *F.P.C.*, 481 F. 2d 490 (D.C. Circuit—1973), *cert. denied* 414 U.S. 1068 (1973) as interpreted recently by the same Court in *Appalachian Power Company* v. *F.P.C.*, D.C. Circuit No. 73-1290, decided January 8, 1976. Together, those two decisions teach that in deciding whether or not to apply state law the crucial determination is whether state law is incorporated by the terms of the agreement, not whether the date of the agreement is before or after assertion of Federal Power Commission jurisdiction. This provision refers explicitly to the practices of the Illinois Commerce Commission (Ill. CC).

Both parties cite *Antioch Milling Company* v. *Public Service Company of Northern Illinois*, 123 N.E. 2d 302 (Ill. Sup. Ct. 1954) as the case which authoritatively interprets Illinois law on procedures for effectuating rate changes in Illinois. The precise holding of that case was that the Ill. CC could, in its own discretion, allow a rate increase to become effective without making any finding of fact. The Court found that the Ill. CC could either allow the rate to become effective upon thirty days notice or suspend the rate pending a formal hearing. However, if the rate increase is suspended the rate increase does not become effective "pending hearing and the decision thereon." *Antioch*, at pp. 302-303, (Public Utilities Act, Section 36, 1973 Ill. Rv. Stat ch. 111 2/3, par 36). The Commission finds that the parties contemplated the procedures of Section 36 as set out above.

Section 36 has some similarities to Section 205 of the Federal Power Act. This Commission also has the discretion to allow a rate to become effective without suspension after a notice of change in rate is filed. However, should the Commission exercise its Section 205(e) suspension powers, the length of suspension is limited to five months while Section 36 of Illinois Act provides for a suspension period limited only by "hearing and the decision". The Commission finds that the parties contemplated a procedure whereby, should the regulatory body decide to suspend a proposed rate increase, such increase should not become effective until after a decision on the increase.

The Federal Power Act contemplates a procedure which closely follows the Illinois Act for contracts in which a rate increase does not become effective until the Commission approves the increase.[4] Under this procedure the Commission investigates the contract rate pursuant to Section 206 but adopts as the burden of proof the just and reasonable standard rather than the *Sierra* standard.[5] The rates that the Commission finds to be just and reasonable after hearing and decision then become effective prospectively. In this case, the Commission shall follow a similar path. Accordingly, we shall not permit IP to charge an increased rate until a hearing and decision in this case. The limitation on the effectiveness of the rate increase is a result of the provisions of the contract and not dictated by the Federal Power Act or the Illinois Public Utilities Act. The Commission has used the provisions of the Illinois Public Act to construe the intent of the parties' contract.

In light of the Commission's disposition of the questions herein, the various pleadings of the parties which request relief inconsistent with the present disposition are hereby denied.

The Commission finds. (1) Intervenor's motion to reject IP's filing should be denied.

(2) IP's rate increase to Ladd and Oglesby should become effective after the Commission decision in this proceeding.

The Commission orders. (A) Intervenors' motion to reject IP's filing is hereby denied.

(B) The rate increase shall become effective as to Ladd and Oglesby after the Commission's decision in this case.

(C) IP shall refund with interest all amounts collected from Ladd and Oglesby in excess of the rate in effect prior to the filing herein.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

Issued: March 8, 1976.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-7320 Filed 3-12-76;8:45 am]

[Docket No. E-7201]

INTERIOR DEPARTMENT; SOUTHWESTERN POWER ADMINISTRATION

Order Extending the Confirmation and Approval of Rates

Pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 890), The

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[1] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[2] *United Gas Pipe Line Company* v. *Memphis Light, Gas & Water Division*, 358 U.S. 103 (1958) at 110. (*Memphis*)

[3] *Memphis*, at pp. 114-115.

[4] See, e.g., orders issued on July 31, 1975 and September 26, 1975 in Public Service Company of New Mexico, Docket No. E-9454 and cases cited therein; Kansas Power and Light Company, Docket No. ER 76-39, order issued December 22, 1975.

[5] The *Sierra* standard requires a finding that the contract is so low as to adversely affect the public interest. *Sierra*, at page 355.

Secretary of the Interior, on behalf of the Southwestern Power Administration (SWPA), filed a request on January 2, 1976, in which he asked the Commission to extend for a period of six months, from December 31, 1975, through June 30, 1976, its confirmation and approval of the current rate for the sale of the Sam Rayburn Dam Project power and energy to the Sam Rayburn Dam Electric Cooperative, Inc. (Cooperative).

By order issued on March 5, 1971, the Commission confirmed and approved the rate for the sale of the entire output of the Sam Rayburn Dam Project to the Cooperative for a period ending not later than December 31, 1975. Payment for the power and energy was set at $1,030,000 per year. By Order on Rehearing, issued April 29, 1971, the Commission denied a petition by the Cooperative for rehearing and stay of the Commission's Order of March 5, 1971.

The Sam Rayburn Project, constructed and operated by the Corp of Engineers, is located on the Angelina River in Eastern Texas. The project was constructed or purposes of Flood Control, municipal and industrial water supply, agricultural water supply, and hydroelectric power generation. The hydroelectric plant contains 52,000 kilowatts of installed capacity equally divided between two units. Average annual generation from the project is about 118.4 million kilowatt-hours, all of which is sold to the Cooperative pursuant to SWPA Contract No. 14-02-0001-1124.

Interior's filing indicates that a rate and repayment study has been prepared by SWPA demonstrating the need for an increase of the rate in order to meet the repayment obligation in accordance with Section 5 of the Flood Control Act of 1944. SWPA provided copies of the study to the Cooperative and other interested parties and scheduled a hearing to justify the rate increase. The hearing, originally scheduled for November, was postponed to January 20, 1976, at the Cooperative's request. Interior has requested the extension of the current rate to allow the completion of the hearing.

Public Notice of Interior's request was issued on January 14, 1976, and published in the FEDERAL REGISTER on January 22, 1976 (41 F.R. 3348). Comments or suggestions were to be submitted on or before February 13, 1976. No comments or suggestions were received.

The Commission finds. The extension of its confirmation and approval of the current rate for the sale of the Sam Rayburn Dam Project power and energy to the Sam Rayburn Dam Electric Cooperative as hereafter provided, will not be inconsistent with the provisions of the Flood Control Act of 1944.

The Commission orders. The extension of its confirmation and approval of SWPA's current rate for the sale of Sam Rayburn Dam Project power and energy for a period of six months, from December 31, 1975 through June 30, 1976.

Issued: March 8, 1976.

By the Commission. Commissioner Watt, concurring, filed a separate statement appended hereto.[1]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7318 Filed 3-12-76;8:45 am]

[Docket No. RP76-8]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Proposed Change in Rates

MARCH 8, 1976.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), on March 3, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, pursuant to the Commission's order issued on January 26, 1976, in the above docket.

In Ordering Paragraph "B" of the Commission's January 26, 1976 order, Kansas-Nebraska was directed to file revised tariff sheets to reflect the elimination of Construction Work in Progress (CWIP) from the company's rate base. Kansas-Nebraska states that Replacement Original Sheet No. 4 reflects the elimination of CWIP from the company's base tariff sheets as originally filed in RP76-8. Replacement Original Sheet No. 4 is proposed to become effective on March 14, 1976.

Copies of the filing have been served upon the company's jurisdictional customers and other interested persons including public bodies.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7328 Filed 3-12-76;8:45 am]

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[1] Filed as part of the original document.

[Docket No. RP75-104]

LAWRENCEBURG GAS TRANSMISSION CORP.

Further Extension of Procedural Dates

MARCH 5, 1976.

On February 27, 1976, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 27, 1975, as most recently modified by notice issued January 6, 1976, in the above-designated proceeding.

Staff's motion states that Lawrenceburg Gas Transmission Corporation supports the requested extension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, April 19, 1976.
Hearing, May 10, 1976 (10 a.m., e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7312 Filed 3-12-76;8:45 am]

[Docket Nos. RP73-23 (PGA76-2) and RP76-65]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Tariff Sheets

MARCH 9, 1976.

Take notice that on March 2, 1976, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing Four (4) revised gas tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1, identified as Second Revised Sheet Nos. 4 and 18, and First Revised Sheet Nos. 8 and 21.

Lawrenceburg states that these revised sheets are being filed to reflect a change in its cost of gas purchased from Texas Gas Transmission Corporation (Texas Gas), pursuant to Lawrenceburg's Purchase Gas Adjustment Clause in its FPC Gas Tariff, First Revised Volume No. 1. Lawrenceburg requests an effective date of April 1, 1976, and a "Waiver of Notice Requirements" of the Commission's Regulations so that the tariff sheets can become effective on the requested date. The proposed change in rates would increase revenues from jurisdictional sales and service by $379,408 based on the 12-month period ended January 31, 1976.

Lawrenceburg also requests a change in the pressure base of measurement effective April 1, 1976 to coincide with a comparable change by Texas Gas on this same date. Lawrenceburg's base tariff rates and subsequent rate adjustments have been adjusted to effect this change. This pressure base change, by itself, has no effect on the revenues to be received by Lawrenceburg.

Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers and to the 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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7324 Filed 3-12-76;8:45 am]

[Docket Nos. E-9469 and ER76-377]

LOCKHART POWER CO.

Consolidating Proceedings, Granting Interventions, and Denying Motion To Vacate and Application for Rehearing

On February 9, 1976, the City of Union, South Carolina (Union) filed a motion to vacate, or in the alternative, an application for rehearing of, our letter order issued in Docket No. ER76-377 in which the Commission granted a request by Lockhart Power Company (Lockhart) for a waiver of the requirements of Section A(8) of Order No. 517 with respect to the filing of a fuel adjustment clause in conformance with Commission Regulations as amended by Order No. 517. For the reasons set forth hereinafter Union's application for rehearing will be denied.

On June 2, 1975, Lockhart tendered for filing in Docket No. E-9469 a service agreement and rate schedule for wholesale electric service to Union. Included in the filing was a purchased power adjustment clause which provided for adjustments to Lockhart's total cost of purchased power including, but not limited to, a fuel cost component. Lockhart stated that it had been providing service to Union under the tendered service agreement since September 1, 1974, and requested that the filing be permitted to become effective as of that date. In tendering the service agreement and rate schedule for filing Lockhart stated that it did not believe it was a "public utility" as defined in Part II of the Federal Power Act, and that the filing was being made solely "for the Commission's information". Public notice of Lockhart's filing was issued on June 11, 1975, with comments, protests or petitions to intervene due on or before June 24, 1975. The Commission received no responses.

By letter dated June 25, 1975, the Commission's Secretary informed Lockhart that its filing was deficient with respect to certain requirements of the Commission's Regulations and that a filing date would not be assigned to its submittal until the deficiencies were cured. The Secretary also advised Lockhart that

> . . . the purchased power adjustment clause contained in the above submittal is not in conformance with Section 35.14 of the Regulations as amended by Order No. 517 issued November 13, 1974, in that it adjusts for the total cost of purchased power rather than only the fuel component. Pursuant to Section 35.14, as amended, a fuel adjustment clause which is neither new nor changed must conform to the principles set forth in that Section by December 31, 1975.

Lockhart responded in a letter in which it reiterated its view that it was not subject to the Commission's jurisdiction. Lockhart stated further that it did not keep the information requested in the Secretary's June 25 letter.

In an order issued August 15, 1975, the Commission found that Lockhart's sale to Union was subject to the Commission's jurisdiction, and that the rate Lockhart had been charging Union since September 1, 1974, may have been unjust, unreasonable or otherwise unlawful. Accordingly, the Commission ordered that Lockhart's filing in Docket No. E-9469 be rejected and that Lockhart refund all increased amounts collected from Union, unless Lockhart agreed to (1) file within 30 days the material necessary to cure the filing deficiencies pointed out in the Secretary's June 25 letter, and (2) to file within 30 days an agreement that all increased rates collected since September 1, 1974, until the resolution of the proceedings in Docket No. E-9469 are subject to refund of any amounts found by the Commission to be in excess of a just and reasonable rate level.

In an order issued in Docket No. E-9469 on December 12, 1975, the Commission noted that Lockhart had corrected the filing deficiencies and had further agreed that all increased rates collected since September 1, 1974, would be subject to refund upon the outcome of the proceedings on the lawfulness of those rates. The Commission therefore accepted the rates for filing and ordered that hearing be held on the lawfulness of Lockhart's increased rates.

On December 19, 1975 Lockhart tendered for filing in Docket No. ER76-377 a letter in which it requested the Commission to waive the filing requirements of Section 35.14 of the Commission's Regulations, as amended by Commission Order No. 517. In support of its request Lockhart referred to the proceedings in Docket No. E-9469 and stated as follows:

> Inasmuch as Lockhart's purchased power clause is the subject of a pending Commission investigation, and if approved, would eliminate the necessity for a fuel adjustment clause, it would serve no useful purpose for Lockhart to file a revised fuel adjustment clause conforming to Order No. 517 while this investigation is pending.

Public notice of the request for waiver was issued on January 7, 1976, with comments, protests, or petitions to intervene due on or before January 19, 1976. At the direction of the Commission, the Secretary, on January 15, 1976, forwarded a letter order to Lockhart in which Lockhart's request for waiver was granted "pending final decision by the Commission on the issues in Docket No. E-9469". Thereafter, on January 19, 1976, which was within the period prescribed by the Commission's January 7 notice, Union filed in Docket No. ER76-377 a protest and petition to intervene. In its protest Union alleged that Order No. 517 prohibits purchased power adjustment clauses such as the clause included in Lockhart's present rate schedule and that waiver should therefore be denied. Union stated further that the clause "is improper and contrary to this Commission's policies because it does not recognize any cost reductions in Lockhart's cost of service which might offset the changes in cost of purchased power and because it reflects cost chnages resulting from load pattern changes which are affected by Lockhart's nonjurisdictional retail operations". Union therefore suggested that it would be more appropriate to permit Lockhart to automatically pass on changes in the fuel component of its purchased power cost but to require Lockhart to file for rate increases under Section 205 of the Act to track changes in purchased power costs other than changes in fuel costs associated with purchased power. Union concluded by arguing that if it were assumed that a purchased power adjustment clause were permissable, such a clause should reflect only the losses associated with service to Union rather than system losses as allegedly imputed in Lockhart's purchased power clause.

In addition to filing a protest and petition to intervene in Docket No. ER76-377, Union also filed on January 19, 1976, a motion for leave to intervene out of time in Docket No. E-9469. In support of its motion Union stated that it was not until January 16, 1976 that it retained counsel and an expert consultant in connection with Lockhart's request for waiver in Docket No. ER76-377. Union states further that the grant of its motion for leave to intervene out of time in Docket No. E-9469 should not result in any greater delay than if Union's intervention had been timely filed.

On February 5, 1976, Lockhart filed a response in opposition to Union's motion for leave to intervene in Docket No. E-9469 and a response to Union's protest and petition to intervene in Docket No. ER76-377.

