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highlights

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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reminders

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

Rules Going Into Effect Saturday, July 1, 1978

USDA/AMS—Potato research and promotion plan; expenses and rate of assessment 23557; 5-31-78

USDA/FNS—Food Stamp Program; maximum monthly allowable income standards and basis of coupon issuance 21298; 5-16-78

Food Stamp Program; maximum monthly allowable income standards and basis of coupon issuance; 48 States and District of Columbia; Alaska; Hawaii; Puerto Rico; Virgin Islands; Guam (6 documents) 21304-11; 5-16-78

Commerce/ITA—Revision of copper set-aside percentages and rate period 24308; 6-5-78

DOD/Navy—Miscellaneous amendments to Chapter XXI of the Manual of the Judge Advocate General, and to update Part 751 ..... 25425; 6-13-78

DOE/ERA—Petroleum price regulations for resellers and retailers selling blends of covered and non-petroleum-based products .. 24265; 6-5-78

EPA—Portable air compressors; noise emission standards 2162; 1-14-76

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PRC—Filing of periodic reports by the United States Postal Service; Order modifying rules establishing periodic data reporting system 24832; 6-8-78

SEC—Deregistration of certain investment companies and quarterly reports of management investment companies 21664; 5-19-78

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DOT/NHTSA—Multistage vehicles; certification ..... 9604; 3-9-78—12014; 3-23-78

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DOE—Performance standards for demonstrations 23498; 5-30-78

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Notification of registrant; drug establishment registration number and drug listing number 24008; 6-2-78

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last listing: June 29, 1978]

Table of Effective Dates and Time Periods—July 1978

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
July 3	July 18	August 2	August 17	September 1	October 2
July 5	July 20	August 4	August 21	September 5	October 3
July 6	July 21	August 7	August 21	September 5	October 4
July 7	July 24	August 7	August 21	September 5	October 5
July 10	July 25	August 9	August 24	September 8	October 10
July 11	July 26	August 10	August 25	September 11	October 10
July 12	July 27	August 11	August 28	September 11	October 10
July 13	July 28	August 14	August 28	September 11	October 11
July 14	July 31	August 14	August 28	September 12	October 12
July 17	August 1	August 16	August 31	September 15	October 16
July 18	August 2	August 17	September 1	September 18	October 16
July 19	August 3	August 18	September 5	September 18	October 17
July 20	August 4	August 21	September 5	September 18	October 18
July 21	August 7	August 21	September 5	September 19	October 19
July 24	August 8	August 23	September 7	September 22	October 23
July 25	August 9	August 24	September 8	September 25	October 23
July 26	August 10	August 25	September 11	September 25	October 24
July 27	August 11	August 28	September 11	September 25	October 25
July 28	August 14	August 28	September 11	September 26	October 26
July 31	August 15	August 30	September 14	September 29	October 30

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration

EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department
SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board

NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
7 Parts:	
1120-1199	4.00
1000-end	3.00

CFR Unit (Rev. as of April 1, 1977):

17	$6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75
20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00
21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
22	4.50
23	5.50
24 Parts:	
0-499	5.00
500-end	5.25
25	4.50
26 Parts:	
1 (§§ 1.0-1.169)	4.75
1 (§§ 1.170-1.300)	4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
1 (§§ 1.851-1.1200)	5.25
1 (§§ 1.1201-end)	6.75
2-29	4.50
30-39	4.35
40-299	4.50
300-499	4.35
600-end	2.40
27	7.00

CFR Unit (Rev. as of July 1, 1977):

28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/28/77)	5.00
10-17	4.25
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101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	4.75
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	8.75
1300-end	4.25
50	5.50

[6110-01]

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 302—BYLAWS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Avoidance of Conflicts of Interest

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: At its 17th Plenary Session, June 8-9, 1978, the Assembly of the Conference adopted a new bylaw governing avoidance of conflicts of interest by members of the Conference in their consideration of matters before the Conference. The bylaw conforms the requirements applicable to non-Government members of the Conference to those requirements of law otherwise applicable to special Government employees and authorizes the Chairman of the Conference to require statements of employment and financial interest of such members. The bylaw also provides for the filing by all Conference members of general statements, available to the public, describing the member's practice or affiliations. Finally, the bylaw exercises the Conference's authority under 18 U.S.C. 208(b) to exempt certain financial interests of members as grounds for disqualifying the members from participating in the consideration of matters before the Conference.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, 202-254-7065.

SUPPLEMENTARY INFORMATION: As a rule of agency organization and

procedure, this bylaw is not subject to the requirements of 5 U.S.C. 553 for notice of proposed rulemaking and opportunity for public comment, and no such notice and opportunity for comment was given. After consultation with the Civil Service Commission, the bylaw was submitted to the membership 30 days in advance of the plenary session in accordance with former section 5 (redesignated 6) of the bylaws, 1 CFR 302.5 (redesignated § 302.6).

1. The table of contents to part 302 of Title 1, Chapter III, CFR, is amended to read as follows:

Sec.
302.1 Establishment and objective.
302.2 Membership.
302.3 Committees.
302.4 Liaison arrangements.
302.5 Avoidance of conflicts of interest.
302.6 General.

2. Section 302.5 of Title 1, Chapter III, CFR is redesignated § 302.6, and a new § 302.5 is added, reading as follows:

§ 302.5 Avoidance of conflicts of interest.

(a) *Disclosure of Interests.* (1) Non-Government members may be deemed to be special Government employees within the meaning of 18 U.S.C. 202 and subject to the provisions of sections 201-224 of title 18 U.S.C., in accordance with their terms. The Chairman of the Conference is authorized to prescribe requirements for the filing of statements of employment and financial interests necessary to comply with part III of Executive Order 11222, as amended, or any successor Presidential or statutory requirement. Without conceding the correctness of the view that non-Government members are special Government employees, the Conference has chosen to adopt the bylaw provisions that follow in order to eliminate whatever uncertainties might otherwise exist concerning the propriety of participation in Conference proceedings.

(2) In addition to complying with any requirement prescribed by statute or Executive order, each member, public or governmental, shall, upon appointment to the Conference and annually thereafter, file a brief general statement describing the nature of his or her practice or affiliations, including, in the case of a member of a partnership, a general statement about the nature of the business or practice of the partnership, to the extent that such business, practice, or affiliations might reasonably be thought to affect the member's judgment on matters with which the Conference is concerned. (For example, a member might state that he or she represents employers or unions before the National Labor Relations Board, broadcasters before the Federal Communications Commission, or consumer groups before agencies and courts.) The chairman will include with the agenda for each plenary session a statement calling to the attention of the members the requirements of this section. Each member who believes the content of the agenda calls for disclosure additional to that already on file will file an amended statement concerning his or her interests. Current statements of all members will be open to public inspection at the Office of the Chairman and will be readily available at any plenary session. Except as provided in paragraph (b) of this section, members may vote or participate in matters before the conference without additional disclosure of interest.

(b) *Disqualifications.* (1) In accordance with 18 U.S.C. section 208 a member shall not, except as provided in paragraphs (b) (2) or (3) of this section, vote or otherwise participate as a member in the disposition of any particular matter of Conference business, including the adoption of recommendations and other statements, in which, to his or her knowledge, the member has a financial interest. For purposes of this paragraph (b) a member is deemed to have a financial interest in any particular matter in which the member, the member's spouse, minor child, partner, organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Notwithstanding paragraph (b)(1) of this section, a member may, at any stage of Conference consideration and without further disclosure, participate and vote on a proposed recommendation or other Conference statement or action relating to the procedure of any Federal agency or agencies, where the Conference action is not directed to and is unlikely to affect the substantive outcome of any pending judicial matter or administrative proceeding involving a specific party or parties (other than the United States) in which to his knowledge he has a financial interest. The Conference determines pursuant to 18 U.S.C. section 208(b) that in such a case any financial interest which the member may have in the matter before the conference is too remote to affect the integrity of the member's service to the Conference.

(3) Where a member believes that he or she is or may be disqualified from participating in the disposition of a matter before the Conference under the provisions of this subsection, the member may advise the Chairman of the reason for his or her possible disqualification, including a full disclosure of the financial interest involved. If the Chairman determines in writing pursuant to 18 U.S.C. section 208(b) that the interst is not so substantial as to be likely to affect the integrity of the member's service to the Conference, the member may, upon receipt of such determination, vote and otherwise participate in the disposition of the matter.

§ 302.6 [Redesignated from § 302.5]

RICHARD K. BERG,
Executive Secretary.

JUNE 28, 1978.

[FR Doc. 78-18382 Filed 6-30-78; 8:45 am]

[6110-01]

PART 303—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Employee Responsibilities and Conduct

AGENCY: Administrative Conference of the United States.

ACTION: Final rule.

SUMMARY: This rule prescribes standards of ethical conduct for Administrative Conference employees, special Government employees and non-Government members of the Conference. The rule is issued pursuant to Executive Order 11222 of May 8, 1965, and the regulations of the Civil Service Commission, 5 CFR part 735, and it adopts, with certain modifications, the basic provisions of the Civil Service Commission regulations.

EFFECTIVE DATE: June 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, 202-254-7065.

SUPPLEMENTARY INFORMATION: As a rule of agency organization and procedure, this rule is not subject to the requirements of 5 U.S.C. 553 for notice of proposed rulemaking and opportunity for public comment, and no such notice and opportunity for comment was given. The rule was submitted to the Civil Service Commission for approval pursuant to 5 CFR 735.104 and was approved by the Commission on June 23, 1978.

Chapter III of title 1, Code of Federal Regulations, is amended to add a new part 303, reading as follows:

Sec.
303.101 Adoption of regulations.
303.102 Definitions.
303.103 Review of statements of employment and financial interests.
303.104 Disciplinary and other remedial action.
303.105 Gifts, entertainment, and favors.
303.106 Outside employment and other activity.
303.107 Specific provisions of agency regulations governing special Government employees.

Sec.
303.108 Statements of employment and financial interest.
303.109 Statements of employment of special Government employees.

AUTHORITY: Secs. 303.101 to 303.109 issued under E.O. 11222, 30 FR 6469, 3 CFR 1965 Supp.; 5 CFR 735.101 et seq.

§ 303.101 Adoption of regulations.

Pursuant to 5 CFR 735.104(f), the Administrative Conference of the United States hereby adopts the following sections of Part 735 of Title 5, Code of Federal Regulations: 735.101, 735.102, 735.201(a), 735.202 (a), (d), (e), (f), 735.203-735.210, 735.302, 735.303(a), 735.304, 735.305(a), 735.306, 735.403(a), 735.404-735.411, 735.412 (b) and (d). These adopted sections are modified and supplemented as set forth in this part.

§ 303.102 Definitions.

In this part:

(a) "Agency" means the Administrative Conference of the United States.

(b) "Employee" means an employee of the agency, but does not include a special Government employee.

(c) "Executive Order" means Executive Order 11222 of May 8, 1965.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means a "special Government employee" as defined in section 202 of Title 18, United States Code, who is employed by the Administrative Conference, and shall include non-Government members of the Conference except where otherwise provided.[1]

§ 303.103 Review of statements of employment and financial interests.

Each statement of employment and financial interest submitted under this part shall be reviewed by the Chairman, or, in the case of statements submitted by special Government employees, by the Executive Director. When this review indicates a conflict between the interests of an employee or special Government employee of the agency and the performance of his services for the Government, the reviewing official shall have the indicated conflict brought to the attention of the employee or special Government employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict.

§ 303.104 Disciplinary and other remedial action.

An employee or special Government employee of the agency who violates any of the regulations in this part or adopted under § 303.101 may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interest may include but is not limited to:

(a) Changes in assigned duties;

(b) Divestment by the employee or special Government employee of his conflicting interest; or

(c) Disqualification for a particular assignment.

§ 303.105 Gifts, entertainment, and favors.

The agency authorizes the exceptions to 5 CFR 735.202(a) set forth in 5 CFR 735.202(b) (1)-(4).

§ 303.106 Outside employment and other activity.

An employee of the agency may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his Government employment. An employee who engages in outside employment shall report that fact in writing to his supervisor.

§ 303.107 Specific provisions of agency regulations governing special Government employees.

(a) Special Government employees of the agency shall adhere to the standards of conduct set forth in 5 CFR 735.302-735.306 and adopted under sec. 303.101.

(b) Special Government employees of the agency may teach, lecture, or write in a manner not inconsistent with 5 CFR 735.203(c).

(c) Pursuant to 5 CFR 735.305(b), the agency authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are authorized for employees by § 303.105.

(d) Procedures for the avoidance of conflicts of interest by members of the Conference in the consideration of matters before the Conference are set forth in section 5 of the Conference bylaws, § 302.5 of this chapter.

§ 303.108 Statements of employment and financial interest.

(a) Employees in the following named positions shall submit statements of employment and financial interest, including supplementary statements, as required by 5 CFR 735.405 and 735.406:

(1) Executive Director.
(2) Executive Secretary.
(3) Research Director.

(b) Each statement of employment and financial interest required by this section shall be submitted to the Chairman of the Administrative Conference of the United States.

(c) Pursuant to the authority contained in 18 U.S.C. 208(b) and 5 CFR 735.404a, the following categories of financial interest are determined to be too remote or too inconsequential to affect the integrity of an employee's services in any matter in which he may act in his governmental capacity, and need not be reported under this section:

(1) Any holding in a widely held mutual fund or regulated investment company.

(2) Ownership of bonds other than corporate bonds.

(3) Any deposit account in a federally insured bank, savings and loan association, or credit union.

(4) Any life or other insurance policy.

§ 303.109 Statements of employment of special Government employees.

(a) Each special Government employee, other than a non-Government member of the Conference, shall at the time of his employment submit a statement of all other employment and of such other financial information, as described in section 306 of the Executive order, as the Executive Director determines is relevant in the light of the duties the employee is to perform: *Provided*, That financial interests listed in § 303.108(c) need not be reported. The statement shall be kept current throughout the period of the employee's service.

(b) Each non-Government member of the Administrative Conference shall submit a statement of all other employment upon appointment to the Conference. A statement of other financial information as described in section 306 of the Executive order, shall not be required, unless the Chairman determines that such additional information is relevant in the light of the duties the member is to perform. Statements filed by non-Government members shall be reviewed by the Chairman who shall take appropriate action to resolve any indicated conflict statements of financial interests. Statements shall be kept current throughout the period of the member's service. The provisions of §§ 303.103 and 303.104 of this regulation are not applicable to non-Government members of the Conference.

ROBERT A. ANTHONY,
Chairman.

JUNE 27, 1978.

[FR Doc. 78-18383 Filed 6-30-78; 8:45 am]

[1] The Department of Justice has concluded that non-Government members of the Conference are special Government employees, as defined in 18 U.S.C. 202. Without conceding the correctness of this view and in the interest of eliminating uncertainties, the Conference, in its bylaws and regulations, treats non-Government members as special Government employees. See § 302.5 of this chapter.

[3410-02]

Title 7—Agriculture

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

[Peach Reg. 1, Amdt. 3]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the minimum size requirement for Georgia peaches from 1⅞ inches in diameter to 2 inches. Such action is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: July 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Industry Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on June 28, 1978, to consider crop and market conditions and other factors affecting the need for further amending the current amended regulation, and recommended increasing the minimum size requirement for peaches from 1⅞ inches in diameter to 2 inches for the balance of the season. The committee reports that abundant supplies of peaches 2 inches in diameter or larger are available in the major markets this season from Georgia and other producing areas, and as a result peaches smaller than 2 inches in diameter are not selling well in these markets. Under current requirements peaches in bulk smaller than 2 inches in diameter could continue to be sold in adjacent markets or in Georgia.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

Paragraph (a)(3) in § 918.320 Peach Regulation 1 (43 FR 18642; 20476; 22171), is hereby amended to read:

§ 918.320 Peach Regulation 1.

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

* * * * *

(3) During the period July 4 through August 31, 1978, are smaller than 2 inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 2 inches in diameter.

* * * * *

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

Dated June 29, 1978, to become effective July 4, 1978.

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

[FR Doc. 78-18503 Filed 6-30-78; 8:45]

[3410-02]

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of not more than $46,540 and establishes a rate of assessment of twenty-six hundredths ($0.0026) cent per hundredweight of potatoes for the functioning of the Idaho-Eastern Oregon Potato Committee. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATES: Effective June 1, 1978, through May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 945, as amended (7 CFR Part 945), regulating the handling of Irish potatoes grown in designated counties in Idaho and in Malheur County, Oreg., effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

The regulation is as follows:

§ 945.231 Expenses, rate of assessment, and carryover of unexpended funds.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending May 31, 1979, by the Idaho-Eastern Oregon Potato Committee for its maintenance and functioning and for such other purposes as the Secretary determines to be appropriate will amount to not more than $46,540.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.0026 per hundredweight, or equivalent quantity, of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 945.44(b).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

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

Dated: June 28, 1978.

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

[FR Doc. 78-18359 Filed 6-30-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Additional Functions of Executive Director for Operations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its statement of organization to delegate to the Executive Director for Operations (EDO) additional functions for dealing with petitions for rulemaking. One delegation authorizes the EDO to deny, pursuant to the Commission's rules of practice, any petition for rulemaking of a minor or nonpolicy nature where the grounds of denial do not substantially modify existing precedent. The other delegation authorizes the EDO to propose, in response to a petition for rulemaking, any exemption from licensing requirements for any product containing byproduct, source, or special nuclear material when existing policy provides background or precedent. These delegations are designed to improve efficiency and timeliness in dealing with petitions for rulemaking.

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim Henry, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6910.

SUPPLEMENTARY INFORMATION: On July 18, 1977, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 36797) a notice of new part 1 of the NRC regulations, entitled "Statement of Organization and General Information," which was issued pursuant to 5 U.S.C. 552(a)(1), the Freedom of Information Act.

Under § 1.40, the Commission has directed the Executive Director for Operations to perform the following functions, among others:

(c) Recommends to the Commission proposed regulations to protect public health and safety and the environment from effects associated with nuclear facilities and materials subject to licensing; to provide for security of licensed nuclear facilities and safeguarding of licensed radioactive materials; and to assure that activities under facility licenses would not be inconsistent with antitrust laws, as specified in section 105a of the Atomic Energy Act of 1954, as amended.

(d) Issues proposed amendments to regulations and amendments in final form, where the amendments are corrective or of a minor of nonpolicy nature and do not substantially modify existing regulations; and issues amendments or regulations in final form, if no significant adverse comments or questions have been received on the notice of proposed rulemaking and no substantial changes in text are indicated.

The Commission has reviewed other areas of rulemaking and has determined that responding to petitions for rulemaking would be improved with regard to efficiency and timeliness if the Executive Director for Operations were directed to deny petitions and exempt products from licensing requirements under the conditions set forth below.

DENIAL OF PETITIONS

Under the Commission's regulation, "Rules of Practice," 10 CFR Part 2, the Commission determines whether to grant or deny petitions for rulemaking. If the Commission determines that sufficient reason exists, the Commission may grant the petition and institute a rulemaking proceeding by publishing a notice of proposed rulemaking. In any other case, the Commission denies the petition and notifies the petitioner with a simple statement of the grounds for denial.

This agency practice requires the Commission to issue denials of petitions that involve requests for even the most minor or nonpolicy issuance, amendment, or rescission of any regulation. In addition, the Commission must approve the statement of the grounds for denial in the notification to the petitioner. Consideration of such minor nonpolicy issues does not warrant Commission review.

Accordingly, the Commission is authorizing the Executive Director for Operations to deny, pursuant to 10 CFR part 2, any petition for rulemaking of a minor or nonpolicy nature where the grounds for denial do not substantially modify existing precedent. In furtherance of this function, the Executive Director for Operations is also responsible for notifying the petitioner with a brief statement of the grounds for denial. A denial normally does not prejudice resubmittal of a petition based on new or additional information on the subject.

EXEMPTION OF PRODUCTS

Under existing agency practice, the Commission makes findings authorized under the Atomic Energy Act of 1954, as amended, with respect to exemptions from licensing requirements.

Section 57d. authorizes the Commission to:

* * * exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license * * * when it makes a finding that the exemption * * * would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

Section 81 authorized the Commission to exempt byproduct material under the same type of finding.

In the case of source material, section 62 states that:

* * * licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

This agency practice requires the Commission, in responding to petitions for rulemaking requesting exemptions from licensing requirements for products containing byproduct, source, or special nuclear material, to make one of the above findings even when existing policy provides background and precedent. In addition, the Commission must approve publication of a notice of proposed rulemaking even though the actual decision to publish a proposed exemption often depends primarily on a staff technical determination that the exemption, if it becomes effective, would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public. Consideration of such issues does not warrant Commission review when precedents for exemptions provide a background of policy for similar exemptions from licensing requirements.

Accordingly, the Commission is authorizing the Executive Director for Operations to propose, in response to a petition for rulemaking, an exemption from licensing requirements for any product containing byproduct, source, or special nuclear material when existing policy provides background or precedent. In carrying out this function, the Executive Director for Operations is also responsible, in issuing in final form an exemption from licensing requirements for any product containing byproduct, source, or special nuclear material, for making the finding authorized under sections 57d or 81 of the act with respect to exemption of special nuclear or byproduct material, or section 62 of the act with respect to unimportant quantities of source material. If significant adverse comments or questions are received on a notice of proposed rulemaking and substantial changes in text are indicated, the Commission will make the appropriate finding and cause to be published in the FEDERAL REGISTER a notice issuing that exemption in final form or taking other appropriate action.

Because this notice relates to matters of agency organization, management, and procedure, general notice of proposed rulemaking and public procedure thereon are unnecessary and the amendments can be made effective July 3, 1978.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 1, are published as a document subject to codification.

In 10 CFR Part 1, § 1.40 is amended by adding new paragraphs (o) and (p) to read as follows:

§ 1.40 Office of the Executive Director for Operations.

The Executive Director for Operations (EDO) is appointed by the Commission, pursuant to the Energy Reorganization Act of 1974, as amended, and performs such functions as the Commission may direct, including the following:

* * * * *

(o) Denies, pursuant to part 2 of this chapter, any petition for rulemaking of a minor or nonpolicy nature where the grounds for denial do not substantially modify existing precedent. The EDO is also responsible for notifying the petitioner with a brief statement of the grounds for denial.

(p) Proposes, in response to a petition for rulemaking, an exemption from licensing requirements for any product containing byproduct, source, or special nuclear material when existing policy provides background or precedent. The EDO is also responsible, in issuing in final form an exemption from licensing requirements for any product containing byproduct, source, or special nuclear material, for making the finding authorized under sections 57d or 81 of the act with respect to exemption of special nuclear or byproduct material, or section 62 of the act with respect to unimportant quantities of source material.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); secs. 201, as amended, and 209, Pub. L. 93-438, 88 Stat. 1242 and 1248; Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841 and 5849); and 5 U.S.C. 552 and 553.)

Dated at Washington, D.C., this 27th day of June 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-18247 Filed 6-30-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-ASW-13]

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

Designation of Transition Area: Presidio, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Presidio, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Presidio Lely International Airport. The circumstance which created the need for the action was the establishment of a navigation facility on the airport to provide capability for flight under instrument flight rules (IFR) procedures to the airport. Coincident with this action, the airport is changed from visual flight rules (VFR) to IFR status.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On April 20, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 16743) stating that the Federal Aviation Administration proposed to designate the Presidio, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received one objection to the proposal. The Air Force expressed concern that the transition area will cause curtailment of training activity on their IFR military training route No. 144. Air traffic control service is provided by the Albuquerque Air Route Traffic Control Center. Service is normally provided on a "first come"/"first serve" basis. We are satisfied that IFR arrivals at Presidio will be minimal and curtailment of military training on route 144 will also be minimal, if at all. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Presidio, Tex., transition area. This action provides controlled airspace from 700 feet and 1,200 feet above the ground for the protection of aircraft executing an instrument approach procedure to the Presidio Lely International Airport.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., September 7, 1978, as follows:

In subpart G, 71.181 (43 FR 440), the following transition area is added:

PRESIDIO, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Presidio Lely International Airport (latitude 29°37'48" N., longitude 104°22'24" W.) and within 3.5 miles either side of the 114° bearing from the Presidio NDB (latitude 29°38'02" N., longitude 104°21'32" W.) extending from the 7-mile radius to 11.5 miles east of the Presidio NDB, excluding that portion outside the United States; extending upward from 1,200 feet above the surface within 9.5 miles north and 7 miles south of the 114° and 294° bearings from the Presidio NDB extending from miles 8 west to 17.5 miles east of the Presidio NDB, and within 5 nautical miles either side of the 207° radial of the Marfa VOR extending from the 9.5-mile line to the boundary of the State of Texas transition area, excluding that portion outside of the United States.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on June 21, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-18341 Filed 6-30-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-2]

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

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Rogers City, Mich. to accommodate a new (NDB Runway 27) instrument approach procedure into the Presque Isle County Airport. The effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedure necessitiates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 feet controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Drafting Information

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

Discussion of Comments

On page 9621 of the Federal Register dated March 9, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Rogers City, Mich. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective September 7, 1978, as follows:

In § 71.181 (43 FR 440), the following transition area is added:

Rogers City, Mich.

That airspace extending upward from 700 feet above the surface within 5 (statute) mile radius of the Presque Isle County Airport (latitude 45°24'27" N., longitude 83°48'46" W.) and within 2.75 miles each side of the proposed NDB 261° (true) bearing, extending from the 5-mile radius area to 7.5 miles (statute) east of the NDB, excluding the portion that coincides with the Alpena, Mich. transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on June 19, 1978.

John M. Cyrocki,
Director,
Great Lakes Region.

[FR Doc. 78-18342 Filed 6-30-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-11]

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

PART 73—SPECIAL USE AIRSPACE

Establishment of Temporary Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate seven temporary restricted areas in the vicinity of Fort Carson, Colorado Springs, Colo., to contain a military joint readiness exercise called "Brave Shield 18." These actions will provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the areas during the time the exercise is in operation.

EFFECTIVE DATE: August 17, 1978. The period of designation is August 18, 1978, through August 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

History

On April 24, 1978, the FAA published for comment a notice of proposed rulemaking (NPRM) to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate seven temporary restricted areas identified as R-2605A, R-2605B, R-2605C, R-2605D, R-2605E, R-2605F, and R-2605G in the vicinity of Colorado Springs, Colo., to contain a military readiness exercise and to include these restricted areas in the continental control area for the duration of their times of designation (43 FR 17368, corrected 43 FR 20239). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. Two comments were received and due consideration has been given to all matters presented. Sections 71.151 and 73.26 were republished in the Federal Register on January 3, 1978 (43 FR 344, 672).

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted areas in the vicinity of Colorado Springs, Colo., to protect nonparticipating aircraft during the time that the Brave Shield 18 readiness exercise is in operation. In addition, the airspace at and above 14,500 feet MSL within these temporary restricted areas during the designated period is included in the continental control area.

Discussion of Comments

Two commenters objected to the proposal. One objected that the Canon City area and Fremont County Airport would be isolated from Denver, Colorado Springs, and Pueblo, and that the restricted areas would cause inefficient detours to Denver and Colorado Springs. Designation of these temporary restricted areas will cause some inconvenience and detours to flights operating northeast out of Canon City, but the added distances will not be severe. The direct distance from Canon City to Denver via the direct

route and Pikes Peak over extremely rugged terrain is 88 miles, whereas the distance over comparatively level terrain via a detour to the east to avoid the restricted areas is 109 miles. The eastward detour to Colorado Springs would add approximately 17 miles to the direct route. This objector also indicated his suspicion that designation of the restricted areas would not be limited to 10 days as he stated the notice proposed. Actually, the notice proposed that these restricted areas be designated for only 7 days. They will be used only during parts of those 7 days, and will not be used before or after the 7-day period specified in the notice.

A second commenter from Fremont County Airport objected to the proposal and made several specific recommendations for vertical and lateral reconfigurations to the restricted areas. Some of the recommended changes are incorporated in the rule.

The notice proposed that the airspace below 1,200 feet AGL within 3 miles of all general aviation airports be excluded from the restricted areas. The commenter suggested that the airport exclusions be increased to 3,000 feet AGL and 5 miles. In deference to this suggestion, the airport exclusions are increased to 3,000 feet AGL and 5 miles around the Fremont County and Johnson Airports.

The commenter objected to R-2605D and stated that establishment as proposed would cause cessation of all training activities except take off and landing in the traffic pattern, and recommended a floor of FL 180 for this area. The notice proposed that R-2605D be established in two layers from 300 feet AGL to 7,000 feet MSL and from FL 180 to FL 200. The 300 feet AGL to 7,000 feet MSL strata of this restricted area is for the most part from approximately 5,400 feet MSL to 7,000 feet MSL—a vertical extent of only 1,600 feet. Most flying in this area is normally conducted between 7,000 feet MSL and 18,000 feet MSL along V-244, and that airspace is not affected by the temporary restricted areas. However, in order to provide more airspace for the 1,600 feet climb from Fremont County Airport to 7,000 feet MSL, the western boundary of R-2605D is moved as much as 10 miles eastward. The vertical extent of R-2605D is not changed. In order to provide additional maneuvering room north of Fremont County Airport, the southern boundary of R-2605B is moved 1 mile northward.

The second commenter recommended also that the floors of R-2605A, R-2605B, and R-2605E be raised substantially. This suggestion cannot be adopted without derogation to the military mission. However, it should be noted that these restricted areas are designated for only 7 days and will be used only during parts of those 7 days. A toll free number will be manned by Air Force personnel to provide for transit through the restricted areas by nonparticipating aircraft. This number will be published in the Airman's Information Manual and posted at local airports in the area. The Air Force has stated that procedures have been developed which to the maximum extent possible will provide transit through the restricted areas by nonparticipating VFR aircraft.

The commenter suggested that designation of these restricted areas would permit disregard of several Federal Aviation Regulations, including part 91.65 (operating near other aircraft), 91.67 (right-of-way rules), 91.70 (aircraft speed), 91.71 (acrobatic flight) and 91.79 (minimum safe altitudes). Designation of restricted areas does not constitute authority to violate these Federal Aviation Regulations except that the aircraft speed rule (91.70) is waived within designated restricted areas.

Drafting Information

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart D of part 71 and subpart B of part 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) as republished (43 FR 344 and 672) are amended, effective 0901 G.m.t., August 17, 1978, as follows:

1. Section 71.151 is amended by adding the following temporary restricted areas for the duration of their time of designation from 0001 D.m.t., August 18, 1978, to 0001 M.d.t., August 25, 1978:

R-2605A Brave Shield XVIII, Colorado.
R-2605B Brave Shield XVIII, Colorado.
R-2605D Brave Shield XVIII, Colorado.
R-2605E Brave Shield XVIII, Colorado.
R-2605F Brave Shield XVIII, Colorado.
R-2605G Brave Shield XVIII, Colorado.

2. Section 73.26 is amended by adding the following:

R-2605A Brave Shield XVIII, Colorado

Boundaries. Beginning at lat. 39°15'00" N., long. 106°00'00" W.; to lat. 39°15'00" N., long. 104°57'00" W.; to lat. 38°55'00" N., long. 104°57'00" W.; to lat. 38°55'00" N., long. 105°30'00" W.; to lat. 38°44'00" N., long. 106°00'00" W.; to the point of beginning. The airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded.
Designated altitudes. 100 feet AGL to and including 15,000 feet MSL.
Time of designation. Continuous, 0001 August 18 to 0001, local time August 25, 1978.
Controlling agency. Federal Aviation Administration, Denver ARTCC
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605B Brave Shield XVIII, Colorado

Boundaries. Beginning at lat. 38°44'00" N., long. 106°00'00" W.; to lat. 38°55'00" N., long. 105°30'00" W.; to lat. 38°55'00" N., long. 104°57'00" W.; to lat. 38°51'00" N., long. 104°57'00" W.; to lat. 38°40'00" N., long. 104°45'00" W.; to lat. 38°28'00" N., long. 104°45'00" W.; to lat. 30°25'00" N., long. 105°01'00" W.; to lat. 38°30'00" N., long. 105°01'00" W.; to lat. 38°30'00" N., long. 106°00'00" W.; to the point of beginning excluding R-2601 and R-2602. The airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded, except that the airspace 3,000 feet AGL and below within 5 NM of Fremont County airport is excluded.
Designated altitudes. 100 feet AGL up to and including FL 200.
Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.
Controlling agency. Federal Aviation Administration, Denver ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605C Brave Shield XVIII, Colorado

Boundaries. Beginning at lat. 38°32'00" N., long. 104°45'00" W.; to lat. 38°32'00" N., long. 104°41'00" W.; to lat. 38°25'30" N., long. 104°41'00" W.; to lat. 38°23'00" N., long. 105°45'00" W.; to the point of beginning.
Designated altitudes. 100 feet AGL up to and including 7,000 feet MSL.
Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.
Controlling agency. Federal Aviation Administration, Denver ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605D Brave Shield XVIII, Colorado

Boundaries. Beginning at lat. 38°25'00" N., long. 105°01'00" W.; to lat. 38°23'00" N., long. 104°45'00" W.; to lat. 38°19'00" N., long. 104°50'00" W.; to lat. 38°15'00" N., long. 104°50'00" W.; to lat. 38°16'00" N., long. 105°05'00" W.; to the point of beginning. The airspace 3,000 feet AGL and below within 5 NM of Fremont County Airport is excluded.
Designated altitudes. 300 feet AGL up to and including 7,000 feet MSL and FL 180 up to and including FL 200.
Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.
Controlling agency. Federal Aviation Administration, Denver ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605E Brave Shield XVIII, Colorado

Boundaries. Beginning at lat. 38°17'00" N., long. 105°19'00" W.; to lat. 38°15'00" N., long. 104°50'00" W.; to lat. 38°04'00" N., long. 104°49'00" W.; to lat. 37°55'00" N., long. 104°38'00" W.; to lat. 37°40'00" N.,

long. 104°43'00" W.; to lat. 37°36'00" N., long. 105°05'00" W.; to lat. 37°36'00" N., long. 105°30'00" W.; to lat. 37°50'00" N., long. 105°30'00" W.; to the point of beginning excluding the airspace within 3 NM of Lat. 37°58'00" N., Long. 104°47'00" W.; and within 3 NM of Lat. 38°02'30" N., Long. 104°47'00" W.; and within tangent lines joining these 3 NM areas. Also, the airspace 1,200 feet AGL and below within 3 NM of all municipal/private airports is excluded, except that the airspace 3,000 feet AGL and below within 5 NM of Johnson Airport is excluded.

Designated altitudes. 500 feet AGL up to and including 17,000 feet MSL.

Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controling agency. Federal Aviation Administration, Denver ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605F BRAVE SHIELD XVIII, COLORADO

Boundaries. Beginning at lat. 38°17'00" N., long. 105°19'00" W.; to lat. 38°12'00" N., long. 103°59'00" W.; to lat. 38°04'00" N., long. 103°27'00" W.; to lat. 37°26'00" N., long. 103°47'00" W.; to lat. 37°24'00" N., long. 104°21'00" W.; to lat. 37°36'00" N., long. 105°30'00" W.; to lat. 37°50'00" N., long. 105°30'00" W.; to the point of beginning.

Designated altitudes. 16,000 feet MSL up to and including FL 210.

Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controling agency. Federal Aviation Administration, Denver ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2605G BRAVE SHIELD XVIII, COLORADO

Boundaries. Beginning at lat. 38°17'00" N., long. 105°19'00" W.; to lat. 38°15'00" N., long. 104°50'00" W.; to lat. 38°04'00" N., long. 104°49'00" W.; to lat. 37°55'00" N., long. 104°38'00" W.; to lat. 36°49'00" N., long. 105°00'00" W.; to lat. 36°49'00" N., long. 105°47'00" W.; to lat. 37°50'00" N., long. 105°30'00" W.; to the point of beginning.

Designated altitudes. FL 180 up to and including FL 290.

Time of designation. Continuous, 0001 August 18 to 0001, local time, August 25, 1978.

Controling agency. Federal Aviation Administration, Denver ARTCC.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 26, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-18340 Filed 6-30-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-EA-5]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Restricted Area R-4007, Patuxent River, Md., to R-4007A and in addition designates a new Restricted Area R-4007B to overlie redesignated R-4007A to contain F-18 aircraft initial development and critical flight test activities. The restricted area alteration is required to provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the designated area during the designated period.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone, 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On April 20, 1978, the FAA proposed to amend part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter Restricted Area R-4007, Patuxent River, Md. (43 FR 16744). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to FAA. Three comments were received in response to the notice. Two commenters objected and one commenter interposed no objection to the proposal. This amendment is the same as that proposed in the notice. Section 73.40 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 687).

THE RULE

This amendment to § 73.40 of part 73 of the Federal Aviation Regulations redesignates Restricted Area R-4007 as "R-4007A" and changes the designated altitudes from the surface to but not including 5,000 feet MSL and designates a new joint use "Restricted Area R-4007B" to overlie R-4007A. Designated altitudes for R-4007B extend from 5,000 feet to 17,000 feet MSL. This action provides restricted area airspace to contain early development flights and critical flight test activities of the F-18 aircraft. This amendment provides protection for nonparticipating aircraft by restricting unauthorized operations from the designated area during its designated period. An expiration date of January 1, 1982, for R-4007B is established but may be extended on the basis of further review and necessity.

DISCUSSION OF COMMENTS

Three responses were received to the proposal. One commenter interposed no objection and two registered adverse comments. Objections to the proposal were primarily based on the potential adverse impact on aircraft operations traversing through the area. A comment was made that flight level 180 would be eliminated for vertical separation purposes over the restricted area during periods of low barometric pressure conditions. Other comments included a recommendation that an alternate area be established south of existing R-4007 within R-4005. Additionally, a recommendation was made that should the proposal be enacted, that the existing Patuxent VORTAC be relocated northwest of the control zone to permit the rerouting of airways to accommodate traffic around the restricted area.

The FAA recognizes that alteration of the restricted area will, on occasion, impact nonparticipating aircraft operations when R-4007B is in use. However, the times of use are anticipated to be infrequent with minimal impact. As stated in the notice, the times of use are anticipated to average one flight every 3 days with a probable maximum of two flights in 1 day. Flight duration would normally be 1.5 hours. Also, the U.S. Navy has agreed to schedule F-18 test activities at less than peak air traffic hours and to obtain the release of restricted areas R-6611, R-6612 and R-6613 above 5,000 feet MSL for user's use when R-4007B is activated. Furthermore, the use of R-4007B is limited to testing F-18 aircraft and minimum inflight weather requirements will be greater than 3 miles visibility and clear to scattered sky conditions below 18,000 feet. Consequently, the FAA believes that the times that aircraft will be required to avoid the restricted area during its periods of activity will be minimal. The FAA concludes that in light of the U.S. Navy requirement for a full-scale development testing of the F-18 aircraft at a single site and the conditions of use specified for Restricted Area R-4007B, that any impact on airspace use will be short

term and minimal and is necessary and reasonable.

The comment concerning the loss of flight level 180 over the restricted area during periods of low barometric pressure is not considered a relevant or significant factor since the overall use of that flight level is determined by reasons not directly affected by the proposal.

The recommendation that an alternate area be established in the existing Restricted Area R-4005 is not practical because it is important that during critical test flights that the aircraft be operated essentially overhead the primary recovery airport because of realistic safety considerations for the types of tests to be conducted. These safety considerations include inflight abort situations that force immediate, nonmaneuvering recovery.

The FAA considered the recommendation to relocate the Patuxent VORTAC to realine the airways for the use of traffic but determined that such a project is not cost justified because of the anticipated short-term basis of designation for Restricted Area R-4007B and its intermittent basis of use.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.40 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 687) is amended, effective 0901 G.m.t., September 7, 1978, as follows:

1. In R-4007 Patuxent River, Md.:

a. The caption is amended to read, "R-4007A Patuxent River, Md."

b. Designated altitudes are amended to read, "Surface to but not including 5,000 feet MSL."

2. R-4007B Patuxent River, Md., is added to read as follows:

R-4007B PATUXENT RIVER, MD.

Boundaries. Beginning at Lat. 38°21'00" N., Long. 76°14'00" W.; to Lat. 38°11'10" N., Long. 76°25'10" W.; to Lat. 38°05'10" N., Long. 76°34'05" W.; to Lat. 38°15'00" N., Long. 76°36'35" W.; to Lat. 38°17'25" N., Long. 76°33'00" W.; to Lat. 38°25'40" N., Long. 76°23'35" W.; to point of beginning.

Designated altitudes. 5,000 feet MSL to 17,000 feet MSL.

Time of designation. 0800 to 1800 hours, local time, daily to January 1, 1982.

Controling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Commanding Officer, NAS Patuxent River, Md.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 26, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-18343 Filed 6-30-78; 8:45 am]

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-28; Notice 07]

PART 567—CERTIFICATION

PART 568—VEHICLE MANUFACTURED IN TWO OR MORE STAGES

Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to petitions for reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of the July 25, 1977, notice (42 FR 37814) establishing new certification requirements for chassis-cab manufacturers. Those amendments were issued in response to a court decision invalidating part of the agency's prior certification scheme. This notice denies most of the petitions for reconsideration, but does extend the effective date to January 1, 1979.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. David Fay, Engineering Systems Staff, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C., 202-426-2817.

SUPPLEMENTARY INFORMATION: Amendments to parts 567, Certification, and 568, Vehicles Manufactured in Two or More Stages, were published on July 25, 1977 (42 FR 37814). Those amendments established certification responsibilites for chassis-cab manufacturers in accordance with *Rex Chainbelt* v. *Brinegar*, 511 F.2d 1215 (7th Cir. 1975). The amendments require chassis-cab manufacturers to attach certification labels to chassis-cabs they manufacture indicating compliance of the chassis-cabs with the Federal safety standards.