On February 9, 1976, Union filed a motion to vacate the Commission's letter order of January 15, 1976 granting Lockhart's request for waiver in Docket No. ER76-377, or in the alternative, that the Commission grant rehearing of the January 15 letter order. In its pleading Union objected to the Commission's issuance of the January 15 letter order prior to the expiration of the protest period. Union also incorporated by reference the arguments advanced in its January 19 protest.

Upon review of Union's allegations, the Commission concludes that Union should be allowed to intervene in both Docket No. E-9469 and Docket No. ER76-377.

The Commission believes that Union has raised a number of important questions in Docket No. ER76-377 which in-

volves the propriety of Lockhart's purchased power adjustment clause. Since the lawfulness of the purchased power clause is already a subject of the proceedings in Docket No. E-9469, the Commission concludes that the questions Union is attempting to raise, together with any other questions regarding the propriety of Lockhart's purchased power clause, should be addressed in Docket No. E-9469.

Pending a decision on the lawfulness of the purchased power adjustment clause in Docket No. E-9469, the Commission continues to believe that Lockhart should be granted a waiver of the requirements contained in Section 35.14 of the Commission's Regulations, as amended by Order No. 517, pending the results of the investigation in E-9469. Accordingly, the Commission will deny Union's motion to vacate the January 15, 1976 letter order in Docket No. ER76-377.

In view of the close connection between Docket No. E-9469 and Docket No. ER76-377, the Commission will order that these dockets be consolidated.

The Commission further finds: (1) Participation by Union in Docket Nos. E-9469 and ER76-377 may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission consolidate Docket Nos. E-9469 and ER76-377.

(3) Good cause has not been shown for vacating the Commission's letter order of January 15, 1976, in Docket No. ER76-377, or, in the alternative, for granting rehearing of that order.

The Commission orders: (A) Union is hereby permitted to intervene in Docket Nos. E-9469 and ER76-377, subject to the Rules and Regulations of the Commission: *Provided, however,* that the participation of Union shall be limited to matters affecting the rights and interests specifically set forth in Union's petition to intervene; and *Provided, further,* that the admission of Union as an intervenor shall not be construed as recognition that Union might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(B) The Presiding Administrative Law Judge in these proceedings is hereby authorized to convene any further prehearing conferences that may be necessary in view of the consolidation of Docket No. E-9469 with Docket No. ER76-377. Said Presiding Law Judge is hereby authorized to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss as provided for in the Rules of Practice and Procedure).

(C) Docket Nos. E-9469 and ER76-377 are hereby consolidated.

(D) Union's motion to vacate the Commission's letter order of January 15, 1976, in Docket No. ER76-377, or, in the alternative, for granting rehearing of that order is hereby denied.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Issued: March 8, 1976.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-7319 Filed 3-12-76;8:45 am]

[Docket No. CP76-255]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

MARCH 8, 1976.

Take notice that on February 10, 1976, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP76-255 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide transportation services for Northern Indiana Public Service Company (Nipsco), Northern Natural Gas Company (Northern), and Natural Gas Pipeline Company of America (Natural) incident to storage services proposed to be provided for them by Michigan Consolidated Gas Company—Interstate Storage Division (Consolidated),[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that by order issued June 2, 1975, in Docket No. CP74-316, et al., Applicant and Consolidated were authorized, among other things, to provide transportation and storage services, respectively, for Nipsco for a one-year period ending March 1, 1976. Nipsco is said to have requested Applicant and Consolidated, and they are said to have agreed, to provide similar services for Nipsco on a long-term basis commencing March 1, 1976, and terminating April 1, 1991. Accordingly, Applicant and Nipsco have entered into a transportation agreement dated as of January 23, 1976 (the 5.0 million Mcf agreement), it is indicated.

Applicant further states that under the 5.0 million Mcf agreement, Nipsco would cause Natural to deliver to Applicant for the account of Nipsco 5 million Mcf of gas, plus a volume of gas equivalent to 5 percent of the volumes delivered for storage as compressor fuel, during the period March 1 through October 31 of each year (summer period). Such deliveries would be made at existing points of interconnection of the facilities of Applicant and Natural at a daily rate of up to 25,000 Mcf. Applicant would transport the gas so received and deliver equivalent volumes (less compressor fuel) to Consolidated at existing interconnections for the account of Nipsco for storage. The 5.0 million Mcf agreement further provides for the redelivery by Applicant to Nipsco during each period of November 1 through March 31 (winter period) a volume of gas equal to that which Nipsco would cause to be delivered to Applicant for transportation by Applicant and storage by Consolidated. Applicant would redeliver gas to Nipsco at such daily rate, up to 100,000 Mcf, as Nipsco might request, at Applicant's existing point of delivery to Nipsco near Michigan City, Indiana, and at a proposed new point of delivery near Fort Wayne, Indiana, as Consolidated would concurrently redeliver an equivalent volume of natural gas to Applicant directly at Applicant's Woolfolk Compressor Station near Big Rapids, Michigan, or at Applicant's option, by displacement at Applicant's existing points of delivery to Consolidated. For the transportation service proposed by Applicant, Nipsco would pay Applicant a monthly charge of $212,844.

Applicant also states that Nipsco has requested Applicant and Consolidated, and they have agreed, to provide off-peak transportation and storage services, respectively, for Nipsco for the same term as the 5.0 million Mcf agreement. Accordingly, Applicant and Nipsco have entered into a transportation agreement dated as of January 23, 1976 (the 1.0 million Mcf agreement). Under the 1.0 million Mcf agreement, Nipsco would cause Natural to deliver to Applicant for the account of Nipsco 1 million Mcf of gas plus a volume of gas equivalent to 5 percent of the gas for storage as compressor fuel, during the summer period. Such deliveries would be made at existing points of interconnection of the facilities of Applicant and Natural at a daily rate of up to 5,000 Mcf. Applicant would transport the gas so received and deliver equivalent volumes (less compressor fuel) to Consolidated for the account of Nipsco for storage. Such deliveries would be made at Applicant's existing points of delivery to Consolidated. The 1.0 million Mcf agreement is said to provide further for the redelivery by Applicant to Nipsco during the winter period of a volume of gas equal to that volume which Nipsco caused to be delivered to Applicant for transportation by Applicant and storage by Consolidated. Applicant would redeliver the gas to Nipsco at daily rates up to 12,500 Mcf per day, at the same redelivery points as are specified in the 5.0 million Mcf agreement as Consolidated redelivered concurrent volumes also as specified in the 5.0 million Mcf agreement. For the transportation service proposed by Applicant, Nipsco would pay Applicant a monthly charge of $15,769.

Applicant states that the order of June 2, 1975, authorized Applicant, among other things to render a transportation service and to provide for a related off-peak storage service by Consolidated for Northern for a one-year

[1] Consolidated filed an application for authorization by the Commission of, inter alia, storage service on February 10, 1976, in Docket No. CP76-254.

period ending March 1, 1976. It is stated that Northern has now requested Applicant and Consolidated, and they have agreed, to convert this service to a peak-day service on a long-term basis commencing March 1, 1976, and terminating April 1, 1991. Accordingly, Applicant and Northern have entered into a transportation agreement dated as of January 23, 1976 (the 2.8 million Mcf agreement). Under the 2.8 million Mcf agreement, Northern would deliver to Applicant 2.8 million Mcf of gas, plus compressor fuel, during the summer period. Such deliveries would be made at Northern's existing point of delivery to Applicant near Janesville, Wisconsin, at a daily rate of up to 14,000 Mcf. Applicant would transport the gas so received and deliver equivalent volumes (less compressor fuel) to Consolidated for the account of Northern for storage. Such deliveries would be made by Applicant to Consolidated at Applicant's existing points of delivery to Consolidated. The 2.8 million Mcf agreement is said to provide further for the redelivery by Applicant to Northern during the winter period a volume of gas equal to that which Northern delivered to Applicant for transportation by Applicant and storage by Consolidated. Applicant would redeliver gas to Northern at such daily rates, up to 56,000 Mcf, as Northern may request, by causing Great Lakes Gas Transmission Company (Great Lakes), pursuant to existing exchange arrangements, to deliver gas to Northern for the account of Applicant at existing points of interconnection of the facilities of Northern and Great Lakes near Carlton and Grand Rapids, Minnesota, and Wakefield, Michigan. For the transportation service provided by Applicant, Northern would pay Applicant a monthly charge of $119,192.

Applicant also states that Northern has requested Applicant and Consolidated, and they have agreed, to provide off-peak transportation and storage services, respectively for Northern for the same term as the 2.8 million Mcf agreement. Accordingly, Applicant and Northern are said to have entered into a transportation agreement dated as of January 23, 1976 (the Northern Transportation Agreement). Under the Northern Transportation Agreement, Northern would deliver to Applicant 5.0 million Mcf of gas, plus a volume equivalent to 5 percent of the volumes delivered for storage as compressor fuel, during the summer period. The proposed deliveries would be made at Northern's existing point of delivery to Applicant near Janesville, Wisconsin, at a daily rate of up to 25,000 Mcf. Applicant would transport the gas so received and deliver equivalent volumes (less compressor fuel) to Consolidated for the account of Northern for storage. The Northern Transportation Agreement is said to provide further for the redelivery by Applicant to Northern during the winter period of a volume of gas equal to that which Northern caused to be delivered to Applicant for transportation by Applicant and storage by Consolidated. Applicant would redeliver gas to Northern at daily rates up to 62,500 Mcf, in the same manner redelivery is made under the 2.8 million Mcf agreement and Consolidated would also concurrently make redeliveries to Applicant as proposed in the 2.8 million Mcf agreement. For the transportation service provided, Northern would pay Applicant a monthly charge of $78,847.

The order of June 2, 1975, is said to have also authorized Applicant, among other things, to render a transportation service and to provide for a related off-peak storage service by Consolidated for Natural for a one-year period ending March 1, 1976. Natural is alleged to have requested Applicant and Consolidated, and they are alleged to have agreed, to provide similar service for Natural on a long-term basis commencing March 1, 1976, and terminating April 1, 1991. Accordingly, Applicant states that Applicant and Natural have entered into an agreement dated as of January 23, 1976 (the 5.8 million Mcf agreement). Under the 5.8 million Mcf agreement, Natural would deliver to Applicant 5.8 million Mcf of gas, plus a volume equal to 5 percent of the volumes delivered to Applicant for redelivery to Consolidated and storage as compressor fuel, during the summer period. Such deliveries would be made at the existing point of interconnection of the facilities of Applicant and Natural near Woodstock, Illinois, at a daily rate of up to 29,000 Mcf. Applicant would transport the gas so received and deliver equivalent volumes (less compressor fuel) to Consolidated for the account of Natural for storage. Such deliveries would be made by Applicant to Consolidated at Applicant's existing points of delivery to Consolidated. The 5.8 million Mcf agreement further provides for the redelivery by Applicant to Natural during the winter period a volume of gas equal to that which Northern delivered to Applicant for transportation by Applicant and storage by Consolidated. Applicant would redeliver gas to Natural at daily rates up to 87,000 Mcf per day, at the existing point of interconnection of the facilities of Applicant and Natural near Joliet, Illinois, concurrently with the redelivery by Consolidated of equal volumes to Applicant as set forth in the 5.0 million Mcf agreement. For the transportation service provided, Natural would pay Applicant a monthly charge of $91,463.

Applicant further requests authorization to construct and operate a new delivery point to Nipsco near Fort Wayne, Indiana, and four sections of 42-inch loop line with an aggregate length of 28.7 miles. The proposed delivery point would be located in Adams County, Indiana, and would consist of gas measuring facilities, including one 1-inch meter run, high pressure gas piping and appurtenant facilities. The four sections of pipeline proposed to be constructed are as follows: (1) approximately 6.0 miles of 42-inch loop line in Kent County, Michigan, at the estimated cost of approximately $4,222,130, (2) approximately 9.0 miles of 42-inch loop line in Allegan and Van Buren Counties, Michigan, at the estimated cost of approximately $6,314,800, (3) approximately 5.5 miles of 42-inch loop line in La Porte County, Indiana, at the estimated cost of approximately $4,099,540, and (4) approximately 8.2 miles of 42-inch loop line in Will County, Illinois, at the estimated cost of approximately $5,387,950. Applicant alleges that these facilities are necessary to implement the aforestated transportation services. Applicant estimates that the total cost of the proposed facilities would be approximately $20,214,600, which costs Applicant would finance initially from treasury funds, retained earnings and other funds generated internally, together with borrowings from banks pursuant to short-term lines of credit as required.

Any person desiring to be heard or make any protest with reference to said application should on or before March 30, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing wil be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7325 Filed 3-12-76;8:45 am]

[Docket No. RP75-20]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

MARCH 9, 1976.

Take notice that Mississippi River Transmission Corporation (Mississippi) on March 3, 1976, submitted six (6) copies of the following tariff sheets to its

FPC Gas Tariff, First Revised Volume No. 1 to become effective April 1, 1976:

Substitute Thirty-Ninth Revised Sheet No. 3A
Thirteenth Revised Sheet No. 5
Eleventh Revised Sheet No. 6
Second Revised Sheet No. 27A
Third Revised Sheet No. 27B
Second Revised Sheet No. 27C
Second Revised Sheet No. 27D
Second Revised Sheet No. 27D
Fourth Revised Sheet No. 27E
Second Revised Sheet No. 27F
Second Revised Sheet No. 27G
Third Revised Sheet No. 27H
Third Revised Sheet No. 27I
Second Revised Sheet No. 27J
First Revised Sheet No. 27K

Mississippi states that the instant tariff sheets are being submitted pursuant to Mississippi's Stipulation and Agreement dated December 8, 1976 at Docket No. RP75-20, as approved by Federal Power Commission's Order Accepting Settlement issued February 13, 1976, to reflect the following elements:

(a) The settlement base tariff rates to be effective April 1, 1976,
(b) An adjustment to such base tariff rates to track transportation costs associated with gas purchased in the Mills Ranch Field,
(c) A pipeline cost adjustment,
(d) An updated base average unit cost of gas purchased from producers,
(e) A deferred producer cost adjustment,
(f) Tariff sheets reflecting new PGA procedures; and
(g) Tariff sheets reflecting revised charges for unauthorized overtake volumes.

Mississippi submitted schedules containing computations supporting the rate changes to be effective April 1, 1976. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7337 Filed 3-12-76;8:45 am]

[Docket No. E-7690]

NEW ENGLAND POWER POOL AGREEMENT (NEPOOL)

Extension of Time

MARCH 10, 1976.

On March 8, 1976, New England Power Pool Executive Committee (Committee) filed a motion to extend the time for filing briefs opposing exceptions to the initial decision issued on November 24, 1975, in Docket No. E-7690. The Committee's motion states that Staff Counsel and the Municipal Petitioners have no objection to the requested extension.