Petitions for reconsideration were received from the Ford Motor Co., the Motor Vehicle Manufacturers Association (MVMA), International Harvester (IH), and the Recreation Vehicle Industry Association (RVIA). The issues raised by the petitions focused primarily upon the increased burdens imposed by these requirements on chassis-cab manufacturers.

The RVIA indicated that the NHTSA misstated the RVIA's position in the preamble to the final rule concerning the applicability of the new certification requirements to manufacturers of "chopped vans". RVIA's position was that the "chassis-cab" definition was confusing. They wanted clarification of its applicability to chopped vans and did not intend to support the applicability of the requirements to those chopped vans.

To the extent that the agency may have misstated the RVIA's position on this issue, it expects that this preamble corrects that error. The NHTSA agrees with RVIA that any confusion surrounding the definition of "chassis-cab" should be resolved. The agency again states for clarity that chopped vans are not considered chassis-cabs and are not subject to the certification requirements for chassis-cabs.

The MVMA and Ford objected to the NHTSA's change of language that substituted the phrase "substantially affected" for "substantially determined" in section 567.5 of the regulation. This change was made in the statement that design of the chassis-cab would not substantially affect compliance of the completed vehicle with certain standards. Ford and MVMA suggested that the NHTSA violated the Administrative Procedures Act (APA) (5 U.S.C. 553) by making this amendment without notice and opportunity for comment. The essence of their argument was that this amendment severely alters the meaning of the regulation, and therefore, it cannot be made as an interpretative amendment under section 553 of the APA.

As early as July 20, 1976, in letters to General Motors Corp., the NHTSA was interpreting the meaning of "substantially determined" to indicate that compliance of the same vehicle with safety standards could be substantially determined or affected by both the chassis-cab and final-stage manufacturers, not by just one of those manufacturers. These letters, which are in the public docket, indicate the agency's interpretation of "substantially determined" to mean "substantially affected." The agency's minor amendment of the language of the paragraph in question merely reflects the intent of these existing written interpretations. Further, the new language is in line with the dictionary's usage of the term "determined" which includes "to cause, affect, or control." (Random House Dictionary of the English Language, 1967). Therefore, the NHTSA does not agree that its new language

creates a meaning in the paragraph significantly different from its interpretation of the old language.

The NHTSA notes further that to adopt the definition suggested by Ford and the MVMA, which would indicate that only one of the manufacturers could substantially determine compliance of a vehicle with the standards, would endorse a meaning of the paragraph that was never intended by the agency. Moreover, its effect would be to reduce the value of the certification requirements imposed upon chasis-cab manufacturers, because it would allow them to choose this certification statement rather than choose the other certification statements that would be more appropriate for their manufacturing operation. This would result in the final-stage manufacturer being responsible for compliance as it was prior to *Rex Chainbelt*. This would not promote the goal of shared responsibility for vehicle compliance with Federal safety standards, and it might interfere with the agency's compliance with *Rex Chainbelt*. For all of the foregoing reasons, the agency determines that its interpretation is reasonable and that the interpretation suggested by Ford and the MVMA might be violative of the court's decision. Further, the agency concludes that it followed the APA fully when issuing its interpretative amendment.

Ford and the MVMA indicated they considered the burdens imposed by the requirement that chassis-cab manufacturers certify for the compliance with the safety standards too great. IH stated that they thought the chassis-cab manufacturer should not have to affix a label.

The placement of certification responsibility upon the chassis-cab manufacturer is required by *Rex Chainbelt*. To comply with that decision, it was necessary for the NHTSA to promulgate the amendments to the certification regulation. Given the action by the court, the NHTSA has limited latitude in creating a conforming certification scheme.

The new certification requirements do not severely burden chassis-cab manufacturers. In previous notices, the agency elaborated upon the exact responsibilities of the chassis-cab manufacturers for certification under the amended regulation. Those discussions will not be repeated here. The essential element of the new certification scheme, however, is that the chassis-cab manufacturer is required to certify the conformity of its product to the extent possible, because it is in the best position to assure compliance with respect to some of the safety standards. As the NHTSA has frequently stated, it realizes that a final-stage manufacturer can affect the compliance of an incomplete vehicle previously certified by the chassis-cab manufacturer if, for example, the final-stage manufacturer does not follow the instructions of the incomplete vehicle document for completion of the vehicle. However, the agency continues to conclude that there are sufficient safeguards in the certification regulations to ensure that the party responsible for any noncompliance will be the party responsible to the agency for remedying such noncompliance. In other words, although the burdens imposed by this section are greater than those previously imposed by the agency's certification scheme, the amendments comply with the intent of *Rex Chainbelt* and do not impose unreasonable requirements on a chassis-cab manufacturer.

In connection with the above, the MVMA suggested that the language of the certification statements be altered somewhat to indicate that the incomplete vehicle "is capable" of conforming with the requirements rather than a definitive statement that the vehicle "will conform" if the incomplete vehicle document instructions are followed. On this same point, Ford again questioned the ability of an chassis-cab manufacturer to ensure the truth of its certification statement since the vehicle may be altered by the final-stage manufacturer so as to render the statement untrue.

The preamble to the final rule explained in detail why the truthfulness of the certification statement with respect to a final manufacturer's potential alteration of the vehicle is not a problem. The certification statement itself is contingent upon completion of the final vehicle as contemplated by the chassis-cab manufacturer. The statement does not expect the chassis-cab manufacturer to be omniscient with respect to the plans of final vehicle manufacturers. If a final manufacturer completes a vehicle in a manner not in line with the instructions of the chassis-cab manufacturer such that the vehicle does not comply with applicable standards, the chassis-cab manufacturer's certification statement is not necessarily rendered false, because that statement is conditioned upon the correct completion of the vehicle. Therefore, the agency once again states that this amendment does not put the chassis-cab manufacturer in a position where it might unwittingly be caught in a misstatement.

The second point addressed by the MVMA and Ford is that the final stage manufacturer could complete the instructions in the incomplete vehicle document to the letter but nonetheless add something to the vehicle that would cause it not to comply. The agency notes again that the chassis-cab manufacturer is permitted to stipulate in detail the instructions upon which his certification statement is conditioned. Any deviation from these detailed instructions would place the burden for compliance on the final stage manufacturer. Therefore, the chassis-cab manufacturer can assure that his certification statement will not be erroneous.

IH suggested that the NHTSA alter the certification statements in such a manner as to remove the necessity for listing the affected standard numbers on the certification label. IH proposed language for the certification label that would refer a reader to the incomplete vehicle document for the standards applicable to the chassis-cab. The NHTSA created the existing format for certification after careful effort to establish as clearly as possible the alternatives available for certification of chassis-cabs. The approach suggested by IH would not cover the possible contingencies that are currently addressed by the various certification statements in a convenient and simple manner. Further, the IH statement would be inaccurate since it would refer a reader to the incomplete vehicle document to find the compliance of the chassis-cab with applicable standards. Since there are no safety standards applicable to chassis-cabs, this statement would not correctly address the responsibilities of chassis-cab manufacturers for certification of their products to the extent that their work affects the overall compliance of the vehicle. Therefore, IH's suggestion is denied.

Both Ford and the MVMA requested that the effective date be postponed until September 1, 1978, to coincide with the date on which most new model year vehicles are introduced. In view of this request and the length of time it has taken to respond to the petitions in comparison with the original leadtime, the agency has decided to extend the effective date to January 1, 1979. This change will permit the manufacturers to implement the new requirements for all or most of their affected new model year vehicles when they are introduced. The additional three months will accommodate those vehicles for which implementation is not possible by September 1, 1978.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.).

Issued on June 28, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-18423 Filed 6-30-78; 8:45 am]

proposed rules

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 958]

ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oreg., to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due July 18, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oreg. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Ontario, Oreg., on June 20, 1978. The recommendations of the committee reflect its appraisal of the composition of the 1978 crop of Idaho-Eastern Oregon onions and the marketing prospects for this season and are consistent with the marketing policy it adopted. Harvesting of onions is expected to begin about August 1.

The grade, size, pack, maturity, and inspection requirements proposed herein are necessary to prevent onions of poor quality or less desirable sizes from being distributed in fresh market channels. They would also provide consumers with good quality onions consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

Exceptions are proposed to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments would be allowed to certain special purpose outlets without regard to the grade, size, maturity, pack, and inspection requirements, provided that safeguards were met to prevent such onions from reaching unauthorized outlets.

Special purpose shipments would be allowed for planting, livestock feed, charity, dehydration, extraction, and pickling since such shipments would not normally enter the commercial fresh market channels and no useful purpose would be served by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

The proposed regulation is as follows:

§ 958.323 Handling regulation.

During the period August 1, 1978, through April 30, 1979, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Grade and size requirements*—(1) *White varieties.* Shall be either:

(i) U.S. No. 2, 1 inch mimimum to 2 inches maximum diameter; or

(ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or

(iii) U.S. No. 1, at least 1½ inches minimum diameter. However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

(i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or

(ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or

(iii) U.S. No. 1, at least 2¼ inches minimum diameter. However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (e) of this section.

(c) *special purpose shipments.* The minimum grade, size, maturity, and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes: (1) Planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not

to exceed, 1 ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeds 1 ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 2851.2830-2851.2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195-2851.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(g) *Applicability to imports.* Pursuant to § 8e of the act and § 980.117 *"Import regulations; onions"* (43 FR 5499); onions imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in the introductory paragraph and paragraph (a) of this section.

Dated: June 28, 1978.

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

[FR Doc. 78-18399 Filed 6-30-78; 8:45 am]

[1505-01]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Flue-Cured Tobacco

Correction

In FR Doc. 78-19595, appearing at page 22727 in the issue for Friday, May 26, 1978; on page 22728, second column, third entry in the table opposite "H4F", "C4KL" should read "C4KM".

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-EA-17]

FEDERAL AIRWAYS AND REPORTING POINTS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter V-16, V-34, V-46 and V-91 airways because of the relocation of the Riverhead, N.Y., VORTAC to Lat. 40°55'47" N., Long. 72°47'57" W., and renaming it Calverton, N.Y. The SAYBO reporting point would no longer be on an airway and would require relocating and renaming. The name "FLIBB" has been selected for this relocated reporting point. The expired land lease of the Riverhead location cannot be renewed. For this reason, the VORTAC relocation and airway alterations are required.

DATES: Comments must be received on or before August 2, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-17, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking 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 August 2, 1978, 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. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of advisory circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to part 71 of the Federal Aviation regulations (14 CFR Part 71) that would make the following changes:

1. Realign V-16 via Calverton.
2. Realign V-34 to the INT of Carmel 093°T(105°M) and Calverton 044°T(057°M) radials.
3. Realign V-46 via Calverton.
4. Realign V-91 from Calverton via the INT Calverton 332°T(345°M) and Pawling 139°T(151°M) radials.
5. Move the reporting point at the INT of V-16 and V-34 eastward with these airways and change its name from SAYBO to FLIBB.

No adverse comments were received to the nonrulemaking proposal to relocate the Riverhead VORTAC to Calverton when that proposal was circularized for comment on December 8, 1976.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to further amend §§ 71.123 and 71.203 of part 71 of the Federal Aviation Regulations (14 CFR part 71) as republished (43 FR 307 and 631) and amended (43 FR 3553) as follows:

1. A. Under V-16 "Riverhead, N.Y." is deleted and "Calverton, N.Y." is substituted therefor.

b. Under V-34 "Riverhead, N.Y., 046°" is deleted and "Calverton, N.Y. 044°" is substituted therefor.

c. Under V-46 "Riverhead, N.Y.;" is deleted and "Calverton, N.Y.;" is substituted therefor.

c. Under V-91 "From Riverhead, N.Y., INT Riverhead 344°" is deleted and "From Calverton, N.Y., via INT Calverton, 332°" is substituted therefor.

2. Under domestic low altitude reporting points, "SAYBO" title and text are deleted and "FLIBB: INT Carmel, N.Y., 093°, and Calverton, N.Y, 044° radials." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 26, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-18339 Filed 6-30-78; 8:45 am]

[3510-3]

DEPARTMENT OF COMMERCE

Maritime Administration

[32A CFR Parts 1901, 1902, 1903]

EMERGENCIES AFFECTING NATIONAL SECURITIES TO THE ULTILIZATION OF PORT FACILITIES AND APPOINTMENT OF FEDERAL PORT CONTROLLERS

Proposed Revision of Regulations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Chapter XIX of Title 32 A, Code of Federal Regulations, applicable during emergencies affecting the national security to the utilization of port facilities and appointment of Federal Port Controllers, is being revised. The caption of chapter XIX has been revised to more accurately reflect the contents of this chapter. Part 1901 has been restructured for purposes of clarity and to present more information with respect to the control to be exercised by the National Shipping Authority over port facilities required for emergency use. Part 1902 has been revised completely. It describes the standby contract of appointment, compensation and responsibilities of Federal Port Controllers. New part 1903 prescribes the arrangement and standard form of a marine terminal contract to be negotiated with terminal operators on a standby basis. These regulations are being issued in proposed form, inviting comments from interested persons, although they do not meet the criteria for either significant regulations or for requiring regulatory analysis established by the Maritime Administration (43 FR 23183), pursuant to EO 12044 (43 FR 12661).

DATE: Comments in writing must be received on or before August 31, 1978.

ADDRESSES: Submit written comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for public inspection during normal business hours in room 3099-B, Department of Commerce.

FOR FURTHER INFORMATION CONTACT:

Mr. Armour S. Armstrong, Director, Office of Port and Intermodal Development, Department of Commerce, Room 4888, Maritime Administration, Washington, D.C. 20230, 202-377-2124.

Accordingly, it is proposed that chapter XIX of Title 32A, Code of Federal Regulations, be revised to read as follows:

CHAPTER XIX—NATIONAL SHIPPING AUTHORITY, CONTROL AND UTILIZATION OF PORTS

PART 1901—RESTRICTIONS UPON THE TRANSFER OR CHANGE IN USE OR IN TERMS GOVERNING UTILIZATION OF PORT FACILITIES

Sec.
1. Definitions.
2. Effective date.
3. Federal control of port facilities.
4. Port facilities predesignated for emergency use.
5. Restrictions on the transfer, change in use or terms; governing utilization of port facilities.
6. Application for approval; place of filing; investigation; disposition by Federal Port Controller; request for review; disposition by the National Shipping Authority.
7. Exemptions.
8. Applicability.
9. Communications.

AUTHORITY: The Defense Production Act of 1950, as amended (50 app. U.S.C. 2061 et seq.); the Federal Civil Defense Act of 1950 as amended (50 app. U.S.C. 2251 et seq.); Reorganization Plan No. 1 of 1958 (72 Stat. 1799) and No. 1 of 1973 (87 Stat. 1089); EO 11490 (34 FR 17567, 3 CFR 1966-1970 Comp., p. 820) and E.O. 11921 (41 FR 24294, 3 CFR 1976 Comp.); and Department of Commerce Organization Order 10-8 (38 FR 19707 July 23, 1973).

Section 1 Definitions.

As used in this part or any other part of this Chapter XIX the term:

(a) "National Shipping Authority (NSA)," means the emergency shipping operations activity of the Maritime Administration established by the Secretary of Commerce, when specifically activated during an emergency affecting national security in accordance with existing statutory authority.

(b) "Person" means any individual, partnership, corporation, association, joint stock company, business trust, or other organized group of persons, or any trustee, receiver, assignee, or personal representative, and includes any department, agency, or corporation of the United States, any State, or any political, governmental, or legal entity.

(c) "Federal Port Controller" means a person designated as such in accordance with part 1902 of this chapter XIX, under a standard form of service agreement to exercise delegated authorities of the Director, NSA, in the control of operations of a designated port or group of ports in time of national emergency.

(d) "Port" or "port area" includes any zone contiguous to or associated in the traffic network of an ocean or Great Lakes port, or outport location, including beach loading sites, within which facilities exist for transshipment of persons and property between domestic carriers and carriers engaged in coastal, intercoastal and overseas transportation.

(e) "Port facility" means a specific location in a port where passengers or commodities are transferred between land and water carriers or between two water carriers, specifically including: wharves, piers, sheds, warehouses, yards, and docks.

(f) "Port equipment" means mechanical and other devices used for loading and unloading passengers and commodities, including fork lifts, towmotors, jitneys, straddle carriers, floating cranes, etc.

(g) "Transfer" means to sell, lease, trade, lend, give, relinquish title or possession to, or to physically transfer in any other way.

Sec. 2 Effective date.

The provisions of this part are effective during the existence of a state of civil defense or national emergency proclaimed by the President of the United States in accordance with existing statutory authority or by concurrent resolution of the Congress.

Sec. 3 Federal control of port facilities.

During any period when the provisions of this part are in effect the NSA shall exercise such control of ports in the United States and its territories or possessions as may be necessary to meet the requirements of the national security.

Sec. 4 Port facilities predesignated for emergency use.

(a) Certain port facilities selected for standby contracts or agreements for use by Government agencies shall be controlled directly by the NSA.

(b) Facilities which are not required by the United States immediately on the effective date of this part will be released. The Director, NSA shall have

the discretion to approve contracts for subsequent exclusive use by the United States of port facilities in lieu of formal requisitioning of such properties.

Sec. 5 Restrictions on the transfer or change in use or in terms governing utilization of port facilities.

Except as otherwise provided in this part, and irrespective of the terms of any contract or other commitment, whether or not the facility has been designated for emergency use in accordance with section 3 of this part:

(a) No person shall transfer, and no person shall accept transfer of any port facility unless such transfer has been approved by the NSA.

(b) No person shall use any port facility for any purpose or use other than that for which it was being used on the day preceding the effective date of this part, unless such change in purpose or use has been approved by the NSA.

(c) No person shall change or alter the terms or conditions under which any port facility was being operated or used on the day preceding the effective date of this part, unless such change has been approved by the NSA: *Provided*, That this restriction shall not relate to the filing of tariffs with the Federal Maritime Commission as required by applicable law.

Sec. 6 Application for approval; place of filing; investigation; disposition by Federal Port Controller; request for review; disposition by the NSA.

(a) Application for approval of a transfer of, or change in use of, or change in terms governing utilization of any port facility shall be in writing, and shall contain the following information:

(1) Name, address, and principal place of business of applicant;

(2) Specific description and location of port facility involved;

(3) Name, address, and principal place of business of owner and/or operator of such port facility;

(4) Present use of such port facility;

(5) Proposed use of such port facility; and

(6) A statement of the reasons why such transfer, change in use, or change in terms, is in the interests of the war effort, national defense, or the maintenance of the essential civilian economy.

(b) The application shall be signed by the applicant or by any lawfully authorized agent or representative of the applicant who is familiar with the facts stated therein.

(c) The application and two clear copies thereof shall be filed in the office of the Federal Port Controller of the port in which the port facility is located, when a Federal Port Controller has been designated for the port. For all other ports, the application and copies shall be filed in the office of the Maritime Administration Region Director for the area where the port is located.

(d) The Federal Port Controller or Region Director may require the applicant to submit reasonable proof of statements made in support of the application, and may make such investigation as may be necessary for proper disposition of the application; and the Federal Port Controller or Region Director shall not be required to make any disposition of the application unless and until such reasonable proof has been submitted: *Provided*, That the disposition of any such application by the Federal Port Controller or Region Director shall not be delayed for more than 60 days from the date of the filing thereof for the purpose of completing any such investigation.

(e) The Federal Port Controller, Area Officer, or Region Director may approve the application in whole or in part when the action covered by the application, to the extent approved, is in the interests of the war effort, national defense, or the maintenance of the essential civilian economy.

(f) Any applicant aggrieved by the action of the Federal Port Controller or Region Director in disapproving in whole or in part his application may request, in writing, that such action be reviewed by the Director, NSA. The written request shall contain a statement of reasons why the decision of the Federal Port Controller should be reversed or modified. The Director, NSA, or a designee, will review the application on the record made before the Federal Port Controller and will dispose of the application on its merits in accordance with the standards set forth above.

Sec. 7 Exemptions.

The provisions of this part shall not apply to any port facility owned by, or organic to, any agency or department of the United States as of the effective date of this order.

Sec. 8 Applicability.

This part shall apply to the States of the United States, Puerto Rico, and the Virgin Islands.

Sec. 9 Communications.

Communications concerning this part should refer to "Maritime Administration General Order MA-TPM-1, and should be addressed to the Assistant Secretary for Maritime Affairs, Department of Commerce, Washington, D.C. 20230.

PART 1902—FEDERAL PORT CONTROLLERS

Sec.
1. Purpose.
2. Definitions.
3. Stand-by agreements.
4. Service agreements.

AUTHORITY: The Defense Production Act of 1950, as amended (50 app. U.S.C. 2061 et seq.); the Federal Civil Defense Act of 1950 as amended (50 app. U.S.C. 2251 et seq.); Reorganization Plans No. 1 of 1958 (72 Stat. 1799) and No. 1 of 1973 (87 Stat. 1089); EO 11490 (34 FR 17567, 3 CFR 1966-1970 Comp., p. 820) and EO 11921 (41 FR 24294, 3 CFR 1976 Comp.); and Department of Commerce Organization Order 10-8 (38 FR 19707 July 23,1973).

Sec. 1 Purpose.

This part prescribes the standard form of service agreement to be entered into by the United States of America, acting by and through the Director, National Shipping Authority (NSA) of the Maritime Administration, or private corporations, covering the appointment of individuals within their organizations as Federal Port Controllers and providing the required supporting staff and resources.

Sec. 2 Definitions.

(a) "Federal control of ports" means the exercise of jurisdiction over the use of port facilities, port equipment, and port services (other than port facilities, equipment, and services owned by, or organic to, the Department of Defense) in time of emergency to meet the needs of the national defense and maintain the essential civilian economy.

(b) "Federal Port Controller" means a person designated as such under a standard form of service agreement, to exercise delegated authorities of the Director, NSA, in the control of operations of a designated port or group or ports in time of national emergency.

Sec. 3 Standby agreements.

The Director, NSA, may negotiate the standard form of service agreement, specified in section 4, with port authorities on a standby basis prior to the declaration of a war or national emergency. In such cases the contractor accepts the obligation to maintain a qualified incumbent in the position specified in article 1 of the service agreement and to be prepared to furnish the resources specified in articles 4 and 5.

Sec. 4 Service agreements.

Contract MA ————

SERVICE AGREEMENT, FEDERAL PORT CONTROLLER

This agreement, made as of ————, 19—, between the United States of America (herein called the "United States"), acting by and through the Director, National Shipping Authority of the Maritime Administration, Department of Commerce, and ————, a ————, organized and existing under the laws of ———— (herein called the "Contractor").

WITNESSETH

It is this day mutually agreed between the parties as follows:

Article 1. *Appointment of Federal Port Controller.* The United States appoints the incumbent of the position of _____, an employee of the Contractor, as Federal Port Controller, to serve as the agent of the United States and not as an independent contractor, to exercise delegated authority of the Director, NSA, in the control of port operations in time of national emergency.

Article 2. *Acceptance of appointment.* (a) The contractor agrees to the appointment and undertakes and promises to maintain a qualified incumbent in the position specified in articles 4 and 5 and otherwise required by the Federal Port Controller and agreed to be the United States. Maintaining the equivalent of such specified positions under any subsequent reorganization of port staff is deemed to be in compliance with this article.

(b) The contractor undertakes and promises to ensure that the Federal Port Controller and agreed supporting staff will be relieved of other staff duties and responsibilities during any period in which the arrangements provided for in this agreement are in effect, to the extent necessary to enable them to exercise diligently the authority delegated by the Director, NSA, in accordance with such directions, orders, or regulations not inconsistent with this agreement as the United States (NSA) has by that time prescribed or may from time to time subsequently prescribe to the satisfaction of the director, NSA.

Article 3. *Scope of Control.* The Federal Port Controller shall exercise the authorities delegated with respect to port operations in the prescribed area of _____.

Article 4. *Responsibilities and functions of the Federal Port Controller—(a) Responsibilities.* The Federal Port Controller, acting as an agent of the United States (NSA), is charged with exercising due diligence to protect the interests of the United States in support of any war effort or declared national emergency including maintenance of the essential civilian economy and be responsible for insuring the efficient and effective utilization of the port in accordance with such directions, orders, regulations, supervision, and inspections as the United States (NSA) may prescribe (or in the absence of such directions, orders, forms, and methods of supervision and inspection, in accordance with customary commercial practice). Responsibilities generally include:

(1) Formulation of port coordination and support policy and assurance of adherence thereto;

(2) Expediting of ship turnaround and prevention of congestion of ships and cargo in port;

(3) Correlation of arrangements for rapid clearance and rapid transit of commodities through the port;

(4) Correlation of arrangements for berthing ships and their loading and discharging;

(5) Provision through port control agency channels, of advice on daily port capacities and workload; and

(6) Disposition of frustrated cargo to prevent reduction of port capacity

(b) *Functions.* Subject to the direction and control of the NSA, in accordance with such policies, programs, allocations, and priorities as may be adopted or established, the Federal Port Controller will:

(1) Furnish the NSA necessary information based upon the local situation and conditions, for establishment by the NSA, of periodic maximum quotas of cargo ocean lift for the port. As appropriate such information shall include but not be limited to estimates of port capacity; the port work load; and availability of, berths, vessels, cargoes, labor, and equipment.

(2) Recommend changes of destination of ships or cargo to appropriate representatives of the NSA.

(3) Coordinate port operations to accommodate ships diverted in emergencies by naval authorities.

(4) Coordinate through the Federal agency responsible for land transportation, movement of traffic to and from port areas and, as necessary, exercise controls in coordination with said agency, over the movement of traffic into, within, and out of port areas in accordance with requirements and available port capacity for transshipment.

(5) Administer priorities for the movement of traffic through port areas.

(6) Provide guidance for the coordination of port terminal and fowarding operations; exercise control over the utilization of port facilities, port equipment, and port services, public and private, except those owned by, or organic or allocated to the Department of Defense; and promote maximum efficiency.

(7) Coordinate and make recommendations with respect to development of port facilities and rehabilitation of substandard port facilities; recommend restoration of damaged or destroyed port facilities or their replacement agencies in carrying out such restoration and replacement work as may be authorized by proper authority.

(8) Furnish the NSA with pertinent information and data with respect to local port operations in order to assist the NSA in performing at the national level its responsibilities as "claimant" functions at the local level as may be delegated to him by the NSA.

(9) As directed, furnish current information to the Federal agency responsible for land transportation in order that it may approve and issue block releases for port bound traffic to the Department of Defense with respect to military traffic and to the NSA with respect to all other oceangoing traffic, in accordance with firm cargo ocean lift schedules for the port. Shipper agencies may provide individual permits to shippers and depots for specific movements to the port areas. Advise the Federal agency responsible for land transportation where circumstances warrant institution of control by the latter agency over traffic-bound inland from the port area in order to minimize congestion in the port.

Article 5. *Federal Port Controller staff.* The contractor shall provide, in support of the Federal Port Controller, the staff personnel necessary to coordinate actions to overcome any constraints on the effective and efficient conduct of port operations as well as clerical staff to meet the administrative requirements of the Federal Port Controller. The numbers of staff will be determined and agreed to from time to time by the United States (NSA) and the contractor and entered in schedule A attached to this service agreement.

Article 6. *Office Facilities.* The contractor shall provide or arrange for necessary office facilities for the Federal Port Controller activity, including office space, furniture, communications equipment, supplies, utilities, transportation, and other normal administrative support and support services, as necessary and agreed to from time to time by the United States (NSA) and the contractor and recorded in schedule B attached to this service agreement.

Article 7. *Compensation.* (a) At least once a month, the United States (NSA) shall pay to the contractor compensation for the Federal Port Controller's services, the costs of his organization, and the costs of office facilities, administrative support services, as follows:

(1) Compensation for services of the Federal Port Controller and his staff shall be in accordance with salary levels plus monetary items directly related thereto (employee service expenses) in force at the time this agreement comes into force: *Provided,* That subsequent cost of living increases authorized under labor agreements and in accordance with Federal or State regulations will apply: *And provided,* That part-time services will be compensated for on a pro rated basis. Any adjustments in compensation after the contract comes into force will be negotiated, if appropriate. Employee service expenses will include the employer contributions for social security and pensions, as well as life/health and workmen's compensation insurance.

(2) Compensation for support other than salaries and related expenses (see art. 6) shall be in accordance with published schedules of charges of the contractor; and if schedules of charges have not been published by the contractor, in such fair and reasonable amount as the United States shall from time to time determine and publish in addendums to this service agreement: *Provided,* That, when facilities and support services are shared by the Federal Port Controller and other agencies and activities, compensation shall be pro rated on a schedule acceptable to the United States and the contractor.

(b) The contractor shall also be entitled to payment or credit for any service, loss, cost, or expense, whether or not specifically provided for or excepted herein, if, and to the extent that, such payment or credit is determined within the sole discretion of the Director, NSA, to be fair and equitable and in accordance with the basic principles or intent of this agreement.

Article 8. *Warranty against contingent fees.* The contractor warrants that it has not employed any person to solicit or secure this agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul this agreement or in its discretion to deduct from any amount payable hereunder the amount of such commission, percentage, brokerage, or contingent fee.

Article 9. *Equal opportunity.* During the performance of this agreement, the contractor agrees that the contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, employment, promotion, transfer, recruitment, or recruitment advertising, layoff or termination, direct or indirect compensation, and selection for training. The contractor agrees to post in conspicuous places, available to employees

and applicants for employment, notices to be provided by the NSA setting forth the provisions of this nondiscrimination clause.

Article 10. *Officials not to benefit.* No persons elected or appointed as members of or delegates to Congress, themselves or by any other persons in trust for them, or for their use or account shall hold or enjoy this agreement in whole or in part, except as provided in Section 433, Title 18, United States Code. The operator shall not employ any member of Congress, either with or without compensation, as an attorney, agent, officer, or director.

Article 11. *Right of Comptroller General to Examine Books and Records.* The Comptroller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers, and records of the contractor related to this agreement.

Article 12. *Effective Date, Duration and Termination.* (a) This agreement may be negotiated either for immediate execution or on a standby basis.

(1) If negotiated for immediate execution, the agreement is effective as of the day and year set forth above.

(2) If negotiated on a standby basis, the agreement will be effective as of the day and year when the United States notifies the contractor that the services specified in this agreement are required during a civil defense emergency or national emergency, and the operational date will be recorded in an addendum to this agreement: *Provided,* That, during the standby period, the contractor will carry out the obligation specified in paragraph (a) of article 2.

(3) Unless sooner terminated, the agreement shall extend until 6 months after termination of the emergency.

(b) This agreement may be terminated upon thirty (30) days written notice either party to the other party hereto: *Provided, however,* That, notwithstanding any such termination, the contractor shall, at the option of the United States, continue to be responsible for the completion of any work which the contractor is performing on the effective date of termination. Termination or expiration of this agreement shall neither affect nor relieve any party of any liability or obligation that may have accrued prior thereto.

(c) This agreement may be amended, modified or supplemented in writing at any time by mutual consent of the parties hereto. This agreement may not be amended, modified or supplemented otherwise than in writing.

Article 13. *Renegotiation.* This contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951.

Article 14. *Headnotes.* The use of headnotes at the beginning of the articles of this agreement is for the purpose of description only and shall not be construed as limiting or in any other manner affecting the substance of the articles themselves.

In witness whereof, the parties hereto have executed this agreement in triplicate as of this —— day of — , 19 —.

UNITED STATES OF AMERICA DEPARTMENT OF COMMERCE MARITIME ADMINISTRATION

(Seal)
Attest:

Secretary ————
Director, National Shipping Authority ——

(Corporate Seal)
Attest:
Secretary ————

By: ————————————

Approved as to Form:
General Counsel ————, Maritime Administration.

PART 1902. FEDERAL PORT CONTROLLER

Schedule A
Agreed positions.
Schedule B
Agreed office facilities, furniture and support resources.

PART 1903—OPERATING CONTRACT

Sec.
1. Purpose.
2. Stand-by agreements.
3. Terminal operating contract.

AUTHORITY: The Defense Production Act of 1950, as amended (50 app. U.S.C. 2061 et. seq.); the Federal Civil Defense Act of 1950 as amended (50 app. U.S.C. 2251 et. seq.); Reorganization Plan No. 1 of 1958 (72 Stat. 1799) and No. 1 of 1973 (87 Stat. 1089); E. O. 11490 (34 FR 17567, CFR 1966–1970 Comp., p. 820) and E. O. 11921 (41 FR 2494, 3 CFR 1976 Comp.); and Department of Commerce Organization Order 10-8 (38 FR 19707 July 23, 1973).

Section 1 Purpose.

This part prescribes the standard form of marine terminal contract to be entered into by the United States of America, acting by and through the Director, National Shipping Authority (NSA) of the Maritime Administration, U.S. Department of Commerce, with State or municipal authorities or private terminal operators for the provision of terminal operating services during civil defense emergencies or national emergencies declared by the President of the United States in accordance with existing statutory authority or by concurrent resolution of the Congress.

Sec. 2 Stand-by agreements.

The Director, NSA, Maritime Administration, in advance of an emergency, may negotiate the standard form of terminal operating contract, specified in Section 3, with terminal operators on a stand-by basis. Standby arrangements establish the framework of rapid initiation of government shipping operations at the outset of an emergency.

Sec. 3 Terminal operating contract.

Contract MA ————————————

TERMINAL OPERATING CONTRACT

This agreement, made as of ——, 19 —, between the United States of America (herein called the "United States"), acting by and through the Director, National Shipping Authority of the Maritime Administration, Department of Commerce, and ————, a ——— organized and existing under the laws of ———— (herein called the "operator"),

WITNESSETH

That in consideration of the covenants and agreements of the parties hereinafter contained and set forth, the parties here to do mutually covenant and agree as follows:

Part 1.

1. *Relationship of parties.* (a) The United States engages the operator, as independent contractor, to do and perform all the customary duties and functions of a terminal operator, subject to the terms, covenants and conditions of this agreement and to such rules, regulations and orders as may be issued by the United States from time to time, with respect to such cargo and vessels as the United States may from time to time direct or designate, and at the following terminals: ————, more specifically described in schedule A hereto attached and make a part hereof by reference, and at such other terminals as the United States may from time to time designate, which the operator may use under temporary assignment in order to expedite the loading and discharging of vessels under jurisdiction of the NSA.

(b) The operator hereby accepts such engagement and agrees to do and perform all the work required by it to be performed under this agreement in an economical and efficient manner and in accordance with the best operating practices, to exercise due diligence to protect and safeguard the interests of the United States in all respects and seek to avoid any delay, loss or damage whatsoever to United States shipping. The operator represents and warrants that it is the ———— of the hereinbefore specified terminals.

2. *Compensation.* (a) As full and complete compensation for the work done and performed by the operator, the United States agrees to pay to the operator, as soon as practicable after the completion of each calendar month's work under the provisions of this agreement the following:

(1) For terminal services, an amount calculated on the basis of rates and charges contained in tariffs on file with the Federal Maritime Commission during the time this agreement is in effect; Provided, however, That the operator will be compensated, as a minimum, the amount per month set forth for each terminal in schedule A attached: *And provided further,* That, when the operator, with the approval of the Director, NSA, utilizes the terminal for cargo not controlled by the Director, NSA (that is, for commercial cargo), the compensation received by the operator for handling such cargo shall apply against the minimum compensation; and

(2) For stevedoring services provided or arranged for by the operator and any related contractual services not specified in the terminal tariff such as handling lines or additional lashing or carpentry required for proper stowage or discharge activities, reimbursement for all direct costs of labor as well as those directly related or allocable to the provision of such labor and employee service expenses and costs of materials and equipment, an allowance of 15 percent for GAE is authorized except for those items which are ordinarily provided by the contractor and the basis for charges for which already includes GAE.

(3) An additional amount in payment or credit for any service, loss, cost of expense, whether or not specifically provided for or excepted herein; if, and to the extent that, such payment or credit is found by the Director, NSA, or his designated agent, in his

sole discretion, to be fair and equitable and in accordance with the basic principles or intent of this agreement.

(b) Monies due and owing to the operator shall be paid to it only upon the submission of vouchers properly and duly supported and certified. All such vouchers under this agreement shall refer to the date and number of this agreement.

(c) In the event a voucher submitted for payment for the work, or any portion thereof, is not properly supported or certified, the United States may nevertheless make partial payment thereof or payments on account of such voucher as has been properly supported or certified. Such partial payment or payments on account shall not be deemed or held to be a waiver of the right of the United States to revise or adjust such partial payment or payments on account upon the basis of any data or information later received or submitted by the operator.

(d) No payment will be made for handling ship stores or providing services properly billed under vessel contracts or agency agreements related to vessel operations and repairs.

3. *Duration of agreement.* (a) This agreement is effective:

(1) As of the day and year set forth above and, unless sooner terminated, shall extend until 6 months after the termination of the emergency; or

(2) If this agreement is negotiated on a stand-by basis, as of the day and year when the United States notifies the operator that the services specified in this agreement are required, during a civil defense emergency or national emergency; in which case, the effective date will be recorded in an addendum of this agreement.

(b) This agreement may be terminated upon thirty (30) days written notice by either party to the other party hereto: *Provided, however,* That notwithstanding any such termination, the operator shall, at the option of the United States, continue to be responsible for the completion of any work which the operator is performing on the effective date of termination. Termination or expiration of this agreement shall neither affect nor relieve any party of any liability of obligation that may have accrued prior thereto.

(c) This agreement may be amended, modified or supplemented in writing at any time by mutual consent of the parties hereto. This agreement may not be amended, modified or supplemented otherwise than in writing.

4. *Contract documents.* This agreement consists of part 1, part II and schedule A (the latter being hereto attached and made a part hereof by reference) and such other schedules or writing as may be made by the parties in accordance with the provisions of this agreement. Each and every one of the provisions of said part II, schedules and writings are part of this agreement as though hereinbefore set out at length.

In witness whereof, the parties hereto have duly executed this agreement in triplicate as of the day and year first above written.

(Seal)
Attest:

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION

Secretary ————, Maritime Administration.

By: ————————————
Director, National Shipping Authority ——

(Corporate Seal)
Attest:

Secretary ————
Approved as to Form:

By: ————————————
General Counsel ————, Maritime Administration.

TERMINAL OPERATING CONTRACT

PART II.

1. *Definitions.* (a) "Cargo" as used in this agreement means all general freight and commodities in bulk (including those damaged or solidified), merchandise, material, mail, baggage, express, ship's and subsistence stores, explosives, petroleum products, petroleum and other similar liquid cargo.

(b) "Terminal Work" as used in this agreement means the operation of the terminals specified in schedule A, as terminals and not for any other purpose, including the handling, receiving, delivering, assembling, checking, sorting, storing, coopering, protecting, and shifting of cargo at the said terminals; stowing and snugging cargo in the space on the terminal; issuing and receiving proper receipts for cargo; loading and discharging boxcars, lighters, scows, barges, carfloats, containers, trailers, and chasis; handling vessel's lines on docking and undocking; doing maintenance, and repair in accordance with the terms of this agreement; any and all other services, operations and functions usually or customarily done or performed by a terminal operator; and any and all other duties, services, operations or functions required by the terms of this agreement to be done or performed by the operator.

(c) "Port Terminal Facilities" as used in this agreement means piers, wharves, warehouses, covered and/or open storage space, cold storage plants, grain elevators and/or bulk loading and/or unloading structures, landings and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers.

2. *Duties of the operator.* The operator shall:

(a) If lessee or licensee of the terminals, perform, comply with and abide by all applicable terms, covenants and conditions of the lease or license under which it occupies and uses said terminals;

(b) Make available and operate for the requirements of the United States (which requirements include all cargo and vessels designated by the NSA, whether or not owned by the United States all terminals hereinabove described;

(c) Perform the terminal work as defined and furnish all labor of every nature and description and furnish and use all gear and mechanical devices or other equipment necessary for the most efficient performance;

(d) When requested to do so by the NSA or when incident to its terminal operations, perform or arrange for the shifting of lighters, barges, scows, rail cars and/or carfloats and load and discharge the same;

(e) Insure that the terminals are maintained and kept in proper condition and all berths suitably dredged;

(f) Supply all telephone service, clerical work, light, heat, power, fuel, water and other supplies and services connected with or incidential to the work, within the limits imposed by national resource allocation and priorities systems in effect at the time.

3. *General labor and other provisions.* (a) The operator shall, comply with the Social Security Act, the unemployment insurance laws of any State in which work is done, and the provisions of applicable collective bargaining agreements.

(b) The operator recognizes the relation of trust and confidence established between it and the United States by this agreement, and agrees to furnish its best skill and judgment in planning, supervising and performing the work, to make every effort to complete the work in the shortest time practicable, and to cooperate fully with the United States in furthering the interests of the United States. The operator agrees to furnish efficient business administration and superintendence in performing the work.

(c) Upon the executive of this agreement the operator shall immediately furnish to the Regional Office, NSA, written schedules of the wages and contractual working conditions, (including overtime, pay, insurance benefits and other compensation and employment benefits) payable by the operator in performing the work, and whenever requested from time to time thereafter, the operator shall furnish similar written schedules to the Regional Office, NSA, covering the then existing conditions. The operator shall notify the NSA concerning any proposed or actual change, modifications or alteration in such schedules as soon as knowledge thereof is available to the operator.