Notice is hereby given that the time for filing briefs on exceptions in the above-indicated docket is extended for all parties from March 9, 1976 to and including April 5, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7309 Filed 3-12-76;8:45 am]

[Docket No. CP75-266]

PANHANDLE EASTERN PIPE LINE CO.

Withdrawal

MARCH 8, 1976.

On February 19, 1976, Panhandle Eastern Pipe Line Company filed a motion to withdraw its Application for Certificate of Public Convenience and Necessity filed on May 7, 1975 in the above-designated proceeding.

Notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application shall become effective on March 22, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7317 Filed 3-12-76;8:45 am]

[Docket No. ER76-385]

SOUTHERN INDIANA GAS AND ELECTRIC CO.

Filing of Revised Fuel Clauses

MARCH 9, 1976.

Take notice that on March 1, 1976, Southern Indiana Gas and Electric Company (SIGECO) tendered for filing revised fuel adjustment clauses applicable to wholesale service to the Cities of Tell City, Huntingburg, Boonville and Ferdinand, Indiana and to Henderson-Union Rural Electric Corporation. SIGECO states that the purpose of the subject filing is to comply with Order No. 517. On December 22, 1975, SIGECO requested waiver of the requirements of Order No. 517. By letter dated January 15, 1975, the Secretary advised SIGECO that its request was denied and directed SIGECO to file revised fuel clauses to be effective January 1, 1976.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7333 Filed 3-12-76;8:45 am]

[Docket No. ER76-543]

SOUTHWESTERN PUBLIC SERVICE CO.

Filing

MARCH 8, 1976.

Take notice that on March 3, 1976, the Southwestern Public Service Company tendered for filing an Interconnection Agreement for firm capacity sales and unit capacity sales to the New Mexico Electric Service Company revised rate schedules which will supersede New Mexico Electric Service Company Rate Schedule No. 1 and Southwestern Public Service Company Rate Schedule 54. A letter agreement dated January 7, 1976 between the companies and a certificate of concurrence by New Mexico Electric Service Company accompanied the filing. The companies requested an effective date of June 1, 1976.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7329 Filed 3-12-76;8:45 am]

[Docket No. CI76-152]

TENNECO OIL CO.

Withdrawal

MARCH 8, 1976.

On February 17, 1976, Tenneco Oil Company filed a motion to withdraw its Application for temporary and permanent Certificates of Public Convenience and Necessity filed on September 12, 1975 in the above-designated proceeding.

Notice is hereby given that purusant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application shall become effective on March 18, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7314 Filed 3-12-76;8:45 am]

[Docket Nos. AR61-2 and AR69-1, *et al.*; RP65-59, RP69-13, and RP70-29]

TEXAS EASTERN TRANSMISSION CORP.

Area Rate Proceeding, et al. (Southern Louisiana Area), Proposed Plan of Refund

MARCH 8, 1976.

Take notice that Texas Eastern Transmission Corporation, on November 3, 1975, tendered for filing, in accordance with the Commission's Order Directing Disbursement And Flow Through Of Refunds issued on August 19, 1975, its proposed plan of refund to flow through monies received from producers pursuant to Opinion No. 598.

Texas Eastern proposes to flow-through to its jurisdictional customers refunds received from producers totaling $9,572.78, including interest, by crediting the balance of its Gas Cost Adjustment Account by such amount, as provided for in Section 23.8 of the General Terms and Conditions of its FPC Gas Tariff, Fourth Revised Volume No. 1.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7315 Filed 3-12-76;8:45 am]

[Docket No. RP76-17]

TEXAS GAS TRANSMISSION CORP.

Substitute Tariff Sheets

MARCH 8, 1976.

Take notice that on March 1, 1976 Texas Gas Transmission Corporation (Texas Gas) tendered for filing substitute tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. These sheets are the same ones which Texas Gas filed on September 30, 1975 and which were accepted and suspended by Commission order issued October 31, 1975.

Substitute Thirteenth Revised Sheet No. 7 shows the increase in the Unrecovered Purchased Gas Cost Adjustment and the Deferred Demand Charge Adjustment included in its filing of December 15, 1975 pursuant to its Purchased Gas Adjustment Clause. All other Substitute Sheets are being refiled, according to Texas Gas, solely for the purpose of showing the correct effective date of April 1, 1976.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7313 Filed 3-12-76;8:45 am]

[Docket Nos. RP69-41 and RP72-45]

TEXAS GAS TRANSMISSION CORP.

Filing

MARCH 9, 1976.

Take notice that on February 18, 1976, Texas Gas Transmission Corporation (Texas Gas) tendered for filing its request for permission to flow-through refunds in the amount of $1,266,643 which it received from United Gas Pipe Line Co. pursuant to FPC Opinion No. 671, which was affirmed by the United States Court of Appeals for the District of Columbia on October 9, 1975. Texas Gas states that these refunds are applicable to the period beginning June 1, 1971 and ending April 30, 1974 and relates to the demand charge adjustment issue in Docket No. RP72-75.

Texas Gas states that the distribution of these refunds by Texas Gas is subject to the terms of various settlement agreements of Texas Gas which cover the refund period as well as Texas Gas' presently effective purchased gas adjustment clause as follows:

Purchase period	Refund subject to—	Amount
June 1, 1971, to Mar. 31, 1972	Docket No. RP69-41, stipulation and agreement, art. IV	$605,096
Apr. 1, 1972, to July 31, 1972	Docket No. RP72-45, stipulation and agreement, art. XI	234,950
Aug. 1, 1972, and thereafter	Credit account No. 191 per terms of PGA	426,597

In lieu of refunding pursuant to the terms of the above described settlement agreement, Texas Gas requests permission to flow-through these refunds, in the amount of $1,266,643, including interest, by crediting the balance in its Purchased Gas Cost Clearing Account by such amount pursuant to Section 23.10 (c) of its FPC Gas Tariff, Third Revised Volume No. 1. Section 23.10(c) provides:

> The Purchased Gas Cost Clearing Account shall be credited by Seller with refunds received from its gas suppliers, including the interest received thereon, pursuant to refund orders that are final and nonappealable.

Texas Gas urges that permission be granted because it states that "this procedure provides an equitable and administratively desirable method of distributing refunds with a minimum of administrative expense to both Texas Gas and its customers."

Texas Gas states that a copy of this filing was sent to all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7322 Filed 3-12-76;8:45 am]

[Docket No. RP75-75]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

MARCH 9, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on February 13, 1976, tendered for filing eight sets of revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 to become effective October 1, 1975, November 1, 1975, November 2, 1975, November 16, 1975, January 1, 1976, February 1, 1976, February 2, 1976, and March 1, 1976. Transco states that the purpose of the filing is to reflect in its various rate filings from October 1, 1975 to March 1, 1976 the Commission's Order of January 30, 1976 accepting the settlement of Transco's rate proceeding in Docket No. RP75-75, including the elimination of carrying charges under an agreement with Louisiana Land and Exploration Company, as required by Ordering Paragraph (B) of said order. The effect of the removal of the LL&E costs is a reduction of 0.2¢ per Mcf.

The Company states that copies of the filing have been mailed to each of its

jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7335 Filed 3-12-76;8:45 am]

[Docket No. RP75-75 (AP76-7)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

MARCH 9, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on February 13, 1976, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, to become effective April 1, 1976. Transco states that the purpose of the filing is to "track" advance payments made by Transco in accordance with Article V of the "Agreement as to Rates" in Docket No. RP75-75 which agreement was accepted by Commission Order issued January 30, 1976 in such docket.

The revised tariff sheets filed to be effective April 1, 1976, reflect a "tracking" increase of 1.4¢ per Mcf as a result of inclusion in rate base of $60,585,800 which amount represents the net increase in advance payment amounts not previously reflected in rates.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7336 Filed 3-12-76;8:45 am]

[Docket No. ER76-538]

TUCSON GAS AND ELECTRIC CO.

Filing

MARCH 9, 1976.

Take notice that on March 1, 1976, the Tucson Gas and Electric Company (Tucson) tendered for filing an Electric Power Wheeling Agreement dated February 19, 1976 and a related letter agreement dated February 18, 1976 between Tucson and the Arizona Electric Power Cooperative, Inc. Tucson requested waiver of the Commission's notice requirements so as to permit this filing to become effective on March 1, 1976.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-7334 Filed 3-12-76;8:45 am]

FEDERAL RESERVE SYSTEM

BROWARD BANCSHARES, INC.

Order Approving Merger of Bank Holding Companies

Broward Bancshares, Inc., Fort Lauderdale, Florida ("Broward"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. § 1842(a)(5)) to merge with Charter Bankshares Corporation, Jacksonville, Florida ("Charter"), a bank holding company within the meaning of the Act. Broward would be the surviving corporation.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Broward controls seven banks with aggregate deposits of $303 million, representing approximately 1.3 percent of the total deposits held by commercial banks in Florida, and is the sixteenth largest multibank holding company in that State.[1] Charter controls nine banks with aggregate deposits of $357.5 million, representing approximately 1.5 percent of the total deposits held by commercial banks in the State, and is Florida's fifteenth largest multi-bank holding company. Consummation of the proposed merger would result in Broward's control of approximately 2.8 percent of total deposits held by the State's commercial banks, and Broward would become the State's tenth largest multi-bank holding company.

Broward operates its present subsidiary banks and a computer service company in two banking markets in southeastern Florida.[2] In the North Broward banking market, Broward is the second largest of 23 banking organizations including five of the six largest banking organizations in Florida. Broward also is the thirteenth largest of 19 banking organizations in the West Palm Beach banking market. On the other hand, Charter operates its present subsidiary banks in six banking markets in northern and central Florida.[3] Charter is the largest of 11 banking organizations in the Pensacola banking market and the largest of 16 banking organizations in the South Pinellas banking market. The Pensacola and South Pinellas banking markets include, respectively, two and five of the State's six largest organizations. Also, Charter is the second largest of three banking organizations in the Putnam County banking market, which includes two of the six largest organizations in the State. In addition, Charter ranks as the fourth largest of 11 banking organizations in the Gainesville banking market; the fifth largest of six banking organizations in the South Brevard banking market; and the sixth largest of 13 banking organizations in the Fort Myers banking market. Neither Broward nor Charter has any subsidiary bank that competes within the same market, nor does Charter have a subsidiary that competes with Broward's computer service firm. Therefore, it appears that no meaningful competition currently exists between any of the subidiaries of Broward and those of Charter. Furthermore, it does not appear that any such competition will develop in view of Florida's restrictive branch banking laws and the 100 mile distance between the closest

[1] All banking data are as of June 30, 1975, unless otherwise indicated, and include bank holding company formations and acquisitions as of February 29, 1976.

[2] These two markets are the North Broward banking market, which is approximated by the northern two-thirds of Broward County, and the West Palm Beach banking market, which is approximated by the northern three-quarters of Palm Beach County.

[3] The relevant banking markets within which Charter's subsidiary banks operate are the following: Fort Myers, which is comprised of Lee County on the southern Gulf Coast; Gainesville, which is comprised of Alachua County in north-central Florida; Pensacola, which encompasses Escambia and Santa Rosa Counties at the western end of the Panhandle; Putnam County, which includes Putnam County in east-central Florida and the nearby town of Hastings in St. Johns County; South Brevard which is approximated by the southern one-third of Brevard County on the central Atlantic coast; and South Pinellas which is comprised of Pinellas County south of the town of Largo.

bank subsidiaries of Broward and Charter.

Although consummation of the proposed merger would foreclose the possibility that either Broward or Charter would enter the banking markets of the other, the Board believes that there is little likelihood of significant competition developing between the two banking organizations in the absence of the subject proposal. Since their respective formations as bank holding companies in 1970, neither Broward nor Charter has pursued an aggressive expansion policy and both have remained small relative to the larger banking organizations in Florida.[4] It does not appear from the facts of record that Broward is a likely entrant into the banking markets that are served by Charter, nor does it appear that Charter is a likely future competitor of Broward. Therefore, on the basis of the facts of record, the Board concludes that consummation of the proposed transaction would not have any significant adverse effects on either existing or potential competition in any relevant area and that the competitive considerations are consistent with approval of the application.

The financial conditions and managerial resources and future prospects of Broward, Charter, and their respective subsidiaries are considered, in general, to be satisfactory. Furthermore, Broward has committed itself to purchase additional equity in three of Charter's subsidiary banks within six months after consummation of this proposal.[5] Thus, the banking factors lend weight toward approval of the application. Although the banking needs of the communities to be served by Broward and Charter appear to be met adequately at the present time, consummation of the proposal would enable the principals to combine their trust departments, thereby improving the provision of trust services to their customers. In addition, the combined size of the merged holding companies may result in their gaining better access to capital markets. Accordingly, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application. Therefore, it is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[6] effective March 8, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7251 Filed 3-12-76;8:45 am]

[4] Since its formation, Broward has opened three *de novo* banks and has acquired one existing bank. Charter has acquired only one bank since its formation and, in the past two years, has been involved in one agreement to sell seven of its subsidiary banks to another organization, and in one agreement to merge with two other organizations.

[5] Broward will inject additional capital in the amount of $500,000 into Charter Bank of Lehigh Acres, and $250,000 each into Charter Bank of Gainesville, and Charter Bank of Palatka.

CHEMICAL NEW YORK CORPORATION

Order Approving Acquisition of Van Deventer & Hoch

Chemical New York Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Van Deventer & Hoch, Glendale, California ("Company"), a company that engages in the activities of serving as an investment advisor, providing portfolio investment advisory and management services, furnishing general economic information and advice, general economic statistical forecasting services and industry studies, and acting in an agency capacity with respect to both discretionary and nondiscretionary managing agency accounts. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(4) and (5)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FEDERAL REGISTER 48898). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant, the fourth largest bank holding company in New York State, controls seven subsidiary banks with aggregate domestic deposits of $13.7 billion, representing approximately 10 per cent of the total deposits in commercial banks in the State.[1] Applicant also controls nonbanking subsidiaries that engage principally in consumer financing, mortgage banking, leasing, and construction lending.

Company, with total assets of $54,000 as of September 30, 1975, operates from its sole office in Glendale, California. Company engages in providing investment advisory and investment management services and is registered as an investment adviser under the Investment Advisers Act of 1940. Its principal activity is the management of investment portfolios for individuals, charitable organizations, profit-sharing plans, and pension plans on a continuing basis. Depending on the preference of the customer, Company manages the portfolio on a discretionary, advisory, or non-discretionary basis. In addition, Company offers investment counseling services on a one-time basis. In conjunction with its portfolio investment advisory and management services, Company also furnishes general economic information and advice, provides general economic forecasts, and conducts industry studies.