(d) The operator shall, if required by the NSA employ identification cards with individual photograph affixed, or other methods of identification, as issued by the United States Coast Guard or other responsible Government authorities.

(e) Overtime work under this agreement shall be incurred or performed by the operator only when required. However, the operator whenever requested by the NSA, shall work overtime.

4. *Notice of labor disputes.* Whenever any actual potential labor dispute is delaying or threatens to delay the timely and efficient performance of the work, the operator will immediately give written notice thereof to the NSA.

5. *Liability of the operator.* (a) While performing the work, the operator shall, except as provided in paragraph 6(c) of part II hereof, be responsible for any and all loss, damage or injury including death to persons, cargo, vessels, their stores, apparel or equipment, wharves, docks, piers, lighters, elevators, cars, carfloats or other property or thing, arising through the negligence or fault of the operator, its employees or terminals; *Provided,* That, to the extent not covered by insurance, the operator shall not be responsible to the NSA, for any loss, damage or injury resulting from the negligence or wrongful acts of the NSA or from acts of the operator and its employees performed only because specifically so directed by the NSA, fault of ship's or other gear supplied by the United States.

(b) The operator shall be under no liability to the United States in the event that the operator should fail to perform any work hereunder by reason of any labor shortage, dispute or difficulty, or any strike or lockout or any shortage of material or any act of God or peril of the sea or any other cause beyond the control of the operator, whether or not of the same or similar nature; or shall do or fail to do any act in reliance upon instructions of military or naval authorities.

6. *Insurance requirements and indemnification.* (a) The operator shall procure, and

maintain during the term of this agreement, pay for one or more policies of insurance insuring it as follows, as the basis for calculating compensation payable under paragraph 5 (a) above:

(1) Coverage of all piers, wharves, buildings, structures, facilities and equipment, as owner or in accordance with terms of lease;

(2) Standard workman's compensation insurance and employer's liability insurance, including longshoremen and harbor worker's compensation insurance, or such of these as may be proper under applicable State or Federal statutes. Such insurance shall, unless otherwise required by applicable State or Federal statutes, be subject to $50,000/100,000 limits and shall be full coverage with occupational disease endorsement. The operator may, however, be a self-insurer against the risks in this subparagraph, if it has obtained the prior approval of the Director, NSA, such approval to be given upon the submission of satisfactory evidence that the operator has duly qualified as a self-insurer under applicable provisions of law.

(3) Public liability insurance with limits of $1,000,000 to and/or death of one person and $5,000,000 for bodily injuries to and/or death of more than one person in any one accident or occurence.

(4) Property damage liability insurance covering damage to or loss of property resulting from the negligence of the operator with a limit of $1,000,000 for each occurence.

(b) All liability insurance obtained by the operator as provided in paragraph 6(a) above shall name the United States as additional insured or provided for a waiver of subrogation.

(c) The operator's work is incident to war activities of the United States and will involve risks and hazards far in excess of those normally incident to peacetime commercial operations. To induce the operator to undertake the performance of the work for the compensation herein provided, and thus obtain for the United States the resulting benefit of such reduced compensation, the United States undertakes to and does indemnify the operator and hold it harmless against any loss or damage to the terminals (whether owned, leased or occupied under license) and against expense (including expense of litigation), liability to and claims of third persons because of loss, damage or injury to persons, cargo, vessels, their stores, apparel or equipment, wharves, piers, docks, lighters, barges, scows, elevators, rail cars, carfloats, or other property or thing, arising through the negligence or fault of the operator, its employees, gear or equipment, or otherwise, all subject, however, to the following conditions and limitations:

(1) The undertaking of the United States shall be applicable only and limited to:

(a) For public liability the amount such loss, expense, or liability arising from any single catastrophe, accident or occurrence exceeds the sum of $1,000,00 each person and $5,000,000 per accident or the sum of insurance approved or required to be carried in excess of these limits, whichever sum is greater and

(b) For property damage liability the amount such loss, expense or liability arising from any single catastrophe, accident or occurrence exceeds the sum of $1,000,000 per accident or the sum of insurance approved or required to be carried in excess of these limits whichever sum is greater.

(2) The undertaking of the United States shall not be applicable and the United States shall have no obligation or liability in respect of such undertaking or otherwise, in situations in which such loss, expense or liability is due in whole or in part to willful and deliberate disregard of instructions of the Administrator or the personal failure to exercise good faith or insofar as the character of the work permits under wartime operations that degree of care normally exercised under like conditions in the performance of the operator's peacetime commercial operations, by the elected corporate officers of the operator or by the representative of the operator having supervision and direction of all operations at any terminal where the operator may perform services hereunder.

(3) As soon as practicable after occurrence of any event from which the obligation of the United States to hold the operator harmless against loss, expense and liability might arise, written notice of such event shall be given by the operator to the United States, which notice shall contain full particulars of the event. If claim is made or suit is brought thereafter against the operator as a result or because of such event, the operator shall immediately deliver to the United States every demand, notice, summons or other process received by it or its representatives, and the United States shall provide appropriate attachment or appeal bonds or undertakings where required in the course of such litigation.

(4) The operator shall cooperate with the United States and, upon the request of the United States, shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct (including defense) of suits; and the United States shall reimburse the operator for reasonable out-of-pocket expenses, other than loss of earnings, incurred in so doing. The operator shall not voluntarily, except at its own cost, make any payment, assume any obligation or incur any expense, other than for such immediate medical and surgical relief to others as shall be imperative at the time of said occurrence of such event.

(5) This undertaking of the United States to hold the operator harmless against loss, expense and liability as herein provided, shall not create or give rise to any right, privilege or power in any person or organization, except the operator, nor shall any person or organization be or become entitled to join the United States as a co-defendent in any action against the operator brought to determine the operator's liability or for any other purpose; *Provided, however,* That as to any risk borne or assumed by the United States through the undertaking set above, the United States shall be and hereby is subrogated by the operator to any claim, demand or cause of action against third persons or organizations which exists or may arise in favor of the operator, and the operator shall, if so required, forthwith execute a formal assignment or transfer of such claim, demand or cause of action.

(6) This undertaking of the United States shall not apply against any loss or expense resulting from enemy attack upon the United States.

7. *Covenant against assignment or sublease of terminals.* The operator shall not assign or sublet the terminals or any portion thereof nor grant any license with respect thereto, except in the ordinary course of terminal operations and subject to the approval of the NSA.

8. *Custom of the port.* No rule or custom of the port in conflict with any provisions of term of this agreement will be binding upon the United States, unless the operator is legally obligated to comply with the same pursuant to the laws of the United States or laws of any State thereof or pursuant to the terms, provisions, covenants and conditions of any lease covering the terminals and entered into between the operator and its lessor or licensor thereof.

9. *Extra work.* The United States will neither compensate nor make any payments to the operator for any extra work in connection with the operation of terminals which it may render in addition to the work specifically required by this agreement, except as provided in paragraph 3(e) of part II hereof.

10. *Status of employees.* All employees of the operator or of any other person or organization employed in performance of the work shall at all times be the employees of the operator or of such other person or organization, as the case may be, and are not employees of the United States.

11. *Delegation of authority.* Wherever and whenever herein any right, power or authority is granted or given to the United States, such right, power or authority may be exercised by the NSA or such agent or agents as the United States may appoint, and the act or acts of such agent or agents when taken shall constitute the act of the United States hereunder. In performing the work, the operator may rely upon the instructions and directions of the Director, NSA, his officers and responsible employees, or any person or agency authorized by him. Whenever, practicable, instructions and directions to the operator shall be in writing and oral instructions or directions given shall be confirmed promptly in writing. No Director's orders or regulations shall have retroactive effect without the written consent of the General Counsel, Maritime Administration.

12. *Warranty against contingent fees.* The operator warrants that it has not employed any person to solicit or secure this agreement upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the United States the right to annul this agreement or in its discretion to deduct from any amount payable hereunder the amount of such commission, percentage, brokerage, or contingent fee.

13. *Equal opportunity.* During the performance of this agreement, the operator agrees as follows:

(a) The operator will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The operator will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to employment, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, or termination, direct and indirect compensation and selection for training, including apprenticeship. The operator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the NSA setting forth the provisions of this nondiscrimination clause.

(b) The operator will, in all solicitations or advertisements for employees placed by or on behalf of the operator, state that all qualified applicants will receive consideration for employment without regard, to race, color, religion, sex, or national origin.

(c) The operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the NSA, advising the labor union or worker's representative of the operator's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The operator will comply with all provisions of Executive Order No. 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor.

(e) The operator will furnish all information and reports required by Executive Order No. 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the NSA and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of the operator's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the operator may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246, as amended, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(g) The operator will include the provisions of this paragraph in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The operator will take such action with respect to any subcontract or purchase order as the NSA may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the operator becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the NSA, the operator may request the United States to enter into such litigation to protect the interests of the United States.

14. *Officials not to benefit.* No persons elected or appointed as members of or delegates to Congress, themselves or by any other persons in trust for them, or for their use or account shall hold or enjoy this agreement in whole or in part, except as provided in Section 433, Title 18, United States Code. The operator shall not employ any member of Congress, either with or without compensation, as an attorney, agent, officer or director.

15. *Right of Controller General to examine books and records.* The Controller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers and records of the operator or any of its subcontractors engaged in the performance of the work under this agreement.

16. *Renegotiation.* This agreement shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951. The operator shall, in compliance with said section 104, insert the provisions of this paragraph in each subcontract and purchase order made or issued in carrying out this agreement.

17. *Headnotes.* The use of headnotes at the beginning of the articles of this agreement is for the purpose of description only and shall not be construed as limiting or in any other manner affecting the substance of the articles themselves.

PART 1903. TERMINAL OPERATING CONTRACT

Schedule A—Description of Terminal(s) and the agreed minimum dollars per month for each.

By order of the Assistant Secretary for Maritime Affairs.

Dated: June 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-18358 Filed 6-30-78; 8:45 am]

[8320-01]

VETERANS' ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Rating Considerations Relative to Specific Diseases

AGENCY: Veterans' Administration.

ACTION: Proposed rulemaking.

SUMMARY: The Veterans' Administration is amending its regulations governing service connection for tuberculosis. The law currently provides that active tuberculosis developing within 3 years from the date of separation from active service may be presumptively service connected. The Veterans' Administration, by regulation, added additional presumptive periods of 6 months for minimally advanced tuberculosis, 9 months for moderately advanced tuberculosis, and 12 months for far advanced tuberculosis. This was done on the advice of medical authorities on the theory that those degrees of advancement indicated preexistence of the disease by the specified periods. This theory is no longer tenable. "Diagnostic Standards and Classification of Tuberculosis and Other Mycobacterial Diseases" published by the American Lung Association has discontinued classification of tuberculosis as minimal, moderate, or far advanced and such classifications are no longer taught or used in modern medical practice. The major effect of this change is to remove the regulatory presumptions of 6, 9, and 12 months which are in addition to the 3-year statutory presumption. This brings the regulation into accord with the statute and current medical standards.

DATE: Comments must be received on or before August 3, 1978. It is proposed to make these changes effective date of final approval.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, 202-389-3005.

SUPPLEMENTARY INFORMATION: Based on what was previously known about the diagnosis, onset and treatment of tuberculosis, legislation was enacted which provided that active tuberculosis developing to a degree of 10 percent or more within 3 years after separation from active service is presumed to be service connected.

In addition to this 3-year statutory presumption, two regulatory presumptions were promulgated which have the effect of extending the 3-year statutory presumption by as much as 1 additional year. One provides that active pulmonary tuberculosis diagnosed by approved methods in the fourth year after service will be held to have preexisted the diagnosis 6 months in minimal cases, 9 months in moderately advanced cases, and 12 months in far advanced cases. (38 CFR 3.371(a)(1).) The other provides that tuberculous pleurisy and endobronchial tuberculosis diagnosed by approved methods as active in the fourth year after service will be held to have preexisted the diagnosis by 6 months. (38 CFR 3.371(c).) These presumptiuons have no statutory basis. They are also inconsistent with the general prohibition against presumptions predicated on degree of advancement of disease contained in 38 CFR 3.307(c). There is no longer any reason for this discriminatory treatment of tuberculosis.

Since promulgation of these regulatory presumptions, medical science has learned a great deal more about tuberculosis. Due to the impact of programs dealing with casefinding, diagnostic refinements, and improved chemotherapy, tuberculosis can now be quickly identified and up to 95 percent of new cases of tuberculosis can be quickly cured. The relapse rate after effective appropriate therapy is so low as to be virtually meaningless. Furthermore, the terms minimal, moderate, or advanced in reference to tuberculosis cases have no value now and their usage has been abandoned by the medical profession. There is no medical basis to substantiate that an episode of tuberculosis which presents as a severe lesion is necessarily of more remote onset than a minimal lesion. Quite often the reverse is true. In the case of tuberculous pleurisy or endo-

bronchial tuberculosis it is no longer medically supportable to presume that onset preexisted diagnosis by 6 months more than the statutory presumptive period.

We are therefore, rescinding the regulatory presumptions which permit the granting of service connection for a case of tuberculosis arising in the fourth year after separation from service. There is no longer any medical basis to support the continuance of such a presumption, which is actually a presumption based on a presumption. That is, application of the regulatory presumption placed onset within the 3-year period arising after separation from service which then permitted us to presume that the disease was service incurred.

These changes, of course, do not affect the statutory presumption. A case of tuberculosis manifest to a degree of 10 percent or more within 3 years after separation from active service will still be considered service incurred.

Pursuant to the foregoing, paragraph (b) of § 3.370 is amended to delete the reference to minimal, moderate or far advanced lesions. As amended, the regulation provides that service connection is in order for inactive pulmonary tuberculosis shown by X-ray during active service unless lesions are first shown so soon after entry on active service as to compel the conclusion on the basis of sound medical principles that they existed prior to entry on active service.

Paragraphs (a)(1) of § 3.371 and (d) of § 3.374 are revoked. As previously pointed out there no longer exists any valid medical basis to assume that active pulmonary tuberculosis preexisted diagnosis based on the out-of-date classification scheme of minimal, moderate, or advanced lesions. Paragraph (c) of § 3.371 is amended to delete that part which provides that tuberculous pleurisy or endobronchial tuberculosis diagnosed as active in the fourth year after service will be held to have preexisted the diagnosis by 6 months. This presumption also is no longer medically supportable.

Paragraph (a) (1) and (2) of § 3.375 is amended to delete outmoded criteria for determining complete arrest in pulmonary tuberculosis cases. As previously noted, tuberculosis is now quickly cured and the relapse rate is so low as to be virtually meaningless.

A minor change involving claims processing procedure is being made to § 3.378. Some time ago § 3.321 was amended to delete the requirement that extraschedular evaluations of permanent and total disability had to be submitted to the Veterans' Administration Central Office for approval. At the time this change was made to § 3.321, we failed to update § 3.378. Permanent and total extraschedular pension ratings for tuberculosis do not have to be submitted to the Veterans' Administration Central Office for approval. Therefore, § 3.378 is amended to delete the Central Office submission requirement.

Another minor change is being made to § 3.307(c). The reference to the presumption formerly contained in § 3.371 is deleted because the presumption provided by § 3.371 is being rescinded by this amendment to Veterans' Administration regulations.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 14, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: June 26, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 3.307, paragraph (c) is revised to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical, or prisoner of war related disease; wartime and service on or after January 1, 1947.

* * * * *

(c) *Prohibition of certain presumptions.* No presumptions may be invoked on the basis of advancement of the disease when first definitely diagnosed for the purpose of showing its existence to a degree of 10 percent within the applicable period. This will not be interpreted as requiring that the disease be diagnosed in the presumptive period, but only that there be then shown by acceptable medical or lay evidence characteristic manifestations of the disease to the required degree, followed without unreasonable time lapse by definite diagnosis. Symptomatology shown in the prescribed period may have no particular significance when first observed, but in the light of subsequent developments it may gain considerable significance. Cases in which a chronic condition is shown to exist within a short time following the applicable presumptive period, but without evidence of manifestations within the period, should be developed to determine whether there was symptomatology which in retrospect may be identified and evaluated as manifestation of the chronic disease to the required 10-percent degree. The consideration of service incurrence provided for chronic diseases will not be interpreted to permit any presumption as to aggravation of a preservice disease or injury after discharge.

* * * * *

2. In § 3.370, paragraph (b) is revised to read as follows:

§ 3.370 Pulmonary tuberculosis shown by X-ray in active service.

* * * * *

(b) *Inactive disease.* Where the veteran was examined at time of entrance into active service but X-ray was not made, or if made, is not available and there was no notation or other evidence of active or inactive reinfection type pulmonary tuberculosis existing prior to such entrance, it will be assumed that the condition occurred during service and direct service connection will be in order for inactive pulmonary tuberculosis shown by X-ray evidence during service in the manner prescribed in paragraph (a) of this section, unless lesions are first shown so soon after entry on active service as to compel the conclusion, on the basis of sound medical principles, that they existed prior to entry on active service.

* * * * *

3. In § 3.371, paragraphs (a) and (c) are revised to read as follows:

§ 3.371 Presumptive service connection for tuberculous disease; wartime and service on or after January 1, 1947.

(a) *Pulmonary tuberculosis.* (1) Evidence of activity on comparative study of X-ray films showing pulmonary tuberculosis within the 3-year presumptive period provided by § 3.307(a)(3) will be taken as establishing service connection for active pulmonary tuberculosis subsequently diagnosed by approved methods but service connection and evaluation may be assigned only from the date of such diagnosis or other evidence of clinical activity.

(2) A notation of inactive tuberculosis of the reinfection type at induction or enlistment definitely prevents the grant of service connection under § 3.307 for active tuberculosis, regardless of the fact that it was shown within the appropriate presumptive period.

* * * * *

(c) *Tuberculous pleurisy and endobronchial tuberculosis.* Tuberculous

pleurisy and endobronchial tuberculosis fall within the category of pulmonary tuberculosis for the purpose of service connection on a presumptive basis. Either will be held incurred in service when initially manifested within 36 months after the veteran's separation from service as determined under § 3.307(a)(2).

* * * * *

4. In § 3.374, paragraph (d) is revoked.

§ 3.374 Effect of diagnosis of active tuberculosis.

* * * * *

(d) [Revoked]

5. In § 3.375, paragraph (a) is revised to read as follows:

§ 3.375 Determination of inactivity (complete arrest) in tuberculosis.

(a) *Pulmonary tuberculosis.* A veteran shown to have had pulmonary tuberculosis will be held to have reached a condition of "complete arrest" when a diagnosis of inactive is made.

* * * * *

6. Section 3.378 is revised to read as follows:

§ 3.378 Changes from activity in pulmonary tuberculosis pension cases.

A permanent and total disability rating in effect during hospitalization will not be discontinued before hospital discharge on the basis of a change in classification from active. At hospital discharge, the permanent and total rating will be disontinued unless (a) the medical evidence does not support a finding of complete arrest (§ 3.375) or (b) where complete arrest is shown but the medical authorities recommend that employment not be resumed or be resumed only for short hours (not more than 4 hours a day for a 5-day week). If either of the two aforementioned conditions is met, discontinuance will be deferred pending examination in 6 months. Although complete arrest may be established upon that examination, the permanent and total rating may be extended for a further period of 6 months provided the veteran's employment is limited to short hours as recommended by the medical authorities (not more than 4 hours a day for a 5-day week). Similar extensions may be granted under the same conditions at the end of 12 and 18 months periods. At the expiration of 24 months after hospitalization, the case will be considered under § 3.321(b) if continued short hours of employment is recommended or if other evidence warrants submission.

[FR Doc. 78-18350 Filed 6-30-78; 8:45 am]

[8320-01]

[38 CFR Part 4]

SCHEDULE FOR RATING DISABILITIES

Proposed Regulatory Development

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Administrator proposes to revise the Schedule for Rating Disabilities to include ratings for prosthetic implants and to redefine the criteria for the 100 percent evaluation for rheumatic, hypertensive, and arteriosclerotic heart disease. In addition it is proposed to include a rating for coronary artery bypass, to eliminate the degrees of advancement of pulmonary tuberculosis and to provide instructions for continuing the total rating for malignant growths of the brain and spinal cord for 2 years following cessation of treatment. Those changes dealing with prosthetic implants, tuberculosis, and the cardiovascular system were done to conform to modern medical science and surgery and to make the evaluations for rheumatic, arteriosclerotic, and hypertensive heart disease more realistic.

DATES: Comments must be received on or before August 3, 1978. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Macomber (211C), 202-389-2635.

SUPPLEMENTAL INFORMATION: In addition to the foregoing, the rating schedule has been revised to include additional charts for rating multiple losses of extremity as well as charts and an example for rating loss of vision due to concentric contraction of field vision. Also in compliance with Pub. L. 94-168, the "Metric Conversion Act of 1975" all measurements in the rating schedule have been metricated by including metric measurements in parentheses following the U.S. customary measurement. The mandate for the schedule for rating disabilities and the authority of the Administrator to make changes is contained in section 355, title 38, United States Code.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 14, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Approved: June 26, 1978.

MAX CLELAND,
Administrator of Veterans' Affairs.

1. Section 4.17 is revised to read as follows:

§ 4.17 Total disability ratings for pension based on unemployability and age of the individual.

All veterans who are basically eligible and who are unable to secure and follow a substantially gainful occupation by reason of disabilities which are likely to be permanent shall be rated as permanently and totally disabled. For the purpose of pension, the permanence of the percentage requirements of § 4.16 is a requisite. The percentage requirements, however, are reduced on the attainment of age 55 to a 60 percent rating for one or more disabilities, with no percentage requirements for any one disability. The requirement at age 60 through 64 will be a 50 percent rating for one or more disabilities. A veteran who has become 65 years of age or older, or became unemployable after age 65, is conclusively presumed to be permanently and totally disabled by statute; hence, rating action for this purpose is unnecessary. When the reduced percentage requirements are met, and the disabilities involved are of a permanent nature, a rating of permanent and total disability will be assigned if the veteran is found to be unable to secure and follow substantially gainful employment by reason of such disability. Prior employment or unemployment status is immaterial if in the judgment of the rating board the veteran's disabilities render him or her unemployable. In making such determinations, the following guidelines will be used:

(a) Marginal employment, for example, as a self-employed farmer or other person, while employed in his or her own business, or at odd jobs or while employed at less than half the usual remuneration will not be considered incompatible with a determination of unemployability, if the restriction, as to securing or retaining better employment, is due to disability.

(b) Claims of all veterans who fail to meet the percentage standards but who meet the basic entitlement criteria and are unemployable, will be referred by the rating board to the Adjudication Officer under § 3.321(b)(2) of this chapter.

§ 4.17a [Amended]

2. Section 4.17a is amended by deleting the sentence following paragraph (b).

§ 4.18 [Amended]

3. Section 4.18 is amended by deleting the word "cases" and inserting the word "claims" in the third sentence.

§ 4.19 [Amended]

4. Section 4.19 is amended by adding a semicolon after the word "disability" and deleting the word "cases" and inserting the word "claims" in the first sentence.

5. Section 4.53 is revised to read as follows:

§ 4.53 Muscle patterns.

Every movement calls into action the muscles necessary for that movement constituting a definite muscle pattern which is invariable for that movement. None of the muscles can be left out of action in performing the movement nor can any other muscle be called into play to execute the movement. Every movement requires full efficiency, the full complement of muscles included in its specific pattern. If one, or more, of the group is injured or destroyed the efficiency of the movement is permanently impaired. It is the distortion of the intricate mechanism of muscle structures, the intermuscular binding, the obliteration of fascial planes and welding of aponeurotic sheaths that results in permanent residual disabilities. the typical symptoms associated with severe muscle injuries are: Fatigue rapidly coming on after moderate use of the affected muscle groups; pain occurring shortly after the incidence of fatigue sensations, the type of pain being that which is characteristic of and normally associated with prolonged severe muscular effort (fatigue-pain); inability to make certain movements with the same degree of strength as before injury; uncertainty in making certain movements, particularly when made quickly. When the subjective evidence in an individual claim appears as the natural result of a pathological condition shown objectively, and particularly when consistent from time of first examination, i.e., when obviously not based upon information given to the claimant by previous examiners are relayed to him or her from the claims file, it will be given due weight.

§ 4.54 [Amended]

6. Section 4.54 is amended by adding the words "of disability" after the word "type" in the first, fifth, and sixth sentences.

7. In § 4.55, paragraph (b) is revised to read as follows:

§ 4.55 Principles of combined ratings.

* * * * *

(b) Two or more severe muscle injuries affecting the motion (particularly strength of motion) about a single joint may be combined but not in combination receive more than the rating for ankylosis of that joint at an "intermediate" angle, except that with severe injuries involving the shoulder girdle and arm, the combination may not exceed the rating for unfavorable ankylosis of the scapulohumeral joint. Claims of an unusually severe degree of disability involving the shoulder girdle and arm or the pelvic girdle and thigh muscles wherein the evaluation under the criteria in this section appears inadequate may be submitted to the Director, Compensation and Pension Service for consideration under § 3.321(b)(1) of this chapter.

* * * * *

8. Section 4.56 is amended as follows:

(a) By amending "History and complaint" in paragraph (c) as set forth below:

(b) By deleting the word "Faradism" and inserting "faradic current" in the sixth sentence of "Objective findings" in paragraph (d).

§ 4.56 Factors to be considered in the evaluation of disabilities residual to healed wounds involving muscle groups due to gunshot or other trauma.

* * * * *

(c) *Moderately severe disability of muscles.*

* * * * *

History and complaint. Service department record or other sufficient evidence showing hospitalization for a prolonged period in service for treatment of wound of severe grade. Record in the file of consistent complaint of cardinal symptoms of muscle wounds. Evidence of unemployability because of inability to keep up with work requirements is to be considered, if present.

* * * * *

§ 4.60 [Revoked]

9. Section 4.60 is revoked.

§ 4.63 [Amended]

10. Section 4.63 is amended by adding "(8.9 cms.)" after "3½ inches" in paragraph (a).

§ 4.71 [Amended]

11. Section 4.71 is amended by adding "(See Plate III)" after the word "joints" and deleting the word "inches" and inserting "centimeters" in the last sentence.

12. In § 4.71a, the following revisions and additions are made to read as follows:

(a) Diagnostic code 5003 is revised;

(b) A new center title, Prosthetic Implants, and diagnostic codes 5051, 5052, 5053, 5054, 5055, and 5056 are added;

(c) Following diagnostic code 5111, a new Table II is added;

(d) Under "Amputations: Lower Extremity," diagnostic code 5166 is revised and diagnostic code 5174 is revoked;

(e) Under "The Elbow and Forearm," diagnostic codes 5211 and 5212 are revised;

(f) Under "The Wrist," the NOTE following diagnostic code 5214 is revised;

(g) Under "Multiple Fingers: Unfavorable Ankylosis", subparagraph (3) preceding diagnostic code 5216 and paragraph (b) following diagnostic code 5219 are revised;

(h) Under "Multiple Fingers: Favorable Ankylosis", subparagraph (3) preceding diagnostic code 5220 and paragraph (a) following diagnostic code 5223 are revised;

(i) Under "Ankylosis of Individual Fingers", the NOTE following diagnostic code 5227 is revised;

(j) Under "The Knee and Leg", diagnostic code 5264 is revoked; and

(k) Under "Shortening of the Lower Extremity", diagnostic code 5275 is revised.

§ 4.71a Schedule of ratings—musculoskeletal system.

ACUTE, SUBACUTE, OR CHRONIC DISEASES

* * * * *

	Rating
5003 Arthritis, degenerative (hypertrophic or osteoarthritis).	
Degenerative arthritis established by X-ray findings will be rated on the basis of limitation of motion under the appropriate diagnostic codes for the specific joint or joints involved (DC 5200 etc.). When however, the limitation of motion of the specific joint or joints involved is non-compensable under the appropriate diagnostic codes, a rating of 10 pct is for application for each such major joint or group of minor joints affected by limitation of motion, to be combined, not added under diagnostic code 5003. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion. In the absence of limitation of motion, rate as below:	
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups, with occasional incapacitating exacerbations	20
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups	10

NOTE (1). The 20 pct and 10 pct ratings based on

X-ray findings, above, will not be combined with ratings based on limitation of motion.

NOTE (2). The 20 pct and 10 pct ratings based on X-ray findings, above, will not be utilized in rating conditions listed under diagnostic codes 5013 to 5024, inclusive.

* * * * *

PROSTHETIC IMPLANTS

	Rating	
	Major	Minor
5051 Shoulder replacement (prosthesis).		
Prosthetic replacement of the shoulder joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	60	50
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic codes 5200 and 5203		
Minimum rating	30	20
5052 Elbow replacement (prosthesis).		
Prosthetic replacement of the elbow joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	50	40
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5205 through 5208.		
Minimum evaluation	30	20
5053 Wrist replacement (prosthesis).		
Prosthetic replacement of wrist joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	40	30
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic code 5214.		
Minimum rating	20	20

NOTE.—The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

	Rating
5054 Hip replacement (prosthesis).	
Prosthetic replacement of the head of the femur or of the acetabulum:	
For 1 year following implantation of prosthesis	100
Following implantation of prosthesis with painful motion or weakness such as to require the use of crutches	[1]90
Markedly severe residual weakness, pain or limitation of motion following implantation of prosthesis	70
Moderately severe residuals of weakness, pain or limitation of motion	50
Minimum rating	30
5055 Knee replacement (prosthesis).	
Prosthetic replacement of knee joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	60
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5256, 5261, or 5262.	
Minimum rating	30
5056 Ankle replacement (prosthesis).	
Prosthetic replacement of ankle joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness	40
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to 5270 or 5271.	
Minimum rating	20

[1]Also entitled to special monthly compensation.

NOTE (1). The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

NOTE (2). Special monthly compensation is assignable during the 100 pct rating period the earliest date permanent use of crutches is established.

TABLE II

RATINGS FOR MULTIPLE LOSSES OF EXTREMITIES
WITH DICTATOR'S RATING CODE AND VA REGULATION

IMPAIRMENT OF ONE EXTREMITY	IMPAIRMENT OF OTHER EXTREMITY					
	ANAT. LOSS OR LOSS OF USE BELOW ELBOW	ANAT. LOSS OR LOSS OF USE BELOW KNEE	ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS
ANAT. LOSS OR LOSS OF USE BELOW ELBOW	L CODES L-1-a-b- or c VAR 1350 (B) (38 CFR 3.350 (b)	L CODES L-1-g-h-i- or j VAR 1350 (B) (38 CFR 3.350 (b))	L½ CODE L-2-a VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2-b- or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-3-a VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3-c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))
ANAT. LOSS OR LOSS OF USE BELOW KNEE	L CODES L-1-g-h-i- or j VAR 1350 (B) (38 CFR 3.350 (b))	L CODES L-1-d-e- or f VAR 1350 (B) (38 CFR 3.350 (b))	L½ CODE L-2-b- or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2-c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-3-c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3-b VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))
ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	L½ CODE L-2-a VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i)	L½ CODE L-2-b- or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-1-a VAR 1350 (C) (38 CFR 3.350 (c))	M CODE M-2-a- or b VAR 1350 (C) (38 CFR 3.350 (c))	M½ CODE M-4-a VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4-c- or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii)
ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	L½ CODE L-2-b- or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2-c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-2-a- or b VAR 1350 (C) (38 CFR 3.350 (c))	M CODE M-1-b VAR 1350 (C) (38 CFR 3.350 (c))	M½ CODE M-4-c- or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4-b VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	M CODE M-3-a VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3-c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M½ CODE M-4-a VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4-c- or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))
ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS	M CODE M-3-c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3-b VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M½ CODE M-4-c- or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4-b VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))

NOTE: Need for aid and attendance or permanently bedridden qualifies for subpar. L. Code L-1-k or L - VAR 1350 (B) (38 CFR 3.350 (b)). Paraplegia with loss of use of both lower extremities and loss of anal and bladder sphincter control qualifies for subpar. O. Code 0-1-VAR 1350 (E) (38 CFR 3.350 (e)). Any of the above plus additional disabilities rated 50% or 100% qualifies for the next intermediate or full rate Code P-1 or Code P-2 respectively - VAR 1350 (F)(3) and (4) (38 CFR 3.350 (f)(3) and (4)).

	Rating
AMPUTATIONS: LOWER EXTREMITY	
* * * * *	
5166 Forefoot, amputation proximal to metatarsal bones (more than one-half of metatarsal loss)	[2]40

[2] Also entitled to special monthly compensation.

* * * * *

5174 [Revoked.]

THE ELBOW AND FOREARM

* * * * *

	Rating	
	Major	Minor
5211 Ulna, impairment of.		
Nonunion in upper half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in lower half	20	20
Malunion of, with bad alignment	10	10
5212 Radius, impairment of.		
Nonunion in lower half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in upper half	20	20
Malunion of, with bad alignment	10	10

* * * * *

THE WRIST

5214 Wrist, ankylosis of

* * * * *

NOTE.—Extremely unfavorable ankylosis will be rated as loss of use of hands under diagnostic code 5125.

* * * * *

MULTIPLE FINGERS: UNFAVORABLE ANKYLOSIS

* * * * *

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

* * * * *

5219 * * *

(b) The ratings for codes 5216 through 5219 apply to unfavorable ankylosis or limited motion preventing flexion of tips to within 2 inches (5.1 cms.) of median transverse fold of the palm.

* * * * *

MULTIPLE FINGERS: FAVORABLE ANKYLOSIS

* * * * *

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

* * * * *

5223 * * *

(a) The ratings for codes 5220 through 5223 apply to favorable ankylosis or limited motion permitting flexion of the tips to within 2 inches (5.1 cms.) of the transverse fold of the palm. Limitation of motion of less than 1 inch (2.5 cms.) in either direction is not considered disabling.

* * * * *

ANKYLOSIS OF INDIVIDUAL FINGERS

* * * * *

5227 * * *

NOTE.—Extremely unfavorable ankylosis will be rated as amputation under diagnostic codes 5152 through 5156.

THE KNEE AND LEG

* * * * *

5264 [Revoked]

SHORTENING OF THE LOWER EXTREMITY

	Rating
5275 Bones, of the lower extremity, shortening of:	
Over 4 inches (10.2 cms.)	[1]60
3½ to 4 inches (8.9 cms. to 10.2 cms.)	[1]50
3 to 3½ inches (7.6 cms. to 8.9 cms.)	40
2½ to 3 inches (6.4 cms. to 7.6 cms.)	30
2 to 2½ inches (5.1 cms. to 6.4 cms.)	20
1¼ to 2 inches (3.2 cms. to 5.1 cms.)	10

[1] Also entitled to special monthly compensation.

NOTE.—Measure both lower extremities from anterior superior spine of the ilium to the internal malleolus of the tibia. Not to be combined with other ratings for fracture or faulty union in the same extremity.

§ 4.73 [Amended]

13. Section 4.73 is amended as follows:

(a) The spelling of the word "Maissiat's" is corrected in diagnostic codes 5314 and 5317.

(b) The spelling of the word "iliacus" is corrected in diagnostic code 5316.

(c) Footnote 4 in diagnostic code 5317 is revised to read: "[4] If bilateral, see § 4.64 for consideration of special monthly compensation for loss of use of buttocks."

14. Section 4.76 is revised and § 4.76a, Table III, Figure 1 and example of computation of concentric contraction are added so that the revised and added material reads as follows:

§ 4.76 Examination of field vision.

Measurement of the visual field will be made when there is disease of the optic nerve or when otherwise indicated. The usual perimetric methods will be employed, using a standard perimeter and 3 mm. white test object. At least 16 meridians 22½ degrees apart will be charted for each eye. (See Figure 1. For the 8 principal meridians, see Table III.) The charts will be made a part of the report of examination. Not less than 2 recordings, and when possible, 3 will be made. The minimum limit for this function is established as a concentric central contraction of the visual field to 5°. This type of contraction of the visual field reduces the visual efficiency to zero. Where available the examination for form field should be supplemented, when indicated, by the use of target screen or campimeter. This last test is especially valuable in detection of scotoma.

§ 4.76a Computation of average concentric contraction of visual fields.

The extent of contraction of visual field in each eye is determined by recording the extent of the remaining visual fields in each of the eight 45 degree principal meridians. The number of degrees lost is determined at each meridian by subtracting the remaining degrees from the normal visual fields given in Table III. The degrees lost are then added together to determine total degrees lost. This is subtracted from 500. The difference represents the total remaining degrees of visual field. The difference divided by eight represents the average contraction for rating purposes.

TABLE III.—*Normal visual field extent at 8 principal meridians*

Meridian:	*Normal degrees*
Temporally	85
Down temporally	85
Down	65
Down nasally	50
Nasally	60
Up nasally	55
Up	45
Up temporally	55
Total	500

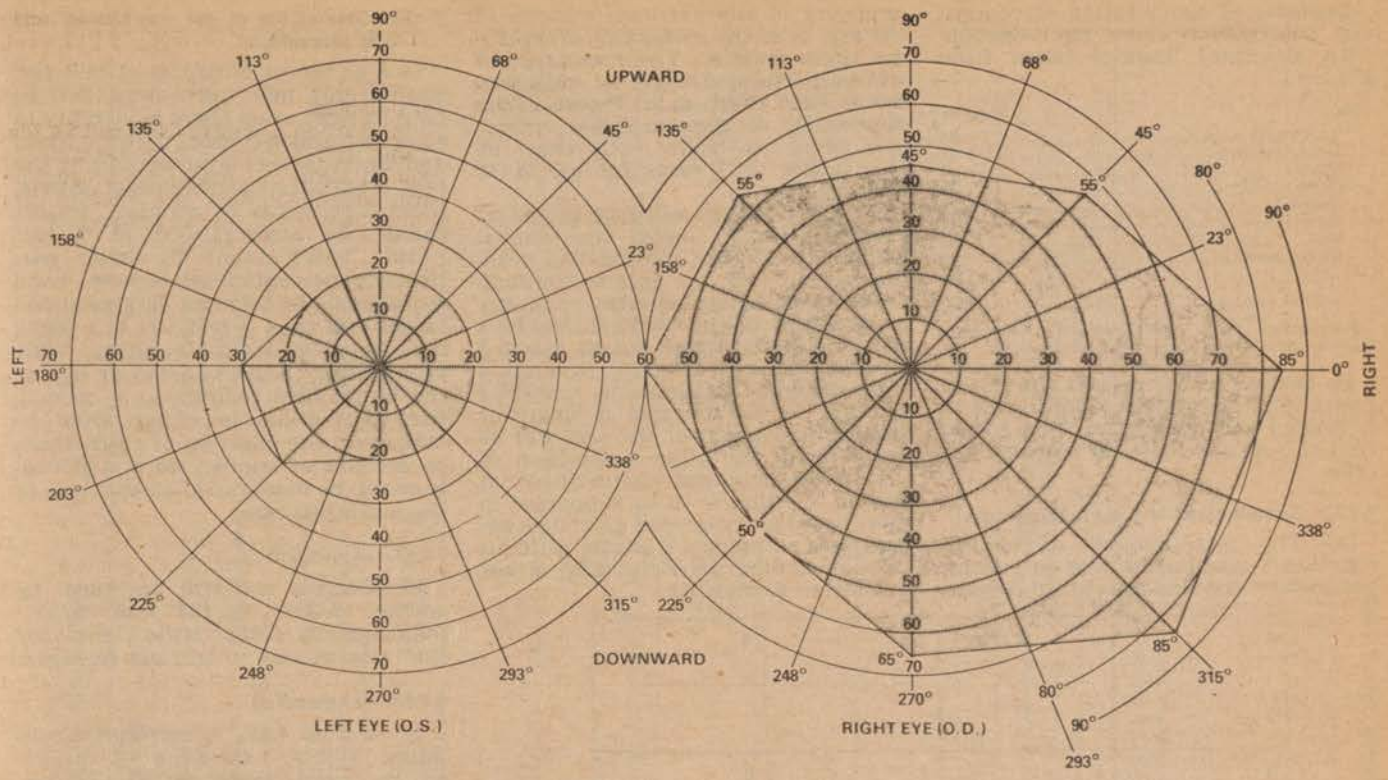


Figure 1. Chart of visual field showing normal field right eye and abnormal contraction visual field left eye.

Example of computation of concentric contraction under the schedule with abnormal findings taken from Figure 1.

Loss:	*Degrees*
Temporally	55
Down temporally	55
Down	45
Down nasally	30
Nasally	40
Up nasally	35
Up	25
Up temporally	35
Total loss	320

Remaining field 500° minus 320° = 180°. 180° ÷ 8 = 22½° average concentric contraction.

15. Section 4.77 is revised and the illustration immediately following § 4.77 is revised and designated Figure 2 so that the revised material reads as follows:

§ 4.77 Examination of muscle function.

(a) The measurement of muscle function will be undertaken only when the history and findings reflect disease or injury of the extrinsic muscles of the eye, or of the motor nerves supplying these muscles. The measurement will be performed using an industrial motor field chart, as in Figure 2, the dimensions of the individual rectangles being 8⅜ inches (21.3 cms.) by 10½ inches (26.7 cms.) for use at 10 feet (3.0 m.).

(b) The claimant will face the chart directly, fixating upon the central point, and without moving the head, successively turn the eyes to the individual rectangles, as the examiner moves a test object which should be a self-illuminated white dot of about 3 mm. in diameter attached to a wand from rectangle to rectangle, reporting whether he or she sees it singly or doubly. Repetition of the test will be made under the close supervision of the ophthalmologist. Impairment of muscle function is to be supported in each instance by record of actual appropriate pathology. Diplopia which is only occasional or correctable is not considered a disability.