As of July 1975, Company administered 233 accounts with assets worth approximately $40.6 million, consisting principally of 186 personal accounts valued at $22.5 million, with the remaining accounts being administered for profit-sharing trusts, pension plans, foundations and charitable organizations. Company primarily serves Los Angeles and Orange Counties, from which it obtained about 84 per cent of its revenues for the fiscal year ending September 30, 1974; the remainder of its revenues are derived from the neighboring counties of Santa Barbara, Ventura, San Bernardino, Riverside and San Diego. Company competes with many small firms in Los Angeles and Orange Counties, as well as with commercial banks, trust companies, and insurance companies, but holds significantly less than 1 per cent of the aggregate assets managed by all companies engaged in investment advisory activities in the area.

All of Applicant's subsidiary banks engage in investment advisory activities through their respective trust departments; however, only Chemical Bank, New York, New York, Applicant's lead bank, obtains any investment advisory or management business from Company's service area. Although the volume of business that Chemical Bank derives from Los Angeles and Orange Counties exceeds that of Company, the proposed acquisition would not eliminate any significant competition. Chemical Bank does not solicit personal investment advisory and management accounts from Company's service area, but has a small amount of such business derived from individuals who formerly resided in the New York area. Moreover, the asset size of the large employee benefits accounts that Chemical Bank derives from Company's service area appears to be beyond Company's present capabilities. In addition, Company does not obtain any business from the areas served by Applicant's banking subsidiaries. In view of Company's small size, the fact that it does not operate in New York and the fact that Chemical Bank does not solicit personal trust business in Company's service area, there does not appear to be any significant existing competition between Company and Applicant or any of its subsidiaries.

Although there is the possibility of future competition developing between Applicant and Company and although Applicant possesses the resources and

[6] Voting for this action: Chairman Burns and Governors Gardner, Holland, Jackson, and Partee. Absent and not voting: Governors Wallich and Coldwell.

[1] All banking data are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved by the Board through January 31, 1976.

the capability to expand *de novo* into the attractive Southern California market, the elimination of future competition is not considered to be significant in light of the large number of existing competitors in the market and Company's small market share. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

It is anticipated that Company's affiliation with Applicant should enable Company to improve the quality and depth of its investment advisory services and thereby enable it to compete more effectively with the larger organizations in the market. Furthermore, there is no evidence in the record indicating that acquisition of Company would result in any undue concentration of resources, unfair competition, conflicts of interests, or unsound banking practices.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4 (c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York.

By order of the Board of Governors,[2] effective March 9, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7252 Filed 3-12-76;8:45 am]

CLEAR BANCORP, INC.

Formation of Bank Holding Company

Clear Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent or more of the voting shares (less directors' qualifying shares) of Clearing Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1976.

Board of Governors of the Federal Reserve System, March 9, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7253 Filed 3-12-76;8:45 am]

CRAWFORD STATE COMPANY

Formation of Bank Holding Company

Crawford State Company, Crawford, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 94 per cent or more of the voting shares of Crawford State Bank, Crawford, Nebraska ("Bank"). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Crawford State Company, Crawford, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Crawford Bank Agency, Crawford, Nebraska. Notice of the application was published on January 8, 1976, in the *Crawford Tribune*, a newspaper circulated in Crawford, Dawes County, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency on the premises of Bank, which is located in a community with a population not exceeding 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 7, 1976.

Board of Governors of the Federal Reserve System, March 9, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7254 Filed 3-12-76;8:45 am]

FIRST VIRGINIA BANKSHARES CORP.

Acquisition of Bank

First Virginia Bankshares Corporation, Falls Church, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of First Bank & Trust Company, Mechanicsville, Virginia, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 5, 1976.

Board of Governors of the Federal Reserve System, March 8, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7255 Filed 3-12-72;8:45 am]

MARK TWAIN BANCSHARES, INC.

Order Approving Acquisition of Bank

Mark Twain Bancshares, Inc., St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3) to acquire 98.75 per cent of the voting shares of Mark Twain Bank, National Association, Ladue, Missouri ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Ladue-Innerbelt Bank and Trust Company, Ladue, Missouri ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the thirteenth largest banking organization in Missouri, controls five banks with aggregate deposits of approximately $179.4 million, representing 1.1 per cent of total deposits in commercial banks in the State.[1] Since Bank is a proposed new bank, its acquisition by Applicant would not immediately increase Applicant's share of commercial bank deposits in Missouri.

[2] Voting for this action: Chairman Burns and Governors Gardner, Holland, Coldwell, Jackson, and Partee. Absent and not voting: Governor Wallich.

[1] Unless otherwise indicated, all banking data are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved through January 31, 1976.

Bank is a proposed new bank, which has received preliminary charter approval from the Comptroller of the Currency, and is to be located in the city of Ladue, Missouri, within the St. Louis banking market.[2] With all five of its subsidiary banks located in the St. Louis market, Applicant controls 2.3 percent of market deposits [3] and ranks as the tenth largest banking organization operating therein. The two largest banking organizations in the market control, respectively, 18.6 and 17.4 percent of market deposits. Applicant's subsidiary bank closest to the proposed site of Bank is located approximately 10 miles away. Since Bank is a proposed new bank, consummation of the proposal would not eliminate any existing competition in the relevant market. Nor is there any evidence that Applicant is attempting to preempt a bank site before there is need for another bank.

In its consideration of the subject application the Board has considered the comments submitted by Protestant, a bank located in close proximity to the proposed site of Bank. Generally speaking, Protestant asserts that the area that will be served by Bank is not capable of supporting another bank and that the introduction of a new bank so close to Protestant would have an adverse impact on Protestant.

On the basis of the facts of record, the Board is of the view that the record, including the submissions of Protestant, does not warrant denial of the application. The proposed service area of Bank includes large portions of Ladue, one of the wealthiest residential areas in Missouri, and downtown Clayton, the county seat and business-financial center of St. Louis County. The deposits per banking office ratio of the proposed service area of Bank is significantly higher than the average for the State. In addition, the potential for growth in this area appears favorable. With respect to Protestant's second argument, the opening of Bank by Applicant should increase competition within the area served by Protestant. However, the evidence in the record is not sufficient, in the Board's judgment, to conclude that consummation of the subject proposal would have a significantly adverse effect on Protestant as a viable banking organization.

Accordingly, on the basis of all the facts of record and having considered the comments of Protestant, the Board concludes that consummation of the proposed acquisition would not have any significant adverse competitive effects and that competitive considerations are consistent with approval of the application.

[2] The St. Louis market, the relevant geographic market for purposes of analyzing the competitive effects of the subject proposal, is approximated by the city of St. Louis, St. Louis County and portions of St. Charles and Jefferson Counties, all in Missouri; and portions of Madison and St. Clair Counties in Illinois.

[3] All market data are as of December 31, 1974.

The financial condition and managerial resources of Applicant and its subsidiaries are considered generally satisfactory and future prospects for each appear favorable. Since Bank has not yet opened for business, it has no financial or operating history. However, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to banking factors, therefore, are consistent with approval of the application. As proposed by Applicant, Bank would serve as an additional source of full banking services to the residents of the area, including offering such services on Saturdays. Accordingly, considerations relating to convenience and needs lend weight toward approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Mark Twain Bank, National Association, Ladue, Missouri, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[4] effective March 3, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-7256 Filed 3-12-76;8:45 am]

SHAWNEE MISSION BANCSHARES, INC.

Formation of Bank Holding Company

Shawnee Mission Bancshares, Inc., Fairway Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of First National Bank of Shawnee Mission, Fairway, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Shawnee Mission Bancshares, Inc., Fairway, Kansas has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire Owen Insurance Agency, Fairway, Kansas. Notice of the application was published on February 5, 1976 in The Kansas City Star, a newspaper circulated in Kansas City, Missouri.

Applicant states that the proposed subsidiary would engage in the activities of selling credit life and credit accident and health insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 7, 1976.

Board of Governors of the Federal Reserve System, March 9, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7257 Filed 3-12-76;8:45 am]

[4] Voting for this action: Chairman Burns and Governors Gardner, Holland, Wallich, Coldwell, Jackson and Partee.

SIERRA PETROLEUM CO., INC.

Acquisition of Bank

Sierra Petroleum Co., Inc., Wichita, Kansas,[1] has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to acquire 99.9 per cent or more of the voting shares of United Investments Corp., Wichita, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Sierra Petroleum Co., Inc. is also engaged in the following nonbank activities: oil and gas activities; real estate activities (including leasing of the bank building); and the operation of a stockyard. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in § 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 6, 1976.

[1] *See* notice of related application of United Investments Corp., Wichita, Kansas, *below*.

Board of Governors of the Federal Reserve System, March 8, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7249 Filed 3-12-76;8:45 am]

UNITED INVESTMENTS CORP.

Formation of Bank Holding Company

United Investments Corp., Wichita, Kansas,[1] has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company through indirect acquisition of 87.1 percent or more of the voting shares of the United American State Bank and Trust Company, Wichita, Kansas. Pending approval of this application, United Investments Corp. proposes to merge with and into Sierra Petroleum Co., Inc., Wichita, Kansas. An application for approval of this merger has been submitted by Sierra Petroleum Co., Inc., pursuant to section 3(a)(5) of the Act. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 6, 1976.

Board of Governors of the Federal Reserve System, March 8, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-7250 Filed 3-12-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, April 6, 1976, from 10:00 A.M. to 3:00 P.M., Room 3506, John C. Kluczynski Federal Building, 230 Souh Dearborn Street, Chicago, Illinois. The meeting will be concerned with the review of the conceptual design for the proposed new Federal Office Building, Carbondale, Illinois.

Frank and open critical analysis of the proposed design is essential to ensure that the design approach produces the best possible design solution. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

FRANK RESNIK,
Regional Administrator.

[FR Doc.76-7527 Filed 3-12-76;9:21 am]

[1] *See* notice of related application of Sierra Petroleum Co., Inc., Wichita, Kansas *above*.

INTERNATIONAL TRADE COMMISSION

[AA1921-152]

WATER CIRCULATING PUMPS

Investigation and Hearing

Having received advice from the Department of the Treasury on February 27, 1976, that water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems, from the United Kingdom, are being, or are likely to be sold at less than fair value, the United States International Trade Commission on March 8, 1976, instituted investigation No. AA1921-152 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on Tuesday, April 20, 1976. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Commission, in writing, at the Commission's office in Washington, D.C., not later than noon, Thursday, April 15, 1976.

Issued: March 10, 1976.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-7341 Filed 3-12-76;8:45 am]

GLOVES

Investigation Determination

MARCH 8, 1976.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to "certain gloves."

The investigation to which this report relates was undertaken to determine whether—

gloves of vegetable fibers, of horsehide or cowhide (except calfskin) leather, and of rubber or plastics, provided for in items 704.40, 704.45, 705.35, 705.84 and 705.86 of the Tariff Schedules of the United States (TSUS),

are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted on September 23, 1975, upon receipt of a petition filed on September 8, 1975, by the Work Glove Manufacturers Association.

Notice of the institution of the investigation and hearing to be held in connection therewith was published in the FEDERAL REGISTER of September 29, 1975 (40 FR 44634). A public hearing in connection with the investigation was conducted on December 16 and 17, 1975, in the Commission's hearing room in Washington, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard. A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.

The information for this report was obtained from fieldwork, from responses to questionnaires sent to the domestic manufacturers and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearings and in briefs filed by interested parties.

DETERMINATION OF THE COMMISSION

On the basis of its investigation the Commission determines (Commissioner Minchew dissenting in part [1]) that gloves of vegetable fibers, of horsehide or cowhide (except calfskin) leather, and of rubber or plastics, provided for in items 704.40, 704.45, 705.35, 705.84 and 705.86 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

By order of the Commission.

Issued: March 9, 1976.

KENNETH R. MASON,
Secretary.

[FR Doc.76-7342 Filed 3-12-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.29, Revision 2, "Seismic Design Classification," describes

[1] Commissioner Minchew determines in the affirmative as to the threat of serious injury to the domestic industry producing gloves of vegetable fibers and of horsehide or cowhide (except calfskin) leather, provided for in items, 704.40, 704.45, and 705.35, and in the negative as to serious injury, or the threat thereof, to the domestic industry producing gloves of rubber or plastics provided for in items 705.84 and 705.86.

a method acceptable to the NRC staff of identifying and classifying those features of light-water-cooled nuclear power plants that should be designed to withstand the effects of the Safe Shutdown Earthquake. This guide was revised to make it consistent with the Standard Review Plan.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.29, Revision 2, will, however, be particularly useful in evaluating the need for an early revision if received by May 7, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 2nd day of March 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.76-7078 Filed 3-12-76;8:45 am]

[Docket Nos. 50-10, 50-237, and 50-249]

COMMONWEALTH EDISON CO.

Notice of Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 14, 14 and 12 to Facility Operating License Nos. DPR-2, DPR-19 and DPR-25 (respectively), issued to Commonwealth Edison Company, which revised Technical Specifications for operation of the Dresden Nuclear Power Station Units 1, 2 and 3 (the facilities) located in Grundy County, Illinois. These amendments are effective as of their date of issuance.

These amendments add a new definition for "surveillance interval" for all of the facilities, and corrects minor inconsistencies in the Technical Specifications as requested by the licensee and as observed by the Commission.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the applications for amendment dated October 21, 1975 and November 17, 1975, (2) Amendment Nos. 14, 14 and 12 to License Nos. DPR-2, DPR-19 and DPR-25, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and for Dresden Units 2 and 3 at the Morris Public Library at 604 Liberty Street in Morris, Illinois 60451.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 25th day of February, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-7079 Filed 3-12-76;8:45 am]

[Docket Nos. 50-329A; 50-330A]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 & 2)

Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's Order of March 4, 1976, oral argument on the pending appeals from the July 18, 1975 initial decision of the Licensing Board in this antitrust proceeding is calendared for 9:30 a.m., Friday, April 30, 1976, in the Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Dated: March 4, 1976.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.76-7071 Filed 3-12-76;8:45 am]

[Docket No. STN 50-482]

KANSAS GAS & ELECTRIC CO. AND KANSAS CITY POWER & LIGHT CO. (WOLF CREEK NUCLEAR GENERATING STATION, UNIT NO. 1)

Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's Order of March 3, 1976, oral argument on the applicants' motion for a directed certification of the Licensing Board's Order of January 9, 1976 (concerning whether there should be public disclosure of the terms and conditions of the nuclear fuel supply contract between the applicants and Westinghouse Electric Corporation) is hereby calendared for 9:30 a.m., Tuesday, March 30, 1976, in the Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Dated: March 4, 1976.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.76-7075 Filed 3-12-76;8:45 am]

[Docket No. P-512-A]

OHIO EDISON COMPANY, ET AL.

Receipt of Partial Application for Construction Permits and Facility Licenses: Time for Submission of Views on Antitrust Matters

The Ohio Edison Company, on its behalf and as agent for The Cleveland Electric Illuminating Company, the Duquesne Light Company, The Toledo Edison Company, and the Pennsylvania Power Company (the applicants), pursuant to Section 103 of the Atomic Energy Act of 1954 as amended, has filed with the Nuclear Regulatory Commission (the Commission) one part of an application, dated January 16, 1976, in connection with their plans to construct and operate two pressurized water reactors to be known as Erie Nuclear Plant, Units 1 and 2 (the facilities) in Erie County, Ohio. Each facility will be designed to operate at core thermal power levels not to exceed 3600 megawatts. The portion of the application filed, which was docketed on February 23, 1976, contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR, Part 50, Appendix L.

It is anticipated that the Preliminary Safety Analysis Report will be tendered for an acceptance review by December, 1976. Tendering of the Environmental Report is anticipated in September, 1976. Upon receipt of the remaining portions of the application dealing with radiological health and safety (Preliminary Safety Analysis Report) and environmental matters (Environmental Report), separate notices of receipt, will be published by the Commission, including an appropriate notice of hearing.

A copy of the partial application is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Docket No. P–512–A has been assigned to this portion of the application and it should be referenced in any correspondence relating to it.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief: Office of Antitrust and Indemnity, Office of Nuclear Reactor Regulation, on or before May 7, 1976.

Dated at Bethesda, Maryland, this 26th day of February, 1976.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.76–6647 Filed 3–5–76;8:45 am]

[Docket No. 50–537]

PROJECT MANAGEMENT CORP. AND TENNESSEE VALLEY AUTHORITY (CLINCH RIVER BREEDER REACTOR PLANT)

Notice of Reconstitution of Board

Dr. Ernest O. Salo was a member of the Atomic Safety and Licensing Board established to consider the above application. Because of a schedule conflict, Dr. Salo is unable to continue in his duties as a member of this Board.

Accordingly, Dr. Cadet H. Hand, Jr., whose address is Director, Bodega Marine Laboratory, University of California, P.O. Box 247, Bodega Bay, California 94923, is appointed a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 3rd day of March, 1976.

JAMES R. YORE,
Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.76–7077 Filed 3–12–76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; WORKING GROUP ON STRUCTURES AND CONTAINMENT, COMPONENT AND MATERIAL FAILURES, CONTROL ROD PERFORMANCE, AND QUALITY ASSURANCE PROGRAMS AND ENFORCEMENT

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Structures and Containment, Component and Material Failures, Control Rod Performance, and Quality Assurance Programs and Enforcement will hold a meeting on March 23, 1976 in the Montgolfier Cayley Room, O'Hare Hilton Inn, O'Hare International Airport, Chicago, IL. A commitment was made by the ACRS to the Joint Congressional Committee on Atomic Energy (JCAE), at the JCAE public hearings on March 4, 1976 that the ACRS would proceed promptly to evaluate a number of items related to reactor and radiation safety. As a result, the Committee has established five working groups which will hold a series of meetings in the near future to carry out a preliminary review of these matters. The meeting on March 23, 1976 will be the second in this series.

The agenda for the subject meeting shall be as follows:

Tuesday, March 23, 1976, 8:30 a.m., the Working Group will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered during the open session in order to formulate a Working Group report and recommendations to the full Committee.

10:00 a.m. until conclusion of business, the Working Group will meet in open session to hear presentations and hold discussions with representatives of the NRC Staff and other Government agencies, and from the nuclear industry.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Working Group members and consultants will discuss their final opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and representatives from other Government agencies and the nuclear industry matters involving proprietary information, particularly with regard to specific features of plant designs and plans related to plant security. I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential, proprietary, or plant security information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending 15 readily reproducible copies thereof in time for consideration at this meeting. Comments postmarked no later than March 16, 1976, to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 22, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., e.s.t.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after March 30, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 after June 23, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: March 10, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 76–7393 Filed 3–12–76;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Plant Unit 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications for the facility to incorporate: (1) short term and long term insertion limits on the regulating Control Element Assemblies (CEA) and a requirement that all Part-Length CEA's be fully withdrawn and (2) miscellaneous changes to upgrade the specifications consistent with current Technical Specifications in use at other facilities.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated May 30, 1975 (as modified by filing dated August 29), and August 12, 1975, (2) Amendment No. 13 to License No. DPR-53, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of March, 1976.

For the Nuclear Regulatory Commission,

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-7391 Filed 3-12-76;8:45 am]

[Docket No. P-560-A]

CENTRAL MAINE POWER CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated March 1, 1976:

"You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

"Sears Island Unit No. 1 will consist of one 1100 megawatt net rating pressurized light water reactor located on Sears Island in Penobscot Bay in the town of Searsport, Maine. The estimated cost of the unit at completion is approximately $980 million. The unit is scheduled to go into commercial operation in approximately 1984.

I. THE APPLICANT

"Sears Island Unit No. 1 is proposed for construction by Central Maine Power Company. Subsequent to its initial application, Central Maine Power Company made a formal offer of joint ownership in this unit to all other mainland New England utilities. Central Maine Power Company anticipated that a 40% interest in the unit would be subscribed. At the date of this letter, however, the unit is only 18.3747% subscribed.

"The applicants committed to become owners of the unit and the percentage of ownership of each is as follows:

Company:	*Percentage of participation*
Central Maine Power Co	60.00
Bangor Hydro [1]	3.65
Maine Public Service [1]	2.60
Houlton Water Co	.28
Fitchburg Gas & Electric [1]	.3478
Cambridge Electric Light [1]	4.35
Montaup Electric Co. [1]	2.1739
Taunton Municipal	.50
Burlington	.35
Vermont Electric Co-op	.20
Massachusetts Municipal Wholesale [2] Cooperative (MWEC)	3.873
Pascoat Fire District & Electric Co. (Rhode Island)	.05

[1] Privately owned utilities.

[2] The participants in MWEC consist of Ashburnham, Boylston, Danvers, Hingham, Holden, Holyoke, Hudson, Littleton (New Hampshire), Mansfield, Marblehead, Middleboro, Middleton, North Attleborough, Paxton, Reading, Schrewsbury, Templeton, Wakefield, West Boylston, and Westfield.

A larger group of utilities in the northeastern area has expressed potential interest but has not, as yet, subscribed.

II. BACKGROUND

"Central Maine Power Company has previously participated in applications before the Commission for seven projects. Of these, four are now operating.

Unit	*Applicant's share*
Connecticut Yaukee	6 pct, 34.50 MW.
Massachusetts Yankee	9.5 pct, 16.70 MW.
Vermont Yankee	4 pct, 18.46 MW.
Maine Yankee	38 pct, 292.18 MW.
3 others have been approved but are not yet at the operating stage:	
Seabrook units 1 and 2 [1]	2.5505 pct, 58.6 MW (in each unit).
Pilgrim No. 2	2.85 pct, 33.6 MW.
Montague units 1 and 2	3 pct, 69 MW.

[1] We are informed that some participants in this project wish to withdraw, and that applicant has offered to buy another 60 MW share.

"As we have previously indicated in our advice letter concerning the Boston Edison Company application for the Pilgrim Nuclear Power Station, Unit No. 1 (AEC Docket No. 59-293A) [sic], dated August 2, 1971, various municipal electric systems in New England, particularly in Massachusetts, had alleged that they had been targets of anticompetitive behavior on the part of privately-owned electric utilities. We reported that various privately-owned utilities appeared to have been precluding municipal utility systems in New England from gaining access to bulk power supply on the same basis as investor-owned utilities. We concluded that many of the antitrust allegations advanced by Massachusetts municipal utilities raised substantial questions under the antitrust laws. We therefore recommended that the Commission hold a hearing on antitrust issues relating to that application.

"In the period since the Attorney General's advice on Pilgrim Unit No. 1 was published (36 Fed. Reg. 17880-81, September 4, 1971) until the present, various municipal utilities have been engaged in negotiations with privately-owned utilities in New England to allow the former to secure access to various sources of large scale, relatively low-cost generation, as well as necessary transmission service. These negotiations have now been concluded and the parties appear to be in complete agreement concerning access by the municipal utilities to the benefits of coordinated operation and development.

III. COMPETITIVE CONSIDERATIONS

"Our inquiries of various New England utilities generated responses which appear to indicate that, even prior to the conclusion of negotiations, the adverse effects of the situation outlined in the Department's advice on Pilgrim Unit No. 1 had been, in large part, alleviated. The number of municipally-owned utilities which have become members of the New England Power Pool and which have acquired options to participate in the various New England units and this unit in particular, would tend to buttress this conclusion. In no case was the Department informed that a utility would seek to prevent the unconditioned granting of a license for these units.

IV. CONCLUSION

"The commitment of the privately-owned applicants to allowing municipally-owned utilities in New England to gain access to bulk power from the proposed power units and other large-scale generation in New England on the same basis as is available to investor-owned utilities appears to represent a significant step toward improving the competitive structure of the New England utility industry. Under these circumstances, it is our opinion that an antitrust hearing will not be necessary with respect to the applicants [sic] for the Sears Island Unit No. 1 license identified above."

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by April 14, 1976, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust & Intemnity Group, Nuclear Reactor Regulation.

[FR Doc.76-7390 Filed 3-12-76;8:45 am]

[Docket No. 50-155]

CONSUMERS POWER CO.

Request for Exemption From Requirements Concerning Emergency Core Cooling System Performance

Notice is hereby given that the Commission has received and is considering a request from Consumers Power Company for an exemption for the Big Rock Point Nuclear Power Plant from the ECCS failure criterion of 10 CFR 50.46, Appendix D, Paragraph I.D.1 as applied to the specific case of a break in either core spray line. This request is a renewal of a plant-life exemption request previously considered by the Commission in a memorandum and order issued December 31, 1975. At that time the Commission found that the information submitted by the applicant in support of the exemption request was insufficient for a final disposition. The Commission's order therefore granted a limited exemption until March 1, 1976, and required additional information from the applicant relevant to the plant-life exemption request. The limited exemption has now expired. The facility is presently shut down for refueling.

Consumers Power Company by letter dated February 27, 1976 has now renewed its request for a plant-life exemption or, in the alternative, a limited exemption until modification to achieve compliance can be made. The applicant submitted additional information in an accompanying "Report on Evaluation of Adequacy of Emergency Core Cooling System." The exemption request may be granted upon a finding pursuant to 10 CFR 50.46(a)(2)(vi) that good cause has been shown (see the Atomic Energy Commission order of August 5, 1974, CLI-74-31, RAI-74/8 213) and that there is reasonable assurance that granting the exemption will not adversely affect the health and safety of the public.

Because the above-mentioned report submitted in support of the request constitutes a significant addition to the pre-existing record, the Commission finds it appropriate to treat this application as a new exemption request upon which interested persons should have an opportunity to comment. The Commission therefore invites the submission of views and comments by interested persons concerning the alternative requests for exemption made. Such views and comments should be submitted in writing, addressed to the to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, not later than March 29, 1976. Pursuant to 10 CFR 50.46(a)(2)(vi), the Director of Nuclear Regulation shall submit his views not later than April 5, 1976.

The applicant's "Big Rock Point Plant—Report on Evaluation of Adequacy of Emergency Core Cooling System" and other documents and correspondence related to this request for exemption are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Washington, D.C. this 10th day of March 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-7392 Filed 3-12-76;8:45 am]

[Docket No. P-636-A]

FLORIDA POWER & LIGHT CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated March 2, 1976:

"You have requested our advice pursuant to the provisions of Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application.

"Florida Power & Light Company has applied for construction permits for two nuclear steam generating units of 1140 megawatts each. The Applicant has advised us that the first unit is presently scheduled for operation in 1985, with the second planned for an as yet undetermined date thereafter. When these units are operational, nuclear generation will represent approximately 30 percent of Applicant's total generating capacity; its growing importance to Applicant's future as the largest producer and supplier of electric power in Florida is quite clear.

"A description of the Applicant's electric power system, coordinating relationships, dealings with smaller systems who are its actual and potential competitors, and our conclusions based thereon was transmitted to the Atomic Energy Commission by letter of November 14, 1973, in connection with its request for our advice on Florida Power & Light's application to construct the St. Lucie Plant, Unit 2, AEC Docket No. 50-389A. In that letter, the Department noted the substantial competition among electric utilities in Florida in bulk power supply and retail distribution. Further, we described the power which Applicant's control over the high-voltage transmission network in its area gave it over neighboring smaller systems' opportunities to coordinate generation and transmission and over their access to large-scale, low-cost, base-load nuclear generation. Applicant still possesses such power. Our previous letter also set forth certain allegations of Applicant's anti-competitive conduct that had been made during the course of our antitrust review, and we discussed the then-ongoing attempts of particular small systems to obtain coordinating agreements with the Applicant, including access to nuclear generation. We raised these matters with the Applicant, as did the AEC's Regulatory Staff. Following this advice to the AEC, the Applicant entered into license conditions offering ownership in St. Lucie Unit 2 to small systems that had timely requested such access.

"Subsequent to our antitrust review of its St. Lucie Unit 2 Application, Florida Power & Light has entered into coordinating agreements with the municipal electric systems of Homestead and New Smyrna Beach. It has also committed itself to wheel power to certain systems in its area from Florida Power Corp.'s Crystal River Nuclear Plant. We note also that Applicant recently obtained a jury verdict in its favor in an antitrust action brought by the City of Gainesville, wherein at least some of the alleged anti-competitive activities raised at the time of our review of the St. Lucie Unit 2 application were litigated. While the Department, of course, does not believe that it or the Commission is estopped in the present antitrust review by that jury's findings, and it appears, in any event, that those findings were strictly limited to the issue whether a territorial agreement existed between Florida Power Corp. and the Applicant, we have nevertheless taken into account the jury's verdict.

"We have also been advised that Applicant has been negotiating with Homestead and New Smyrna Beach and with six rural electric distribution cooperatives (members of Seminole Electric Cooperative, a generation and transmission cooperative) for participation in St. Lucie Unit 2. Seminole, however, has reported encountering difficulties in

those negotiations, most significantly Florida Power & Light's insistence on dealing with the individual distribution cooperatives rather than with Seminole (which has contracted to be their power supply agent), and some question has been raised that FP&L's motives for such insistence may be anticompetitive, and not simply the reasonable desire for adequate contractual security. Also, as a result of comments made by FP&L representatives during these negotiations, Seminole has reported doubts concerning Applicant's willingness to engage in other coordinating transactions with it as its system develops.

"Further, Applicant's license conditions for St. Lucie Unit 2 required it to give smaller systems in its area timely notice of its plans to construct its next nuclear units, which are, of course, the two now applied for. Applicant gave such notice on April 1, 1975, and, as a result, received a number of responses from smaller systems expressing various degrees of interest in participation in these units. We had understood, relying upon information earlier submitted by FP&L in connection with the instant license application, that discussions were in progress to develop a participating agreement concerning this facility. Recently, however, FP&L advised us that our information was in error and that in July 1975 it had submitted corrected information to your Commission (which, according to our records, was not transmitted to us). We were surprised to learn that Applicant has neither responded to these indications of interest, nor as yet, determined what, if any, form of access to the units now applied for it is willing to make available to other, smaller electric systems. Applicant is not prepared to commit itself at this time to accept reasonable license conditions offering the opportunity for access to those smaller systems.