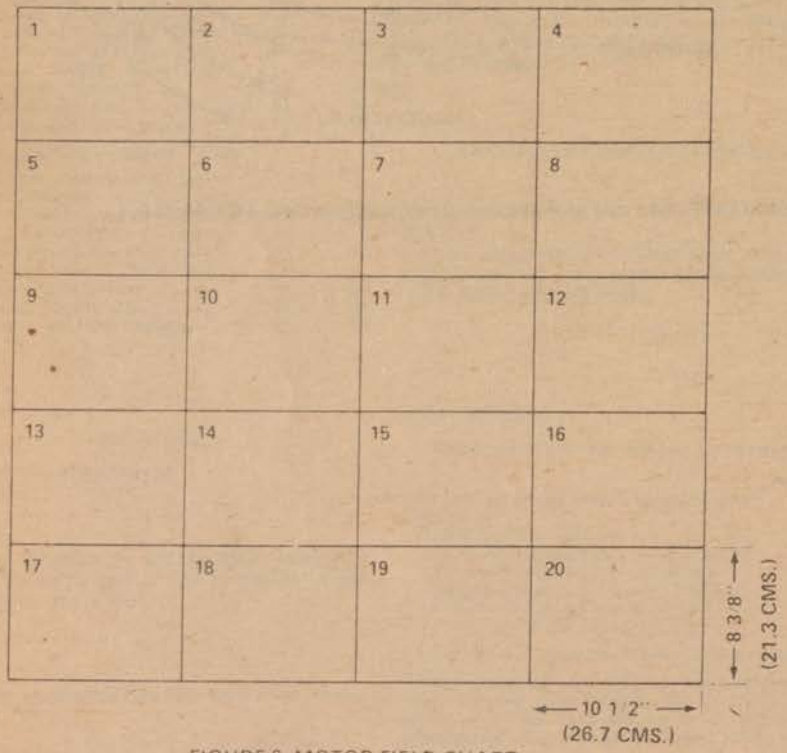


FIGURE 2 MOTOR FIELD CHART

§ 4.78 [Amended]

16. Section 4.78 is amended by deleting "38 U.S.C. 360" and inserting "§ 3.383(a) of this chapter" in the last line.

17. Section 4.79 is revised to read as follows:

§ 4.79 Loss of use of one eye, having only light perception.

Loss of use or blindness of one eye, having only light perception, will be held to exist when there is inability to recognize test letters at 1 foot (.30m.) and when further examination of the eyes reveals that perception of objects, hand movements or counting fingers cannot be accomplished at 3 feet (.91m.), lesser extents of visions, particularly perception of objects, hand movements, or counting fingers at distances less than 3 feet (.91 m.), being considered of negligible utility. With visual acuity 5/200 (1.5/60) or less or the visual field reduced to 5° concentric contraction, in either event in both eyes, the question of entitlement on account of regular aid and attendance will be determined on the facts in the individual case.

§ 4.83 [Amended]

18. Section 4.83 is amended by adding "(6/30)", "(6/21)" and "(6/30)" following "20/100", "20/70", and "20/100" respectively in the last sentence.

§ 4.83a [Amended]

19. Section 4.83a is amended by deleting "III" and inserting "V" following the word "table" in the first sentence and inserting "(1.5/60)" and "(6/21)" following "5/200" and "20/70" respectively in the second sentence.

20. Section 4.84a is amended as follows:

(a) By inserting "(1.5/60)" and "(6/30)" after "5/200" and "20/100" respectively in diagnostic code 6019.

(b) By inserting "(6/21)": after "20/70" in the fourth sentence of the note following diagnostic code 6029.

(c) By making the changes as set forth below:

(1) Revising and redesignating Table II as Table IV.

(2) Revising diagnostic codes 6061 through 6079 under "Impairment of Central Visual Acuity."

(3) Revising and redesignating Table III as Table V.

(4) Revising diagnostic code 6080 and notes under "Ratings for Impairment of Field Vision."

(5) Revising diagnostic code 6090 and notes under "ratings for Impairment of Muscle Function."

§ 4.84a Schedule of ratings — eye.

* * * * *

TABLE IV

TABLE FOR RATING BILATERAL BLINDNESS
WITH DICTATOR'S RATING CODE AND VA REGULATION

VISION ONE EYE	VISION OTHER EYE						
	5/200 (1.5/60) OR LESS	LIGHT PERCEPTION ONLY	NO LIGHT PERCEPTION PLUS PHTHISIS BULBI	NO LIGHT PERCEPTION PLUS DEFORMITY	NO LIGHT PERCEPTION PLUS DISFIGUREMENT	NO LIGHT PERCEPTIONS PLUS EVISCERATION	ANATOMICAL LOSS
5/200 (1.5/60) OR LESS	L* CODE LB-1 1350 (B)(2) (38 CFR 3.350 (b) (2))	L+½* CODE LB-2 1350 (F)(2)(a) (38 CFR 3.350 (f)(2)(i))	M CODE MB-2-b-(1) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB-2-b-(3) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB-2-b-(4) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB-2-b-(2) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB-2-(a) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))
LIGHT PERCEPTION ONLY		M CODE MB-1-a 1350 (C) (38 CFR 3.350 (c))	M+½ CODE MB-3-b-(1) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB-3-b-(3) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB-3-b-(4) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB-3-b-(2) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB-3-a 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))
NO LIGHT PERCEPTION PLUS PHTHISIS BULBI			N CODE NB-2-a 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-a&c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-a&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-a&b 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS DEFORMITY				N CODE NB-2-c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-c&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-b&c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS DISFIGUREMENT					N CODE NB-2-d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB-2-b&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS EVISCERATION						N CODE NB-2-d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
ANATOMICAL LOSS							N CODE NB-1 1350 (D) (38 CFR 3.350 (d))
BILATERAL BLINDNESS WITH DEAFNESS							
Any of the above plus service connected total deafness one ear add ½ rate (limit O) code PB-1 VAR 1350 (F)(2)(e) 1 (38 CFR 3.350 (f)(2)(v)(a)). Any of the above plus bilateral deafness, 40% or more, at least one ear service connected add full step (limit O) code PB-2 VAR 1350 (F)(2)(e) (38 CFR 3.350(f)(2)(v)). Any of the above plus service connected deafness, 60% or more, at least one ear service connected qualifies for Subpar O code OB VAR 1350 (E) (38 CFR 3.350(e)).							

* With need for aid and attendant qualifies for Subpar M code MB-1-b VAR 1350 (C). (38CFR3.350 (c)).

NOTE: No specific dictators rating code provided, code NB-2 should be modified to fit the conditions shown.

IMPAIRMENT OF CENTRAL VISUAL ACUITY

		Rating
6061	Anatomical loss both eyes	[1]100
6062	Blindness in both eyes having only light perception	[1]100
	Anatomical loss of 1 eye:	
6063	In the other eye 5/200 (1.5/60)	[1]100
6064	In the other eye 10/200 (3/60)	[1]90
6064	In the other eye 15/200 (4.5/60)	[1]80
6064	In the other eye 20/200 (6/60)	[1]70
6065	In the other eye 20/100 (6/30)	[1]60
6065	In the other eye 20/70 (6/21)	[1]60
6065	In the other eye 20/50 (6/15)	[1]50
6066	In the other eye 20/40 (6/12)	[1]40
	Blindness in 1 eye, having only light perception:	
6067	In the other eye 5/200 (1.5/60)	[1]100
6068	In the other eye 10/200 (3/60)	[1]90
6068	In the other eye 15/200 (4.5/60)	[1]80
6068	In the other eye 20/200 (6/60)	[1]70
6069	In the other eye 20/100 (6/30)	[1]60
6069	In the other eye 20/70 (6/21)	[1]50
6069	In the other eye 20/50 (6/15)	[1]40
6070	In the other eye 20/40 (6/12)	[1]30
	Vision in 1 eye 5/200 (1.5/60):	
6071	In the other eye 5/200 (1.5/60)	[1]100
6072	In the other eye 10/200 (3/60)	90
6072	In the other eye 15/200 (4.5/60)	80
6072	In the other eye 20/200 (6/60)	70
6073	In the other eye 20/100 (6/30)	60
6073	In the other eye 20/70 (6/21)	50
6073	In the other eye 20/50 (6/15)	40
6074	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 10/200 (3/60):	
6075	In the other eye 10/200 (3/60)	90
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	50
6076	In the other eye 20/50 (6/15)	40
6077	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 15/200 (4.5/60):	
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/200 (6/60):	
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/100 (6/30):	
6078	In the other eye 20/100 (6/30)	50
6078	In the other eye 20/70 (6/21)	30
6078	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/70 (6/21):	
6078	In the other eye 20/70 (6/21)	30
6078	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/50 (6/15):	
6078	In the other eye 20/50 (6/15)	10
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/40 (6/12):	
	In the other eye 20/40 (6/12)	0

[1] Also entitled to special monthly compensation.

[2] Add 10% if artificial eye cannot be worn; also entitled to special monthly compensation.

TABLE V

RATINGS FOR CENTRAL VISUAL ACUITY IMPAIRMENT

(With Diagnostic Code)

VISION IN ONE EYE			VISION IN OTHER EYE						
	20/40 (6/12)	20/50 (6/15)	20/70 (6/21)	20/100 (6/30)	20/200 (6/60)	15/200 (4.5/60)	10/200 (3/60)	5/200 (1.5/60)	LIGHT PERCEPTION ONLY/ ANATOMICAL LOSS
20/40 (6/12)	0								
20/50 (6/15)	10 (6079)	10 (6078)							
20/70 (6/21)	10 (6079)	20 (6078)	(6078)						
20/100 (6/30)	10 (6079)	20 (6078)	30 (6078)	50 (6078)					
20/200 (6/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)				
15/200 (4.5/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)	80 (6075)			
10/200 (3/60)	30 (6077)	40 (6076)	50 (6076)	60 (6076)	70 (6075)	80 (6075)	90 (6075)		
5/200 (1.5/60)	30 (6074)	40 (6073)	50 (6073)	60 (6073)	70 (6072)	80 (6072)	90 (6072)	$^{5}100$ (6071)	
LIGHT PERCEPTION ONLY	$^{5}30$ (6070)	$^{5}40$ (6069)	$^{5}50$ (6069)	$^{5}60$ (6069)	$^{5}70$ (6068)	$^{5}80$ (6068)	$^{5}90$ (6068)	$^{5}100$ (6067)	$^{5}100$ (6062)
ANATOMICAL LOSS OF ONE EYE	$^{6}40$ (6066)	$^{6}50$ (6065)	$^{6}60$ (6065)	$^{6}60$ (6065)	$^{6}70$ (6064)	$^{6}80$ (6064)	$^{6}90$ (6064)	$^{5}100$ (6063)	$^{5}100$ (6061)

5 ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION.

6 ADD 10 PERCENT IF ARTIFICIAL EYE CANNOT BE WORN. ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION.

RATINGS FOR IMPAIRMENT OF FIELD VISION

	Rating
6080 Field vision, impairment of:	
Homonymous hemianopsia	30
Field, visual, loss of temporal half:	
Bilateral	30
Unilateral	10
Or rate as 20/70 (6/21).	
Field, visual, loss of nasal half:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	
Field, visual, concentric contraction of:	
To 5°:	
Bilateral	100
Unilateal	30
Or rate as 5/200 (1.5/60).	
To 15° but not to 5°:	
Bilateral	70
Unilateral	20
Or rate as 20/200 (6/60)	
To 30° but not to 15°:	
Bilateral	50
Unilateral	10
Or rate as 20/100 (6/30)	
To 45° but not to 30°:	
Bilateral	30
Unilateal	10
Or rate as 20/70 (6/21):	
To 60° but not to 45°:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). Demonstrable pathology commensurate with the functional loss will be required. The concentric contraction ratings require contraction within the stated degrees, temporally; the nasal contraction may be less. The alternative ratings are to be employed when there is ratable defect of visual acuity, or a different impairment of the visual field in the other eye. Concentric contraction resulting from demonstrable pathology to 5 degrees or less will be considered on a parity with reduction of central visual acuity to 5/200 (1.5/60) or less for all purposes including entitlement under § 3.350(b)(2) of this chapter; not however, for the purpose of § 3.350(a) of this chapter. Entitlement on account of blindness requiring regular aid and attendance, § 3.350(c) of this chapter, will continue to be determined on the facts in the individual case.

* * * * *

RATINGS FOR IMPAIRMENT OF MUSCLE FUNCTION

	Rating
6090 Muscle function, ocular, impairment of:	
Producing diplopia in 19-20 rectangles. Rate as 5/200 (1.5/60).	
Producing diplopia in 17-18 rectangles. Rate as 10/200 (3/60).	
Producing diplopia in 14-16 rectangles. Rate as 15/200 (4.5/60).	
Producing diplopia in 12-13 rectangles. Rate as 20/200 (6/60).	
Producing diplopia in 9-11 rectangles. Rate as 20/100 (6/30).	
Producing diplopia in 6-8 rectangles. Rate as 20/70 (6/21).	
Producing diplopia in 3-5 rectangles. Rate as 20/50 (6/15).	
Producing diplopia in 0-2 rectangles. Rate as 20/40 (6/12).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). The ratings under diagnostic code 6090 are to be applied only to the poorer eye if both have ratable impairment of visual acuity or visual field; if only one eye has a ratable impairment, to that eye, but not in combination with any other eye rating.

* * * * *

21. Section 4.85 is revised to read as follows:

§ 4.85 Hearing impairments reported as a result of regional office or authorized audiology clinic examinations.

(a) If the results of controlled speech reception tests are used, the letter, A through F, designating the impairment in efficiency of each ear separately, will be ascertained from table VI. Table VI indicates six areas of impairment in efficiency. The literal designation of impaired efficiency (A, B, C, D, E, or F) will be determined by intersecting the horizontal row appropriate for percentage of discrimination and the vertical column appropriate to the speech reception decibel loss; thus, with a speech reception decibel loss of 62 db and a percentage discrimination of 72 percent the literal designation is "D"; if the speech reception decibel loss is 62 db and the percentage discrimination is 70 percent, the literal designation is "E".

(b) The percentage evaluation will be found from table VII by intersecting the horizontal row appropriate for the literal designation for the ear having the better hearing and the vertical column appropriate to the literal designation for the ear having the poorer hearing. For example, if the better ear has a literal designation of "B" and the poorer ear has a literal designation of "C", the percentage evaluation is in the second horizontal row from the bottom and in the third vertical column from the right and is 10 percent and the diagnostic code is 6293.

(c) If the results of pure tone audiometry are used, the equivalent literal designation for each ear, separately, will be ascertained from table VII, and the percentage evaluation determined in the same manner as for speech reception impairment in paragraph (b) of this section. For example, if the average pure tone decibel loss for the frequencies 500, 1,000 and 2,000 is not more than 57 db and there is no loss more than 70 db for any of these three frequencies, the equivalent literal designation is "C"; if in the other ear, the average is not more than 79 db, and there is no loss more than 90 db, the equivalent literal designation is "D". The percentage evaluation is therefore found in the horizontal row opposite "C", and in the vertical column under "D", and is 20 percent and the diagnostic code is 6289. Note that if in the first instance any of the 3 frequencies has a loss of more than 70 db, or in the second instance more than 90 db, the literal designation will be higher, i.e., further from "A" in the alphabetical series.

§ 4.86a [Amended]

22. Section 4.86a is amended

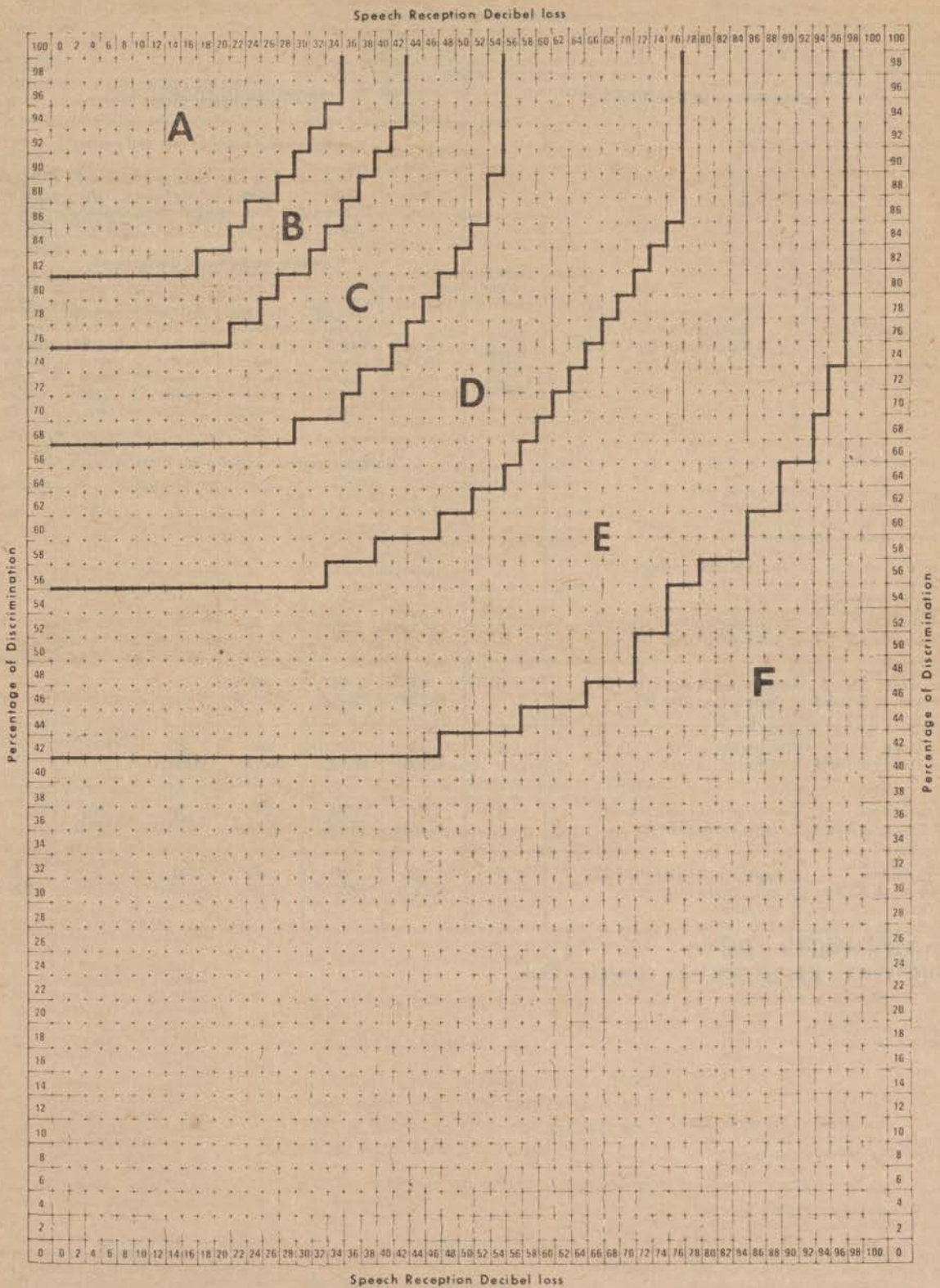
(a) By adding "(meters)" after the word "feet" in the first sentence;

(b) By adding "(metric)" after the word "footage" and deleting "V" and inserting "VII" in the third sentence.

23. Following § 4.87, Tables IV and V are revised and redesignated Tables VI and VII respectively as follows:

TABLE VI

Literal Designation of Hearing Impairment



(This chart showing the literal designation of hearing loss is based on the ANSI norm.)

TABLE VII

RATINGS FOR HEARING IMPAIRMENT

(with diagnostic code)

HEARING IN BETTER EAR			HEARING IN POORER EAR					
			Conversational voice in feet and meters					
Conversational	Pure tone audiometry average decible loss at 3 frequencies: 500, 1,000 and 2,000	Speech reception impairment literal designation	0 feet (0 m.)	1 to 4 feet (0.3 m. to 1.2 m.)	5 to 7 feet (1.5 m. to 2.1 m.)	8 to 9 feet (2.4 m. to 2.7 m.)	10 to 14 feet (3.0 m. to 4.3 m.)	15 to 40 feet (4.6 m. to 12.2 m.)
			Pure tone audiometry decibel loss					
			Average 100 or more	Average not more than 99; none more than 105	Average not more than 79; none more than 90	Average not more than 57; none more than 70	Average not more than 45; none more than 55	Average not more than 37; none more than 45
			Speech reception impairment literal designation					
			F	E	D	C	B	A
0 feet (0 m.)	Average 100 or more	F	[7] 80 (6277)					
1 to 4 feet (0.3 m. to 1.2 m.)	Average not more than 99; none more than 105	E	60 (6278)	60 (6283)				
5 to 7 feet (1.5 m. to 2.1 m.)	Average not more than 79; none more than 90	D	40 (6279)	40 (6284)	40 (6288)			
8 to 9 feet (2.4 m. to 2.7 m.)	Average not more than 57; none more than 70	C	30 (6280)	30 (6285)	20 (6289)	20 (6292)		
10 to 14 feet (3.0 m. to 4.3 m.)	Average not more than 45; none more than 55	B	20 (6281)	20 (6286)	20 (6290)	10 (6293)	10. (6295)	
15 to 40 feet (4.6 m. to 12.2 m.)	Average not more than 37; none more than 45	A	10 (6282)	10 (6287)	10 (6291)	0 (6294)	0 (6296)	0 (6297)

This chart is based upon ANSI norm.

[7] ENTITLED TO SPECIAL MONTHLY COMPENSATION.

§ 4.87a [Amended]

24. Section 4.87a is amended by deleting "V" and inserting "VII" after the word "Table" in diagnostic codes 6277 through 6297.

§ 4.88 [Amended]

25. Section 4.88 is amended by deleting "quinine or other" and inserting "medication" in the last sentence.

§ 4.88a [Amended]

26. Section 4.88a is amended by inserting "(Hansen's Disease)" after "Leprosy" in diagnostic code 6302.

§ 4.89 [Amended]

27. Section 4.89 is amended by deleting the word "NOTE" preceding "Pub. L. 90-493" following the section title.

§ 4.94 [Revoked]

28. section 4.94 is revoked.

29. In § 4.97 under "Diseases of the Lungs and Pleura-Tuberculosis," diagnostic codes 6701 through 6732 are revised to read as follows:

§ 4.97 Schedule of ratings—respiratory system.

* * * * *

DISEASES OF THE LUNGS AND PLEURA—TUBERCULOSIS

RATINGS FOR PULMONARY TUBERCULOSIS IN WHICH ENTITLEMENT TO COMPENSATION WAS ESTABLISHED ON OR BEFORE AUG. 19, 1968

	Rating
6701 Tuberculosis, pulmonary, chronic, far advanced, active	
6702 Tuberculosis, pulmonary, chronic, moderately advanced, active	
6703 Tuberculosis, pulmonary, chronic, minimal, active	
6704 Tuberculosis, pulmonary, chronic, active, advancement unspecified	100
6721 Tuberculosis, pulmonary, chronic, far advanced, inactive	
6722 Tuberculosis, pulmonary, chronic, moderately advanced, inactive	
6723 Tuberculosis, pulmonary, chronic, minimal, inactive	
6724 Tuberculosis, pulmonary, chronic, inactive, advancement unspecified	
General Rating Formula for Inactive Pulmonary Tuberculosis:	
For 2 years after date of inactivity, following active pulmonary tuberculosis, which was clinically identified during active service, or subsequently	100
Thereafter, for 4 years, or in any event, to 6 years after date of inactivity	50
Thereafter, for 5 years, or to 11 years after date of inactivity	30
Following far advanced lesions diagnosed at any time while the disease process was active, minimum	30
Following moderately advanced lesions, provided there is continued disability, emphysema, dyspnea on exertion, impairment of health, etc	20
Otherwise	0

NOTE (1). The 100 pct rating under codes 6701 through 6724 is not subject to a requirement of precedent hospital treatment. It will be reduced to 50 percent for failure to submit to examination or to follow prescribed treatment upon report to that effect from the medical authorities. When a veteran is placed on the 100 pct rating for inactive tuberculosis, the medical authorities will be appropriately notified of the fact, and of the necessity under 38 U.S.C. 350 to notify the Adjudication Division in the event of failure to submit to examination or to follow prescribed treatment.

NOTE (2). The graduated 50 pct and 30 pct ratings and the permanent 30 pct and 20 pct ratings for inactive pulmonary tuberculosis are not to be combined with ratings for other respiratory disabilities. Following thoracoplasty the rating will be for removal of ribs combined with the rating for collapsed lung. Resection of ribs incident to thoracoplasty will be rated as removal.

RATINGS FOR PULMONARY TUBERCULOSIS INITIALLY ENTITLED AFTER AUG. 19, 1968

	Rating
6730 Tuberculosis, pulmonary, chronic, active	100
6731 Tuberculosis, pulmonary, chronic, inactive:	
For 1 year after date of attainment of inactivity of tuberculosis	100
Thereafter, rate residuals attributable to tuberculosis:	
Pronounced: Advanced fibrosis with severe ventilatory deficit manifested by dyspnea at rest, marked restriction of chest expansion, with pronounced impairment of bodily vigor	100
Severe; extensive fibrosis, severe dyspnea on slight exertion with corresponding ventilatory deficit confirmed by pulmonary function tests with marked impairment of health	60
Moderate; with considerable pulmonary fibrosis and moderate dyspena on slight exertion, confirmed by pulmonary funetion tests	30
Definitely symptomatic with pulmonary fibrosis and moderate dyspnea on extended exertion	10
Healed lesions, minimal or no symptoms	0

Active pulmonary tuberculosis will be considered permanently and totally disabling for non-service-connected pension purposes in the following circumstances:

(a) Associated with active tuberculosis involving other than the respiratory system.

(b) With severe associated symptoms or with extensive cavity formation.

(c) Reactivated cases, generally.

(d) With definite advancement of lesions on successive examinations or while under treatment.

(e) Without retrogression of lesions or other evidence of material improvement at the end of 6 months hospitalization or without change of diagnosis from "active" at the end of 12 months hospitalization.

NOTE.—"Material improvement" means lessening or absenced of clinical symptoms, and X-ray findings of a stationary or retrogressive lesion.

	Rating
6732 Pleurisy, tuberculous, active or inactive:	
Active	100
Inactive: See §§ 4.88b and 4.89.	

30. In § 4.104, diagnostic codes 7000, 7004, 7005, and 7007 are revised and 7017 is added so that the revised and added codes read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

DISEASES OF THE HEART

	Rating
7000 Rheumatic heart disease:	
As active disease and, with ascertainable cardiac manifestation, for a period of 6 months	100

DISEASES OF THE HEART—Continued

Inactive:

	Rating
Definite enlargement of the heart confirmed by roentgenogram and clinically; dyspnea on slight exertion; rales, pretibial pitting at end of day or other definite signs of beginning congestive failure; more than sedentary employment is precluded	100
The heart definitely enlarged; severe dyspnea on exertion, elevation of systolic blood pressure, or such arrhythmias as paroxysmal auricular fibrillation or flutter or paroxysmal tachycardia; more than light manual labor is precluded	60
From the termination of an established service episode of rheumatic fever, or its subsequent recurrence, with cardiac manifestations, during the episode or recurrence, for 3 years, or diastolic murmur with characteristic EKG manifestations or definitely enlarged heart	30
With identifiable valvular lesion, slight, if any dyspnea, the heart not enlarged; following established active rheumatic heart disease	10

* * * * *

7004 Syphilitic heart disease:	
Rate as rheumatic heart disease, inactive.	
7005 Arteriosclerotic heart disease:	
During and for 6 months following acute illness from coronary occlusion or thrombosis, with circulatory shock, etc	100
After 6 months, with chronic residual findings of congestive heart failure or angina on moderate exertion or more than sedentary employment precluded	100
Following typical history of acute coronary occlusion or thrombosis as above, or with history of substantiated repeated anginal attacks, more than light manual labor not feasible	60
Following typical coronary occlusion or thrombosis, or with history of substantiated anginal attack, ordinary manual labor feasible	30

* * * * *

7007 Hypertensive heart disease:	
With definite signs of congestive failure, more than sedentary employment precluded	100
With marked enlargement of the heart, confirmed by roentgenogram, or the apex beat beyond midclavicular line, sustained disastolic hypertension, diastolic 120 or more, which may later have been reduced, dyspnea on exertion, more than light manual labor is precluded	60
With definite enlargement of the heart, sustained diastolic hypertension of 100 or more, moderate dyspnea on exertion	30

* * * * *

7017 Coronary artery bypass:	
For 1 year following bypass surgery	100
Thereafter, rate as arteriosclerotic heart disease.	
Minimum rating	30

NOTE.—Authentic myocardial insufficiency with arteriosclerosis may be substituted for occlusion.

NOTE.—The 100 pct rating for 1 year following bypass surgery will commence after the initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

31. In § 4.118, diagnostic code 7801 is revised to read as follows:

§ 4.118 Schedule of ratings—skin.

* * * * *

	Rating
7801 Scars, burns, third degree:	
Area or areas exceeding 1 square foot (0.1 m.²)	40
Area or areas exceeding one-half square foot (0.05 m.²)	30
Area or areas exceeding 12 square inches (77.4 cm.²)	20
Area or areas exceeding 6 square inches (38.7 cm.²)	10

NOTE (1). Actual third degree residual involvement required to the extent shown under 7801.

NOTE (2). Ratings for widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined.

* * * * *

32. In § 4.124a, following diagnostic codes 8002 and 8021 a note is added to read as follows:

§ 4.124a Schedule of ratings—neurological conditions and convulsive disorders.

* * * * *

	Rating
Brain, new growth of:	
8002 Malignant	100
NOTE.—The rating in code 8002 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30
* * * * *	
Spinal cord, new growths of:	
8021 Malignant	100
NOTE.—The rating in code 8021 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30

* * * * *

33. In § 4.150, diagnostic codes 9900 and 9905 are revised to read as follows:

§ 4.150 Schedule of ratings—dental and oral conditions.

	Rating
9900 Maxilla or mandible, osteomyelitis of, chronic:	
Rate as osteomyelitis, chronic under diagnostic code 5000	
* * * * *	
9905 Temporomandibular articulation, limited motion of:	
Motion limited to ¼ inch (6.3 mm.)	40
Motion limited to ½ inch (12.7 mm.)	20
Any definite limitation, interfering with mastication or speech	10

* * * * *

[FR Doc. 78-18351 Filed 6-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Gen. Docket No. 78-185; FCC 78-435]

COMPULSORY TELEGRAPH VESSELS

Requirement to Generate Field Strength at a Distance of 1 Nautical Mile

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The amendment of the Commission's rules is proposed to require all vessels compulsorily equipped with a telegraph installation to be able to meet the statutory range requirement as established in Docket No. 5212 (a field strength of 30 mV/m at a nautical mile). Since the time when that determination was made, the effectiveness of new antenna installations has generally declined to the point where an average field strength sufficient to meet this range requirement is no longer assured. The purpose of the rulemaking is to remedy this situation.

DATES: Comments must be received on or before August 4, 1978, and reply comments must be received on or before August 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Irvin Hurwitz, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: June 20, 1978.

Released: June 27, 1978.

In the matter of amendment of Part 83 of the rules to require all compulsory telegraph vessels to be capable of generating a field strength of 30 mV/m at a distance of 1 nautical mile, Gen Docket No. 78-185.

1. Notice of Proposed rulemaking is hereby given.

2. In Docket 5212, "Investigation of Power Requirements for Ship Radio Transmitters," the Commission made the determination that a ship station meets the statutory range requirement of title III, part II of the Communications Act, if the field strength of its signal at 1 nautical mile is 30 mV/m. It was shown there that, considering the range of antenna efficiencies then in use, this requirement could, on the average, be met by a transmitter with a carrier output power of 200 watts. Unfortunately, since then, with the swing first to single-wire antennas and then to vertical antennas there has been a progressive decline in the efficiency of antennas aboard the larger ocean-going vessels. This has continued to the point where the use of 200 watt transmitters in conjunction with presently used vertical antennas no longer assures a field strength of 30 mV/m at a distance of a nautical mile.

3. Accordingly we propose to amend the rules so as to require that the main antenna be adequate to assure this minimum field strength. Instead of, as at present, requiring the antenna merely to be "as efficient as is practicable", they would require the efficiency of the antenna and its installation to be sufficiently high to assure, in conjunction with the main transmitter in use, a field strength of 30 mV/m at a distance of 1 nautical mile from the vessel, at least for the frequency 500 kHz.

4. The Maritime Administration recently supported development of a new vertical mast antenna which test clearly show meets the criterion of 30 mV/m at a nautical mile when fed with a telegraph signal of 200 watts. Many of the older vertical antenna installations, however, do not. It is the intention of the present proceeding to assure that all installations will be capable of radiating signals at this level of field strength. To this end it is proposed to modify § 83.444(a) of Part 83 of the Commission's rules and regulations.

5. The proposed amendment as set forth below is issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 4, 1978, and reply comments on or before August 14, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in reponse to this notice of proposed rulemaking will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

In part 83—Stations on Shipboard in the Maritime Services, the first sentence of § 83.444(a) is replaced by the following two sentences:

§ 83.444 requirements of main installation.

* * * * *

(a) The main antenna shall be as efficient as is practicable and in any event, after July 1, 1981 adequate to insure in conjunction with the main transmitter of the ship station, at least on 500 kHz, a field strength at one nautical mile of 30 mV/m. This antenna shall be installed and protected so as to insure proper operation of the station.

* * * * *

[FR Doc. 78-18385 Filed 6-30-78; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 78-10; Notice 2]

[49 CFR Part 512]

CONFIDENTIAL BUSINESS INFORMATION

Extension of Comment Period

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

ACTION: Extension of comment period on notice of proposed rulemaking.

SUMMARY: On May 25, 1978 (43 FR 22412), the National Highway Traffic Safety Administration published a notice of proposed rulemaking regarding procedures for the making and processing of claims that information submitted to the agency should be considered confidential business information and for the possible release of such information in certain circumstances. Wilmer, Cutler & Pickering, retained by the Motor Vehicle Manufacturers Association to assist preparation of comments on the proposal, has petitioned for a 21-day extension of the comment closing date from July 10, 1978, to July 31, 1978, to permit completion of their comments. This notice grants that request.

DATE: Comments on the notice of proposed rulemaking must be received by July 31, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Bruce Buckheit, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590; 202-426-1834.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 112, Pub. L. 89-563, 80 Stat. 725, amended Pub. L. 91-265, 84 Stat. 262 (15 U.S.C. 1401); sec. 119, Pub. L. 89-563, 80 Stat. 728, (15 U.S.C. 1407); sec. 104, Pub. L. 92-513, 86 Stat. 950, (15 U.S.C. 1914); sec. 204, Pub. L. 92-513, 86 Stat. 957; (15 U.S.C. 1944); sec. 408, Pub. L. 92-513 as added Pub. L. 94-364, 90 Stat. 985 (15 U.S.C. 1990d), sec. 505, Pub. L. 94-163, 89 Stat. 908 (15 U.S.C. 2005), delegation of authority at 49 CFR 1.50.

Issued on June 28, 1978.

HOWARD J. DUGOFF,
Deputy Administrator.

[FR Doc. 78-18419 Filed 6-28-78; 4:48 pm]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Deregulation of the Tecopa Pupfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Tecopa pupfish (*Cyprinodon nevadensis calidae*), presently determined as endangered in California, be removed from the U.S. List of Endangered and Threatened Wildlife and Plants. A detailed field survey of the Tecopa Hot Springs and other aquatic habitats in the southern portion of the Amargosa River drainage failed to reveal the presence of the Tecopa pupfish. Other biologists who have studied the fishes in this area have also reported the absence of the Tecopa pupfish.

This proposal reflects a determination by the Service that the Tecopa pupfish is extinct. This proposal, if finalized, would remove the Tecopa pupfish from the endangered species list, thus removing it from further consideration under the provisions of the Endangered Species Act.

DATES: Comments from the public must be received by September 1, 1978. Comments from the Governor of California must be received by October 1, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received or already on file will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Endangered Species Act of 1973 requires the Secretary of the Interior to determine whether a species is endangered or threatened on the basis of the best scientific or commercial data available. The earlier (1966 and 1969) endangered species laws required similar consideration. Data on the Tecopa pupfish available in 1970 indicated that it was endangered by habitat alteration and introduction of exotic fishes. It was added to the list of endangered species in 1970. It was also listed by California as endangered in their State Fish and Game publication "At the Crossroads."

The first status survey of the Tecopa pupfish, after it was listed as endangered by the Service, was conducted in 1972. Dr. Robert R. Miller of the University of Michigan, who discovered and described the pupfish in 1948, reported the results of the survey at the Desert Fishes Council meeting in November of 1972. His report indicated that their efforts to locate populations of the Tecopa pupfish in the vicinity of Tecopa in 1972 were unsuccessful. Examination of the pupfish habitat by biologists from California and Nevada between 1972 and 1976 revealed the presence of exotic fishes but no Tecopa pupfish. In 1977 California conducted a survey of the aquatic habitats of the Tecopa and Shoshone area of the Death Valley system to determine the status of fishes and invertebrate populations. All evidence from this survey indicates that the Tecopa pupfish is extinct throughout its former range. It was hoped that the survey might reveal the presence of additional populations of the Tecopa pupfish in adjacent areas. However, no populations were found.

The Shoshone pupfish, *Cyprinodon nevadensis shoshone*, was included in the status undetermined category in the Fish and Wildlife Service's 1973 edition of the Redbook on Threatened Wildlife of the United States. Attempts by several biologists to locate populations of the Shoshone pupfish between 1973 and 1977 were not successful. The Shoshone pupfish habitat was included in California's 1977 survey. The results of the 1977 study indicate that the Shoshone pupfish is extinct. Although it is not on the U.S. List of Endangered and Threatened

Species, it will be removed from further consideration for protection under the Endangered Species Act of 1973.

EFFECTS OF THE RULEMAKING

If this proposed action becomes final, it will correct what is an unnecessary and eroneous classification of the Tecopa pupfish under the act. The Tecopa pupfish, if removed from the List of Endangered and Threatened Wildlife and Plants, would no longer be afforded any protection or benefits under the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on this proposed rule. Final promulgation of any regulations 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.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this document is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

SENATE REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subpart B, title 50 of the code of Federal Regulations as set forth below:

Amend section 17.11 by deleting the Tecopa pupfish (*Cyprinodon nevadensis calidae*) from the List of Endangered and Threatened Wildlife and Plants.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: June 26, 1978.

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

[FR Doc. 78-18303 Filed 6-30-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A628]

ARKANSAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Boone County, Ark., as a result of a hailstorm on April 30, 1978.

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, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. David Pryor that such designation be made.

Applications for emergency loans must be received by this Department no later than December 13, 1978, for physical losses and June 20, 1979, 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 rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of June 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-18391 Filed 6-30-78; 8:45 am]

[3410-07]

[Notice of Designation No. A624]

ARIZONA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Yuma County, Ariz., as a result of Hurricane Doreen August 15, 1977, and excessive rainfall August 13 through August 17, 1977, December 23 through December 28, 1977, and January 9 through January 31, 1978.

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, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. Bruce Babbitt that such designation be made.

Applications for emergency loans must be received by this Department no later than December 14, 1978, for physical losses and June 18, 1979, 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 rulemaking and invite public participation.

Done at Washington, D.C. this 27th day of June 1978.

DENTON E. SPRAGUE,
Acting Administrator
Farmers Home Administration.

[FR Doc. 78-18392 Filed 6-30-78; 8:45 am]

[3410-07]

[Notice of Designation No. A629]

FLORIDA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Florida counties as a result of tornados and excessive rainfall May 4, 1978, in Alachua County; hail April 19, 1978, and excessive rainfall April 19 through May 12, 1978, in Bradford County; excessive rainfall and high winds April 19, April 20, May 3, and May 4, 1978, in Columbia County; and excessive rainfall May 4, 1978, in Union County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. Reubin O'D. Askew that such designation be made.

Applications for emergency loans must be received by this Department no later than December 18, 1978, for physical losses and June 20, 1979, 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 rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of June 1978.

JAMES E. THORNTON,
Associate Administrator
Farmers Home Administration.

[FR Doc. 78-18393 Filed 6-30-78; 8:45 am]

[3410-07]

[Notice of Designation No. A630]

HAWAII

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Hawaii counties as a result of prolonged drought June 1, 1977, through March 17, 1978:

Hawaii, Kauai, and Mauai.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Gov. George R. Ariyoshi that such designation be made.

Applications for emergency loans must be received by this Department no later than December 18, 1978, for physical losses and June 21, 1979, 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 rulemaking and invite public participation.

Done at Washington, D.C. this 26th day of June 1978.

JAMES E. THORNTON,
Associate Administrator
Farmers Home Administration.

[FR Doc. 78-18394 Filed 6-30-78; 8:45 am]

[3410-07]

[Notice of Designation No. A631]

NEBRASKA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Nebraska counties as a result of tornadoes in Butler, Hamilton, and Polk Counties on April 7, 1978, and subsequent flooding in Butler and Polk Counties April 7 and 8, 1978.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor J. James Exon that such designation be made.

Applications for emergency loans must be received by this Department no later than December 20, 1978, for physical losses and June 25, 1979, 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 rulemaking and invite public participation.

Done at Washington, D.C., this 26th day of June, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-18395 Filed 6-30-78; 8:45]

[3410-07]

[Notice of Designtion No. A625]

NEW MEXICO

Designtion of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Dona Ana County, N. Mex., as a result of a severe hailstorm on May 20, 1978.