"In light of the various factors described above, the Department cannot state that the activities under the license now applied for will not create or maintain a situation inconsistent with the antitrust laws. We believe that the Commission may wish to consider in the light of subsequent developments, particularly regarding Applicant's ongoing negotiations with Seminole Electric Cooperative and its members for participation in St. Lucie Unit 2 and Applicant's eventual responses to indications of interest in participation in these new nuclear units, whether or not to hold an antitrust hearing on the instant application."

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and request for hearing shall be filed by April 14, 1976 either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW, Washington, DC, or (2) by mail or telegram addressed to the Secretary, US Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust & Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.76-7389 Filed 3-12-76;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. AND OGLETHORPE ELECTRIC MEMBERSHIP CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Edwin I Hatch Nuclear Plant, Unit 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications associated with the operability and surveillance requirements for the Pressure Suppression Chamber (TORUS) to Drywell Vacuum Breakers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 2, 1976, (2) Amendment No. 29 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of March, 1976.

For the Nuclear Regulatory Commission.

WALTER A. PAULSON,
Acting Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc.76-7385 Filed 3-12-76;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-59 issued to Power Authority of the State of New York and Niagara Mohawk Power Corporation which revised Technical Specifications for operation of the James A. Fitzpatrick Nuclear Power Plant, located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment revises the frequency of submittal of Environmental Monitoring Reports. The amendment is necessary in order to bring the Environmental Technical Specifications into conformance with Regulatory Guide 4.8. The 401 certificate issued by the state of New York and Facility Operating License No. DPR-59 have been reviewed and it was determined that this amendment does not conflict with conditions listed therein.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 11, 1975, and (2) Amendment No. 11 to License No. DPR-59. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego City Library, 120 East Second Street, Oswego, New York.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of March, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch 4, Division of Operating Reactors.

[FR Doc.76-7383 Filed 3-12-76;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York and the Niagara Mohawk Power Corporation which revised the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to provide for the replacement of two spring safety valves by two Target Rock combination safety relief valves in the pressure relief system, a part of the primary coolant system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) application for amendment dated March 3, 1976, (2) Amendment No. 13 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego City Library, 120 East Second Street, Oswego, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of March 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc.76-7386 Filed 3-12-76;8:45 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York and Niagara Mohawk Power Corporation which revised Technical Specifications for Operation of the James A. Fitzpatrick Nuclear Power Plant, located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment permits elimination of one of the sampling locations in the entrainment sampling program. The amendment is required due to the fact that it is both unnecessary and impossible to monitor sampling locations in the manner previously described in the Technical Specifications. The 401 certificate issued by the State of New York and Facility Operating License No. DPR-59 have been reviewed and it was determined that this amendment does not conflict with conditions listed therein.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 25, 1975, and (2) Amendment No. 12 to License No. DPR-59. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego City Library, 120 East Second Street, Oswego, New York.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of March, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch 4, Division of Operating Reactors.

[FR Doc.76-7387 Filed 3-12-76;8:45 am]

[Docket No. 50-549-A]

POWER AUTHORITY OF THE STATE OF NEW YORK

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated March 1, 1976:

"On September 4, 1975, you requested our advice pursuant to Section 105 of the Atomic Energy Act of 1954, as amended, in regard to the application by the Power Authority of the State of New York (PASNY) to construct the Greene County Nuclear Plant.

"The Greene County Nuclear Plant is scheduled to begin operation in 1983 and will have a dependable capacity of 1200 mw. The total estimated cost of the project will be over $1.1 billion. The Greene County unit is proposed to be integrated as a part of PASNY's bulk power supply system. The unit will be a significant addition to PASNY's ability to market firm capacity and to engage in coordination with neighboring power systems.

"PASNY, an agency created by state law, markets electric power throughout the State of New York, using both its own high voltage transmission lines and the facilities of privately owned utilities that serve as its wheeling agents. It sells power in bulk for resale at retail by independent distributors, which are almost exclusively nonprofit agencies such as municipalities and cooperatives. In addition PASNY serves some industrial customers, the United States Air Force Base at Plattsburgh, New York, the Public Service Board of Vermont, and Allegheny Electric Cooperative of Harrisburg, Pennsylvania. Further, the applicant engages in significant interchange and sale of power with private electric utilities located in New York.

"In 1975, PASNY's system peak load was 1159 mw. In that year, it had a system dependable capacity of 5021 mw consisting of 4200 mw of hydro capacity and 821 mw of thermal capacity integrated by an extensive high voltage transmission system. Applicant's projected annual increments of increase in load over the period 1976 to 1986 range from a low of 82 mw (1979) to a high of 432 mw (1983). PASNY's large system size assisted by its interconnections with other systems enables it to justify addition of the nuclear generating unit contemplated in the instant application.

"We have examined the information submitted by the applicant in connec-

tion with the application, as well as other pertinent information with respect to the applicant's competitive relationships. Our review of this information leads us to conclude that, so far as appears, there are no antitrust problems which would require a hearing by your Commission on the instant application."

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by April 14, 1976, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, NW., Washington, DC or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust & Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.76-7388 Filed 3-12-76;8:45 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY 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. 3 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District (the licensee) which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, Unit 1 (the facility), located in Secramento County, California. The amendment is effective as of its date of issuance. The facility is a pressurized-water reactor which was licensed on August 16, 1974, for operation at power levels not in excess of 2772 MWt. However, the Technical Specifications attached to the operating license temporarily limited operation at power levels not in excess of 2568 MWt pending confirmation of anticipated operating performance.

The amendment revises the Technical Specifications to delete the temporary limitation, thus authorizing operation of Rancho Seco, Unit 1, at the rated power of 2772 MWt. Included in this revision are revised flux/imbalance/flow limiting safety system settings and revised limiting conditions of operation related to regulating rod positioning, rod insertion limits, and core imbalance.

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. Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing relating to operation of the facility at power levels not to exceed 2772 MWt was published in the FEDERAL REGISTER on October 18, 1972 (37 F.R. 22012). Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated March 12, April 7, and May 30, 1975, (2) Amendment No. 3 to License No. DPR-54, and (3) the Commission's related Safety Evaluation and the documents referenced therein. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of March 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-7384 Filed 3-12-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; WORKING GROUP ON PLUTONIUM SHIPPING PACKAGES

Rescheduled Meeting

The meeting of the ACRS Working Group on Plutonium Shipping Packages scheduled to be held on March 16, 1976 in Chicago, IL has been rescheduled to be held on April 20, 1976 at the same location. Notice of this meeting was published at 41 FR 8000, February 23, 1976.

Persons wishing to submit written statements regarding the agenda may do so. Comments postmarked no later than April 13, 1976, to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

All other matters pertaining to the meeting remain unchanged.

Dated: March 11, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-7531 Filed 3-12-76;9:31 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON GENERAL ELECTRIC WATER REACTORS

Postponed Meeting

The meeting of the ACRS Subcommittee on General Electric Water Reactors scheduled to be held on March 25, 1976 in Washington, D.C., has been postponed indefinitely. Announcement of this meeting was made in FEDERAL REGISTER, Vol. 41, page 9937, March 8, 1976.

Dated: March 11, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-7532 Filed 3-12-76;9:31 am]

[Docket Nos. XSNM-805 and XSNM-845]

EDLOW INTERNATIONAL CO.

Preliminary Oral Hearing

In the Matter of the Application of Edlow International Company as Agent for the Government of India to Export Special Nuclear Material.

On March 2, 1976 the Nuclear Regulatory Commission received petitions from the Natural Resources Defense Council, Inc., the Sierra Club, and the Union of Concerned Scientists seeking to intervene in two license applications for the export of special nuclear material for use in the Tarapur Atomic Power Station, India.

Notice is hereby given that the Commission has scheduled a preliminary oral hearing on issues relevant to the petitions at 10:00 a.m. on Wednesday, March 17, 1976. This oral hearing, which will be open to the public, will be held in Room 1115 at the Commission's offices at 1717 H Street NW., Washington, D.C.

The petitions and related documents are available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated this 12th day of March, 1976, at Washington, D.C.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-7533 Filed 3-12-76;9:31 a.m.]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON THERMAL-HYDRAULICS, VIBRATION, AND PUMP OVERSPEED

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Thermal-Hydraulics, Vibration, and Pump Overspeed will hold a meeting on March 25, 1976 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. A commitment was made by the ACRS to the Joint Congressional Committee on Atomic Energy (JCAE), at the JCAE public hearings on March 4, 1976 that the ACRS would proceed promptly to evaluate a number of items related to reactor and radiation

safety. As a result, the Committee has established five working groups which will hold a series of meetings in the near future to carry out a preliminary review of these matters. The meeting on March 25, 1976 will be the third in this series.

The agenda for the subject meeting shall be as follows:

Thursday, March 25, 1976, 8:30 a.m., the Working Group will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered during the open session in order to formulate a Working Group report and recommendations to the full Committee.

9:00 a.m. until conclusion of business, the Working Group will meet in open session to hear presentations and hold discussions with representatives of the NRC Staff and other Government agencies, and from the nuclear industry.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Working Group members and consultants will discuss their final opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and representatives from other Government agencies and the nuclear industry matters involving proprietary information, particularly with regard to specific features of plant designs and plans related to plant security.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b) (5)) and to protect confidential, proprietary, or plant security information (5 U.S.C. 552 (b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 22, 1976, to Mr. R. Muller, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 24, 1976 to the Office of the Executive Director of the Committee (telephone 202/634–1413, Attn: Mr. R. Muller) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after March 31, 1976 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after June 25, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: March 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 76–7548 Filed 3–12–76;11:02 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON FIRE PROTECTION AND ELECTRICAL PROBLEMS, HUMAN ERRORS, AND SIMULATOR AND CONTROL ROOMS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Working Group on Fire Protection and Electrical Problems, Human Errors, and Simulator and Control Rooms will hold a meeting on March 26, 1976 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. A commitment was made by the ACRS to the Joint Congressional Committee on Atomic Energy (JCAE), at the JCAE public hearings on March 4, 1976 that the ACRS would proceed promptly to evaluate a number of items related to reactor and radiation safety. As a result, the Committee has established five working groups which will hold a series of meetings in the near future to carry out a preliminary review of these matters. The meeting on March 26, 1976 will be the fourth in this series.

The agenda for the subject meeting shall be as follows:

Friday, March 26, 1976, 8:30 a.m., the Working Group will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered during the open session in order to formulate a Working Group report and recommendations to the full Committee.

9:00 a.m. until conclusion of business, the Working Group will meet in open session to hear presentations and hold discussions with representatives of the NRC Staff and other Government agencies, and from the nuclear industry.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full committee. During this session, Working Group members and consultants will discuss their final opinions and recommendations on these matters.

In addition to these closed deliberative sessions, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring with the NRC Staff and representatives from other Government agencies and the nuclear industry matters involving proprietary information, particularly with regard to specific features of plant designs and plans related to plant security.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential, proprietary, or plant security information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 22, 1976, to Mr. J. C. McKinley, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 25, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1371, Attn: Mr. J. C. McKinley) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only be members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after April 1, 1976 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after June 28, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: March 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-7549 Filed 3-12-76;11:02 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12178; File No. CBOE-76-6]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Notice of Filing of Proposed Rule Changes

MARCH 8, 1976.

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on March 2, 1976 a proposed rule change under Rule 19b-4 to provide that its Board may withdraw approval of an underlying security if the Board, in its discretion, determines that such withdrawal is appropriate either because the underlying security does not meet the initial listing standards or for any other reason. The Board would also be given discretion relating to institution of a prohibition against opening purchase transactions in the options class covering that underlying security.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of March 15, 1976. Interested persons are invited to submit written data, views and arguments concerning the submission on or before April 14, 1976. Persons desiring to make written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-76-6.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C., Copies of the filing will also be available at the principal office of the Chicago Board Options Exchange, Incorporated.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-7290 Filed 3-12-76;8:45 am]

[Release No. 34-12178; File No. SR-CBOE-76-6]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 2, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

WITHDRAWAL OF APPROVAL OF UNDERLYING SECURITIES

Rule 5.4. *The approval of an underlying security for Exchange transactions may be withdrawn by the Board if the Board, in its discretion, determines that such withdrawal is appropriate either because the* [Whenever the Board determines, on the recommendation of the Securities Committee or otherwise that an] underlying security [previously approved for Exchange transactions] does not meet the [then current] requirements for [such] *initial* approval *pursuant to Rule 5.3 and the guidelines thereunder*, or for any other reason should no longer be approved. *In the event the Board determines to withdraw approval of an underlying security*, the Board shall instruct the Securities Committee not to open for trading any additional option contracts of the class covering that underlying security [and to prohibit any opening purchase transactions in option contracts of that class previously opened], except as the Securities Committee shall deem necessary to the maintenance of a fair and orderly market or for the protection of purchasers or writers (sellers) of options.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendments to Exchange Rule 5.4 is to (a) provide the Board of Directors with greater discretion in determining when approval for options trading should be withdrawn from underlying securities; (b) eliminate the requirement that certain restrictions be imposed when approval is withdrawn; and (c) to reflect that initial options trading approval guidelines are now contained in Exchange Rule 5.3.

The Exchange believes that it is in the public interest and for the protection of investors for it to eliminate those portions of Exchange Rule 5.4 which specify certain compulsory actions relating to withdrawal of approval of underlying securities. The Exchange believes that the mandatory and automatic nature of the present Rule does not allow the Board of Directors any ability to take into consideration what the impact may be upon the marketplace and the public investors of a determination to withdraw approval of an underlying security.

It is important, in the Exchange's view, for the Board of Directors to be able to understand and assess the reasons behind an underlying security's failure to continue to meet the guidelines established for initial approval for options trading prior to making a withdrawal decision. Therefore, before determining whether to invoke the restriction against opening additional options contracts of the class covering an underlying security, the Board should be in a position to, among other things, review the cause of the subject company's cessation of adherence to the foregoing guidelines, determine whether such oc-

currence was of an extraordinary nature or part of a discernible trend, measure the amount of divergence of the failure from the established guidelines, estimate the company's ability to return to compliance and the amount of time necessary to realize such compliance, establish, if possible, the number of investors affected by a decision to withdraw approval of the underlying security and identify the advantages and disadvantages which accrue to such affected investors and the marketplace as a result of a decision to withdraw approval of an underlying security. The above items reflect a portion of the review and decision-making process in which the Board of Directors must engage each time it undertakes to determine if it is in the public interest to withdraw approval from an underlying security.

In addition, further discretion would be extended to the Board of Directors under the amendments through the proposed elimination of the provision relating to the automatic institution of a prohibition against opening purchase transactions in a class of options previously opened. If, after undergoing the determinative process described above, the Board concluded that approval of an underlying security should be withdrawn, then the Board would be in a position to deliberate upon whether opening purchase transactions in open options classes should be prohibited. The Board has adequate power under Exchange Rule 4.16 to institute such a prohibition if it believed it was necessary to maintain fair and orderly markets or that it was in the interest of the public or for the protection of investors to do so. Therefore, the Board of Directors, whenever it withdrew approval of an underlying security, would weigh the relative benefits of precluding opening purchase transactions in a class of options previously open on a case-by-case basis instead of being governed by the present compulsory imposition of that prohibition.

The provisions of Section 6(b)(6) of the Act require, among other things, that "the rules of the Exchange [be] designed to * * * perfect the mechanism of a free and open market * * * and, in general, to protect investors and the public interest * * *." The proposed amendments to Exchange Rule 5.4, by allowing the Exchange's Board of Directors to review all relevant information in initially determining whether to withdraw approval of an underlying security, and, if such decision is made, to then determine the effects which the imposition of a certain restriction might have on the marketplace and the public, are consistent with and premised upon the requirements of the above quoted section of the Act.

Comments were not solicited, nor have comments been received from members of the Exchange or otherwise.

No burden would be imposed upon competition by virtue of the implementation of these proposed amendments.

On or before April 19, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 14, 1976.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 8, 1976.

[FR Doc.76-7291 Filed 3-12-76;8:45 am]

[Release No. 34-12176; File No. SR-PSE-76-10]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 5, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

A. *Statement of the Terms of Substance of the Proposed Rule Change.* The proposed rule change involves the adoption by the Pacific Stock Exchange Incorporated ("PSE") of a stated policy providing as follows:

RULE XIII—TRANSACTIONS OFF THE EXCHANGE

BASIC REQUIREMENT

SEC. 1. Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization (any such other person being hereinafter referred to as an affiliated person) shall effect any transaction in any listed security in the over-the-counter market, either as principal or agent.

EXCEPTION FOR AGENCY ORDER

SEC. 2. A member, member organization or affiliated person holding a customer's order for the purchase or sale of a listed stock (the Order) may execute the Order (or such portion thereof as may be so executed in accordance with this Rule) in the over-the-counter market with a third market maker or nonmember block positioner; provided such member, member organization or affiliated person assures that all public bids or offers on the specialist's book at the time of the over-the-counter execution, or, if inquiry is made of the specialist immediately prior to the over-the-counter execution, all public bids or offers on the specialist's book at the time of such inquiry, at prices which, insofar as the Order is concerned, are equal to or better than the price at which such portion of the Order is executed over-the-counter are satisfied at the price at which such portion of the Order is so executed.

REPORTS REQUIRED

SEC. 3. Each member, member organization or affiliated person which executes during any calendar week any Order or any portion thereof over-the-counter (other than in a transaction exempted under Section 4 of this Rule), shall, prior to the close of business on the last business day of the next succeeding calendar week, file a report with the Exchange listing each such over-the-counter execution. As to each such execution the price or prices thereof, whether such execution was a purchase or a sale by the member, member organization or affiliated person, the number of shares bought or sold at each such price and the name of the third market maker or nonmember block positioner with which the member, member organization or affiliated person dealt.

EXEMPTIONS

SEC. 4. The provisions of this Rule shall not apply to any of the following transactions:

(i) Any transaction which is part of a primary distribution by an issuer, or a registered or unregistered secondary distribution, effected off the Floors of the Exchange;

(ii) Any transaction made in reliance on Section 4(2) of the Securities Act of 1933;

(iii) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gift;

(iv) Any transaction pursuant to a tender offer;

(v) Any purchase or sale of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market for such securities;

(vi) Any purpose or sale of any security in which trading has been suspended by the Exchange pending review of the listing status of such security;

(vii) The acquisition of securities by a member organization as principal in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule XIV or Rule XV;

(viii) Any purchase or sale of any of the guaranteed or preferred stocks included within the listing of such stocks as may from time to time be issued by the Exchange, provided, however, that every proposed transaction in any such security by a member, member organization or affiliated person should be reviewed in light of the factors involved, including the market on the Floors of the Exchange, the price, and the size, so that whenever possible the transaction may be effected on the Floors;

(ix) Any transaction for less than one unit of trading;

(x) Any purchase or sale in any listed security on any organized exchange in any foreign country at any time;

(xi) Any purchase or sale outside of Exchange trading hours in any listed security in a foreign country over-the-counter market or in the domestic over-the-counter market with a third market maker or a nonmember block positioner;

(xii) Any purchase or sale of a listed security by a member or member organization with a professional nonmember customer (i.e., broker-dealer in securities or commodities, insurance company, investment company, investment adviser, investment manager, bank, trust company, foundation, professional trustee, or one engaged in any closely allied activity) provided the member or member organization is a market maker in the security involved; and

(xiii) Any other purchase or sale of any listed security under extraordinary or emergency conditions which receives the prior approval of the Exchange.

CERTAIN DEFINITIONS

SEC. 5. For Purposes of this Rule:

(i) The term "nonmember broker or dealer" as used in Section 1 of this Rule shall mean any broker or dealer registered in accordance with Section 15(d) of the Securities Exchange Act of 1934 (the "Act"), which is not a member of the Exchange and which acts as a "market maker" as defined in the Act, or whose gross income is derived substantially from acting as a "broker" as defined in the Act, or both;

(ii) The term "third market maker" shall mean a "market maker" as defined in Rule 15c3-1(c)(8) under the Act, who makes markets over-the-counter in listed stocks and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act. For purposes of Section 4(xii) the member registered with the Exchange as a market maker shall meet the following conditions to be entitled to the exemption: (a) To the extent that such member initiates bids or offers in the over-the-counter market in listed securities in which such member is registered with the Exchange as a market maker, he must make a good faith effort, through his floor representative or other floor broker, to make similar bids and offers on the Exchange on request by other members or their floor representatives. (b) Such member has sufficient capital to devote on a continuing basis a minimum of $5,000 to such activity for each security so registered, or $100,000, whichever is greater, up to a maximum of $250,000; and

(iii) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 17a-17 under the Act which is not a member of the Exchange.

DEFINITION OF PRICE AND PUBLIC ORDER

SEC. 6. For Purposes of this Rule:

(i) The price at which a transaction is effected, whether on the Exchange or in the over-the-counter market, shall mean the price of such transaction, exclusive of any commission, commission equivalent, differential, tax or other charge applicable thereto; and

(ii) Each limited price order entered on the specialist's book shall be considered a public bid or offer unless initiated by a member on a Floor of the Exchange for his own account or for any account in which he, his member organization, or any affiliated person of his member organiztaion has an interest.

EXCEPTION FOR SPECIALISTS

SEC. 7. Notwithstanding the provisions of Rule II, the specialist may buy for his own account on a plus or zero plus tick or sell for his own account on a minus or zero minus tick any or all of the stock which is to be sold or purchased over-the-counter pursuant to Section 2 of this Rule.

B. *Statement of Basis and Purpose.* The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule is to conform existing rules of the Pacific Stock Exchange to Securities and Exchange Commission Rule 19c-1.

Comments have not been solicited from members on the proposed rule changes described above.

No burden on competition will be imposed by the proposed rule.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number preferenced in the caption above and should be submitted on or before March 30, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 8, 1976.

[FR Doc.76-7292 Filed 3-12-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1217]

KANSAS

Declaration of Disaster Area

An area of the downtown business district, Pleasanton, Linn County, Kansas, constitutes a disaster area because of damage resulting from a fire on February 17, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 10, 1976, and for economic injury until the close of business on December 10, 1976, at:

Small Business Administration, District Office, 1150 Grand Avenue—5th Floor, Kansas City, Missouri 64106.

or other locally announced locations.

Dated: March 9, 1976.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.76-7222 Filed 3-12-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ASPARAGUS IMPORTS

Presidential Determination of No Injury

President Ford has determined that imports of fresh and processed asparagus, primarily from Mexico and Taiwan, are not entering the United States in such quantities as to substantially cause or threaten serious injury to domestic producers.

Accordingly, no import relief measures will be taken under import relief provisions (Section 203) of the Trade Act of 1974 in this case.

On January 12, 1976, the U.S. International Trade Commission (USITC), on an evenly divided 3–3 vote of its six members, reported to the President both an affirmative and a negative finding on the question of import injury to the asparagus industry, based on its investigation pursuant to a petition filed by asparagus growers in the States of California and Washington. Under section 330(d) of the Tariff Act of 1930, as amended, the President is authorized to accept as the finding of the Commission either finding in an evenly split report. In this case, the President has accepted the negative finding.

Commissioners finding in the negative with respect to injury reported to the President that "in certain areas of the country there is positive indication that asparagus production is growing and there is no evidence of serious injury. In areas where acreage of asparagus production is falling, there is evidence that growers have successfully shifted to the production of other crops or found other productive uses for their resources, and have suffered no serious injury in doing so." These Commissioners also found no injury to establishments involved in the processing of asparagus, and did not recommend adjustment assistance.

As with all USITC and other import relief procedures under the 1974 Act, the Commission's findings and recommendations in this case were reviewed through an interagency process under the direction of STR, which reported to the President for final decision recommendations based on broad national interest criteria, including others than those required to be taken into account by the Commission.

FREDERICK B. DENT,
Special Representative for Trade Negotiations.

[FR Doc.76-7362 Filed 3-12-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 202]

MOTOR CARRIER TRANSFER PROCEEDINGS

Correction

In FR Doc. 76-6846, appearing at page 10273, in the issue for Wednesday,

March 10, 1976, the headings should read as set out above, and the document number in the file line should read "FR Doc. 76-6845".

[Notice No. 999]

ASSIGNMENT OF HEARINGS

MARCH 10, 1976.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 130253 (Sub 1), Douglas Patrick Stoffers and Michael J. O'Meara, a Partnership now being assigned June 8, 1976 (3 days), at Madison, Wisconsin, in a hearing room to be later designated.

AB 1 Sub 21, Chicago and North Western Transportation Company, Abandonment Between Hortonville and Larsen Outgamie and Winnebago Counties, Wisconsin, now assigned March 16, 1976, at Appleton, Wis., is canceled and transferred to Modified Procedure.

MC 138237 (Sub 4), Metro Hauling, Inc. now being assigned June 8, 1976 (3 days), at Olympia, Washington, in a hearing room to be later designated.

MC 115654 Sub 43, Tennessee Cartage Co., Inc., now being assigned June 7, 1976 (1 day), at Memphis, Tenn., in a hearing room to be later designated.

AB 11, Chicago & Eastern Illinois Railroad Company, Abandonment Between Joppa Junction and Fayville Junction, Johnson, Pulaski and Alexander Counties, Illinois; AB 11 Sub 1, Chicago & Eastern Illinois Railroad Company, Abandonment of Opertions Between Fayville Junction and Thebes Junction, Alexander County, Illinois; and AB 11 Sub 2, Chicago & Eastern Illinois Railroad Company, Abandonment of Operations between Rockview and Chaffee, Scott County, Missouri, now being assigned June 3, 1976 (2 days), at Cairo, Illinois, in a hearing room to be later designated.

MC 61592 Sub 375, Jenkins Truck Line, Inc., and MC 120737 Sub 32, Star Delivery & Transfer, Inc., now being assigned June 8, 1976 (2 days), at Memphis, Tenn., in a hearing room to be later designated. MC-C 8828, Red Ball Motor Freight, Inc. V. Transcon, Lines, now being assigned June 10, 1976 (2 days), at Memphis, Tenn., in a hearing room to be later designated.

FF 84 (Sub-No. 1), C. S. Greene and Company, Inc., and FF 434 (Sub-No. 1), Transconex, Inc., now being assigned for continued hearing on May 17, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105813 (Sub-No. 206), Belford Trucking Co., Inc., now assigned March 15, 1976, at New York City, N.Y., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7356 Filed 3-12-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 10, 1976.

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 1100.40) and filed on or before March 30, 1976.

FSA No. 43135—*Newsprint Paper, also Returned Shipments of Newsprint Paper Winding Cores from and to Points in Southwestern Territory.* Filed by Southwestern Freight Bureau, Agent (No. B-587), for interested rail carriers. Rates on newsprint paper, also returned shipments of newsprint paper winding cores, in carloads, as described in the application, from Sheldon, Texas, to points in Kansas and Missouri.

Grounds for relief—Carrier competition and rate relationship.

Tariff—Supplement 59 to Southwestern Freight Bureau, Agent, tariff 306-F, I.C.C. No. 5104. Rates are published to become effective on April 7, 1976.

FSA No. 43136—*Beet or Cane Sugar from Boston, Massachusetts.* Filed by Traffic Executive Association-Eastern Railroads, Agent (E.R. No. 3049), for interested rail carriers. Rates on sugar, beet or cane, other than raw, dry, in bulk, in carloads, as described in the application, from Boston, Massachusetts, and points grouped therewith, to Chicago, Illinois, and points grouped therewith.

Grounds for relief—Market competition.

Tariff—Supplement 14 to Traffic Executive Association—Eastern Railroads, Agent, tariff 730-C, I.C.C. No. C-1065. Rates are published to become effective on April 10, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7352 Filed 3-12-76;8:45 am]

[Notice No. 203]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MARCH 12, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 1, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76233. By order of March 8, 1976, the Motor Carrier Board approved the transfer to Lee Line, Inc., Red Wing, Minnesota, of Certificate No. MC-136901, issued August 30, 1973, to Stanley E. Skaggs, Doing Business As S & A Lines, Savage, Minnesota, authorizing the transportation of passengers and their baggage in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Anoka, Carver, Dakota, Hennepin, Le Sueur, McLeod, Ramsey, Scott, and Waseca Counties, Minn., and extending to points in Colorado, Idaho, Maine, Montana, New Mexico, Tennessee, and Texas. Val M. Higgins, 100 First National Bank Building, Minneapolis, Minn. 55402, Attorney for Transferee. Michael E. Murphy, 4247 Linden Hills Blvd., Minneapolis, Minn. 55410, Attorney for Transferor.

No. MC-FC-76246. By order of March 8, 1976, the Motor Carrier Board approved the transfer to Shaker Express, Inc., doing business as Shaker Express Delivery Service, San Diego, California, of Certificates No. MC-98874 (Sub-No. 1) and MC-98874 (Sub-No. 2), issued September 5, 1957, and October 6, 1960, respectively, to Edward T. Molitor, doing business as Standard Truck Line, San Diego, California, authorizing the transportation of general commodities, subject to normal restrictions, between Los Angeles and San Diego, California, restricted to shipments having an immediately prior or subsequent movement by air. Lester Robert Davis, 1010 Second Avenue, Suite 1625, San Diego, California 92101, Attorney for applicants.