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, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for emergency loans must be received by this Department no later than December 14, 1978, for physical losses and June 18, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designtion 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 rulemaking and invite public participation.

Done at Washington, D.C., this 27th day of June, 1978.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc. 78-18396 Filed 6-30-78; 8:45 am]

[3410-07]

[Notice of Designation No. A626]

SOUTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Spartanburg County, S.C., as a result of severe hailstorms April 19 and May 24, 1978.

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, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor James B. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than December 14, 1978, for physical losses and June 18, 1979, for production losses, except that qualifed 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 rulemaking and invite public participation.

Done at Washington, D.C., this 26 day of June 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-18397 Filed 6-30-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS ACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

NAME: Grain Standards Act Advisory Committee.

DATE: July 18 and 19, 1978.

PLACE: U.S. Department of Agriculture, 1400 Independence Avenue SW., on July 18, 1978, in room 1628, South Building, for departure to Baltimore Field Office, and on July 19, 1978, in Room 2096, South Building, Washington, D.C. 20250.

TIME: July 18, 1978, 8:15 a.m.; July 19, 1978, 9 a.m.

PURPOSE: July 18—To visit our Baltimore, Md. Field Office to allow Committee members an opportunity to observe field operations; July 19—To review new regulations.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons other than members who wish to address the Committee at the meeting should contact Dr. Leland E. Bartelt, Administrator, U.S. Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250, telephone 202-447-9170.

Dated: June 28, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-18458 Filed 6-30-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 32786 etc.; Order 78-6-22]

ALLEGHENY AIRLINES, INC. ET AL

Philadelphia—Bermuda Nonstop Proceeding; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

In FR Doc. 78-16311 appearing at page 25454 in the issue of Tuesday, June 13 1978, on page 25455 in appendix A, Disclosure of Data, inadvertently restricted release of International O&D data to the year ended June 30, 1977, rather than releasing such data through the year ended June 30, 1977. Accordingly, the first paragraph under Disclosure of Data in appendix A

should read: It is determined, under § 399.100 of the Board's rules, International O&D survey data for passengers between the United States and Bermuda through the year ended June 30, 1977 (fiscal 1977) are relevant and material to the issues in this proceeding and may be disclosed.

Dated: June 23, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-18401 Filed 6-30-78; 8:45 am]

[6320-01]

[Docket Nos. 30587 and 30591; Order 78-6-184]

COLONIAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of June 1978

By companion opinion entered today in this docket, the Board has concluded that Colonial Airlines should be authorized to operate between Morristown, N.J., and Boston and Washington. All parties to the case assumed that service could be provided through the Newark International Airport and the Baltimore-Washington International Airport as well as through the Morristown Municipal Airport and Washington National Airport; the presiding administrative law judge proposed such service and the issues as framed will allow operations to be conducted through those latter airports. As a purely technical matter, however, the issues as originally published in the FEDERAL REGISTER would prevent Colonial from advertising or otherwise holding out such service as service to Newark or Baltimore.[1] There is no reason to preclude such holding out and we propose to modify the authority granted to Colonial to allow the carrier to hold out, now and in the future, service to Newark or Baltimore.

As a pretrial stipulation, the parties to the case and the judge agreed to impose a restriction prohibiting single-plane service between Washington-Baltimore, on the one hand, and Boston, on the other, and that pretrial restriction governed the proceeding. Board policy disfavors such restrictions, however, unless an affirmative need is shown, "Twin Cities-Milwaukee Southeast Points Investigations," 55 C.A.B. 463 (1970), and we would eliminate this particular restriction if it were properly before us in this case. See Southern Airways Route Realignment Investigation," Order 69-9-132, September 24, 1969, p. 5. Colonial's one-step CV-580 operation via Morristown is not likely to have any impact on operations in the Boston-Washington/Baltimore market. The use of show cause procedures to remove such an unnecessary restriction is proper where, as here, there are no material facts to be decided or complex economic issues to be determined. "Application of Hughes Airwest", Order 75-11-24, November 7, 1975 and "Application of Continental Air Lines", Order 73-2-30, February 8, 1973.

Accordingly, it is ordered, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Colonial's certificate to remove the single-plane restriction in the Boston-Washington/Baltimore market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, within 21 days after the date of service of this order, file with the Board and serve upon all parties to this docket a statement of objections together with a summary of testimony, statistical data, and evidence relied upon to support the stated objections; answers to objections shall be filed 10 days later;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[2] and

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[3]
Secretary.

[FR Doc. 78-18402 Filed 6-30-78; 8:45 am]

[6320-01]

[Docket No. 31400]

COLORADO SKI-POINTS INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing August 15, 1978, at 9:30 a.m. (local time) at the Holiday Inn, 21646 State Highway, Aspen, Colo., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served on January 19, 1978, transcript of said prehearing conference and other documents which are in the docket in this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 27, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-18405 Filed 6-30-78; 8:45 am]

[6320-01]

DALLAS/FORT WORTH/HOUSTON-PHILADELPHIA SERVICE INVESTIGATION

[Docket No. 32343; Order 78-6-180]

Order on Motions To Consolidate

Issued under delegated authority June 26, 1978.

By application filed June 20, 1978, in Docket 32881, National Airlines, Inc., seeks authority in scheduled operations between Philadelphia, Pa. and Houston, Tex., reserving the right to add other terminal and/or intermediate points as may be included in the geographic area of any proceeding within which its application may be consolidated. Simultaneously National filed a Motion to Consolidate its application within the "Dallas/Fort Worth-Philadelphia Service Investigation." Still pending at this time is the Motion of Allegheny Airlines, Inc., to Consolidate its Application in Docket 32554 into this proceeding also. In addition there is its currently filed Motion (and application) to Consolidate its Houston application. All of these will be treated here.

By Order 78-4-6 served April 3, 1978, the authority to consolidate any new applications which conform to the scope of this proceeding has been delegated to the presiding Administrative Law Judge. The scope of the applications pending are identical to, and in no way broadens, the issues to be tried in this proceeding. Neither are they opposed by any party to the proceeding. In the circumstances, consolidation is required as a matter of law. "Ashbacker Radio Corp. *v.* Federal Communications Commission," 326 U.S. 327 (1945).

Complicating the determinations in this order are National's reservation to amend its application to "add other terminal * * * points," the Board's Order on Reconsideration served June

[1] Colonial's applications requested authority between the terminal point Morristown, N.J. and the coterminal points Boston, Mass. and Washington, D.C., and our instituting order copied the language of the application.

[2] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests or petitions for reconsideration of this order will be entertained.

[3] All Members concurred.

23, 1978, enlarging the scope of the case to include Houston as a terminal point, and the procedural schedule looking toward filing of Direct Exhibits not later than July 7, 1978. These matters require that National be ordered to elect before July 1, 1978, whether and to what extent, if any, its application is amended; and that it shall, otherwise, conform to the procedural schedule now governing this investigation.[1]

Accordingly, it is ordered: 1. The Motions of National Airlines, Inc. and Allegheny Airlines, Inc. to Consolidate are granted, and they and their applications are made parties and parts of this docket.

2. On or before July 1, 1978, National Airlines, Inc., shall elect whether to amend its application as suggested by it, notice all parties of its election, in all other respects to conform to the requirements of the Prehearing Conference and to comply with the procedural schedule heretofore ordered without further notice.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-18408 Filed 6-30-78; 8:45 am]

[6320-01]

[Docket No. 31921]

HOUSTON-TAMPA/ORLANDO NEW ORLEANS-ORLANDO INVESTIGATION

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Marvin H. Morse. Future communications should be addressed to Judge Morse.

Dated at Washington, D.C., June 27, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-18406 Filed 6-30-78; 8:45 am]

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[1] It is believed not unreasonable in the circumstances here to require answers in opposition to applications and amendments a day earlier than the seven days allotted by the Board in its Order on Reconsideration in order to equalize all parties in their procedural filings and to obviate any rescheduling. A day delay in compliance with this facet of this order will not be fatal.

[6320-01]

[Docket Nos. 32920, etc.; Order 78-6-191]

ST. LOUIS-DENVER-LAS VEGAS/RENO ROUTE INVESTIGATION; EASTERN AIR LINES, INC. ET AL

Order regarding St. Louis-Denver-Las Vegas/Reno Route Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of June 1978.

This order institutes an investigation of the St. Louis-Denver, St. Louis-Las Vegas/Reno, and Denver-Las Vegas/Reno markets. Eastern filed an application seeking unrestricted nonstop authority in the St. Louis-Las Vegas/Reno markets, and Continental seeks unrestricted nonstop authority in Denver-Las Vegas/Reno.[1] Both carriers filed motions for hearing,[2] and Eastern later filed an amended motion for hearing.

TWA, the incumbent nonstop carrier in the St. Louis-Las Vegas market, answered in opposition to Eastern's motions and amended motion.

Hughes Airwest, American,[3] the St. Louis parties,[4] the Las Vegas parties,[5] and the Reno parties [6] filed answers in support. Airwest requests that its own application for St. Louis-Las Vegas authority, Docket 31798, be consolidated with this proceeding. American asks that this proceeding be consolidated with the "St. Louis/Kansas City-San Diego Route Proceeding," Docket 30387.

Frontier and TWA filed answers opposing Continental's motion for hearing on its Denver-Las Vegas application. American, Western, and the Las Vegas parties filed answers in support. Western asks that its application for Denver-Las Vegas authority be consolidated with this proceeding. American requests that the Board institute a St. Louis-Denver-Las Vegas/Reno route proceeding.

Western filed an answer opposing Continental's Denver-Reno application. Answers in support were filed by American and the Wichita parties.[7]

We have decided to consolidate these applications, and to institute a St. Louis-Denver-Las Vegas/Reno Route Investigation. We are including the St. Louis-Denver market, as American requested since this will increase the flexibility of the applicants in designing service proposals.

In accordance with the policy announced in our order instituting the "Chicago - Albany / Syracuse - Boston Competitive Service Investigation" (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier(s) should be selected. We therefore expect the instituted case to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50.[8] We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

Accordingly, it is ordered, That: 1. A proceeding to be known as the "St. Louis-Denver-Las Vegas/Reno Route Investigation," Docket 32920, shall be instituted, and shall be set for hearing before an Administrative Law Judge of the Board at a time and place to be determined later;

2. The issue in this proceeding shall include whether the public convenience and necessity require that new nonstop authority be granted in any or all of the following markets: St. Louis-Denver, St. Louis-Las Vegas/Reno, and Denver-Las Vegas/Reno; if so which air carrier(s) should be authorized; and whether any new or existing authority should be subject to any terms, conditions, or limitations;

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[1] Eastern's application and amended application were filed on November 28, 1977, and March 15, 1978, respectively. Continental's applications were filed on April 7, 1978, and March 31, 1978.

[2] Continental's motion was filed jointly with the city of Reno and the Greater Reno Chamber of Commerce.

[3] American's answer was accompanied by a motion to file it one day late. We shall grant that motion.

[4] St. Louis Airport Authority, the city of St. Louis, and the St. Louis Regional Commerce and Growth Association.

[5] Clark County, Nev., the Greater Las Vegas Chamber of Commerce, the city of Las Vegas, the Nevada Resort Association, and the Las Vegas Convention/Visitors Authority.

[6] The city of Reno and the Greater Reno Chamber of Commerce.

[7] City of Wichita, Sedgwick County, Kans., and the Wichita Area Chamber of Commerce.

[8] The Board is considering potential changes in the weight to be given low fare proposals in route cases and the method of analyzing them. Normally, staff components of the Board become parties to proceedings at the time of the instituting order. Because of the need in this case for further expert analysis on this point, no staff component will become a party until we have issued the second order; we see no reason, however, why the staff cannot submit a statement of issues and request for evidence as required by the administrative law judge.

3. All authority awarded in this proceeding shall be Class II-subsidy ineligible;

4. The motions for hearing of Eastern and Continental in Dockets 31757, 32378 and 32328 be granted;

5. The motions of Hughes Airwest and Western to consolidate their applications in Dockets 31798 and 32458, respectively, with this proceeding be granted;

6. The applications of Eastern in Docket 31757, Continental in Dockets 32378 and 32328, Hughes Airwest in Docket 31798, and Western in Docket 32458 be consolidated with the proceeding instituted in paragraph 1, above;

7. American's motion to file its answer late be granted;

8. The following be made parties to the proceeding instituted by paragraph 1, above: Eastern, Continental, Hughes Airwest, Western, the St. Louis parties, the Las Vegas parties, the Reno parties, and the Wichita parties;

9. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 20 days of the service date of this order, and answers shall be filed within 10 days after that; [9] and

10. All applicants that have not done so shall file environmental evaluations under § 312.12 of the Board's Regulations within 30 days of the service date of this order;

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[10]
Secretary.

[FR Doc. 78-18404 Filed 6-30-78; 8:45 am]

[6320-01]

[Docket No. 32126]

TWIN CITIES—KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Janet D. Saxon to Administrative Law Judge William H. Dapper. Future communications should be addressed to Judge Dapper.

Dated at Washington, D.C., June 27, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-18407 Filed 6-30-78; 8:45 am]

[9] We delegate to the presiding Administrative Law Judge the authority to consolidate all applications that conform to the scope of this proceeding.

[10] All members concurred.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C., App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, July 25, 1978, at 9:30 a.m., in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, and October 21, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App., section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on October 21, 1977, pursuant to section 10(d) of the of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in United States Code 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the executive session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on October 28, 1977 (42 FR 56767).

Dated: June 28, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-18415 Filed 6-30-78; 8:45 am]

[3510-25]

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C., App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, July 18, 1978, at 1 p.m., in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C., App., sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to

questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has three parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of future work program for the Subcommittee.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

Dated: June 27, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-18412 Filed 6-30-78; 8:45 am]

[3510-25]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C., App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, July 19, 1978, at 9 a.m., in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C., App., sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to: (a) Maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: June 28, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-18411 Filed 6-30-78; 8:45 am]

[3510-25]

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C., App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, July 19, 1978, at 1:30 p.m., in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C., App., sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export

Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Status report on simplification of servicing procedures.
4. Status report on revision of technical data regulations.
5. Status report on Subcommittee recommendation regarding blanket license for fairs and demonstrations.
6. Discussion of the following:

a. Computer parameters under distribution licensing procedure.
b. Export license validity period.
c. Return of used licenses.
d. Documentation requirements for add-ons for computers licensed previously.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

Dated: June 28, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-18413 Filed 6-30-78; 8:45 am]

[1505-01]

DEPARTMENT OF COMMERCE

National Bureau of Standards

I/O CHANNEL LEVEL INTERFACE

Proposed Federal Information Processing Standards

Correction

In FR Doc. 78-16963 appearing at page 26341 in the FEDERAL REGISTER of Monday, June 19, 1978, the following correction should be made:

On page 26342, third column, the third line under the heading "Specifications", should read "ANSI document number X3T9/600, Rev. 2."

[3510-22]

National Oceanic and Atmospheric Administration

HUBBS SEA WORLD RESEARCH INSTITUTE

Issuance of Permit to Take Marine Mammals

On April 18, 1978, notice was published in the FEDERAL REGISTER (43 FR 16364), that an application had been filed with the National Marine Fisheries Service by Hubbs Sea World Research Institute, San Diego, Calif. 92109, for a permit to take seven (7) Risso's dolphins (*Grampus griseus*) and seven (7) pilot whales *Globicephala macrorhynchus*) for the purpose of scientific research.

Notice is hereby given that on June 26, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Hubbs-Sea World Research Institute subject to certain conditions set forth therein. The permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731;
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Fla. 33702; and
Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Mass. 01930.

Dated: June 26, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-18373 Filed 6-30-78; 8:45 am]

[3510-22]

MONTREAL ZOOLOGICAL PARK

Issuance of permit to Take Marine Mammals

On May 4, 1978, notice was published in the FEDERAL REGISTER 43 FR 19257), that an application had been filed with the National Marine Fisheries Service by Montreal Zoological Park, Montreal, Quebec, Canada, for a Public Display Permit to take four (4) California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that on June 27, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Montreal Zoological Park, subject to certain conditions set forth therein. The permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: June 27, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-18374 Filed 6-30-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

APPLICATION FOR PERMIT

Notice of Receipt

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 217), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the regulations governing endangered species permits, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (50 CFR 23).

1. Applicant: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southwest Fisheries Center, P.O. Box 271, La Jolla, Calif. 92038.
2. Type of permit: Scientific Research.
3. Name and number of animals: Various Cetacean Carnivora (including Pinnipedia) and Sirenia.
4. Type of activity: To import and reexport scientific material for scientific purposes.

5. Location of activity: Worldwide.
6. Period of activity: 5 years.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission, and the Committee of Scientific Advisors and the Fish and Wildlife Service Permit Office.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service or the Fish and Wildlife Service. Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and
Director, Fish and Wildlife Service, 18th and C Streets NW., Washington, D.C.

Dated: June 28, 1978.

ROLAND RINCH,
Acting Deputy Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-18375 Filed 6-30-78; 8:45 am]

[3510-13]

Office of the Secretary

NATIONAL LABORATORY ACCREDITATION CRITERIA COMMITTEE FOR THERMAL INSULATION MATERIALS

Open Meeting

The National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials will hold its third meeting on July 25-26, 1978, in the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. (public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.). The Committee will meet from 9 a.m. to 5 p.m. on July 25 in Room 4833 and 9 a.m. to 4 p.m. on July 26 in Room 6802.

The Committee was established on October 12, 1977 (42 FR 55020) to develop and recommend to the Secretary of Commerce, general and specific criteria for accrediting testing laboratories that test thermal insulation materials. The Committee consists of 21 members; 10 of whom represent producers, distributors, users, consumers, academia, testing laboratories, and general interests in the private sector; 6 of whom represent Federal agency interests; and 4 of whom represent State and local government interests. The Committee is chaired by Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, of the Department of Commerce.

Tentative agenda items include:
1. Discussion of written comments submitted by the Committee members.
2. Review of and decision on each criterion to be recommended to the Secretary.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of the minutes and material distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Additional information may be obtained from Mr. John W. Locke, Coordinator, National Voluntary Laboratory Accreditation Program, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-2054.

Dated: June 28, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-18384 Filed 6-30-78; 8:45 am]

[1505-01]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREMENTS

TEXTILE CATEGORY SYSTEM

Correction

In FR Doc. 78-17349 appearing on page 26773 in the issue of Thursday, June 22, 1978, in the second column, in the table beneath the signature, in the entry for "Page 84", under "Action," the word "and" should read "add."

[3128-01]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

Week of June 19, 1978 through June 23, 1978

Notice is hereby given that during the period June 19, 1978 through June 23, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that office. Also summarized below is a proposed decision and order which was issued during this period with regard to the procedures to be followed at an evidentiary hearing to be held by the Office of Hearings and Appeals in August 1978 concerning No. 2 (home) heating oil.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

Dated: June 28, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

PROPOSED DECISIONS AND ORDERS

Beacon Oil Co., Hanford Calif., DXE-1031, crude oil.

Beacon Oil Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Beacon of its entitlement purchase obligation for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Edgington Oil Co., Inc., Long Beach, Calif., DXE-1047, crude oil.

Edgington Oil Co., Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Edgington of its entitlement purchase obligation from the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Robert E. Hanson, Minneapolis, Minn., DEE-0320, crude oil.

Robert E. Hanson filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Hanson to sell the crude oil produced for his benefit from the North Tioga Madison Unit, located in Burke, Divide, and Williams Counties, N. Dak., at price levels which exceed the lower tier ceiling price. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the Hanson exception request be denied.

Kern County Refinery, Inc., Bakersfield, Calif., DXE-1076, crude oil.

Kern County Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, is granted, would relieve Kern of its entitlement purchase obligations for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Lunday-Thagard Oil Co., South Gate, Calif., DXE-1057, crude oil.

Lunday-Thagard Oil Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program), The exception request, if granted, would relieve Lunday-Thaqard of its entilement purchase obligation for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Mohawk Petroleum Corp., Inc., Los Angeles, Calif., DXE-1030, crude oil.

Mohawk Petroleum Corp., Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Mohawk of its entitlement purchase obligation for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Navajo Refining Co., Artesia, N. Mex., DXE-1048, crude oil.

Navajo Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Navajo of its entitlement purchase obligations for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

No. 2 (Home Heating Oil—Evidentiary Hearing, Washington, D.C., DEH-0058.

On June 22, 1978, the Office of Hearings and Appeals issued a Proposed Decision and Order with regard to an evidentiary hearing to be held In August 1978 concerning No. 2 (home) heating oil. In that determination, the Office of Hearings and Appeals proposed to implement certain rules of procedure established to govern the conduct of the evidentiary hearing. 43 FR 24588 (June 6, 1978). The parties involved in the proceeding were afforded a ten day period in which to submit comments regarding the Proposed Decision and Order.

Phillips Petroleum Co., Bartlesville, Okla., DEE-1012, DE-1013, Crude oil.

Phillips Petroleum Co., filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the working interest owners to sell the crude oil produced from the Holder "B" Lease and the Yount "B" Lease at upper tier ceiling prices. On June 23, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

San Joaquin Refining Co., Newport Beach, Calif., DXE-1049, crude oil.

San Joaquin Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve San Joaquin of its entitlement purchase obligations for the months of June through November 1978. On June 22, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Southland Oil Co./VGS Corp., Jackson, Miss., DXE-1071, crude oil.

Southland Oil Co./VGS Corp. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Southland of its entitlement purchase obligations for the months of June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Standard Oil Co. (Indiana), Chicago, Ill., DEE-0905, motor gasoline.

Standard Oil Co. of Indiana (Amoco) filed an Application for Exception from the provisions of 10 CFR 212.83(c). The exception request, if granted, would permit Amoco to adjust its May 1973 nonproduct marketing costs prospectively and retroactively to reflect its divestiture of certain marketing assets. On June 19, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Warrior Asphalt Co., of Alabama, Washington, D.C., DXE-1050, crude oil.

Warrior Asphalt Co. of Alabama filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Warrior of its entitlement purchase obligations for the months of June through November 1978. On June 22, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Young Refining Corp., Douglasville, Ga., DXE-1051, crude oil.

Young Refining Corp. filed an Application for Exception from the provisions of 10 CFR 211.67 (he Domestic Crude Oil Entitlements Program). The exception request, if granted, would relieve Young of its entitlement purchase obligations for the months of June through November 1978. On June 22, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

[FR Doc. 78-18424 Filed 6-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

ADVISORY COMMITTEE ON CABLE SIGNAL LEAKAGE

Second Meeting

Pursuant to section 10 of the Federal Advisory Committee Act, notice of a meeting of the Advisory Committee on Cable Signal Leakage is hereby given. The meeting will be at 9:30 a.m. on Thursday, July 20, 1978, in room 8210 of the Federal Communications Commission offices at 2025 M Street NW., Washington, D.C.

The agenda is as follows:

(1) Review of preliminary measurements made since the first Advisory Committee meeting of April 18, 1978;

(2) Discussion of plans for ground and airspace signal leakage measurements;

(3) Criteria for determining when enough measurements have been made.

Any member of the public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Robert S. Powers, FCC, 2025 M Street NW., Washington, D.C. 20554, telephone 202-632-9797.

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-18430 Filed 6-30-78; 8:45 am]

[6712-01]

[FCC 78-402; BC Docket No. 78-169; File No. BPH-10,052 et al.]

BIE BROADCASTING CO., ET AL.

Memorandum Opinion and Order

In re applications of: O. N. Bie and E. W. Bie d.b.a., Bie Broadcasting Co., Largo, Fla., requests: 92.1. MHz, Channel No. 221; 3.0 kW (H&V); 300 feet, (BC Docket No. 78-169; File No. BPH-10,052); Stereo FM 92, Inc., Dunedin, Fla., requests: 92.1 MHz, Channel No. 221; 3.0 kW (H&V); 300 feet (BC Docket No. 78-170; File No. BPH-10,076); Tampa Bay Concert Radio, Inc., Safety Harbor, Fla., requests: 92.1 MHz, Channel No. 221; 3.0 kW (H&V); 290 feet (BC Docket No. 78-171; File No. BPH-10,367); For construction permits; Designating applications for consolidated hearing on stated issues.

Adopted: June 7, 1978.

Released: June 27, 1978.

By the Commission:

1. The Commission has before it for consideration: (i) the above mutually exclusive applications of O. N. Bie and E. W. Bie d.b.a., Bie Broadcasting Co. ("Bie"), Stereo FM 92, Inc. ("Stereo"), and Tampa Bay Concert Radio, Inc. ("Tampa"); (ii) a motion to dismiss Tampa's application filed by Stereo; and (iii) related pleadings.

2. Tampa's application, as filed on December 1, 1976, listed the following stock ownership:

Stockholder	Subscribed shares	Percent
Earl L. Bradsher, Jr	10,000	16⅔
Dan Johnson	38,000	63⅓
Robert Tarring	4,000	6⅔
Augusta Bradsher	5,000	8⅓
Henry and Monica Bradsher	3,000	5
Total	60,000	100

On January 23, 1978, however, the applicant amended its application[1] to reflect the following stock distribution:

Stockholder	Subscribed shares	Percent
Earl L. Bradsher, Jr	25,000	25
Dan Johnson	25,000	25
Robert Tarring	6,000	6
Augusta Bradsher	6,000	6
Henry and Monica Bradsher	3,000	3
Michael Piper	10,000	10
Robert Keelean	20,000	20
William and Denver Slater	5,000	5
Total	100,000	100

[1] On October 26, 1977, Tampa amended its application to reflect an intermediate change in its stock distribution.

3. Stereo charges that the above transactions constitute a major change under section 1.573(b) of the rules,[2] and that Tampa's application must, therefore, be assigned a new file number. The Commission, in applying section 1.573(b), first views the new applicant as if it were an existing licensee whose stockholders have had their qualifications passed upon. Then, the Commission determines whether the transaction in question would require the filing of a long form (FCC Form 314 or 315) or short form (FCC Form 316) assignment or transfer application. In order to determine which form is required, the Commission considers two factors: (i) whether less than a controlling interest (less than 50 percent) is being transferred, and (ii) whether as a result of the transaction, 50 percent or more of the stock will not be held by a person or persons whose qualifications have not been passed upon.[3] If both of these factors are present, only a short form application is required.

4. In this instance, Dan Johnson, Robert Tarring, Augusta Bradsher, and Henry and Monica Bradsher have reduced their original holdings by a total of 43⅓ percent, while Earl L. Bradsher, Jr., Michael Piper, Robert Keelean, and William and Denver Slater increased their holdings by the same percentage. As a result, 65 percent of the stock remains in the hands of the original parties. Given these circumstances, the Commission would, if Tampa were an existing licensee, require only a short form (FCC Form 316) application to be filed. Consequently, we find Stereo's objection without merit.

5. Next, section 73.210 required applicants to locate their main studios in the community to be served unless good cause can be shown for locating it outside the community. Stereo proposes to locate its studio outside the city limits of Dunedin and alleges that combining its main studio with the transmitter at the same site will significantly lessen operating expenses. Additionally, the applicant submits, the proposed transmitter and main studio site is located less than four miles from Dunedin and is easily accessible to residents of Dunedin and the surrounding community that it intends to serve. In light of the above, we find the applicant has demonstrated good cause, as required by section 73.210(a)(3) of the rules, to locate its main studio outside the city of Dunedin.

6. Since Bie and Tampa Bay propose specialized programing while the other applicant proposes general market programing, the relative need for these different types of programing will be considered under the contingent comparative issue. *Ward L. Jones*, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965).

7. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of ratio service, a contingent comparative issue will also be specified.

8. Except as indicated 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 the areas and populations which would receive FM service of 1mV/m or greater intensity from the respective proposals together with the availability of other primary aural services in such areas.

2. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice among the applications should not be based solely on considerations relating to section 307(b), which of the applications, on a comparative basis, would best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit 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 hearing and present evidence on the issues specified in this order.

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

[2] Section 1.573(b) provides in part:

A new file number will be assigned to an application for a new station * * * when it is amended so as to result in an assignment or transfer of control * * * which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315 * * *.

[3] *Gaffney Broadcasting Inc.*, 35 RR 2d 1607, 1609 (1976).

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(e) of the rules.

12. It is further ordered, that the motion to dismiss, as supplemented, by Stereo FM 92, Inc., is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-18331 Filed 6-30-78; 8:45 am]

[6712-01]

[FC 78-403; Docket No. 78-172; File No. BPFT-327, et al.]

DONALD C. McBAIN, MILFORD W. NOE, AND RICHARD D. RUSSELL d.b.a. TRANSLATOR SERVICES, MEMORANDUM OPINION AND ORDER

Designating Applications for Consolidated Hearing on Stated Issues

Adopted: June 7, 1978.

Released: June 28, 1978.

By the Commission:

In re Applications of: Donald C. McBain, Milford W. Noe, and Richard D. Russell, d.b.a. Translator Services, San Diego, Calif., (BC Docket No. 78-172; File No. BPFT-327); Donald C. McBain, Milford W. Noe, and Richard D. Russell, d.b.a. Translator Services, Santa Barbara, Calif., (BC Docket No. 78-173; File No. BPFT-315); Petition for Review of Action of Chief, Broadcast Bureau, Dismissing applications for construction permits for new FM translator stations.

1. On April 8, 1976, Donald B. McBain, Milford W. Noe, and Richard D. Russell, d.b.a. Translator Services, filed an application (BPFT-315) for a construction permit for a new FM translator station to serve Santa Barbara, Calif., by rebroadcasting station KFAC-FM, Los Angeles, Calif., on output channel 296 (107.1 MHz). On May 25, 1976, the same applicant filed an application (BPFT-327) for a construction permit for a new FM translator to serve San Diego, Calif., by rebroadcasting station KFAC-FM on output channel 257 (99.3 MHz). Formal petitions to deny were filed against both applications and informal objections were filed by four Santa Barbara radio stations against the Santa Barbara application. Several questions were raised by the petitions to deny and responses were filed by the applicant. On July 22, 1977, the Commission, by the Acting Chief, Broadcast Facilities Division, Broadcast Bureau, informed the applicant that, in the staff's opinion, the pleadings which had been filed raised substantial and material questions of fact which could not be resolved without a hearing. The applicant was requested to advise the Commission whether it wished to prosecute its aplications through the hearing process. On August 4, 1977, the applicant responded with an equivocal answer which said, in effect, that it did not wish to prosecute its applications through the hearing process, but that it wished to have a grant of both applications. On the basis of this response, the Chief, Broadcast Bureau, acting pursuant to delegated authority, dismissed the applications on September 13, 1977, pursuant to section 1.568(b) of the Commission's rules, on the grounds of failure to prosecute. On October 13, 1977, the applicant filed the petition for review which is now before us, seeking review of the action of the Chief, Broadcast Bureau, dismissing the applications. The action is brought pursuant to section 1.115 of the rules. For the reasons stated below, we will grant review, and reinstate the applications and designate them for hearing.

2. Now before the Commission, in connection with these applications, are a petition to deny, filed August 16, 1976, by Lotus Communications Corp., licensee of station KFSD-FM, San Diego, Calif., against the San Diego application (BPFT-327) and various pleadings filed in connection therewith;[1] a petition to deny, filed July 15, 1976, by Antares Broadcasting Co., licensee of station KTYD-FM, Santa Barbara, Calif., against the Santa Barbara application (BPFT-315); and informal objections filed by four other Santa Barbara radio stations, and various peadings filed in connection therewith.[2]

3. Both petitioners claim standing as "parties in interest" within the meaning of section 309(d) of the Communications Act of 1934, as amended, on the grounds that each would compete in its city of license for audience with the translator which would serve that city. We find that petitioners have the claimed standing. *Federal Communications Commission* v. *Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 9 RR 2008.

4. *The San Diego application.* Petitioner Lotus Communications (Lotus) first alleges that there is no need for the proposed translator because San Diego has a plethora of radio service which includes two noncommercial educational FM stations, 11 commercial FM stations, and six standard radio stations. It is alleged that there has been no showing that the translator would provide a unique program format or that the program fare which would be offered would particularly meet the needs or interests of the area. Station KFAC-FM is a classical music station. The applicant responds that its programing would represent the only full-time classical music format; that petitioner's station programs about 17 percent jazz. Petitioner's reply points out that San Diego has two noncommercial educational FM stations, one of which (KPBS) broadcasts a substantial amount of classical music as does petitioner's station KFSD-FM. We might add that we find it difficult to reconcile the applicant's contention with the language in its own opposition pleading where it states that it thinks that the petitioner's station benefit "* * * from having another classical signal in the area * * *" (emphasis supplied).

5. The law on the question of need for a proposed translator is clear: an applicant is not required to show a need, i.e., need is presumed, unless a challenger first makes a prima facie showing of the lack of need. The presumption is rebuttable. E.g., KID Broadcasting Corp., 61 FCC 2d 1045, 39 RR 2d 114 (1976). We think that the petitioner in this case has made the required prima facie showing, but the applicant has not met its burden of establishing the need. It seems to us that where an applicant seeks to operate a translator station in a major city which has an abundance of radio service and the translator would rebroadcast the programs of a station in a distant city (San Diego is more than 100 miles from Los Angeles), the necessity for a strong showing of need should be apparent. Yet the applicant has made no effort to show that there is a significant public demand. It has not shown that if such a demand exists it is not being met by the existing San Diego stations. In short, the applicant has shown nothing more than that it would introduce another classical music format into San Diego.

6. The applicant originally proposed to erect a 40-foot tower to support its receiving and transmitting antennas. On October 1, 1976, the application was amended to show that the transmitting antenna would be mounted at the 25-foot level of a 30-foot pole attached to a residence and the receiving antenna would be roof-mounted on the structure 18 feet above ground level. An amateur radio antenna is top-mounted on the 30-foot pole. Petitioner contends that the proposal to

[1] The applicant filed an opposition on October 1, 1976, and petitioner filed a reply on December 27, 1976.

[2] Informal objections were filed against the Santa Barbara application (BPFT-315) by Pacific Broadcasting Co. (KDB-FM), the Schuele Organization (KRUZ(FM)), the News-Press Publishing Co. (KTMS-FM), and KACL Radio, Inc. (KKIO(AM)), all Santa Barbara, on July 8, 1976, except for the Schuele objection, which was filed July 7, 1976. The applicant filed an opposition to the petition to deny and comments on the objections on August 17, 1976, and petitioner filed a reply on August 26, 1976.

mount the transmitting antenna on this pole raises environmental questions and a question as to whether this use would be permitted under local zoning regulations. The applicant replied that, because the transmitting antenna is to be mounted on an existing structure, no zoning approval would be required. Petitioner thereupon sought, and obtained, a letter from the Assistant Zoning Administrator, City Planning Department, City of San Diego, stating that:

"This property is located in the R-1-5 single family residential zone, and the use you described in your letter would not be a permitted use at this location."

We think that, under these circumstances, a valid question is raised as to whether the proposed use would be allowed and, therefore, whether there are reasonable assurances that the site would be available. Chronicle Publishing Co., 3 RR 2d 529 (Rev. Bd. 1964). This case is distinguishable from those cases where we have declined to specify a site availability issue on the basis of a letter from individual members of a zoning authority, e.g., Radio Ridgefield, 47 FCC 2d 106, 30 RR 2d 447, because here, not only has there been no attempt by the applicant to determine whether a variance or an exception would be available, but the applicant has taken the position that no zoning approval is required. Consequently, an issue will be specified to determine whether local zoning authority is necessary and, if so, whether there is a likelihood that it can be obtained, Massillion Broadcasting Co., Inc., 22 RR 95 (1961). Petitioner also questions whether an additional antenna can be safely mounted on the pole which it describes as being rusted and bent. This question can be explored within the framework of a site availability issue. Finally, petitioner suggests that there are environmental questions involved, but because this is an existing tower and the antenna is to be side mounted, we perceive no such questions.

7. Petitioner next points out that, in response to section III, page 2, paragraph 12(b), FCC Form 346, concerning a person who would be available in an emergency to suspend operation of the translator promptly, the applicant named Mr. Del Davitt, former chief engineer of KFAC-FM, whose address is the address of the studios of KFAC-FM. Petitioner states that it has been informed by Mr. Davitt that he was never requested to perform such a duty, that he never agreed to perform such a duty, that he left KFAC-FM's employ at least four months before the application was filed, and that he now resides in Hawaii. The applicant's response was to name the present Chief Engineer of KFAC-FM. This does not dispose of the matter. We think that the circumstances surrounding the naming of Mr. Del Davitt, the former Chief Engineer, should be explored. As will be discussed in subsequent paragraphs, we intend also to determine whether there is a nexus between the applicant and KFAC-FM. Questions concerning the present Chief Engineer, such as the alleged inability to reach him on the listed telephones, may be explored under the issue to be specified.

8. Petitioner contends that there will be no line-of-sight to San Diego and that the estimated population to be served is grossly overstated. To support this contention, it has calculated the predicted contours of the proposed translator. We do not see merit in these contentions. In the first place, it is wholly unrealistic (and unnecessary) that coverage be provided to all of San Diego and we are unable to see the significance of the fact that perhaps 18,000 persons will be served by a one-watt translator rather than 500,000. This is of no decisional significance. Finally, the translator rules neither provide for predicted contours nor set out a method for predicting translator contours. Coral Television Corp. (W64AD), 49 FCC 2d 226, 31 RR 2d 1085. No issue will be specified.

9. Petitioner next asserts that the proposal contemplates direct reception of KFAC-FM's signals from Los Angeles, but that the distance between Los Angeles and San Diego is such as to make the proposal suspect. Moreover, petitioner points out that the receiving antenna is to be oriented at 359 degrees true, whereas KFAC-FM's transmitting antenna on Mount Wilson would lie at a bearing of 333 degrees true. The receiving antenna orientation would be directed toward KFAC-FM's translator station K272AH, San Bernardino. In response to the petition to deny, the applicant amended its receiving antenna orientation to 333 degrees true. Petitioner apparently believe that these facts raise a question as to misrepresentation, but we perceive no problem which would warrant such an issue.

10. Petitioner challenges the applicant's financial qualifications. Since there are two co-pending proposals for new translators which, for reasons already stated, we are considering together, the applicant requires approximately $7,000 for construction costs and first year operation. The applicant intends to meet its financial requirements by a loan of $5,000 from Mr. McBain. This, on its face, is insufficient. McBain's financial statement, as of April 30, 1976, supplemented as of August 25, 1976, shows cash in the bank of approximately $11,500, but his financial statement fails to set forth his current liabilities. Consequently, it does not appear that the applicant is financially qualified to meet a $7,000 expense and it cannot be determined whether McBain is financially qualified to meet his $5,000 commitment. A financial issue will be specified.

11. Finally, petitioner raises the question of whether KFAC-FM is the real party in interest. It appears that McBain was the technical director of KFAC-FM until March 1975, and Noe was KFAC-FM's consulting engineer. Neither of these facts is disclosed in the application. Both helped to prepare KFAC-FM's application for its San Bernardino translator station K272AH. In response to section II, page 2, paragraph 14 of the application form, the applicant has stated that no funds, legal or engineering services or anything else of value has been furnished, directly or indirectly, by any person associated with the licensee of any FM station. The association just mentioned might come within the purview of this question, but we do not have sufficient information at this time to determine whether, at the time the application was filed, there was any such association of McBain or Noe with KFAC-FM. It is undisputed that KFAC-FM could not itself be the licensee of either proposed translator station because both would be well beyond KFAC-FM's predicted 1 mV/m contour and within the predicted 1 mV/m contours of numerous other commercial FM stations in San Diego and Santa Barbara. We have already concluded that the applicant has failed to show a demand or need for the service. The petitioner suggests that there is no apparent motive for the applicant's efforts to obtain these authorizations, but there is great incentive for KFAC-FM to expand its service into these major communities. None of the principals of the applicant lives in San Diego or Santa Barbara, but all live in the Los Angeles metropolitan area. While the question of motive or incentive alone has no significance, it is a part of the overall picture which suggests the possibility that there is an undisclosed agreement or understanding between the applicant and the licensee of KFAC-FM. Resolution of this question is necessary. Consequently, we think that it would be appropriate to make KFAC, Inc., a party to this proceeding to enable it to participate to the extent it deems necessary to protect its interests.

12. *The Santa Barbara application.* Antares Broadcasting Co., licensee of Santa Barbara station KTYD-FM, also raises a question of need and a question of real party in interest. There are four commercial FM stations, one noncommercial educational FM station, and five standard radio stations licensed to Santa Barbara. Petitioner Antares alleges that Santa Barbara also receives service from Ventura-Oxnard FM stations KBBY-FM, KHAY-FM, and KPMJ-FM. It is

stated that KRUZ-FM provides 2 hours of classical music every night, KTYD-FM presents a weekly classical music program, KDB-FM broadcasts the Santa Barbara Symphony Orchestra, and KCSB-FM broadcasts 5½ hours of classical music daily. As in San Diego, the applicant, in response to the petition to deny, has made assertions of the public demand for its programing, but has not supported the assertions by any showing that there is such a demand. In connection with the Santa Barbara application, the applicant has failed to meet its burden of showing need after a prima facie case of lack of need has been made by the petitioner. The Antares petition adds nothing new on the question of real party in interest.

13. The informal objections by the Santa Barbara stations simply oppose the importation of a distant signal and assert that the classical music needs of the community are already being met. No substantial questions are raised by these objections which have not already been considered.