No. MC-FC-76412. By order entered March 8, 1976, the Motor Carrier Board approved the transfer to Tri-County Farmers Elv., Inc., Walnut, Iowa, of the operating rights set forth in Certificate No. MC-91683, issued January 27, 1966, to James E. Suhr and Charles R. Suhr, a partnership, doing business as Suhr Brothers, Walnut, Iowa, authorizing the transportation of feed, petroleum products in containers, agricultural implements, and parts, lumber, building materials, fencing materials, and roofing, over specified routes, from Omaha, Nebr., to Walnut, Iowa, serving the intermediate and off-route points within 15 miles of Walnut, and return. Charles R. Suhr, Box 313, Walnut, Iowa 51577, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7354 Filed 3-12-76;8:45 am]

[Notice No. 204]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MARCH 15, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 5, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75866. By order of March 8, 1976, the Motor Carrier Board approved the transfer to Orchards Truck and Auto Towing, Inc., Vancouver, Wash., of the operating rights in Certificate No. MC-94899, issued September 8, 1971, to Gene P. Watson, doing business as Orchards and Truck and Auto Towing, Vancouver, Wash., authorizing the transportation of disabled motor vehicles, in driveaway or tow-away service, between points in Oregon and Washington. Brian H. Wolfe, P.O. Box 388, Vancouver, Wash. 98660, Attorney for applicants.

No. MC-66772, issued August 18, 1949, to March 9, 1976, the Motor Carrier Board approved the transfer to Park Plaza Movers, Inc., New York, N.Y., of the operating rights set forth in Certificate No. MC-66772, issued August 18, 1949, to Anthony Catalano (Alice Catalano, Executrix), doing business as Park Plaza Movers, New York, N.Y., authorizing the transportation of household goods, between New York, N.Y., on the one hand, and, on the other, points in New Jersey, New York, and Connecticut; and baggage between New York, N.Y., on the one hand, and, on the other, points in New Jersey, New York, and Connecticut within 50 miles of Columbus Circle, New York, N.Y. Harold Sacks, 19 West 44th St., New York City, N.Y. 10036, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-7355 Filed 3-12-76;8:45 am]

[Notice No. 28]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 10, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall ge governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

No. MC 19201 (Sub-No. 123TA), filed February 27, 1976. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th St., and Parkside Ave., Philadelphia, Pa. 19131. Applicant's representative: Robert H. Griswold, 100 Pine St., P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission and motor vehicles when transported in special equipment), between Midland, Mich., and Detroit, Mich., restricted to traffic having a prior or subsequent movement by rail or water, applicant intends to interline at Detroit, Mich., with rail or water carriers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Chemical U.S.A., 690 Bldg., Midland, Mich. 48640. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 19945 (Sub-No. 55TA), filed March 3, 1976. Applicant: BEHNKEN TRUCK SERVICE, INC., Route #13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump vehicles, from the plantsite of Sandoval Zinc Co., at or near Sandoval, Ill., to the plantsite of Frit Industries, Inc., at or near Walnut Ridge, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carl Schauble, Vice President, Frit Industries, Inc., P.O. Box 1324, Ozark, Ala. 36360. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 51146 (Sub-No. 459TA), filed February 19, 1976. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company at Siloam Springs, Ark., to points in Wisconsin, Illinois, Missouri, Iowa, and Nebraska; and return of refuse or rejected shipments, for 180 days. Supporting shipper: La-Z-Boy Chair Company, 1284 N. Telegraph Road, Monroe, Mich. 48161. (Thomas J. Zimmerman) Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis.

No. MC 56244 (Sub-No. 45TA), filed February 23, 1976. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, Pa. 17324. Applicant's representative: John M. Musselman, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, chain grocery and food business houses (except commodities in bulk and frozen foods), from the facilities of Knouse Foods, Inc., located in Adams County, Pa., to points in Ohio, New York, N.Y., Baltimore, Md., and points in that part of West Virginia on and north of U.S. Highway 50, restricted to the transportation of shipments originated at the above-named facilities and destined to the above-described destinations, for 180 days. Supporting shipper: Knouse Foods, Inc., Peach Glen, Pa. 17306. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 73276 (Sub-No. 2TA), filed March 1, 1976. Applicant: FRED J. ADRIAN, 201 Main, Everly, Iowa 51338. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, in bulk, from the plantsite of Swift Agricultural Chemicals Corp., located at or near Estherville, Iowa, to points in Minnesota, Nebraska, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Agricultural Chemi-

cals Corp., E. C. Ross, Transportation Manager, 111 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 82063 (Sub-No. 65TA), filed February 25, 1976. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cleaning, scouring or washing compounds*, in bulk, in tank vehicles, from the plantsite of The Procter & Gamble Company, Kansas City, Kans., to Fort Madison, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Procter & Gamble Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 94068 (Sub-No. 5TA), filed February 25, 1976. Applicant: H. POM-ARLEAU, doing business as POM-AR-LEAU TRANSFER, P.O. Box 1255, Wenatchee, Wash. 98801. Applicant's representative: H. Pom-Arleau (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transorting: *Lumber*, from points in Chelan, Okanogan, Yakima and Lincoln Counties, Wash., to points in Multnomah County, Oreg., for 180 days. Supporting shipper: R. S. Stauff Forest Products, Inc., 2041 S.W. 58th Ave., Portland, Oreg. 97221. Send protests to: I. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 99780 (Sub-No. 53TA), filed February 27, 1976. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 N.E. Bond St., 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 and retail grocers, from the storage facilities of Crooks Terminal Warehouses, Inc., located in the Chicago, Commercial Zone in Illinois, to points in Illinois, restricted to traffic originating and destined to the above-named points, for 180 days. Supporting shipper: Crooks Terminal Warehouses, Inc., Lester G. Brown, Sales Manager, 9441 W. Fullerton Ave., Franklin Park, Ill. 60131. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 102567 (Sub-No. 118TA), filed February 19, 1976. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Box 5357, Bossier City, La. 71010. Applicant's representative: Charles L. Taylor, Jr., 2040 N. Loop West, Suite 208, Houston, Tex. 77018. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Ethylene*, in bulk, in tank vehicles from Odessa, Tex., to Magnolia, Ark., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Chemical U.S.A. Eastern Division, Louis A. Stock, Traffic Manager, P.O. Box 36000, Strongsville, Ohio 44136. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 107295 (Sub-No. 803TA), filed February 24, 1976. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, frames, and door and frame parts and hardware*, from Richmond, Ind., to points in Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. E. Imperial, Vice President & General Manager, Johnson Metal Products, 633 South H St., Richmond, Ind. 47374. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 108207 (Sub-No. 433TA), filed March 3, 1976. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, from Ames, Iowa, to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Carriage House Meat & Provisions, Box 711, Ames, Iowa 50010. Burke Marketing Corporation, 906 S. Duff, Ames, Iowa 50010. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 110525 (Sub-No. 1148TA), filed February 26, 1976. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Buffalo, N.Y., to ports of entry between the United States and Canada, located on the Niagara River for furtherance in foreign commerce, for 180 days. Supporting shipper: Huron Cement, Division of National Gypsum Company, 17515 West Nine Mile Road, Southfield, Mich. 48075. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 613TA), filed February 27, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hanoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Video tapes, video heads, and related repair parts and supplies*, on behalf of NET Television, Inc., between points in New York, Rhode Island, Ohio, Florida, Tennessee, Mississippi, New Mexico, Arizona, Nebraska, Wisconsin, Iowa, Illinois, Minnesota, Oklahoma, Montana, Michigan, Indiana, Missouri, Colorado, Kansas, Nevada, California, Georgia, Wyoming, North Carolina, Pennsylvania, West Virginia, Texas, Louisiana, Arkansas, Alabama, Virginia, South Carolina, Washington, Washington, D.C., Oregon, Maryland, Massachusetts, Maine, Connecticut, Utah, Idaho, Kentucky, North Dakota, South Dakota, New Hampshire, and Vermont, and between any one of these named points and airports serving same, restricted against the transportation of packages or articles weighing in excess of 100 pounds in the aggregate, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: NET Television, Inc., 2715 Packard Road, Ann Arbor, Mich. 48104. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113666 (Sub-No. 101TA), filed February 23, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc and lead*, from ports of entry on the International Boundary line between the United States and Canada located at Maine, Vermont, New Hampshire, New York, Michigan Minnesota, to points in California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and (2) *Materials and supplies*, used in the production and installation of zinc and lead (except liquid commodities in bulk), and copper scrap, from points in Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York, Ohio, Pennsylvania,

Tennessee, Texas, Virginia, West Virginia and Wisconsin, to ports of entry located on the International Boundary line between the United States and Canada, located at Maine, New Hampshire, Vermont, New York, Michigan and Minnesota, restricted against the transportation of commodities in hopper-type vehicles, for 180 days. Supporting shipper: Noranda Sales Corporation, Ltd., Transportation Services Dept., P.O. Box 45, Commerce Court West, Toronto, Ontario, Canada M5L 1B6. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 114045 (Sub-No. 429TA), filed February 24, 1976. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas/Fort Worth Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diagnostic drugs and chemicals and medical supplies* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Winchester, Va., to Salt Lake City, Utah; Denver, Colo.; Phoenix, Ariz.; Seattle, Wash.; and points in California and Texas, for 180 days. Supporting shipper: J. T. Baker Chemical Company, 3085 Shawnee Drive, Winchester, Va. 22601. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 115491 (Sub-No. 130TA), filed February 23, 1976. Applicant: COMMERCIAL CARRIER CORPORATION, P.O. Drawer 67, Auburndale, Fla. 33823. Applicant representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in tank or dump type vehicles, from Plant City, Fla., to Tampa, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Edgar Plastic Kaolin, Route 5, Box 45 A, Plant City, Fla. 33556. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 N. W. 53 Terrace, Miami, Fla. 33166.

No. MC 116514 (Sub-No. 35TA), filed March 2, 1976. Applicant: EDWARDS TRUCKING, INC., P.O. 428, Hemingway, S.C. 29554. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk), *and premium merchandise and sales kits*, when moving therewith, from the facilities of Tupperware Company Division of Dart Industries, Inc., at North Smithfield, R.I., and Halls, Tenn., to the facilities of Tupperware Company Division of Dart Industries, Inc., at or near Hemingway, S.C.; and between the facilities of Tupperware Company Division of Dart Industries, Inc., at or near Hemingway, S.C., on the one hand, and, on the other, Florence, Georgetown and Andrews, S.C.; and from the facilities of Tupperware Company Division of Dart Industries, Inc., at Hemingway, S.C., to points in West Virginia, Virginia, North Carolina, Georgia, Alabama and Florida, restricted to traffic moving between points in the second territorial description above is restricted to the transportation of shipments having a prior or subsequent movement by rail, for 180 days. Supporting shipper: Tupperware Company, Division of Dart Industries, Inc., P.O. Box 751, Woonsocket, R.I. 02895. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 117068 (Sub-No. 61TA), filed February 26, 1976. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Allen I. Koenig, P.O. Box 6418, Rochester, Minn. 55901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seat cabs*, from Menomonee Falls, Wis., to East Moline, Libertyville and Montgomery, Ill.; Memphis, Tenn.; Romeo, Mich.; Lexington, Ky.; Dubuque, Iowa; and Wakeforest, N.C., for 180 days. Supporting shipper: Stolpher Industries, Inc., 9073 Stolpher Drive, Menomonee Falls, Wis. 53051. 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 118039 (Sub-No. 27TA), filed February 27, 1976. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner St., S.W., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the plantsite of Pearl Brewing Company, at San Antonio, Tex., to points in Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Northeast Sales Dist., Inc., 5 Dairy Pak Rd., P.O. Box 1463, Athens, Ga. 30601. Bill Laite Distributing Co., 1820 Seventh St., Macon, Ga. 31206. Alko Distributors, Inc., 515 West Hull St., Savannah, Ga. 31401. Allstate Beer, Inc., 2060 DeFoor Hills Rd., N.W., Atlanta, Ga. 30318. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 118535 (Sub-No. 75TA), filed February 23, 1976. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wiburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Potash, potash products, and potash by-products*, from points in Lea and Eddy Counties, N. Mex., to points in Indiana, Kentucky, Michigan, North Carolina, and Ohio; and (2) *Potash, potash products, and potash by-products* (except in bulk), from points in Lea and Eddy Counties, N. Mex., to points in Mississippi and Tennessee, for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Mineral and Chemical Corporation, IMC Plaza, Libertyville, Ill. 60048. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 118989 (Sub-No. 134TA), filed February 23, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from the plant and warehouse sites of Continental Can Company, at Sharonville, Ohio, to Indianapolis, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Can Company, 150 S. Wacker Drive, Chicago, Ill. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 118989 (Sub-No. 135TA), filed February 23, 1976. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from the warehouse site of National Can Corporation, at Sharonville, Ohio, to LaCrosse, Wis., and Evansville, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: G. Heileman Brewing Co., Inc., LaCrosse, Wis.; National Can Corporation, 8101 W. Higgins Road, Chicago, Ill. 60631. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 119489 (Sub-No. 43TA), filed March 1, 1976. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 249, 2500 North 13th St., Norfolk, Nebr. 68701. Applicant's representative: A. J. Sindelar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse offal*, in end dump vehicles, from Gering, Nebr., to

Ogden, Utah, for 180 days. Supporting shipper: Thomas B. Weihe, General Manager, Norfolk Rendering Works, Box 1144, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 134599 (Sub-No. 138TA), (Correction), filed January 29, 1976, published in the FEDERAL REGISTER issue of February 25, 1976, republished as corrected this issue. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet Cushion, and materials, and supplies*, used in the manufacture of carpet cushion (except commodities in bulk or which because of size or weight require special handling or special equipment), between Dyersburg, Tenn., on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, (except the East St. Louis, Ill., Commercial Zone), Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, (except the St. Louis, Missouri, Commercial Zone), Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, Wyoming, and the District of Columbia, under contract with Dayco Corporation, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dayco Corporation, P.O. Box 278, Dayton, Ohio 45401, (E. R. Knobel, Director, Traffic and Transportation). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 135446 (Sub-No. 1TA), filed February 26, 1976. Applicant: LINCOLN LAND MOVING & STORAGE, INC., One Lincoln Land Way, Champaign, Ill. 61820. Applicant's representative: Joseph W. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized, said operations are restricted to the performance of pick-up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Champaign, Christian, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Kankakee, Livingston, Logan, Macon, Marshall, Mason, McLean, Menard, Moultrie, Peoria, Piatt, Sangamon, Shelby, Stark, Tazewell, Vermilion, and Woodford Counties, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Department of Defense, Regulatory Law Office, Dellon E. Coker, Chief, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: Patricia A. Roscoe, Transportation, Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 135797 (Sub-No. 49TA), filed February 23, 1976. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: L. C. Cypert, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods*, dry (except in bulk), from the plant and warehouse of or used by Sunshine Mills, Inc., at Red Bay, Ala., and Tupelo, Miss., to points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Sunshine Mills, Inc., P.O. Drawer S, Red Bay, Ala. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-7353 Filed 3-12-76;8:45 am]