14. Accordingly, *it is ordered*, That the above-captioned applications are reinstated; the petitions to deny filed by Lotus Communications Corp. and Antares Broadcasting Co., are granted to the extent indicated and otherwise are denied; and the informal objections filed herein are denied for lack of any substantive factual support.

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Donald C. McBain, Milford W. Noe, and Richard D. Russell, doing business as Translator Services, are designated for hearing in a consolidated proceeding, at a time and place and before an administrative law judge to be specified in a subsequent order, upon the following issues:

1. To determine the number and nature of the radio services available to San Diego and Santa Barbara, Calif.; whether there is a substantial unmet public need and demand for the programing which would be rebroadcast by the proposed translators; and, in the light of such facts, whether there is a substantial need for either or both proposed translators.

2. To determine, in connection with the proposed San Diego translator, whether local zoning authority is required to erect the proposed antenna; if so, whether such authority can be obtained; and, in the light of such facts, whether there is a reasonable likelihood that the site will be available.

3. To determine the facts and circumstances surrounding the naming of Del Davitt as the person to be contacted in an emergency.

4. To determine the facts and circumstances attending the preparation, filing, and prosecution of the applications; whether there is any connection, relationship, or association between the applicant and the licensee of station KFAC-FM or any person associated therewith; whether any such connection, relationship or association contravenes section 74.1234(d)(2) of the Commission's rules; whether the licensee of station KFAC-FM, or any person associated therewith, is the real party in interest in the translator applications.

5. To determine whether the applicant is financially qualified to construct, own, and operate the proposed translators.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether grant of the applications, or either of them, would serve the public interest, convenience, and necessity.

It is further ordered, That Antares Broadcasting Co., Lotus Communications Corp., and KFAC, Inc., are made parties respondent in this proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the parties respondent 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.

It is further ordered, That the applicant 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 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.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-18332 Filed 6-30-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED; SECOND REVISION

Notice of agreement filed by: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., Suite 305, 1150 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 9929-5 (2d Revised) among the parties to the Combi Line Joint Service Agreement has been incorporated into Docket No. 77-7 which concerns Agreement No. 9929-5, as amended.

Agreement No. 9929-5 (2d Revised) further modifies Agreement No. 9929-5, as amended, pursuant to exchanges between Proponents and Protestants at the prehearing conference in Docket No. 77-7 on May 24, 1978. All persons, except parties to Docket No. 77-7, desiring to comment upon this revision may do so by filing petitions to intervene in this proceeding. However, comments should be restricted to these latest changes and only comments thereon shall be considered.

By Order of the Federal Maritime Commission.

Dated: June 27, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-18417 Filed 6-30-78; 8:45 am]

[6730-01]

INTERCONTINENTAL TRANSPORT (ICT) AND COMPAGNIE GENERALE MARITIME

Agreement Filed; Revision

Notice of agreement filed by: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., Suite 305, 1150 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 10266-2 (Revised) modifies the basic joint marketing agreement between the above-named parties to (1) exclude the authority to solicit and book cargo in the Mediterranean and (2) provide that the agreement shall remain effective for 4 years following approval by the Federal Maritime Commission.

This agreement has been incorporated into Docket No. 77-7 concerning Agreement No. 10266-2, et al.

The above changes are made pursuant to exchanges between Proponents and Protestants at the prehearing conference in Docket No. 77-7, on May 24, 1978. All persons, except parties to Docket No. 77-7, desiring to comment upon this revision may do so by filing petitions to intervene in this proceeding. However, comments should be restricted to these latest changes and only comments thereon shall be considered.

By Order of the Federal Maritime Commission.

Dated: June 27, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-18416 Filed 6-30-78; 8:45 am]

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AGE DISCRIMINATION REGULATIONS

Status Report

Under the Age Discrimination Act of 1975, the Department of Health, Education, and Welfare is required to publish proposed general, governmentwide age discrimination regulations. On March 2, 1978, the Department published a Notice of Intent to issue these regulations (42 FR 8756). The notice announced that as appropriate the Department would disclose drafts (disclosure drafts) of the regulations to interested members of the public. The Notice also announced that proposed regulations would be published in the FEDERAL REGISTER by May 30, 1978.

On May 15, 1978, the House of Representatives approved several amendments to the Age Discrimination Act. If these amendments become law, they would call for different regulatory provisions than those needed under the existing Age Discrimination Act.

As soon as the House and the Senate have concluded their deliberations on the Age Discrimination Act amendments, HEW will prepare a "disclosure draft" of the governmentwide age discrimination regulations which will reflect the most recent decisions of the Congress. Copies of this "disclosure draft" will be made available to interested members of the public.

Dated: June 28, 1978.

F. PETER LIBASSI,
General Counsel.

[FR Doc. 78-18410 Filed 6-28-78; 8:45 am]

[4110-84]

Health Services Administration

ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1978:

Name: PHS Hospitals Ad Hoc Advisory Committee.
Date and Time: July 7-8, 1978, 8:30 a.m.
Place: 607 G1, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.
Open for entire meeting.
Purpose: The Committee will conduct an in-depth examination of each PHS hospital in relation to its principal beneficiaries and the community in which it is located; its health needs and delivery system; and the cost of operation and achievements. It will assist in developing options and recommendations concerning the present and future role of the hospitals in the continuation and improvement of health care delivery.
Agenda: To review, discuss, and modify the draft of the report.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordan Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

NOTE.—The meeting will be held provided the Charter is amended by the close of business June 30, 1978.

NOTE.—Earlier notice of this meeting was not feasible due to the late date for extending the Committee.

Dated: June 29, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 78-18434 Filed 6-30-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO; CRAIG DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Craig District Grazing Advisory Board will be held on August 3, 1978.

The meeting will begin at 10 a.m. in the conference room of the Bureau of Land Management Office at 455 Emerson Street, Craig, Colo. Attendees will then travel to Maybell and Sunbeam, Colo. for a tour of the Maybell burn area and tours of two allotments under allotment management plans.

Upon conclusion of the tours a meeting will be held in the conference room of the Bureau of Land Management Office in Craig, Colo.

The agenda for the meeting will include (1) the expenditure of range betterment funds for range improvements (2) the expenditure of county range improvement funds (3) allotment management plans and (4) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colo. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the tour should furnish their own transportation, food and drink.

Persons wishing further information may contact the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colo. at 303-824-3417.

Minutes of the meeting will be available at the Craig District Office for public inspection 30 days after the meeting.

Dated: June 23, 1978.

MARVIN W. PEARSON,
District Manager.

[FR Doc. 78-18365 Filed 6-30-78 8:45 am]

[4310-84]

[NM 33588]

NEW MEXICO

Application

JUNE 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for one 6-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 24, SW¼SE¼;
Sec. 25, W½E½;
Sec. 34, SE¼SE¼;
Sec. 35, S½SW¼ and N½SE¼.
T. 25 S., R. 26 E.,
Sec. 3, lot 1.

This pipeline will convey natural gas across 2.415 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operation.

[FR Doc. 78-18366 Filed 6-30-78 8:45 am]

[4310-84]

[NM 33596]

NEW MEXICO

Application

JUNE 19, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Mewbourne Oil Co. has applied for one 2⅞-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 24 E.,
Sec. 12, SE¼SE¼;
Sec. 13, N½NE¼ and SE¼NW¼
T. 20 S., R. 25 E.,
Sec. 7, lot 4, SE¼NE¼ and E½SW¼.

This pipeline will convey natural gas across 1.467 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will

be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operation.

[FR Doc. 78-18367 Filed 6-30-78 8:45 am]

[4310-84]

[OR 8008 (Wash.)]

WASHINGTON

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JUNE 26, 1978.

The Corps of Engineers, U.S. Department of the Army, on May 17, 1971, filed application, Serial No. OR 8008 (Wash.), for the withdrawal of the following described land from settlement, sale, location or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2) but not from leasing under the mineral leasing laws, subject to valid existing rights:

WILLAMETTE MERIDIAN

T. 13 N., R. 37 E.,
Sec. 18, W½E½NE¼.

(The area described contains 40 acres in Franklin County.)

The Corps of Engineers desires that the land be reserved for recreational purposes as a natural area for open space, scenic surroundings, hiking, and bird watching. The land will be used in connection with the Lyons Ferry State Park program by the Washington State Parks and Recreation Commission under lease from the Corps of Engineers.

A notice of the proposed withdrawal was published as FR Doc. 71-15167, which appeared in the October 19, 1971, issue of the FEDERAL REGISTER (Vol. 36, No. 202) at pages 20249 and 20250.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management at the address shown below on or before August 6, 1978. Upon determination by the State Director that a public hearing will be held, a notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B.

All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 6, 1978.

The above described lands are temporarily segregated from settlement, sale, location, or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2) but not from leasing under the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oreg. 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-18368 Filed 6-30-78; 8:45 am]

[4310-09]

Bureau of Reclamation

WAPINITA PROJECT, OREGON

Transfer of Jurisdiction of Lands Clear Lake (Wasco) Reservoir

Under the provisions of section 7(c) of Pub. L. 89-72 (79 Stat. 216) of July 9, 1965. The below described lands are being transferred from the jurisdiction of the Bureau of Reclamation, Department of the Interior, to the U.S. Forest Service, Department of Agriculture, for recreation management and other purposes. The agencies involved have determined this action to be in the public interest. Any lands necessary for project operation or necessary for reclamation purposes will remain under the jurisdiction of the Bureau of Reclamation.

WILLAMETTE MERIDIAN

SE¼, sec. 32, T. 4S., R. 9E., W.M., consisting of 160 acres, more or less, according to the Government survey.

Information regarding the proposed transfer can be obtained from the Regional Director, Bureau of Reclamation, Pacific Northwest Region, Federal Building, U.S. Courthouse, Box 043, Boise, Idaho 83724.

Commissioner, Code 420, Bureau of Reclamation, 18th and C Streets NW., Washington, D.C. 20240.

Dated: May 23, 1978.

R. KEITH HIGGINSON,
Commissioner.

[FR Doc. 78-18376 Filed 6-30-78; 8:45 am]

[4310-31]

Geological Survey

SAFETY REQUIREMENTS FOR DRILLING OPERATIONS IN A HYDROGEN SULFIDE ENVIRONMENT

Revised Standard GSS-OCS-1

Notice is hereby given that, pursuant to 30 CFR 250.11, the Acting Chief, Conservation Division, U.S. Geological Survey, has proposed revisions to the U.S. Geological Survey Outer Continental Shelf (OCS) Standard GSS-OCS-1, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," first edition, February 1976.

The purpose of revising the standard is to incorporate revisions to subsections 5.1, "Hydrogen Sulfide," and 5.2.4, "H_2S-Detection and Monitoring Equipment." Subsection 5.1 has been revised to clarify the requirements for conducting drilling operations in areas where it is known that H_2S is present; those areas known to be free of H_2S; and those areas where the presence of H_2S is unknown on the OCS. Subsection 5.2.4 has been revised to allow the optional use of mud sensors in conjunction with air sensors for the detection of H_2S; to require H_2S-detection monitoring systems to be calibrated by qualified personnel; and to allow the lessees flexibility in the selection of individual H_2S-detection devices.

The revised subsections are set forth below. Interested persons may submit written comments and suggestions on the proposed revisions to the Standard to the Acting Chief, Conservation Division, U.S. Geological Survey, Mail Stop 620, National Center, Reston, Va. 22092. All comments and suggestions received on or before September 1, 1978, will be considered. Appropriate suggestions will be incorporated into the finalized versions.

The finalized verson of subsections 5.1 and 5.2.4 will be published in the FEDERAL REGISTER, with an announcement of the availability of the second

edition of the standard. These revisions and the revisions of subsections 3.1, 3.3, 3.4, 3.5, and 5.5.8 which were published in the FEDERAL REGISTER, vol. 42, No. 52, Thursday, March 17, 1977, at page 14932, will be incorporated into the second edition of the standard.

For further information, contact, Mr. Richard B. Krahl, Chief of the Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, Mail Stop 620, Reston, Va. 22092, 703-860-7531. The primary author of the revision of the standard is Ulysses Cotton, OCS Orders and Standards Section, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, 703-860-7535.

W. A. RADLINSKI,
Acting Director.

PROPOSED REVISIONS

U.S. GEOLOGICAL SURVEY OUTER CONTINENTAL SHELF STANDARD NO 1 (GSS-OCS-1)

5. General Requirements.

5.1 *Hydrogen sulfide.* When drilling in an area where reservoirs are known or expected to contain H_2S, the full requirements of this standard must be implemented.

All drilling wells shall have the hydrogen sulfide (H_2S) monitoring equipment installed as described in subsection 5.2.4 of this standard except when drilling in an area known to be free of H_2S. An area known to be free of H_2S is defined as an area where there is sufficient history of drilling or production in the geological formations to be penetrated to show that H_2S is not found in concentrations which may be hazardous to personnel in drilling and producing operations.

When drilling in an area where the H_2S potential is unknown (unexplored frontier area or unexplored deeper formation), the minimum requirements shall include:

a. A training program as outlined in subsection 5.2.1 of this standard.

b. Wind-direction equipment as outlined in subsection 5.2.2 of this standard.

c. Personnel-protective equipment as required by subsection 5.2.5 to protect the active drilling crew and support personnel while securing the well with a down-hole plug.

d. Ventilation equipment as outlined in subsection 5.2.6 of this standard.

An area where the presence of H_2S is unknown is defined as an area where there is an insufficient history of drilling or production to show that H_2S is not found in concentration that may be hazardous to personnel in drilling and production operations.

If a concentration of H_2S exceeding 20 parts per million (ppm) is encountered in unknown areas or is unexpectedly encountered in an H_2S-free area, the well shall be secured with a down-hole plug and shall remain secured until the full requirements of this standard can be implemented.

The precautions outlined in the American Petroleum Institute's "Recommended Practices for Safe Drilling of Wells Containing Hydrogen Sulfide" (API RP 49), where applicable to offshore operations, are supplemental to the requirements contained herein. In those areas where the requirements of this standard exceed the requirements of API RP 49, the standard requirements shall apply.

5.2.4 *H_2S detection and monitoring equipment.* Each drilling facility shall have an H_2S-detection and monitoring system which activates audible and visible alarms before the concentration of H_2S exceeds its threshold limit valve of 10 ppm in air. This system shall be capable of sensing a minimum of 5 ppm H_2S in the air with sensing points located at the bell nipple, shale shaker, mud pits, driller's stand, living quarters, and other areas where H_2S might accumulate in hazardous quantities. H_2S-detection and monitoring systems that detect H_2S in the mud may also be used as long as the H_2S quantities in the air are simultaneously being measured and displayed. If mud sensors are used, the system must be capable of sensing the equivalent of 5 ppm in the air. The sensor must be installed at the exit of the mud-return line.

In order to maintain these sensitivity levels, each drilling facility shall have H_2S-detector and monitoring equipment calibrated as required in accordance with the manufacturer's recommendations. The calibration shall be conducted by persons thoroughly trained to calibrate the particular H_2S-detection and monitoring equipment being used.

H_2S-detector ampules or any other portable H_2S Monitoring device capable of detecting 20 ppm shall be available for use by all personnel. After H_2S has been initially detected, frequent inspections of all areas of poor ventilation shall be made with a portable H_2S-detector instrument.

[FR Doc. 78-18369 Filed 6-30-78; 8:45 am]

[4410-01]

UNITED STATES DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. COCA-COLA BOTTLING COMPANY OF LOS ANGELES, ET AL.

Proposed Final Judgment, Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed consent judgment and a competitive impact statement, as set forth below, have been filed with the U.S. district court for the Central District of California in Civil Action No. 76-3988-LTL, *United States v. Coca-Cola Bottling Company of Los Angeles, et al.*

The complaint in this case alleges that the acquisition of the industrial water service business of Aqua Media, Inc. by Arrowhead Puritas Waters, a subsidiary of Coca-Cola Bottling Co. of Los Angeles, would substantially lessen competition in the sale of industrial water purification services in the State of California.

The proposed consent judgment, if entered by the court, requires Arrowhead Puritas Waters to divest a substantial amount of its industrial water business, including those assets acquired from Aqua Media, Inc., to a purchaser who shall operate those assets as a going business in competition with Arrowhead Puritas Waters. If the divestiture has not been completed within 12 months after entry of the final judgment, a trustee shall be appointed, who, at Arrowhead's expense, shall sell assets representing at least fifty-five percent (55%) of Arrowhead's industrial water service business.

Public comments on the proposed judgment is invited within the statutory 60 day comment period. Such comments and the Department's responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Raymond P. Hernacki, Assistant Chief, Los Angeles Field Office, Antitrust Division, Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

Dated: June 21, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations, Antitrust Division.

Crossan R. Andersen, Howard J. Parker, Martin J. Kaplan, and Carolyn D. Wulfsberg, Antitrust Division, U.S. Department of Justice, 300 North Los Angeles Street, Los Angeles, Calif. 90012, telephone 213-688-2506, attorneys for plaintiff.

U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Coca-Cola Bottling Co. of Los Angeles; Arrowhead Puritas Waters, Inc.; Aqua Media, Ltd; and A. M. Liquidating Co.*, Defendants.

Civil No. 76-3988-LTL.
Filed: June 21, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Coca-Cola Bottling Co. of Los Angeles, Arrowhead Puritas Waters, Inc., Aqua Media, Ltd. and A. M.

Liquidating Co., by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the court upon the motion of any party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Prodedures and Penalties Act [15 U.S.C. § 16] and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this or any other proceeding.

Dated: June 21, 1978.

For Plaintiff: Hugh P. Morrison, Jr., *Acting Assistant Attorney General;* Richard J. Favretto, Charles F. B. McAleer, Raymond P. Hernacki, Crossan R. Andersen, Howard J. Parker, Martin J. Kaplan, Carolyn D. Wulfsberg, *Attorneys, Department of Justice.*

For Defendants Coca-Cola Bottling Co. of Los Angeles and Arrowhead Puritas Waters, Inc.: Don T. Hibner, Jr., *Sheppard, Mullin, Richter & Hampton.*

For Defendant Aqua Media, Ltd.: Dale E. Fredericks, *Sedgwick, Detert, Moran & Arnold.*

For Defendant A. M. Liquidating Co.: Karen L. Witte, *Cooley, Godward, Castro, Huddleson & Tatum.*

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Coca-Cola Bottling Co. of Los Angeles; Arrowhead Puritas Waters, Inc.; Aqua Media, Ltd.; and A. M. Liquidating Co.,* Defendants.

Civil No. 76-3988-LTL.
Filed: June 21, 1978.

Final Judgment

Plaintiff, United States of America, having filed its complaint on December 23, 1976, defendants having filed their respective answers thereto, plaintiff's motion for a preliminary injunction having been heard and granted by the court, the court having entered findings of fact and conclusions of law, and the parties by their respective attorneys of record, having each consented to the preparation and entry of this final judgment, and without this final judgment constituting evidence or an admission by any party with respect to any issue consented to;

Now therefore, upon the consent of each of the parties hereto and upon a determination by this court that entry of this judgment will be in the public interest, it is hereby ordered, adjudged, and decreed as follows:

I

This court has jurisdiction of the subject matter of this action and of each of the parties hereto. The complaint states a claim upon which relief may be granted against defendants Coca-Cola Bottling Co. of Los Angeles and Arrowhead Puritas Waters, Inc. pursuant to section 7 of the Clayton Act (15 U.S.C. § 18). Defendants Aqua Media, Ltd. and A. M. Liquidating Co. are proper parties defendant to this action pursuant to the general equity powers of this court.

II

In this final judgment the following definitions shall apply:

A. "Arrowhead" means defendants Arrowhead Puritas Waters, Inc. and Coca-Cola Bottling Co. of Los Angeles, and its subsidiaries;

B. "Aqua Media" means defendant Aqua Media, Ltd.

C. "Group A Assets" means those properties, equipment, inventory, customer contracts, and other items listed or described in exhibit A attached hereto;

D. "Group B Assets" means those properties, equipment, inventory, customer contracts, and other items listed or described in exhibit B attached hereto;

E. "Restrictive Covenants" means those covenants not to compete given by Aqua Media and Jaren F. Leet to Arrowhead pursuant to the asset purchase agreement.

F. "High purity industrial water service" means the provision of high purity water purification service for commercial and industrial applications and includes the provision and/or sale of certain goods and/or equipment used incident to and in conjunction with such service. High purity industrial water service includes, but is not limited to, bulk water service, deionization exchange tank service, mobile demineralization service, reverse osmosis service, and the provision and/or sale of deionization and/or reverse osmosis equipment used incident to and in conjunction with such service and any combination of the preceding services and equipment. High purity industrial water service is provided to customers which require water purified to a high degree by the total or substantial removal of minerals, organic compounds or other dissolved matter;

G. "Person" means any individual, partnership, association, firm, corporation, or other legal or business entity;

H. "Purchaser" shall mean any one or more persons acquiring assets pursuant to this final judgment;

I. "Southern California" shall mean Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties in the State of California; and

J. The term "Northern California" means that part of California exclusive of "Southern California."

III

The provisions of this final judgment applicable to Arrowhead and Aqua Media, respectively, shall also apply to the directors, officers, agents, employees, subsidiaries, partnerships, successors, and assigns of each, and to all other persons in active concert or participation with any of them who receive actual notice of this final judgment by personal service or otherwise.

IV

Any divestiture made pursuant to this final judgment shall be made to one or more purchasers who shall reasonably demonstrate to the plaintiff and/or the court, as hereinafter provided, that at the time of divestiture (1) the assets acquired shall be capable of being operated as a going business or businesses, (2) that the purchaser(s) has the potential to compete effectively with Arrowhead, and (3) that the proposed divestiture will effectively restore competition to the high purity industrial water service market in both northern California and southern California.

V

A. Arrowhead is ordered and directed to completely divest itself within 1 year from the date of this final judgment of all of its right, title, interest, and obligations in either the group A or group B Assets in substantial conformance with the description in exhibits A and B respectively in this final judgment. In the event Arrowhead submits to the plaintiff an executed contract of divestiture with a bona fide purchaser in substantial accord with the provisions of this final judgment, which divestiture cannot reasonably be completed within said one year period, then such period shall be extended for a reasonable time not to exceed six (6) months within which to complete said divestiture. The application of the provisions of paragraphs XII to XIX and XXI of this final judgment shall be delayed for a like period. For the purpose of this provision, an agreement for divestiture shall be in substantial accord or conformance with the provisions of this final judgment if the assets to be sold are at least equal to ninety (90) percent of the assets described in schedule A.

VI

Arrowhead shall utilize its best efforts to sell the assets and to make known promptly the availability of the assets by the ordinary and usual means. In the event that the divestiture ordered herein has not been completed within sixty (60) days from the entry of this final judgment, such best efforts shall include without limitation:

A. Arrowhead shall prepare a brochure separately describing group A assets and group B assets, the operations carried on by Arrowhead therewith, and the divestiture ordered and directed by this final judgment;

B. Arrowhead shall forward said brochure to each person requesting same, to each prospective purchaser known to Arrowhead, and to each company listed in exhibit D attached hereto;

C. Arrowhead shall employ the services of an investment banker, business opportunity broker or similarly qualified person to assist in the divestiture ordered and directed by this final judgment;

D. Arrowhead shall cause an advertisement offering the assets for sale to be published (1) in the national edition of The Wall Street Journal for at least 7 days during each 6 month period following the entry of this final judgment, and (2) for a reasonable period in at least two additional trade or business publications of national circulation, including one circulated to the water treatment trade;

E. Arrowhead shall direct a person holding a senior management position with Arrowhead or a parent thereof to devote his best efforts and a substantial portion of his time to promote and complete the divestiture directed and ordered by this final judgment;

F. Arrowhead shall furnish to all bona fide prospective purchasers all necessary information regarding the assets and the operations carried on by Arrowhead therewith, including revenue and cost data and other available information similar to that provided to Arrowhead by Aqua Media, Inc. prior to the asset purchase agreement dated July 20, 1976. Arrowhead shall permit prospective purchasers to make such inspection

of the assets as may be reasonably necessary for the above-stated purpose. Arrowhead shall not be required to submit any such information or materials to anyone unless the recipient thereof executes an affidavit requiring recipient to keep such information and/or materials confidential, not to reproduce the same, and to return the same to Arrowhead in the event a sale to such recipient is not consummated.

G. Prior to the twelfth (12) month after entry of this final judgment, Arrowhead shall design and successfully test an accounting system capable of producing actual cost data, and shall also provide pro forma income, balance sheet and operating statements addressing the assets to be divested had such assets actually been operated as an independent, going business. After the sixth (6) month following entry of this final judgment, the plaintiff may petition the court for an order that such accounting system be designed and implemented at an earlier date. Upon such petition plaintiff shall have the burden of proving that such accounting system and financial statements would facilitate the sale of such assets.

VII

A. Arrowhead is ordered and directed to the best of its ability to cooperate with each purchaser. Subject to any limitation in a contract of divestiture approved by the plaintiff or the court, Arrowhead shall make available to each purchaser at such purchaser's option:

1. Arrowhead's existing engineering, marketing and installation information and assistance sufficient to allow said purchaser effectively to compete in the high purity industrial water service market. Such assistance shall include the provision of engineers and other qualified operating or management employees to assist in the establishment of management, plant operations, and field service engineering systems, and in solving operational problems as they may arise;

2. Any information utilized by Arrowhead in purchasing raw materials and parts in its high purity industrial water service business sufficient to allow said purchaser to compete effectively in the high purity industrial water service market. For a period of one year after the divestiture, if such raw materials and parts are not available to the purchaser at substantially the same price and terms as to Arrowhead, Arrowhead will sell said raw materials and parts to purchaser at Arrowhead's direct cost.

3. A list of all employees of Arrowhead's Industrial Water Division, together with their job description, annual compensation, accrued sick leave, and accrued vacation pay. Purchaser shall have the right, but not the obligation, to offer employment to each such employee.

B. The cost of all information and assistance provided by Arrowhead to the purchaser prior to completion of the divestiture shall be included in the purchase price. If within 1 year after divestiture Arrowhead, pursuant to this paragraph, provides to the purchaser additional information and/or assistance the cost of which has not been specifically included in the purchase price, such information and/or assistance shall be provided at a price set forth in each contract of divestiture that does not exceed Arrowhead's costs incurred in providing such services.

C. Arrowhead shall have no obligation hereunder to furnish information or assistance to the purchaser if substantially the same information or assistance is available at a price which does not exceed the price set forth in the contract of divestiture either by employing a consulting firm or the necessary personnel. Arrowhead shall not be obligated to furnish to the purchaser customer information unless the service contract of said customer was acquired by the purchaser. Arrowhead shall not be obligated to hire additional personnel in order to comply with the provisions of this paragraph.

VIII

The divestiture ordered and directed by this final judgment shall be made in good faith and shall be absolute and unqualified, and except upon written approval by the plaintiff or the court, Arrowhead shall accept no lien, mortgage, deed of trust, or other form of security on or interest in any portion of the assets sold. Arrowhead shall take no action which will impair or impede the divestiture ordered by this final judgment.

IX

Any contract of sale pursuant to this final judgment shall require the purchaser to file with this court its representation that it intends to continue the business of high purity water purification service in northern California and southern California, if assets are there acquired, and agree to submnit to the jurisdiction of this court for that limited purpose.

X

Each sixty (60) days following the entry of this final judgment until divestiture has been completed, or until the end of twelve (12) months from the date of entry of this final judgment, whichever first occurs, Arrowhead shall file with this court and serve upon plaintiff and Aqua Media an affidavit describing in detail the fact and manner of its efforts to accomplish the divestiture ordered by this final judgment. Such reports shall be supplemented by such additional information as the plaintiff may reasonably request.

XI

At least thirty (30) days in advance of the anticipated closing date of each contract of divestiture pursuant to this final judgment, Arrowhead shall submit to plaintiff and Aqua Media the name of the proposed purchaser and all pertinent information respecting the proposed divestiture together with such additional information as plaintiff may reasonably request in writing. Within twenty (20) days after Arrowhead has supplied all the requested information, plaintiff will advise Arrowhead and Aqua Media in writing of plaintiff's approval or objections to the proposed divestiture. If plaintiff objects to the proposed divestiture, then such contract(s) of divestiture shall not be consumated unless (1) plaintiff notifies Arrowhead in writing of any subsequent approval or unless, (2) the court approves after a hearing at which Arrowhead shall have the burden of proving that the proposed divestiture will effectively restore competition to the high purity industrial water service markets in northern California and southern California, if assets are there acquired.

XII

If Arrowhead has not notified the plaintiff and Aqua Media within nine (9) months following the date of entry of this final judgment that it has entered into a contract of divestiture, each party shall notify the other in writing of the name and description of not more than three persons it wishes to nominate as a possible trustee. The parties shall seek to agree upon one of the nominees to serve as a trustee for the divestiture ordered by this final judgment, and if they are unable to agree, the court may select a trustee from said nominees after hearing the parties as to the qualifications of the candidates.

XIII

If Arrowhead is unable to complete the divestiture required by this final judgment within the period prescribed in paragraph V above, the court shall appoint a trustee to serve for a maximum period of fifteen (15) months except as hereinafter provided.

XIV

The trustee's main endeavor shall be to accomplish prompt and full divestiture of the assets described in paragraph XVI of this final judgment, as one or more going businesses in accordance with the provisions of paragraph IV of this final judgment in order effectively to restore competition to the high purity industrial water service market in both northern California and southern California and to further the public interest.

XV

The trustee shall perform at the expense of Arrowhead under a schedule of court-approved fees, incentive compensation and costs to be fixed at the time of the trustee's appointment. The trustee shall have the right at any time to petition the court, with prior written notice thereof to all parties, for further fees and/or incentive compensation for prompt accomplishment of the purposes of the Trust.

XVI

After consulting with the parties, the trustee shall select assets consistent with the description of assets in exhibit C together with such other assets as the trustee may deem necessary to enable the trustee to sell one or more going high purity industrial water service businesses and thereby effectively restore competition to the high purity industrial water service market in northern California and southern California. Should the trustee select assets in excess of, or inconsistent with, the description of assets in exhibit C, any party may petition the court. Upon such petition the moving party shall have the burden of proving that the trustee's selection of assets is contrary to the purposes of the Trust.

XVII

A. The trustee shall have all such powers as are necessary and proper to accomplish divestiture in accordance with the provisions of this final judgment. Subject to the provisions of this paragraph, the trustee shall have authority to manage, control, operate, and sell by any reasonable means the assets selected for divestiture. Subject to the provisions of this paragraph, the trustee may require Arrowhead to convey all rights, titles, interests, and obligations in the selected assets or any portion thereof to any purchaser. Such conveyance shall be absolute and unqualified.

B. The trustee shall have the power to manage the assets selected for divestiture

only after the conclusion of the sixth month of the term of the Trust. If the trustee elects at any time to manage such assets, the trustee shall notify Arrowhead thereof in writing. Should Arrowhead object to the exercise of the trustee's management powers, it shall have ten (10) days from receipt of such notice within which to petition the court. Upon such petition, Arrowhead shall have the burden of proving that management by the trustee will not facilitate the sale of such assets. Once the trustee assumes such management powers, the trustee may require Arrowhead to convey all rights, title, interests, and obligations in the selected assets or any portion thereof to the trustee. Such conveyance shall be absolute and unqualified.

C. The trustee shall have the power to conduct a sale of the assets selected for divestiture upon sealed or public bids after reasonable notice to the parties describing the method of sale. Such sale shall convey the assets so as to be operated as one or more going businesses and shall be subject to the provisions of paragraph XIX of this final judgment. Aqua Media shall have the right to bid at any such sale.

D. The trustee's authority shall include without limitation:

1. The right of access to Arrowhead's financial, accounting, production, customer, and other records related to any asset owned or in the possession or control of Arrowhead which the trustee may deem necessary to assist in the selection of assets or otherwise;

2. The power to retain investment bankers, business opportunity brokers, accountants, appraisers, consultants, attorneys, and any other persons reasonably needed to assist in the promotion, analysis, or execution of any sale(s) or in managing, operating, or controlling the assets pursuant to this final judgment;

3. The power to implement an accounting system to provide revenue data, cost data, and other financial and accounting information relating to the selected assets such as would permit the trustee to develop a meaningful pro forma operating statement and actual income and balance sheet statements to be used by the trustee in implementing this final judgment and the sale of the selected assets; and

4. The power to interview and offer employment to officers and employees of Arrowhead's Industrial Water Division.

XVIII

A. Pending confirmation of a sale, the price, terms, and other conditions of any offer shall be treated as confidential and not subject to disclosure to a third party without prior approval by the court. The trustee shall not disclose financial or production information or the identification of particular Arrowhead customers to persons other than prospective purchasers and shall only disclose such information to prospective purchasers after having entered into a nondisclosure agreement with such prospective purchasers.

B. Arrowhead shall have the right to designate certain financial information disclosed to the trustee as "secret." The information so designated shall be limited to that which, if released to a competitor, would grant an unfair competitive advantage and shall be as narrowly restricted as is commercially reasonable. Prior to furnishing information designated as "secret," the trustee shall give written notice to the parties identifying the information and to whom it is to be disclosed. Arrowhead shall have two (2) business days from the receipt of the notice within which to object to such disclosures and to petition the court to review the intended disclosure. This court will permit, prohibit, or limit such disclosures within seven (7) days following the dispatch of Arrowhead's objection.

XIX

The trustee shall advise the parties of all significant matters arising in the negotiations. Upon the reaching of an understanding in principle on the basic terms and conditions of a prospective sale and at least forty-five (45) days before any proposed consummation date, the trustee shall advise the court, with notice to the parties, of the identity of the prospective purchaser or purchasers and shall describe the terms and conditions of the prospective sale. Within fourteen (14) days of said notice, any party may file a statement of objections to the proposed sale. Such prospective sale shall not be executed until the parties have had an opportunity to present views and recommendations on any issue presented and to be heard thereon. Such objections shall be evaluated by the standard set forth in paragraph IV.

XX

Arrowhead shall provide such reasonable assistance as the trustee may request to enable him to sell selected assets. Such assistance shall include, but shall not be limited to:

A. Furnishing, without cost, all information regarding selected assets and the operations conducted by Arrowhead or Aqua Media, Inc. therewith, including, without limitation, revenue data, cost data, and such other information as shall be requested by the trustee;

B. Permitting the trustee or his agents to make any inspection of any assets and operations of Arrowhead utilized in its high purity industrial water service business;

C. Providing a list of all present and former employees employed by Arrowhead or Aqua Media, Inc. in the industrial high purity water service business, together with last known residence addresses, job descriptions, and annual compensation, to the extent known to Arrowhead. The trustee shall have the right, but not the obligation, to intrerview privately and offer employment to any such employee;

D. Providing, upon the trustee's request, engineers, accountants, or other qualified operating or management employees to assist in the establishment of management, plant operation, and field service engineering systems; in solving operational problems which may arise; and in any other manner;

E. Providing, upon the trustee's request, any information utilized by Arrowhead in purchasing, and/or aid the trustee in obtaining, raw materials or parts in connection with the high purity industrial water service business; and

F. Selling, upon the trustee's request, at its out-of-pocket prices, any raw materials or parts used in connection with Arrowhead's high purity industrial water service businesses.

XXI

For a period of twelve (12) months following the closing of each contract of divestiture, Aqua Media is enjoined and restrained from competing for the high purity industrial water service business of customer accounts acquired by the purchaser pursuant to this final judgment. Said injunction shall apply to the provision of service at locations in California and to the sale or provision of equipment for use at locations in California.

XXII

Aqua Media is ordered and directed to:

A. Convey to each purchaser a covenant not to compete in the high purity industrial water service business in California for a period of twelve (12) months following the closing of each contract of divestiture. Such covenant(s) shall not apply to the sale or provision of equipment to customer accounts other than those customer accounts acquired by the purchaser(s) pursuant to this final judgment. Such covenant(s) shall be enforceable only by the purchaser(s) of assets pursuant to this final judgment.

B. Offer to the trustee and to the purchaser distributorship agreements for the sale of high purity industrial water purification equipment manufactured by Aqua Media, the terms of which agreements are to be equally or more favorable to the trustee or the purchaser than those contained in the distributorship agreement dated August 2, 1976, between Arrowhead and Aqua Media, Inc., provided that Aqua Media shall not be obligated hereunder to offer a distributorship agreement to any person that is engaged in the business of selling high purity industrial water purification equipment not manufactured by Aqua Media;

C. Cooperate with the purchaser or trustee in respect to such offers of distributorship agreements and to make available to such purchaser or trustee upon request existing engineering and marketing information with respect to the equipment to be distributed sufficient to allow said purchaser or trustee to compete effectively for the sale of such equipment;

D. Not less than thirty (30) days prior to the closing date of any distributorship agreement or contract or divestiture pursuant to this final judgment, Aqua Media shall file with this court and serve upon plaintiff, copies of the proposed covenant and/or distributorship agreement and an affidavit describing in detail the fact and manner of its compliance with this paragraph. Such report(s) shall be supplemented by such additional information as the plaintiff may reasonably request.

XXIII

A. In the event the trustee is unable to accomplish or complete the divestiture required by this final judgement during the term of the Trust, such term shall be extended pending further orders of the court. Should the trustee have assumed management or control of, or taken title to the assets selected for divestiture, he shall continue to manage, operate and preserve such assets pending further order of the court.

B. The trustee may at any time petition the court for further instructions. Subsequent to exhausting efforts to sell in the manner provided in paragraph XVII-C or upon further instruction from the court, such petition may include a request that the court hold a further hearing for the purpose of determining such other and further relief as may be required. At any such hearing Aqua Media shall not assert that this court is without power to order such further relief as to Aqua Media as may be just. At such hearing Arrowhead and the plaintiff shall not assert that the court is without

power to order the trustee to convey to Aqua Media such assets as will accomplish or complete the divestiture ordered by this final judgment and effectively restore competition to the high purity industrial water service market in California.

C. To effect any conveyance pursuant to section B of this paragraph, the trustee shall submit to the court and the parties a description of the terms of the conveyance to Aqua Media including but not limited to any consideration or restitution to be paid by Aqua Media to Arrowhead for the assets conveyed. Within thirty (30) days thereafter all parties will advise the trustee of their objections, if any, to the proposed conveyance.

D. Any conveyance made pursuant to this paragaph shall be absolute and unqualified, and Arrowhead shall take no action which will impair or impede such conveyance.

XXIV

Aqua Media and Arrowhead are directed and ordered to terminate upon the entry of this final judgment, the restrictive covenants and the same shall no longer be enforceable thereafter.

XXV

At any time during the period of ten (10) years from the effective date of this final consent judgment, without prior written approval of the plaintiff, Arrowhead is enjoined and restrained from acquiring:

A. Any capital stock of any person engaged in the high purity industrial water service or equipment sales business in California;

B. All or any part of the assets (except for the purchase of products, inventory, or equipment in the normal course of business) of a person engaged in the high purity industrial water service or equipment sales business in California.

XXVI

Except upon prior written approval of the plaintiff, for a period of not less than two (2) years from the closing date of the last contract of divestiture as provided for herein:

A. Arrowhead shall continue to operate as a going business in both northern California and southern California that portion of its high purity industrial water service business not divested as a result of this final judgment;

B. Arrowhead is enjoined and restrained from selling or disposing of any asset, or taking any other action that would substantially impair or diminish its ability to compete effectively in both northern California and southern California in the provision of all different sizes of mobile demineralizers, standard deionization systems and associated service, engineered reverse osmosis—deionization systems and associated service, and the delivery of high purity water in tanker trucks;

C. Arrowhead shall continue to employ personnel and maintain a fleet of vehicles in both northern California and southern California. These personnel and this fleet shall be sufficient to allow Arrowhead to continue in the business of providing to customers in both geographic areas all the different sizes of mobile demineralizers, standard deionization systems and associated service, engineered revese osmosis—deionization systems and associated service, and the delivery of high purity water in tanker trucks;

D. Arrowhead shall operate an ion exchange resin regeneration facility in southern California with capacity for resin regeneration of both mobile units and of stationary canisters substantially similar to its capacity as of August 2, 1976 of Arrowhead's Washington Boulevard resin regeneration facility or Arrowhead's Signal Hill resin regeneration facility.

Should divestiture under this final judgment result in the transfer to the trustee or the sale of Arrowhead's Sunnyvale resin regeneration facility, Arrowhead shall, within eighteen (18) months after such transfer or sale, establish and commence operation of an ion exchange resin regeneration facility in northern California with capacity for resin regeneration of both mobile units and of stationary canisters sufficient to service the remaining service accounts in northern California plus an allowance for reasonable business growth. Thereafter Arrowhead shall operate such facility for at least eighteen (18) months.

XXVII

For ten (10) years from the date of entry of this final judgment, sixty (60) days prior to conveying, directly or indirectly, to any person engaged in the high purity industrial water service or equipment business in California (1) any assets employed by Arrowhead in the high purity industrial water service or equipment business in California, other than in the ordinary course of business, or (2) any voting securities of Arrowhead's, Arrowhead shall provide the plaintiff in writing with (1) the name and address of the purchaser, and (2) a description of the assets to be sold, together with the purchase price. Thereafter, Arrowhead shall provide the plaintiff with such other information and documents regarding the transaction as may be requested.

XXVIII

A. For the purpose of determining or securing compliance with this final judgment, any defendant shall permit any duly authorized representative of the Department of Justice, upon written request of the Attorney General or Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant at its principal office, subject to any legally recognized privilege:

1. Access, during the office hours of such defendant, which may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any matters contained in this final judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this final judgment as may from time to time be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

XXIX

Jurisdiction is retained by this court for the purpose of enabling any of the parties to this final judgment to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this final judgment, for the modification of any of the provisions herein, for the enforcement or compliance herewith, and for the punishment of the violation of any of the provisions contained herein.

XXX

The preliminary injunction entered in this matter on April 28, 1977, is hereby dissolved, and defendant A. M. Liquidating Co. is hereby dismissed.

XXXI

Entry of this final judgment is in the public interest.

Dated:

United States District Judge.

SCHEDULE A

I. PLANT AND OFFICES

A. The Signal Hill, Calif. regeneration facility and all associated real and personal property leasehold interests, offices and equipment, including substantially all equipment listed on schedule 1.1C-2 to the asset purchase agreement dated July 20, 1976.

B. Such facility, offices, and equipment shall be in the same condition, normal wear and tear excepted, as acquired from Aqua Media, Inc., except as improved, altered, or replaced pursuant to the stipulation and order to identify assets and maintain the status quo entered by this court on March 9, 1977.

II. SERVICE FLEET

A. Service vehicles fully adequate to service the customer accounts and regeneration facilities divested, including approximately thirty-one (31) service trucks, three (3) bulk water trucks or semi-tankers, two (2) tractors and trailers, fifteen (15) automobiles and two (2) forklifts and including all two-way radio equipment utilized with such vehicles and no less than three base communications units.

B. Mobile demineralizers fully adequate to service the acquired customer accounts and a reasonable reserve capacity, including (1) approximately thiry-two (32) mobile demineralizers with a resin capacity less than 150

cubic feet of which at least twelve (12) shall have mixed bed polishers, and (2) approximately five (5) mobile demineralizers with a resin capacity greater than 150 cubic feet.

III. INVENTORIES

Forty-five (45) percent by fair market value of each of the inventories owned by Arrowhead as of December 31, 1977, of ion exchange columns and resins, raw materials and work-in-progress (including all items similar to those described in schedule 1.1K to the asset purchase agreement dated July 20, 1976) and other miscellaneous materials and equipment utilized by Arrowhead in the provision of high purity industrial water service.

SCHEDULE A

IV. CUSTOMER ACCOUNTS

A. Customer accounts which generated revenues and gross margins to Arrowhead in calendar year 1977 in the product categories and geographic markets listed below. Such accounts shall represent an even geographical distribution of accounts within each geographic market listed.

Product category	Revenues [1]		Gross margins [2]	
	Northern California	Southern California	Northern California	Southern California
Standard D.I. service	588	950	60	67
Special systems	1,503	350	42	48
Mobil demineralizers	250	606	59	57
Bulk water	238	193	44	56

[1] In thousands of dollars.

[2] In percent.

B. Customer accounts shall include all of Arrowhead's interest in columns, resin, and standard and non standard service equipment at customer locations, including without limitation storage tanks, control and switchover panels, pumps, lights, meters, filters, filter housings, degasifiers, reverse osmosis units, and similar equipment.

SCHEDULE B

I. PLANTS AND OFFICES

A. The Signal Hill, Calif. and Sunnyvale, Calif. regeneration facilities, the Gregg Building plant, and all associated real and personal property leasehold interests, offices and equipment, including substantially all equipment listed on schedules 1.1C-1, 1.1C-2, and 1.1C-3 to the asset purchase agreement dated July 20, 1976.

B. Such facilities, offices and equipment shall be in the same condition, normal wear and tear excepted, as acquired from Aqua Media, Inc., except as improved, altered or replaced pursuant to the stipulation and order to identify assets and maintain the status quo entered by this court on March 9, 1977.

II. SERVICE FLEET

A. Service vehicles fully adequate to service the customer accounts and regeneration facilities divested, including approximately forty-four (44) service trucks, four (4) bulk water trucks or semi-tankers, three (3) tractors and trailers, twenty-two (22) automobiles and three (3) forklifts and including all two-way radio equipment utilized with such vehicles and no less than four base communications units.

B. Mobile demineralizers fully adequate to service the acquired customer accounts and a reasonable reserve capacity, including (1) approximately forty-six (46) mobile demineralizers with a resin capacity less than 150 cubic feet of which at least sixteen (16) shall have mixed bed polishers, and (2) approximately eight (8) mobile demineralizers with a resin capacity greater than 150 cubic feet.

III. INVENTORIES

Sixty-five (65) percent by fair market value of each of the inventories owned by Arrowhead as of December 31, 1977 of ion exchange columns and resins, raw materials and work-in-progress (including all items similar to those described in schedule 1.1K to the asset purchase agreement dated July 20, 1976) and other miscellaneous materials and equipment utilized by Arrowhead in the provision of high purity industrial water service.

SCHEDULE B

IV. CUSTOMER ACCOUNTS

A. Customer accounts which generate revenues and gross margins to Arrowhead in calendar year 1977 in the product categories and geographic markets listed below. Such accounts shall represent and even geographical distribution of accounts within each geographic market listed.

Product category	Revenues [1]		Gross margins [2]	
	Northern California	Southern California	Northern California	Southern California
Standard D. I. service	850	1,372	60	67
Special systems	1,480	627	42	48
Mobile demineralizers	1,161	687	59	57
Bulk water	235	345	44	56

[1] In thousands of dollars.

[2] In percent.

B. Customer accounts shall include all of Arrowhead's interest in columns, resin, and standard and non-standard service equipment at customer locations, including without limitation storage tanks, control and switchover panels, pumps, lights, meters, filters, filter housings, degasifiers reverse osmosis units and similar equipment used by Arrowhead in servicing customer accounts.

SCHEDULE C

I. PLANTS AND OFFICES

A. The Signal Hill, Calif. and/or Sunnyvale, Calif. regeneration facilities, and/or the Gregg Building plant and all associated real and personal property leasehold interests, offices and equipment, including substantially all equipment listed on schedule 1.1C-2 and/or 1.1C-1, and/or 1.1C-3 to the asset purchase agreement dated July 20, 1976.

B. Such facilities offices and equipment shall be in the same condition, normal wear and tear excepted, as acquired from Aqua Media, Inc., except as improved, altered or replaced pursuant to the stipulation and order to identify assets and maintain the status quo entered by this court on March 9, 1977.

II. SERVICE FLEET

A. Service vehicles fully adequate to service the customer accounts and regeneration facilities divested, including approximately thirty-eight (38) service trucks, four (4) bulk water trucks or semi-tankers, three (3) tractors and trailers, nineteen (19) automobiles and two (2) forklifts and including all two-way radio equipment utilized with such vehicles and no less than three base communications units.

B. Mobile demineralizers fully adequate to service the acquired customer accounts and a reasonable reserve capacity, including (1) approximately thirty-nine (39) mobile demineralizers with a resin capacity less than 150 cubic feet of which at least fourteen (14) shall have mixed bed polishers, and (2) approximately seven (7) mobile demineralizers with a resin capacity greater than 150 cubic feet.

III. INVENTORIES

Fifty-five (55) percent by fair market value of each of the inventories owned by Arrowhead as of December 31, 1977 of ion exchange columns and resins, raw materials and work-in-progress (including all items similar to those described in schedule 1.1K to the asset purchase agreement dated July 20, 1976) and other miscellaneous materials and equipment utilized by Arrowhead in the provision of high purity industrial water service.

SCHEDULE C

IV. CUSTOMER ACCOUNTS

A. Customer accounts which generated revenues and gross margins to Arrowhead in calendar year 1977 in the product categories and geographic markets listed below. Such accounts shall represent an even geographical distribution of accounts within each geographic market listed.

Product category	Revenues[1]		Gross margins[2]	
	Northern California	Southern California	Northern California	Southern California
Standard D.I. service	719	1,161	60	67
Special systems	1,098	475	42	48
Mobile demineralizers	1,161	668	59	57
Bulk water	174	261	44	56

[1] In thousands of dollars.
[2] In percent.

B. Customer accounts shall include all of Arrowhead's interest in columns, resin, and standard and non-standard service equipment at customer locations, including without limitation storage tanks, control and switchover panels, pumps, lights, meters, filters, filter housings, degasifiers reverse osmosis units and similar equipment used by Arrowhead in servicing customer accounts.

SCHEDULE C

EXHIBIT D

Abcor
Ajax International Corp.
American Chemical & Refining Co., Inc.
American Protection Industries
AMF CUNO Div. AMF, Inc.
Apollo Cleaning Systems
Applied Filtration
Aqua-Con
Aquadene, Inc.
Aqua Fine Corp.
Atlantic Richfield Corp.
Atomics International
Automation Industries
Balston, Inc.
Barclay & Co., Inc.
Baker Filtration Co.
Barnstead Co., Division of Sybron Corp.
BENTZ
Bomar Instrument Corp.
Bio-RAd Labs
Calgon Corp.
California Environmental Controls
Calfico Water Treating Equipment
Carborundum Corp.
CFS Continental
Chemical Engineering Corp.
Circle Seal Corp.
Colony Company
Compagnie General Des Eaux
Crane Co., Cochrane Environmental Division
DEFCo
Desalination Systems, Inc.
Diamond Shamrock
Dorr-Oliver, Inc.
Dow Chemical
DuPont
Ecodyne Corp. Graver Division
Electro-Filter Systems
El Paso Enviro
Envirex Div., Rexnord Co.
Envirodyne, Inc.
Envirotech Corp.
Filterchem
Fluidsystems
FMC Corporation
Foremost-McKesson, Inc.
Fram Corp.
Garehem
GAF Corp.
Gulf Environmental Systems
Hayward Filter Co.
Hydrolon, Inc.
Hydranautics
Illinois Water Treatment Co.
Incon
Industrial Water Conditioning
Infilco Degremont, Inc.
Ionics, Inc.
LA Water Treatment Div., Chromally American
Mark Controls Corp.
Millipore Corp.
Nate Weinhausen
Osmonics, Inc.
Pall Corp.
Penfield
Permutit Co., Div. of Sybron Corp.
Polymetrics
Pure Aire Corp.
Rayne Salt Water Conditioning
Rev-o-Pak, Inc.
Rheem Mfg. Co.
R. M. Thomas
Robbins Aviation, Inc.
Softwater Utilities, Inc.
Stauffer Chemical
Sweco, Inc.
Triton Water Systems, Inc.
Tosco Corp.
Ultradynamics Corp.
Ultra Pure Systems
U.S. Filter Corp., Fluid Systems Division
Union Carbide
Universal Oil Products, ROGA Division
Universal Water Corp.
Vaporics, Inc.
Water Care Corp.
Water Purification Systems
Water Refining Co.
Western Water Engineering
Westinghouse Electric Inc.
Wheelabrator-Frye Inc.

U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, plaintiff, v. *Coca-Cola Bottling Company of Los Angeles; Arrowhead Puritas Waters, Inc.; Aqua Media, Ltd.; and A. M. Liquidating Co.*, Defendants.

Civil No. 76-3988-LTL.

Filed: June 21, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)—(h), the United States files this Competitive Impact Statement relating to the proposed final judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDINGS

On December 23, 1976, the United States filed a civil antitrust complaint alleging that the acquisition of the industrial water service business of Aqua Media, Inc. ("Aqua Media") by Coca-Cola Bottling Co. of Los Angeles ("CCLA") violated section 7 of the Clayton Act. The complaint alleged that the acquisition eliminated competition between Aqua Media and CCLA's subsidiary, Arrowhead Puritas Waters, Inc. ("Arrowhead") in the sale of high purity industrial water service in California. The complaint sought divestiture of all the acquired assets or, alternatively, the return of such assets to Aqua Media through the rescission of the acquisition agreements.

The United States applied to the district court for a preliminary injunction to restrain the successors to Aqua Media, Aqua Media, Ltd. and A. M. Liquidating Co., from further distributing the proceeds of the sale and liquidating the successor corporation. After a hearing, Judge Lawrence T. Lydick ruled that there was a substantial likelihood that the government would prevail at trial and that it was in the public iterest to issue an injunction to preserve the status quo. The court also entered a stipulated order prohibiting CCLA and Arrowhead from further consolidating or commingling the acquired assets into Arrowhead's industrial water business.

The Aqua Media defendants appealed from the preliminary injunction, contending that rescission could not be ordered in this or any case brought under section 7 of the Clayton Act. On March 28, the Ninth Circuit Court of Appeals affirmed the order of the district court, ruling that rescission is an available remedy under the Clayton Act and that the preliminary injunction was properly ordered in this case.

The United States and the defendants have agreed in a stipulation that the final judgment negotiated by the parties may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. Entry by the court of said final judgment will terminate the action, except that the court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify, or enforce the judgment or to punish alleged violations of any of the provisions of the judgment.

II. DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

In the years preceeding the acquisition, Arrowhead and Aqua Media engaged in vigorous competition in both northern California and southern California. In southern California, Aqua Media challenged Arrowhead's dominant market position through sharp price-cutting and the construction of a modern regeneration plant in Signal Hill, Calif. In response, Arrowhead entered the northern California market where Aqua Media controlled more than eighty-five percent (85 percent) of the high purity industrial water service market. Arrowhead also designed and proposed construction of a new regeneration facility in northern California. Competition between Aqua Media

and Arrowhead substantially reduced prices and improved service to industrial water service customers in both northern and southern California.

On July 20, 1976, Arrowhead and Aqua Media entered into an Asset Purchase Agreement whereby Arrowhead acquired most of the California industrial water service assets of Aqua Media and certain customer accounts in the State of Nevada. Aqua Media and its president, Jaren F. Leet, agreed not to compete with Arrowhead in the California industrial water service market and not to compete directly with Arrowhead for industrial water equipment sales in California for a period of 4 years. Aqua Media appointed Arrowhead as its exclusive distributor for California sales of industrial water purification systems and equipment manufactured by Aqua Media. Arrowhead also agreed to perform in California certain water purification support services for Aqua Media's customers outside California. On the next day, Aqua Media, Inc. sold its remaining assets to a newly formed limited partnership, Aqua Media, Ltd., and changed its name to A. M. Liquidating Co. The liquidating company proceeded to distribute the proceeds of the sale to its shareholders.

The issue whether the acquisition and ancillary agreements violated section 7 of the Clayton Act was addressed to the district court in the government's motion for a preliminary injunction. After a hearing on the motion, District Judge Lawrence T. Lydick entered findings of fact regarding the effects of the challenged acquisition on competition. These findings included:

(1) That the market shares of Arrowhead and Aqua Media combined by the acquisition approximated eighty percent (80 percent) in California and ninety percent (90 percent) in northern California;

(2) That an effect of the acquisition has been to eliminate substantial competition or tend to create a monopoly in the high purity industrial water service markets in both northern and southern California;

(3) That an effect of the acquisition has been to substantially raise barriers to entry and to accelerate a trend towards concentration in the California industrial water industry; and

(4) That it is probable that the government would prevail in a trial on the merits.

III. Explanation of the Proposed Final Judgment

Under the provisions of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed final judgment by the court is conditioned upon a determination by the court that the proposed final judgment is in the public interest.

A. DIVESTITURE

The divestiture required by the proposed final judgment must be to a purchaser or purchasers who shall operate the divested assets as a going business and compete effectively with Arrowhead. Such divestiture must effectively restore competition to the high purity industrial water service market in both northern and southern California.

Arrowhead must undertake to sell one of two groups of assets described in the proposed judgment. One group represents approximately forty-five per cent (45 percent) of Arrowhead's industrial water service business and assets, and the other group represents approximately sixty-five per cent (65 percent) of such assets. Arrowhead has executed a letter of intent to sell assets to a group of investors and former Arrowhead and Aqua Media employees organized by John Kensey, a former Arrowhead vice president. If such sale is not approved by the Department of Justice or the district court or is not completed within sixty (60) days after entry of the proposed final judgment, Arrowhead must make a general offering of both asset groups and take other affirmative steps to effect a prompt and complete divestiture pursuant to the final judgment. Such affirmative steps must include, among others, retaining the services of an investment banker; preparing brochures and financial data describing the assets for sale; and cooperation with all bona fide respective purchasers.

If Arrowhead has not completed the required divestiture within twelve (12) months after the entry of the proposed final judgment, the district court will appoint a trustee who shall perform at Arrowhead's expense. The purpose of the Trust so established would be to promptly sell assets selected by the trustee, representing at least fifty-five per cent (55 percent) of Arrowhead's industrial water service business and assets, so as to effectively restore competition. The trustee's authority includes all powers necessary to accomplish the purposes of the Trust including the power to hire investment bankers, consultants and other; the power to conduct a sale of the assets at auction; and after the sixth month of the Trust term, the power to manage and control the assets selected for divestiture.

Both the trustee and each purchaser of assets may look to Arrowhead and Aqua Media for assistance. Arrowhead will provide, at the option of the purchaser or trustee, engineering, marketing, and purchasing assistance. Aqua Media will offer to each purchaser and/or the trustee, distributorships for the sale of Aqua Media industrial water purification equipment, and will agree not to compete with each purchaser for a period of 1 year.

B. PROCEEDINGS UPON A FAILURE OF DIVESTITURE

If the trustee is unable to complete the required divestiture, he may request the court to hold a hearing for the purpose of determining such other and further relief as may be required. Such relief could require the conveyance of the assets to Aqua Media, Ltd. This conveyance would ordinarily follow an attempt to conduct an auction of the assets. Under the terms of the proposed decree, A. M. Liquidating Co. would be dismissed as a party to the action and the preliminary injunction will be dissolved.

C. INJUNCTIVE RELIEF

The proposed final judgment requires Aqua Media and Arrowhead to immediately terminate the covenants not to compete which were part of the original acquisition agreements. For 2 years following entry of the proposed final judgment, Arrowhead is required to continue to operate, without diminution, the high purity industrial water service business not divested and to replace any northern California regeneration plant divested. For a period of ten (10) years, Arrowhead is enjoined from acquiring the assets or capital stock of any person engaged in the sale of industrial water purification services or equipment in California.

D. EFFECT OF THE PROPOSED FINAL JUDGMENT ON COMPETITION

The relief encompassed in the proposed final judgment is aimed at restoring the competition eliminated as a result of the acquisition and providing, to the extent possible, a competitive balance in the California high purity industrial water service market. The proposed final judgment requires Arrowhead to divest more industrial water business than it acquired from Aqua Media together with the assets appropriate to support such business. The divestiture will provide an approximate balance of market power between the largest firms in the industry and will reduce industry concentration. If divestiture cannot be accomplished by Arrowhead and the trustee, the possibility of conveying the assets to Aqua Media is retained.

Accordingly, it is the opinion of the Department of Justice that the proposed final judgment is fully adequate to reverse the anticompetitive effects of the challenged acquisition. It is also the opinion of the Department that disposition of the matter without further litigation is appropriate in view of the fact that the proposed final judgment includes the form and scope of relief equal to that which might be obtained after a full airing of the issues at trial.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed final judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed final judgment has no prima facie effect in any subsequent private lawsuits which may be brought against these defendants.

V. Procedures Available for the Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed final judgment may submit written comments to Raymond P. Hernacki, Assistant Chief, Los Angeles Field Office, Antitrust Division, United States Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012 within the 60-day period provided by the act. These comments and the government's responses to them will be filed with the court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed final judgment at any time prior to its entry if it should determine that some modification of the final judgment is necessary.

VI. Alternatives to the Proposed Final Judgment

The proposed consent judgment provides a more detailed and extensive plan for relief than is requested in the complaint. The only request for relief in the complaint not reflected in the proposed final judgment is the request that the Aqua Media defendants be enjoined from acquisitions of stock or assets of persons engaged in the high purity

industrial water service business in California. Such a restriction might be appropriate if rescission of the acquisition agreements were ordered and Aqua Media was thereby restored to a dominant position in the industrial water industry. However, in the opinion of the Department, under the proposed judgment any re-entry by the Aqua Media defendants into this industry should be judged on the basis of the facts present at the time of such re-entry.

The Department of Justice considered seeking a decree which required both Aqua Media defendants to accept the rescission of the acquisition agreements or the conveyance of any assets not divested under the proposed judgment. The proposed final judgment provides that if the trustee is unable to complete the required divestiture, he may petition the court for an order requesting additional relief which could entail rescission. Although such petition would require a future hearing similar to a hearing on relief after the Government prevailed in a trail on the merits, it is the opinion of the Department that the proposed judgment provides adequate safeguards against the possibility of a failure of effective divestiture to a purchaser or to Aqua Media. Since Aqua Media, Ltd. now actively engages in industrial water service and equipment sales in neighboring States, and since it will remain subject to any such future conveyance, there is little reason to retain the successor corporation, now in liquidation, as a party to the consent decree.

Although this case involved issues of first impression regarding the availability of rescission as a form of relief in a Clayton Act case, these issues have been substantially resolved by the decision of the Ninth Circuit Court of Appeals, from which no appeal has been sought. Thus, litigation of this case is not a more desirable alternative than entry of this consent decree.

VII. OTHER MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed final judgment. Therefore, none is being filed along with this competitive impact statement.

CROSSAN R. ANDERSEN
HOWARD J. PARKER
MARTIN J. KAPLAN
CAROLYN D. WULFSBERG
Attorneys,
U.S. Department of Justice.

[FR Doc. 78-18175 Filed 6-30-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JUNE 27, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L 93-335, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall annonce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Aid of Western Missouri in Kansas City, Mo., to serve Atchison, Nodaway, Holt, Daviess, Caldwell, Carroll, and Livingston Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the regional office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill. 60604.

THOMAS EHRLICH,
President.

[FR Doc. 78-18364 Filed 6-30-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-23)]

NASA ADVISORY COUNCIL (NAC), AERONAUTICS ADVISORY COMMITTEE

Meeting

The NAC Aeronautics Advisory Committee will meet July 18-19, 1978, in room 625, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 50 persons including committee members and participants).

The committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The chairman is Mr. Robert C. Loewy. There are 42 members on the committee.

For further information contact Mr. C. Robert Nysmith, Executive Secretary, 202-755-8550, NASA Headquarters, Code R-1, Washington, D.C. 20546.

JULY 18, 1978

9 a.m.—Introductory remarks.
10 a.m.—Avionics planning activity discussion.
10:45 a.m.—Rotorcraft planning activity discussion.
11:30 a.m.—Research and technology assessment status and results.
1:30 p.m.—Aeronautics technology candidate fiscal year 1980 new initiatives and 57-year planning.
3:30 p.m.—Committee dicussion.
5:00 p.m.—Adjournment.

JULY 19, 1978

8:30 a.m.—Potential ad hoc committee activities.
10:45 a.m.—Committee summary discussion.
12:45 p.m.—Informal committee report to NASA.
2:00 p.m.—Adjournment.

Dated: June 27, 1978.

EDWARD Z. GRAY,
Acting Associate Administrator for External Relations.

[FR Doc. 78-18334 Filed 6-30-78 8:45 am]

[7510-01]

[Notice (78-26)]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Subcommittee on Geodynamics and Geology of the NAC-STAAC will meet on July 11 and 12, 1978, from 8:30 a.m. to 4:30 p.m., at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. This notice covers an emergency session of the subcommittee to meet a July 15, 1978 deadline set by the Office of Space and Terestrial Applications to provide a recommendation on the scope of NASA's geodynamics program.

Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This subcommittee, comprised of nine members of the NAC—STAAC including the chaiman, Dr. Charles L. Drake, will review the current and planned program in geodynamics and discuss thrusts and strategies for the fiscal year 1980 budget preparation.

The approved agenda for the meeting is as follows:

JULY 11, 1978

Time and Topic

8:30 a.m.—Overview of the geodynamics program. Fiscal year
1:15 p.m.—Fiscal year 1980 budget considerations for the geodynamics program.
4:30 p.m.—Adjourn.

JULY 12, 1978

8:30 a.m.—Discussion of advanced studies and new starts strategies.
10 a.m.—Current status of research in geodynamics.
1:15 p.m.—Findings and recommendations.
3 p.m.—Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, executive secretary of the subcommittee, Washington, D.C., 202-755-8617.

Dated: June 27, 1978.

EDWARD Z. GRAY,
Acting Associate Administrator for External Relations.

[FR Doc. 78-18337 Filed 6-30-78; 8:45 am]

[7510-01]

[Notice 78-24]

NASA ADVISORY COUNCIL (NAC), SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Subcommittee on Technology Transfer of the NAC-STAAC will meet on July 19 and 20, 1978 from 8:30 a.m. to 4:30 p.m. at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, comprised of six members of the NAC-STAAC including the chairman, Dr. Robert D. Morgan, will review the space and terrestrial applications program and the technology transfer activities associated with this program, and discuss the future directions for these activities.

The approved agenda for the meeting is as follows:

July 19, 1978, Time and Topic

8:30 a.m., Overview of the space and terrestrial applications program.
9:30 a.m., Current technology transfer activities.
4:30 p.m., Adjourn.

July 20, 1978, Time and Topic

8:30 a.m., Discussion of future directions in technology transfer.
2:15 p.m., Summary of conclusions and recommendations.
4:30 p.m., Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, executive secretary of the subcommittee, in Washington, D.C., at 202-755-8617.

Dated: June 27, 1978.

EDWARD Z. GRAY,
Acting Associate Administrator for External Relations.

[FR Doc. 78-18335 Filed 6-30-78 8:45 am]

[7510-01]

[Notice 78-25]

NASA ADVISORY COUNCIL (NAC), SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Subcommittee on Agriculture, Land Cover and Hydrology of the NAC-STAAC will met on July 27 and 28, 1978 from 8:30 a.m. to 4:30 p.m. at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This subcommittee, comprised of ten members of the NAC-STAAC including the chairman, Dr. John Firor, will review the current program in agriculture remote sensing and discuss thrusts and strategies for the 5-year program plan.

The approved agenda for the meeting is as follows:

July 27, 1978, Time and Topic

8:30 a.m., Agriculture remote sensing information needs and research status.
1:15 p.m., Discussion of 5-year plan specifics.
4:30 p.m., Adjourn.

July 28, 1978, Time and Topic

8:30 a.m., Discussion of 5-year plan continued.
1:15 p.m., Findings and recommendations.
2:30 p.m., Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, executive secretary of the subcommittee, in Washington, D.C., at 202-755-8617.

EDWARD Z. GRAY,
Acting Associate Administrator for External Relations.

[FR Doc. 78-18336 Filed 6-30-78; 8:45 am]

[4410-01]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

PUBLIC HEARING

Notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission") in accordance with Executive Order 12022 and section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) and as previously indicated in FR Doc. 78-15693 (6-6-78) and FR Doc. 78-16896 (6-19-78), will hold public hearings on July 26 and 27, 1978, beginning at 10 a.m. on July 26 in Room 2141 of the Rayburn House Office Building, Independence and South Capitol Street SW., Washington, D.C.

The purpose of these hearings is to receive public comment and testimony on the problems and issues that the Commission should address in the area of antitrust immunities and exemptions, including suggested priorities within the general framework for review set forth in Executive Order 12022.

Interested parties who wish to appear and testify should submit written requests to appear to the Commission offices (Attention: Ms. Deana Harvell), Room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530. Such requests should be received no later than July 14, 1978, and should be accompanied by three (3) copies of the proposed prepared testimony or a summary thereof.

Time limitations may be set for oral testimony, but written submissions, supplementing such testimony, are invited. Notice of a date and estimated time for testimony will be provided by telephone on or before July 19, 1978, provided that telephonic notification of changes in scheduled testimony may be given on or before July 24, 1978. The name and telephone number of a specified person to receive such notice should be included in the request to appear and testify.

In the event the number of those seeking to appear is too great to accommodate in the time allotted for the hearings, persons from whom oral testimony cannot be taken will be notified on or before the dates set forth above. Those persons so notified are invited to submit their views in writing to the Commission offices, whose address is given above. Written submissions relating to suggested priorities of the Commission may be made after the hearings but should be received at the Commission offices no later than August 1, 1978.

Dated: June 28, 1978

TIMOTHY G. SMITH,
3Staff Director for John H. Shenefield, Chairman.

[FR Doc. 78-18400 Filed 6-30-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE ERIE NUCLEAR POWER PLANT, UNITS 1 AND 2

Meeting

The ACRS Subcommittee on the Erie Nuclear Power Plant, units 1 and 2, will hold a meeting on July 18, 1978 at the Holiday Inn, 1825 Lorain Boulevard, Elyria, Ohio to review the application of the Ohio Edison Co. for a permit to construct units 1 and 2 of this plant. Notice of this meeting was published in the FEDERAL REGISTER on May 17 and June 16, 1978.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may

be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, July 18, 1978, 8:30 a.m. until the conclusion of business. The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Ohio Edison Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1413 between 8:15 a.m. and 5 p.m., e.d.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Berlin Township Public Library, 4 East Main Street, Berlin Heights, Ohio 44814.

Dated: June 28, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-18433 Filed 6-30-78; 8:45 am]

[7590-01]

[NUREG-0300]

NUCLEAR WASTE MANAGEMENT

Proposed Goals

The public comment period for "Proposed Goals for Nuclear Waste Management," NUREG-0300, has been extended from June 29, 1978, to July 31, 1978. The original notice was published in the FEDERAL REGISTER on May 15, 1978 (43 FR 20879).

The comment period has been extended to encourage further consideration of the uses and consequent implementation of the proposed goals.

A decision on how the goals will be used has not been made by the Commission. The staff will be reviewing the report along with the comments received in order to make recommendations to the Commission. A formal staff analysis will be submitted for Commission guidance.

The staff would appreciate public comment regarding six key questions.

1. Are the individual goals valid?
2. How could the individual goals be improved?
3. Which are the most important goals?
4. In what manner might the goals be best used by the staff and the Commission?
5. How should the Commission codify or implement the goals?
6. Should all or part of the goals be recommended to other programs such as EPA and DOE?

All interested persons who desire to submit written comments on the report and its proposed goals should send them by July 31, 1978, to the Assistant Director for Waste Management, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Copies of the report may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C. Copies of the comments received in response to this notice will be placed in the public document room in Washington, as received. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Thereafter copies may be obtained from the National Technical Information Service, Springfield, Va. 22161, at the current rates.

Dated at Washington, D.C. this 22d day of June 1978.

For the U.S. Nuclear Regulatory Commission.

WILLIAM P. BISHOP,
Assistant Director for Waste Management, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-18213 Filed 6-30-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Admin. Proceeding File No. 3-5480; File No. 2-22120 (22-3660)]

PANHANDLE EASTERN PIPE LINE CO.

Application and Opportunity for Hearing

JUNE 29, 1978.

Notice is hereby given that Panhandle Eastern Pipe Line Co. (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an indenture of the Company dated as of April 1, 1964 (the "1964 Indenture") which was heretofore qualified under the Act, and the trusteeship by Chase under an Indenture dated as of April 1, 1978 (the "New Indenture") which is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the 1964 Indenture and under the New Indenture.

Section 310(b) of the Act, which is included in Section 7.08 of the 1964 Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of section 310(b)(1) of the Act (as set forth in § 7.08 of the 1964 Indenture), seeks to exclude the New Indenture from the operation of section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of section 310(b)(1) of the Act (as set forth in § 7.08 of the 1964 Indenture) if the Company shall have sustained the burden of proving by this application to the Commission and after opportunity for hearing thereon that the trusteeship of Chase under the 1964 Indenture and under the New Indenture is not so likely to involve a material conflict of interest as to make it

necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under one of these Indentures.

The Company alleges that: (1) At December 31, 1977, it had outstanding $20,753,000 principal amount 4.60% Debentures due 1984 issued under the 1964 Indenture. The Debentures issued pursuant to the 1964 Indenture were registered under the Securities Act of 1933 (File No. 2-22120) and the 1964 Indenture was qualified under the Trust Indenture Act of 1939;

(2) It issued and sold on April 25, 1978 $60,000,000 principal amount 8.95 percent Debentures due 1990 under the New Indenture. The Debentures issued pursuant to the New Indenture were purchased by institutional investors for investment and not with a view to distribution. The issuance of these Debentures is therefore exempt from the registration requirements of the Securities Act of 1933 and the New Indenture is exempt from the qualification provisions of the Trust Indenture Act of 1939;

(3) The 1964 Indenture and the New Indenture are wholly unsecured and rank pari passu;

(4) It is not in default under the 1964 Indenture;

(5) Such differences as exist between the 1964 Indenture and the New Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any of the Debentureholders to disqualify The Chase Manhattan Bank (National Association) from acting as Trustee under the 1964 Indenture.

The Company has waived notice of hearing, hearing, and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 1100 Street NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after July 21, 1978, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than July 21, 1978 at 5:30 p.m., Eastern Daylight Saving Time, in writing, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons, for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-18570 Filed 6-30-78; 11:13 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

LIST OF REQUESTS

Clearance of Reports

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 27, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

NATIONAL ENDOWMENT FOR THE ARTS

Survey of Consumer Demand for Arts and Cultural Services in the South, Single-Time, 2,400 individuals in 13 southern States, Roye L. Lowry, 395-3772.

U.S. COMMISSION ON CIVIL RIGHTS

Union Study Interview Schedules, Single-Time, 289 large business establishments, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Social Security Bulletin Readership Survey, SSA-3949, Single-Time, 1,800 individual and institutions who receives S.S. bulletin, clearance Office, 395-3772.

Health Care Financing Administration (departmental), Job Data Sheet for PSRO Administrative, Technical, and Professional Positions, HCFA-625T, Single-Time, 2,400 Fair Labor Stds. Act Exempt. Pos. in PSRO, Richard Eisinger, 395-3214.

Social Security Administration, Government Pension Questionnaire, SSA-3885, on occasion, 50,000 individuals receving S.S. benefits, clearance office, 395-3772.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Quality Control in Aid to Families with Dependent Children and Quality Control in Adult Programs, SSA-4341, SSA-4342, on occasion, welfare recipients, 90,000 responses, 1,260,000 hours, Human Resources Division, Marsha Traynham, 395-3532.

Agreement to Sell Property, SSA-8060-U3, on occasion, claimants of SSI payments, 55,000 responses, 9,350 hours, Human Resources Division, Marsha Traynham, 395-3532.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Assessment of Environmental Carcinogens: Survival Interview—Control Interview, Single-Time, selected cases in four study communities, 5,000 responses, 1,250 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, four forms related to drug listing act of 1972, FD2656, FD2657A, FD2657, FD2658, semiannually, required to reg. under Pub. L. 92-387, 100,000 responses, 25,000 hours, Richard Eisinger, 395-3214.

Social Security Administration, Request for Reconsideration (of the initial determination made in claims cases), SSA-561-U2, on occasion, claimants for Social Security Benefits, 120,000 responses, 20,000 hours, Clearance Office, 395-3772.

DEPARTMENT OF LABOR

Employment Standards Administration:

Mail Haul Contract Wage Rate Survey, WD-21, Annually, contractors with mail contracts let by the Postal Service, 4,000 responses, 4,000 hours, Strasser, A., 395-6132.

Receipt for Payment of Back Wages, WH-58, on occasion, individual employees, 288,000 responses, 24,000 hours, Strasser, A., 395-6132.

Verification of Date of Birth, WH-9, on occasion State and Local Governments, 8,000 responses, 1,600 hours, Clearance Office, 395-3772.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-18354 Filed 6-30-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 28, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public. The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census. Test—1979 Farm Finance Survey (operator and landlord), 79A-9, 79A-10, single time, 1,700 Nat. sample from 1974 Census of Agriculture. Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF DEFENSE

Department of the Army:
- Application for a Department of the Army Permit, ENG 4345, on occasion, 20,000 persons desiring to work in waters of United States, Roye L. Lowry, 395-3772.
- Inventory and Inspection of Dams in the United States, other (see SF-83), 60,000 dams in United States, Roye L. Lowry, 395-3772.
- Data Collection Plan and Questionnaire for Corps of Engineers Recreation Research, other (see SF-83), 5,000 users of Corps of Engineers recreation facilities, Roye L. Lowry, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary:
- Community Service Provider Questionnaire, OS-5-78-B, single time, 408 residences serving deinstitutionalized mentally ill, Richard Eisinger, 395-3214.
- Client Questionnaire, OS-5-78-A, single time, 340 deinstitutionalized mentally ill, Office of Federal Statistical Policy and Standard, 673-7956.

Center for Disease Control, diabetes measurement development project, single time, 1,550 diabetic patients in Los Angeles area, Richard Eisinger, 395-3214.

National Institutes of Health, smoking patterns in relation to excess lung cancer in Coastal Georgia, single time, 3,000 individuals (smoking adults), Clearance Office, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, prepurchase homeownership counseling demonstration and evaluation, other (see SF-83), 10,900 eligible households in three demonstration sites housing, veterans and labor division, 395-3532.

REVISIONS

VETERANS ADMINISTRATION

Notice of Disenrollment and Application for Funds Deposited in Post-Vietnam Era Veterans Educational Assistance Program, 4-5281, on occasion, veterans and servicemen, 1,200 responses, 200 hours, Clearance Office, 395-3772.

DEPARTMENT OF DEFENSE

Department of the Army, Questionnaire for Corps of Engineers Data Collection for Planning Purposes, engineering 3669, on occasion, users of Corps of Engineers waterway, 1,000 responses, 2,400 hours, Roye L. Lowry, 395-3772.

Defense Civil Preparedness Agency, Civil Defense Emergency Operations Reporting System, DCPA 901, DCPA 902, DCPA 903, DCPA 904, on occasion, State and local governments, 12,320 responses, 12,320 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Hypertension Detection and Follow-up Program, other (see SF-83), households in general population, 60,157 responses, 14,215 hours, Richard Eisinger, 395-3214.

Office of the Secretary, Income Survey Development Program—1978 Research Panel (October), OS-6-78, quarterly, household members in national probability sample, 2,350 responses, 11,750 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

DEPARTMENT OF ENERGY

Prime Suppliers Monthly Report, FEA-1000, monthly, prime suppliers of fuel and petroleum, 8,400 responses, 13,440 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Wheat Pasture Inquiry (Kansas, Oklahoma, Texas), Other (see SF-831), wheat growers, 2,300 responses, 195 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF DEFENSE

Departmental and Other Report of Government (DOD) facilities (ASPR B-311, C-311), DD 1662, annually, DOD contractors, 2,250 responses, 2,250 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, report of work activity continuing disability, SSA-821(A), on occasion, persons entitled to benefits who have returned to work, 60,000 responses, 10,000 hours, Clearance Office, 395-3772.

Food and Drug Administration:
- Availability form and claim form for electronic products, FD2767, on occasion, electronic product manufacturers and importers, 1,000 responses, 250 hours, Clearance Office, 395-3772.
- Veterinary Drug Experience Report, FD1932, on occasion, drug firms, colleges, practitioners, 5,000 responses, 2,500 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration, insurance information (low-rent housing), HUD 5460, on occasion, local housing authorities, 25 responses, 25 hours, Roye L. Lowry, 395-3772.

BRENDA A. MAYBERRY,
Budget and Management Officer.

[FR Doc. 78-18470 Filed 6-30-78; 8:45 am]

[3110-01]

Office of Federal Procurement Policy

FEDERAL ACQUISITION REGULATION PROJECT

Preliminary FAR Structure and Estimated Release Dates for Comments on Drafts

BACKGROUND

The Federal acquisition regulation (FAR) is being drafted by the Department of Defense and the General Services Administration, with assistance from other agencies, under the direction of the Office of Federal Procurement Policy (OFPP) to replace the current system of procurement regulations. It will be a single, uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds. The FAR will replace the Federal procurement regulations (FPR) and most of the Defense acquisition regulations (DAR) (formerly Armed Services procurement regulation (ASPR)) and other agency procurement regulations.

The fundamental purpose of the FAR is to reduce the proliferation of regulations; eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear, and understandable. This will be done by employing a zero-base approach to current regulations. Writing panels will first establish a need for coverage and then proceed through a series of iterations to achieve clarity, readability, and cogency. Commercial practices will be adopted where practical. Generally, policy will not be changed where existing policy serves well.

REVIEW APPROACH

Shown below is the preliminary structure of the FAR together with the projected availability of segments for review by agencies and the private

sector on an incremental basis. The schedule is based on timely completion and receipt of drafts from the writing panels, review by OFPP, and preparation for official agency and public comment.

It is expected that the normal public and executive agency review period will be 60 days. A notice will be published in the FEDERAL REGISTER which will:

(a) State when a segment will be available;

(b) Briefly summarize the contents of the segment;

(c) State the specific review period assigned;

(d) State how a segment may be obtained.

The notice will also identify any new policy contained in the segment. Draft material issued for review will include appropriate contract clauses, even though in the final FAR document, clauses will be grouped in a part of their own. The intent is to make the review process as easy as possible, considering the enormous amount of material that will eventually be available.

SCHEDULE AND STRUCTURE

This notice is issued to assist interested parties in planning for review and comment on the FAR draft material presently being prepared. The draft material is identified by general topic and expected date of availability to the private sector and the Federal agencies. Titles relate to basic information contained within a draft segment of the FAR and are not considered final. Topics are arranged according to the preliminary structure of the FAR. The structure is subject to change as segments are drafted using the zero-base writing approach. For ease of drafting assignment identification, the following code is used: "O" means OFPP; "F" means the Federal Acquisition Regulation Project Office (FARPO) in DOD; "G" means GSA; "N" means National Aeronautics and Space Administration (NASA); and "E" means Department of Energy (DOE). Responsibility for all subparts within a part is assigned to one drafting organization, unless otherwise indicated.

CHAPTER 1—FEDERAL ACQUISITION REGULATION

Draft available	Writing assignment	
July	(O)	Foreword—Federal Acquisition Principles.

SUBCHAPTER A—GENERAL

PART 1—FEDERAL ACQUISITION REGULATION SYSTEM

July	(O)	Scope of part.
	(O)	Purpose; issuing authority; applicability; issuance.
	(O)	FAR maintenance (reserved).
	(O)	Subordinate acquisition regulations and deviations.
	(O)	Public participation.
Oct.*	(F)	Contracting authority and responsibilities.

PART 2—DEFINITIONS AND SPECIAL POLICIES

July	(G)	Definitions (partial coverage).
Oct.	(G)	Special policies.
	(G)	Scope of subpart.
	(G)	Sources of supplies and services.
	(G)	Exchange of information (includes disclosure of contractor performance data).
	(G)	Acquisition of privately developed items.
	(G)	Time of delivery or performance; priorities, allocations and allotments; variation in quantity.
	(G)	Liquidated damages.
	(G)	Buying in.
	(G)	Disputes and appeals (includes payment of interest).
	(G)	Rental in lieu of purchase.
	(G)	Contracts conditioned on availability of funds.
	(G)	Industrial security.
		Component breakout.
		Life cycle cost.
		Design to cost.
	(F)	Specification, plans and drawings.
	(G)	Acquisition of livestock products.
	(F)	Control of management system criteria and data required of contractors.

PART 3—ETHICS

Sept.	(G)	Standards of conduct.
	(G)	Contractor gratuities to government personnel.
	(G)	Reports of noncompetitive practices.
	(G)	Noncollusive bids and proposals.
	(G)	Contingent or other fees.
	(G/O)	Organizational conflicts of interest.

PART 4—ADMINISTRATIVE MATTERS

Dec.	(F)	Documentation of acquisition actions.
	(F)	Execution of contracts.
	(F)	Uniform instrument identification numbers.
	(F)	Uniform contract line item numbering system.
	(F)	Distribution of documents.
	(F)	Acquisition management reporting.
	(G)	Records retention.
	(G)	Contract file maintenance.

PART 5—PUBLICIZING ACQUISITION ACTIONS

Oct.	(G)	.....

PART 6—RESERVED

SUBCHAPTER B—ACQUISITION PLANNING

PART 7—PLANNING

Nov.	(F)	Preparing acquisition plans.
	(F)	Samples, formats, and guidelines.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Oct.	(G)	Exchange or sale of personal property.
	(F)	Industrial preparedness production planning.
	(G)	Acquisition of utility services.
	(G)	Acquisition under Federal supply schedule contracts.
	(G)	Acquisition from General Services Administration sources.
	(G)	Acquisition from Federal Prison Industries, Inc.
	(G)	Acquisition from blind and other severely handicapped.
	(G)	Acquisition of printing and related supplies.
	(G)	Acquisition of automatic data processing equipment and services.
	(G)	Acquisition under the Economy Act.
	(G)	Use of GSA supply sources by prime contractors.
	(F)	Coordinated acquisition.

PART 9—CONTRACTOR QUALIFICATIONS

Sept.	(F)	Responsible prospective contractors (includes manufacturers or regular dealers.)
	(G)	Qualified products.
	(G)	First article testing and approval.
	(G)	Debarment, ineligibility, and suspension.

PART 10—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

Dec.	(G)	.....

PART 11—RESERVED

PART 12—RESERVED

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 13—SMALL PURCHASE

Oct.	(G)	Includes procurement of publications from ASPR 1-328.

PART 14—FORMAL ADVERTISING

Aug.	(G)	Use of formal advertising.
	(G)	Solicitation of bids.
	(G)	Submission of bids.
	(G)	Opening of bids and award of contract (includes bid protest).
	(G)	Two-step formal advertising

PART 15—NEGOTIATION

Aug.	(F)	Use of negotiation.
	(F)	Circumstances permitting negotiation.
	(F)	Determinations and findings (includes consideration of ASPR Appendix J).
Jan. 1979	(F)	Solicitation of proposals and quotations.
	(G)	Unsolicited proposals.
	(F)	Source selection policies.
	(F)	Make-or-buy programs, policies, and procedures.
	(F)	Price negotiation policies and techniques (includes cost and profit policy).
	(G)	Renegotiation.

PART 16—TYPES OF CONTRACTS

Nov.	(F)	.....

PART 17—SPECIAL CONTRACTING METHODS

Oct.	(G)	Multi-year contracting.
	(G)	Options.
	(F)	Provisioned items.
	(G)	Leader company contracting.

PART 18—RESERVED

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 19—SMALL BUSINESS CONCERNS

Dec.	(G)	.....

PART 20—LABOR SURPLUS AREA CONCERNS

Nov.	(G)	.....

PART 21—MINORITY BUSINESS ENTERPRISES

Sep.	(G)	.....

PART 22—LABOR RELATIONS

Nov.	(G)	Basic labor policies.
	(G)	Convict labor.
	(G)	Contract work hours and Safety Standards Act.
	(G)	Labor standards in construction contracts.
	(F)	Safety and health regulations for ship repairing and ship building.
	(G)	Walsh-Healey Public Contracts Act.
	(G)	Fair Labor Standards Act of 1938.
	(G)	Equal employment opportunity nondiscrimination because of age.
	(F)	Service Contract Act of 1965.
	(G)	Meeting manpower requirements.
	(G)	Disabled veterans and veterans of the Viet Nam Era.
	(G)	Employment of the Handicapped Williams-Steiger Occupational Safety and Health Act.

PART 23—ENVIRONMENTAL PROTECTION

Sep.	(G)	Pollution control. Energy conservation. Safety precautions for hazardous materials.

PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Oct.	(G)	Protection of individual privacy.
	(G)	Freedom of information act.

PART 25—FOREIGN PURCHASES

Oct.	(F)	Buy American Act—supply and service contracts.
	(F)	Buy American Act—construction contracts.
	(F)	Appropriation Act—restrictions.
	(F)	Purchases from Rhodesia and certain Communist areas.
	(F)	Duty and customs.
	(F)	Balance of payments program.
	(F)	International agreements and coordination.
	(F)	Exclusion of the examination of records clause.
	(F)	Use of United States-owned foreign currency for payments.
	(F)	Use of local currency in payment of foreign contracts.
	(F)	Contracting for foreign sales.

PART 26—RESERVED

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 27—PATENTS, DATA, AND COPYRIGHTS

Jan. 1979	(G)	Patents.
	(G)	Rights in technical and other data and copyrights.
	(G)	Foreign license and technical assistance agreements.
	(G)	Processing licenses, assignments, and infringement claims.
	(G)	Acquisition of technical data and computer software.
	(G)	Rights in computer software acquired under contract.

PART 28—BONDS AND INSURANCE

Aug.	(G)	Bonds.
	(G)	Sureties.
	(F)	Insurance—general.
	(F)	Insurance under fixed-price contracts.
	(F)	Insurance under cost-reimbursement type.
	(F)	Special casualty insurance rating plan.
	(F)	Indemnification of contractors and subcontractors.

PART 29—TAXES

Aug.	(F)	Federal excise taxes.
	(F)	Exemptions from Federal excise taxes.
	(F)	State and local taxes.
	(F)	Contract clauses.

PART 29—TAXES—Continued

	(F)	Tax exemption forms.

PART 30—COST ACCOUNTING STANDARDS (INCLUDES CONSIDERATION OF ASPR APPENDIX O)

Nov.	(F)	.....

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

Feb. 1979**	(G)	Applicability.
	(F)	Cost type contracts with commercial organizations.
	(G)	Reserved.
	(G)	Contracts with educational institutions.
	(G)	Construction and architect-engineer contracts.
	(F)	Contracts for industrial facilities.
	(G)	Contracts with State and local governments.
	(G)	Training and other services—Educational institutions.
	(G)	Other nonprofits.

PART 32—CONTRACT FINANCING

Jan. 1979	(G)	Introduction (includes prompt payments).
	(G)	Basic policies.
	(G)	Guaranteed loans.
	(G)	Advance payments.
	(G)	Progress payments.
	(G)	Contract debts—Interests—Deferred payments (includes voluntary refunds).
	(F)	Limitation of cost or funds under cost-type contracts.

PART 33—RESERVED

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 34—MAJOR SYSTEM ACQUISITIONS

Dec.	(F)	OMB Circular No. A-109.
	(F)	Acquisition process.
	(F)	Construction.
	(F)	Automatic data processing equipment.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

Nov.	(N)	.....

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTING

Jan. 1979	(G)	General provisions.
	(G)	Formal advertising.
	(G)	Negotiations.
	(G)	Architect-engineer selection procedures.
	(F)	Foreign purchases and construction in foreign countries.
	(G)	Termination of contracts.
	(G)	Labor standards for contracts involving construction.
	(G)	Bonds.
	(G)	Patents, data, and copyrights.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTING—Continued

	(G)	Taxes.

PART 37—SERVICE CONTRACTING

Jan. 1979	(F)	Service contracts in general.
	(F)	Expert or consulting services.
	(F)	Engineering and technical services.
	(F)	Stevedoring contracts.
	(F)	Mortuary services.
	(F)	Shipment or storage of personal property.
	(F)	Laundry and dry cleaning services.
	(F)	Refuse services.
	(F)	Educational service agreements.
	(F)	Communication services.
	(G)	Rental of motor vehicles.
	(G)	Dismantling, demolition, or removal of improvements.

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

Oct.	(G)	....

PART 39—AUTOMATIC DATA PROCESSING EQUIPMENT CONTRACTING

	(G)	....

PART 40—CONTRACTING FOR OPERATION OF GOVERNMENT-OWNED PLANTS (GOCO)

Dec.	(E)	....

PART 41—RESERVED

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 42—CONTRACT ADMINISTRATION

Feb. 1979**	(F)	Assignment of contract administration.
	(F)	Contract administration functions.
	(F)	Interagency contract support services.
	(F)	Correspondence and visits.
	(G)	Post-award orientation of contractors.
	(F)	Corporate administrative contracting officer (CACO).
	(F)	Negotiated overhead rates.
	(F)	Contractor acquisition of automated data processing equipment (ADPE).
	(F)	Waiver of government surveillance requirements (formerly CWAS).

PART 43—CONTRACT MODIFICATIONS

Nov.	(G)	General.
	(G)	Change orders.
	(G)	Supplemental agreements.
	(G)	Novation agreements and change of name agreements.
	(G)	Modification to letter contracts.
	(G)	Issuance of shipping instructions.
	(G)	Other modifications.
	(G)	Notification of changes.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

	(F)	Review of contractor's acquisition system.
	(F)	Requirement for consent to subcontracts.

PART 45—PROPERTY

	(F)	Includes consideration of: ASPR 1-330, ASPR secs. XIII, XXIV; ASPR appendices B, C, and H; ASPR supplement 3.

PART 46—QUALITY ASSURANCE

Feb. 1979**	(F)	General.
	(F)	Responsibilities of government organizations.
	(F)	Contract provisions.
	(F)	Government quality assurance provisions.
	(F)	Contract administration of special commodities.
	(F)	Material inspection and receiving reports.
	(G)	Warranties.

PART 47—TRANSPORTATION

Jan. 1979	(G)	Introduction.
	(G)	Planning and solicitation.
	(G)	Evaluation of bids and proposals.
	(G)	Contract administration.
	(G)	Transportation by ocean-carriers.
	(G)	Preference for U.S. flag air carriers.

PART 48—PRODUCTION AND VALUE ENGINEERING

Jan. 1979	(F)	Production surveillance.
		Production reporting.
		Value engineering.

PART 49—TERMINATION OF CONTRACTS

Jan. 1979	(G)	Definitions.
	(G)	General principles.
	(G)	Additional principles for fixed-price contracts.
	(G)	Additional principles for cost-reimbursement contracts.
	(G)	Termination for default.
	(G)	Clauses.
	(G)	Forms, formats, and agreements.

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS

Dec.	(F)	General.
	(F)	Requests for contractual adjustments.
	(F)	Residual powers.
	(F)	Records of requests and dispositions.
	(F)	Act and executive order.

PART 51—RESERVE

SUBCHAPTER H—CLAUSES AND FORMS

PART 52—CONTRACT CLAUSES AND SOLICITATION PROVISIONS

Feb. 1979 **	(G)	Fixed-price supply contracts.
	(F)	Cost-reimbursement type supply contracts.
	(G)	Fixed-price research and development contracts.
	(F)	Cost-reimbursement type research and development.
	(F)	Personal services contracts.
	(G)	Construction and architect-engineer contracts.
	(F)	Facilities contracts.
	(F)	Letter contracts.
	(F)	Time and material and labor hour contracts.
	(F)	Stevedoring contracts.
	(F)	Indefinite delivery type contracts.
	(F)	Mortuary services contracts.
	(F)	Bakery and dairy products.
	(F)	Laundry and dry cleaning contracts.
	(G)	Contracts for rental of motor vehicles.
	(F)	Shipment or storage of personal property contracts.
	(F)	Communication service contracts.
	(F)	Refuse service contracts.
	(F)	Service contracts.
	(G)	Dismantling, demolition, or removal of improvements.
	(G)	Solicitation provisions.

PART 53—FORMS

Jan. 1979	(G/F)	....

* Draft material re: Contracting officer role and authority will be available in July.

** All drafts are due in OFPP by January 31, 1979. Some will therefore not be available for comment until February, following OFPP review.

Any questions regarding information in this notice should be addressed to Mr. William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, Room 5002, 726 Jackson Place NW., Washington, D.C. 20503, phone 202-395-4946.

LESTER A. FETTIG,
Administrator.

JUNE 26,1978.

[FR Doc. 78-18453 Filed 6-30-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10290; 811-1951]

AETNA FUND, INC.

Application of the Act for an Order Declaring That AEtna Fund, Inc. has Ceased To Be an Investment Company

JUNE 26, 1978.

Notice is hereby given that AEtna Variable Fund, Inc. ("Applicant"), 151·

Farmington Avenue, Hartford, Conn. 06156, an open-end management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to section 8(f) of the Act on February 17, 1978, for an order of the Commission declaring that AEtna Fund, Inc. ("Fund") which merged with and into Applicant on December 31, 1977, has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Fund, a Maryland corporation, was organized and registered under the Act as an open-end diversified management investment company in 1969. Its registration statement under the Securities Act of 1933 (File No. 2-34969) became effective in April, 1970, and at that time Fund commenced sales of its shares to the public.

According to the Applicant, the merger of Fund with and into Applicant was approved by unanimous vote of the directors of both at a combined meeting in November, 1977, and by stockholders of Fund at a special meeting held in December 1977. Approval of the merger by the stockholders of Applicant was not required.

On December 16, 1977, The Commission issued an order (Investment Company Act Release No. 10065) pursuant to section 17(b) of the Act exempting the merger from the provisions of section 17(a) of the Act. On December 31, 1977, pursuant to the Articles and Plan of Merger between Fund and Applicant, the merger of Fund with and into Applicant took place; the then stockholders of Fund received, in exchange for their Fund shares, shares of Applicant having an equivalent aggregate net asset value; and Fund thereupon ended its existence as a separate corporation.

Applicant states that Fund has therefore ceased in any operating sense to be an investment company; that it no longer has any assets or liabilities; and that any expenses incurred in connection with the winding-up of its affairs will be borne either by its adviser, AEtna Financial Services, Inc., or by Applicant's adviser, AEtna Variable Annuity Life Insurance Co.

According to Applicant, since the merger took place at the end of Fund's 1977 fiscal year, a Report on Form N-1R for Fund for 1977 was filed with the Commission; and an Annual Report to Stockholders for 1977 has been mailed to Fund stockholders of record at the time of the merger; such persons, who became stockholders of Applicant, were also sent Applicant's 1977 annual report to stockholders. Applicant indicates that no reports for Fund for periods beginning in 1978 will be prepared or filed, since Fund ceased operations at the end of 1977.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Accordingly, Applicant, which succeeded to all the rights, powers, and privileges of the Fund as a result of the merger, has requested the Commission to issue an order pursuant to section 8(f) of the Act declaring that Fund has ceased to be an investment company.

Notice is further given that any interested person may, not later than July 21, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following July 21, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-18378 Filed 6-30-78; 8:45 am]

[8010-01]

[Release No. 20594; 70-6176]

CONSOLIDATED NATURAL GAS CO. ET. AL

Proposal Requesting That Exception From Consolidated Tax Allocation Provisions of Rule 45(b)(6), Previously Granted for Years 1972 Through 1977, Be Extended to Years 1978 and 1979

JUNE 20, 1978.

Notice is hereby given that Consolidated Natural Gas Co. ("Consolidated"), 30 Rockefeller Plaza, New York, New York 10020, a registered holding company, and two of its subsidiary companies have filed a declaration with this Commission pursuant to section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to said declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated and its subsidiary companies join annually in filing a consolidated Federal income tax return. By order dated February 6, 1973, in File No. 70-5293 (HCAR No. 17875), Consolidated, pursuant to subparagraph (a) of rule 45 under the act, was granted authorization for the years 1972 and 1973 to allocate the group's consolidated income tax liabilities in a manner differing in certain respects from that which is prescribed by subparagraph (b)(6) of rule 45. By orders dated May 30, 1974, and May 12, 1976 (HCAR Nos. 18428 and 19523), such authorization was extended to the years 1974 through 1977 based on the finding that the factors which gave rise to the original authorization were expected to continue to affect Consolidated's tax situation for these additional years. In the instant filing, it is stated that the factors which gave rise to the authorization previously requested for the tax years 1972 through 1977 are expected to be operative for the years 1978 and 1979, and the Commission is requested to extend that authorization so as to cover those latter years. The proposed authorization involves the operations of Consolidated's two exploration and development subsidiaries, CNG Development Co. Ltd. ("CNG Ltd.") and CNG Producing Co. ("CNG Producing"), 445 West Main Street, Clarksburg, W. Va. 26301. CNG Ltd. participates in gas exploratory ventures with other companies on Canadian federal lands. CNG Producing conducts exploration and development operations in the southern United States, where it sells gas to Consolidated Gas Supply Corp. and other pipeline suppliers, and in the Province of Alberta, Canada.

The reasons for departing from the tax allocation prescription of rule 45(b)(6) were set forth in some detail in said order of February 6, 1973. Briefly restated, these are that the exploration and development activities of CNG Ltd. and CNG Producing require substantial investments of capital; that it takes several years before newly discovered gas reserves can be developed, produced, and brought to market; that during the lengthy development period the companies incur tax losses which are included in the consolidated tax returns and result in sizable reductions in the consolidated

tax liabilities; that under the tax allocation prescription of rule 45(b)(6) these tax savings would flow to other companies in the consolidated group and would thus be rendered unavailable to CNG Ltd. and CNG Producing for furtherance of their exploration and development activities; and that this would result in inequities in the allocation of the consolidated taxes.

For the respective years 1972 through 1977, it is stated that the two producing subsidiaries incurred aggregate losses for tax purposes of approximately $4,111,000, $11,752,000, $13,294,000, $15,356,000, $15,110,000, and $31,572,000, resulting in aggregate tax credits of approximately $1,974,000, $5,641,000, $6,381,000, $7,371,000, $7,293,000, and $15,153,000 to both companies in those respective years under the authorization heretofore granted. It is estimated that the exploration and development activities of CNG Ltd. and CNG Producing in 1978 will result in further aggregate tax-deductible losses of $15,538,000 which, at present tax rates, would result in consolidated tax reductions of $7,456,000.

In light of the foregoing, declarants request that the authorization heretofore granted for the years 1972 through 1977, as to the method of allocating the group's consolidated Federal income taxes in a manner other than prescribed by rule 45(b)(6), be granted to cover the years 1978 and 1979. Under the requested authorization, and based on the present estimates, the two producing companies would receive a cash tax credit in 1978 in the amount indicated above. The tax allocation to be followed in 1978 and 1979 would be the same a heretofore authorized, to wit:

1. When, in any taxable year, the operations of any producing subsidiary result in a tax loss, then the consolidated Federal income tax to be allocated among the system companies would be based upon the tax that would have resulted had the company incurring the loss been excluded from the consolidated Federal income tax return.

2. The funds retained by virtue of the reduction in tax resulting from inclusion of that tax loss in the consolidated Federal income tax return would be remitted to the company sustaining such tax loss.

3. In future years, when any producing subsidiary has taxable income, it may be entitled to tax credits as a result of the net operating loss carryback and carryover provisions of sec. 172(b) of the Internal Revenue Code, as amended, in order to comply with the separate return limitations required by rule 45(b)(6). Any credits remitted under paragraph 2. would be applied to reduce any credits in future years to which any such subsidiary may become entitled under the separate return limitations of rule 45(b)(6).

4. In no event will the tax allocated to each subsidiary company exceed the amount of tax of such company based upon a separate return computed as if such company had always filed its tax returns on a separate return basis.

5. For the purposes of the consolidated income tax regulation, CNG Ltd. is regarded as a domestic corporation. Accordingly, CNG Ltd. will be treated as such for purposes of the proposed tax allocation under rule 45(b)(6).

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $3,100, including $1,000 for services rendered at cost by the system service company, Consolidated Natural Gas Service Co., Inc.

Notice is further given that any interested person may, not later than July 17, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-18380 Filed 6-30-78; 8:45 am]

[8010-01]

[Release No. 34-14871; File No. SR-PHLX 78-12]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 26, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STANDARD OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to rule 19b-4 of the Securities Exchange Act of 1934 (the "Act") hereby proposes to amend Rule 1033 (Bids and Offers—Premiums). Italics indicate new material.

Rule 1033. (a) No change

(b) Except as provided in paragraph (c) *and (d)* all offers made on the Floor for option contracts shall be expressed in terms of dollars per shares of the underlying stock (e.g., a bid of "5." shall represent a bid to pay a premium of $500 for an option contract having a unit of trading consisting of 100 shares of an underlying stock, or a bid to pay a premium of $550 for an option contract having a unit of trading consisting of 110 shares of an underlying stock.

(c) No change

(d) When a member holding a spread or straddle order and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the bids and offers established in the marketplace, then the order may be executed as a spread or straddle at the total credit or debit with one other member without giving priority to either bids or offers established in the marketplace that are not better than the bids or offers comprising such total credit or debit: Provided, That, in executing a spread order, the member does not buy at the established bid for the option contract to be bought and sell at the established offer for the option contract to be sold or, in executing a straddle order, the member does not either buy both sides of the order at the established bids or sell both sides of the order at the established offers.

The purpose of the proposed rule change is to facilitate the execution of spread and straddle orders by adding an exception to the priority rules for such orders. Such an exception will be applicable only in those circumstances when a spread or straddle order could

not be executed by accepting the bid and offer or either of them established in the marketplace.

A spread or straddle order is a contingent order representing a combination of two orders (frequently referred to as the "legs" of the order) requiring simultaneous execution. In the case of a spread order, a simultaneous purchase and sale must occur, while a straddle order involves either two simultaneous purchases or sales. Under Exchange rules, neither spread nor straddle orders may be left with a specialist; instead they must either be executed immediately or held in the trading crowd.

Under present Exchange rules, each "leg" of a spread or straddle order is treated as a separate order and no recognition is given to the uniqueness of such orders. Accordingly, situations can result whereby one "leg" of an order may be executed while the other "leg" cannot because of the existence of a prior bid or offer which, under rules 119 and 120 has precedence.

Other options exchanges have taken cognizance of the unique nature of spread and straddle orders and the difficulty of executing them and have adopted rules to permit one "leg" of a spread or straddle order to take priority over either the best bid or the best offer in the marketplace (Note existing priority rules of the CBOE (Rule 6.45(d)), Pacific Stock Exchange (Rule VI, Section 49, Commentary .02), Midwest Stock Exchange (Article XL, Rule 6, Interpretation .02) and American Stock Exchange (Rule 950, Commentary .01)). These rules, however will not permit a spread or straddle order to take priority over both the bid and offer established in the marketplace. In recognition of the uniqueness of spread and straddle orders and the difficulty involved in their execution the PHLX proposes to adopt a similar rule. This rule will facilitate execution of spread and straddle transactions, thus giving overall greater depth and liquidity to the PHLX options market.

It is important to point out that the spread or straddle "priority" will become applicable only when one member executes the spread and straddle with a single member on the other side of the trade. In other words, a member executing a spread order, for example, may not go ahead of an established bid or offer by executing one leg of his spread with one member and the other leg with another member.

The basis for the proposed rule change is found in section 6(b)(5) of the Securities Exchange Act of 1934 (the "1934 Act") as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

No comments have been solicited or received.

The PHLX has determined that the proposed amendment will not impose any burden on competition; rather, it will foster competition between the PHLX and other options exchanges who already have adopted rules similar to the proposed rule.

On or before August 7, 1978, 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 of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 21, 1978.

[FR Doc. 78-18379 Filed 6-30-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0199]

ALLIANCE CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On May 18, 1978, a notice was published in the FEDERAL REGISTER (43 FR 21525) stating that Alliance Capital Corp., 602 South East First Street, Mineral Wells, Tex. 76067, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the rules and regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license to operate as a small business investment company (SBIC).

The public was given until the close of business June 2, 1978, to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other information, SBA has issued license No. 06/06-0199 to Alliance Capital Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistant Program No. 59.011, Small Business Investment Companies.)

Dated: June 26, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-18349 Filed 6-30-78; 8:45 am]

[8025-01]

[Application No. 09/09-5218]

HUB ENTERPRISES, LTD.

An Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (act) (15 U.S.C. 661 et seq.) has been filed by Hub Enterprises, Ltd. (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders are as follows:

Thomas J. Wenaas, 140 Estates Drive, Piedmont, Calif. 94611, chairman of the board, director, and 37.5 percent stockholder.

John B. LaCoste, 1052 43rd Street, Emeryville, Calif. 94608, president, director, and 37.5 percent stockholder.

C. Gary Kalian, 1155 Brighton Avenue, apartment No. 17, Albany, Calif. 94706, vice president, director, and 8.33 percent stockholder.

John J. Carniato, 1211 Newell Avenue, Suite 200, Walnut Creek, Calif. 94596, vice president, director, and 8.33 percent stockholder.

Jack M. Atkin, 32 Domingo Avenue, Berkeley, Calif. 94705, secretary, treasurer, general manager, director, and 8.33 percent stockholder.

The applicant, a California corporation, will maintain an office at 5874 Doyle Street, Emeryville, Calif. 94608, and will begin operations with $305,300 of paid-in capital and paid-in surplus derived from the sale of 3,053 shares of common stock to five individuals.

The applicant will operate within the investment policies of section 107.101(c) of the regulations. Where consistent with proper investment security, applicant will emphasize equity investments and will foster a working partnership with clients.

Two areas of initial concentration of investment will be in the fields of industrial services and general construction, due both to the particular areas of knowledge and expertise of the officers and directors and the needs for such services in applicant's market area.

Applicant also intends to supply management consulting services to clients in a variety of areas including business consulting, appraising, marketing analysis and development, loan counseling, general and tax accounting, purchasing, legal services, and general management. The particular needs of a given client will determine which services shall be made available.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the act and SBA rules and regulations.

Any person may, not later than July 18, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Emeryville, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: June 26, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-18390 Filed 6-30-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1464, Amdt. No. 1]

SOUTH DAKOTA

Declaration of Disaster Loan Area

The above-numbered declaration (see 43 FR 21961), is amended by adding the following counties:

County, Natural Disaster(s), and Date(s)

Hand—Winter kill on wheat due to extreme extended cold weather, November 1, 1977-May 5, 1978

Hughes—Winter kill on wheat due to extreme extended cold weather and excessive runoff causing damage to dams, November 1, 1977-May 5, 1978

and adjacent counties within the State of South Dakota as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on November 15, 1978, and for economic injury until the close of business on February 15, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 15, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-18348 Filed 6-30-78; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. 78-15T]

BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

Opinion and Order on Motion for the Creation of an Escrow Account

BACKGROUND

On February 1, 1978, the tolls on four bridges owned and operated by the Delaware River Port Authority (DRPA) were raised basically from $0.55 to $0.60 per trip, representing a 9-percent increase.[1] Several complaints were received by the Federal Highway Administrator, triggering the initiation of procedures provided for in part 310 of volume 49 of the Code of Federal Regulations (49 CFR 310.1 et seq.). Thereafter, and pursuant to 49 CFR 310.5, an investigative team was appointed to investigate the issues raised in the complaints and responses, and to report its findings to the Administrator with recommendations. One of the complainants, the Automobile Club of Southern New Jersey (ACSNJ), brought the instant motion to create an escrow account for the receipt of revenue derived from toll increases in the event that such increases are subsequently determined to be unjust and unreasonable. That matter was also referred to the investigative team, and its report and recommendations, together with the moving papers and comments by the ACSNJ, and the submission in opposition to the motion filed by DRPA were considered and form the basis of this opinion and order.

[1] Preliminary evidence indicates that the percentage increase for riders who take advantage of reduced regular commuter rates would be close to 17 percent.

OPINION

As proponent of the motion, it is incumbent upon ACSNJ to point to some compelling reasons why such extraordinary relief is required. This it has failed to do. Nor has the investigative team perceived any purpose to be served by an escrow account. Moreover, the argument of the auto club as to the facility with which such an escrow account could be created militates against taking such extreme measures prematurely. The movant argues that DRPA has such accounting and reporting procedures in use that it would be a simple matter to tabulate and set apart the revenues obtained through the increased tolls. It seems more than reasonable to assume that the same measures could be implemented at the conclusion of this proceeding in the event it is determined that the increases are unjustified.

Furthermore, it is unclear from the record exactly how the escrow is to be implemented. It appears that what the auto club is actually seeking is sequestration, which may be relatively simple to accomplish. The appointment of an escrowee, on the other hand, may pose administrative burdens which have not been fully explored in the record presently available.

This decision does not mean that such interim relief as is sought in this motion would not be appropriate in another situation. However, in applying any equitable remedy, a balancing of the equities must take place. In this case, the DRPA has acted within its apparent authority to adjust the tolls. It is exclusively the power of the Administrator to determine whether such adjustment is reasonable after consideration of all the relevant circumstances. Unless it has been clearly demonstrated that the increased tolls are unjustified, it would be imprudent for the Administrator to act precipitously before all the evidence has been gathered and considered.

I am mindful of the fact that a previous toll increase by the DRPA was the subject of a protracted litigation in which the Federal Highway Administration found that the toll structure was unjust and unreasonable. *Delaware River Port Authority* v. *Tiemann*, 403 F. Supp. 1117 (D. N.J. 1975), vacated and remanded; 531 F. 2d 699 (3d

Cir. 1976), on remand, 421 F. Supp. 142 (D. N.J. 1976). I am also very much aware, as is the investigative team, of the many and varied factors which must be considered in determining the reasonableness of the toll structure. 403 F. Supp. 1123-1124, fn. 11. Significantly, in that case, one of the factors considiered was the operation of the PATCO rapid transit system, which seems to be the focal point of the ACSNJ complaint.

Without the information which, it is anticipated, will be forthcoming after completion of the investigation with respect to the complex factors involved in the toll increase, it would be inappropriate and premature to place any additional burden on DRPA at this stage.

Finally, in the previously cited case, the Federal Highway Administrator had ordered a toll reduction, the implementation of which was enjoined by the court on DRPA's motion. The city of Philadelphia, intervenor in the action, then sought to create an escrow for the increased toll revenues. In denying this application, the court balanced the interests and concluded that the public loss was virtually nonexistent as the revenues must ultimately be used for public purposes, and the loss to individual tollpayers over a relatively short period of time was inconsequential. (Unreported opinion, Civil Action No. 75-1219, D. N.J., July 23, 1975.) Now that we sit in the same position as the court in the earlier case, we will defer to its wisdom, and permit the status quo to be maintained until such time as the investigation has been completed and acted upon by the Administrator.

Wherefore, *it is ordered*, That the Motion to create an escrow for increased revenues be, and the same is, hereby denied.

Dated: June 21, 1978.

KARL S. BOWERS,
Acting Federal
Highway Administrator.

[FR Doc. 78-18370 Filed 6-30-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

Grants and Denials of Applications

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's hazardous materials regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted May 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for emergency exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
1479-X	DOT-E 1479	Jet Propulsion Laboratory, Pasadena, Calif.	49 CFR 173.315(a)(1)	To ship a nonflammable compressed gas in non-DOT specification cargo tanks. (Mode 1.)
2787-X	DOT-E 2787	U.S. Department of Defense, Washington, D.C.	49 CFR 173.302(a)(1), 175.3	To ship a certain nonflammable compressed gas in a non-DOT specification pressure vessel. (Modes 1, 2, 3, and 4.)
2981-X	DOT-E 2981	Hercules Inc., Wilmington, Del.	49 CFR 173.64(a), 173.93(a)	To ship a certain class A or class B explosive in a 8-mil thickness polyethylene bag within a fiberboard tube. (Modes 1 and 2.)
3121-P	DOT-E 3121	Vicksburg Chemical Co., Vicksburg, Miss.	49 CFR 173.336(a), 177.841(b).	To become a party to exemption 3121 (see application No. 3121-X.) (Mode 1.)
4108-P	DOT-E 4108	C. & C. Oxygen Co., Chattanooga, Tenn.	49 CFR 173.315(a)	To become a party to exemption 4108. (See application No. 4108-X.) (Mode 1.)
5136-X	DOT-E 5136	Air Products and Chemicals Inc., Allentown, Pa.	49 CFR 173.302, 173.304	To ship certain liquefied and nonliquefied flammable and nonflammable compressed gases in a DOT specification 4AA480 cylinder. (Modes 1, 2, and 3.)
5243-X	DOT-E 5243	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Austin Powder Co., Cleveland, Ohio; Atlas Powder Co., Dallas, Tex. IMC Chemical Group, Allentown, Pa.	49 CFR 173.66(g)(1), 173.103(a), 173.835(g).	To ship a class C or class A explosive in accordance with 49 CFR 173.66(g)(1) for electric caps, with certain exceptions. (Modes 1, 2, and 3.)
5372-X	DOT-E 5372	Dow Chemical Co., Freeport, Tex.	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To ship certain compressed gases in a DOT 3T cylinder or a cylinder complying with DOT specification 3T. (Modes 1 and 3.)
5485-X	DOT-E 5485	Gardner Cryogenics Division, Bethlehem, Pa.	49 CFR 172.101, 173.315(a)	To ship a nonflammable gas in a non-DOT specification insulated cargo tank complying with section VIII of the ASME code. (Mode 1.)
5604-X	DOT-E 5604	Gardner Cryogenic Division, Bethlehem, Pa.	49 CFR 172.101, 173.315(a)	To ship a nonflammable compressed gas in a non-DOT specification containerized portable tank, designed and constructed in accordance with section VIII of the ASME code. (Modes 1 and 3.)
5634-X	DOT-E 5634	Maston Navigation Co., San Francisco, Calif.	49 CFR 173.119, 173.125	To ship certain flammable liquids in non-DOT specification portable tanks. (Modes 1 and 3.)
5736-X	DOT-E 5736	Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 172.101, 173.314(c)	To ship a flammable gas in non-DOT specification tank car tanks. (Modes 2 and 3.)
5749-X	DOT-E 5749	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315(a)	To ship a certain flammable gas in insulated nickel-steel DOT specification MC-331 cargo tanks. (Mode 1.)
5883-P	DOT-E 5883	Nalco Chemical Co., Oak Brook, Ill.	49 CFR 173.354(c)	To become a party to exemption 5883. (See application No. 5883-X). (Modes 1 and 2.)
5891-X	DOT-E 5891	U.S. Department of Energy, Washington, D.C.	49 CFR 173.64(a)(4)	To ship class A explosives in DOT specification 15A wooden box. (Mode 1.)
5945-X	DOT-E 5945	Chemetron Corp., Chicago, Ill.	49 CFR 173.315, 178.245	To ship a nonflammable compressed gas in DOT specification 51 insulated portable tanks. (Mode 1.)

Renewals—Continued

5948-X	DOT-E 5948	U.S. Department of Energy, Washington, D.C.	49 CFR 173.398(c)	To ship certain radioactive materials in DOT specification 17C or 17H steel drums or DOT specification 19A or 19B wooden crates. (Mode 2.)
5951-X	DOT-E 5951	Jones Chemicals, Inc., Caledonia, N.Y.	49 CFR 173.314(c)	To ship liquefied nonflammable compressed gases in tanks complying with DOT specification 106A500 with certain exceptions. (Modes 1 and 2.)
6009-X	DOT-E 6009	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.245a	To ship a certain corrosive material in a portable tank constructed in accordance with DOT specification 51 with certain exceptions. (Modes 1 and 3.)
6113-X	DOT-E 6113	American LNG Co., Oak Brook, Ill.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank designed and constructed in accordance with section VIII of the ASME code (Mode 1.)
6126-P	DOT-E 6126	Rhodia, Inc., Monmouth Junction, N.J.	49 CFR 173.253(a)	To become a party to exemption 6126. (See application No. 6126-X.) (Mode 1.)
6184-X	DOT-E 6184	Air Products and Chemicals Inc., Allentown, Pa.	49 CFR 172.101, 173.315(a)(1).	To ship a nonflammable gas in a non-DOT specification portable tank. (Modes 1 and 3.)
6197-X	DOT-E 6197	Philadelphia Gas Works, Philadelphia, Pa.; Boston Gas, Malden, Mass.; New Jersey Natural Gas Co., Asbury Park, N.J.	49 CFR 173.315(a)(1), 172.101.	To ship certain flammable gases in a non-DOT specification vacuum-perlite insulated cargo tank. (Mode 1.)
6234-P	DOT-E 6234	Chem Lab Products, Inc., Anaheim, Calif.	49 CFR 173.154(a), 173.217	To become a party to exemption 6234. (See application No. 6234-X.) (Modes 1 and 2.)
6325-X	DOT-E 6325	Atlas Powder Co., Dallas, Tex.	49 CFR 173.154(a)	To ship certain oxidizers in non-DOT specification cargo tank or DOT specification MC-306, MC-307, or MC-312 cargo tanks. (Mode 1.)
6397-X	DOT-E 6397	Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.346(a)	To ship class B liquid in DOT specification 34 polyethylene container. (Modes 1 and 2.)
6398-X	DOT-E 6398	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	49 CFR 173.119	To ship flammable liquids in a non-DOT specification intermodal portable tank. (Modes 1 and 3.)
6501-X	DOT-E 6501	GOEX, Inc., Cleburne, Tex.	49 CFR 173.62	To ship a class A explosive in DOT specification 6D steel overpack with a DOT 2SL liner. (Mode 1.)
6637-X	DOT-E 6637	Advanced Chemical Technology, City of Industry, Calif.	49 CFR Part 173, 178.19	To manufacture, mark and sell non-DOT specification polyethylene drums for shipment of corrosive liquids, class B poisonous liquids, flammable liquids, oxidizers. (Modes 1, 2, and 3.)
6765-X	DOT-E 6765	Airco Industrial Gases, Murray Hill, N.J.; Gardner Cryogenics, Bethlehem, Pa.; Air Products and Chemicals, Inc., Allentown, Pa.; Union Carbide Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.315(a)	To ship a flammable gas and a non-flammable gas in a non-DOT specification containerized portable tank designed and constructed in accordance with section VIII of the ASME code. (Modes 1 and 3.)
6801-X	DOT-E 6801	Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.119(a)(7), 173.119(e)(1).	To ship certain flammable liquids in a one gallon glass bottle, packed in a DOT specification 12B fiberboard box. (Modes 1 and 2.)
6806-P	DOT-E 6806	Cabot Corp., Tampa, Tex.; Analytical Instrument Development, Inc., Avondale, Pa.	49 CFR 173.302(a), 175.3	To become a party to exemption 6806. (See application No. 6806-X.) (Mode 5.)
6816-X	DOT-E 6816	U.S. Department of Defense, Washington, D.C.	49 CFR 173.53(p)	To ship certain missiles equipped with liquid engines. (Modes 1 and 2.)
6861-X	DOT-E 6861	Teledyne McCormick Selph, Hollister, Calif.	49 CFR 173.65(a)	To ship certain class A explosives in DOT specification 21P fiber drum with DOT 2SL or 2U polyethylene liner. (Mode 1.)
6870-X	DOT-E 6870	Edlow International Co., Washington, D.C.	49 CFR 177.824(b)	To ship radioactive materials under specified conditions in exclusive use service. (Mode 1.)
6895-X	DOT-E 6895	Westinghouse Electric Corp., Bloomfield, N.J.	49 CFR 173.140(a)(1), 175.3	To ship a flammable liquid in DOT specification 37A steel drums. (Modes 1, 2, 3, and 4.)
6921-X	DOT-E 6921	Air Products and Chemicals, Inc., Allentown, Pa.; Airco Industrial Gases, Murray Hill, N.J.	49 CFR 172.101, 173.315(a)(1).	To ship a nonflammable gas in a insulated containerized non-DOT specification portable tank. (Modes 1 and 3.)
7015-X	DOT-E 7015	Linde Aktiengesellschaft, West Germany.	49 CFR 173.315(a)(1), 172.101.	To ship a nonflammable gas in a non-DOT specification vacuum insulated containerized portable tank. (Modes 1, 2, and 3.)
7052-X	DOT-E 7052	Power Conversion, Inc., Mount Vernon, N.Y.; Honeywell, Inc., Horsham, Pa.; Mallory Battery Co., Tarrytown, N.Y.; Eagle-Picher Industries, Inc., Joplin, Mo.; GTE Sylvania, Inc., Seneca Falls, N.Y.	49 CFR 173.206(e)(1), 175.3	To ship lithium batteries subject to certain qualification and specialized packaging. (Modes 1, 2, 3, and 4.)

Renewals—Continued

7052-P	DOT-E 7052	U.S. Department of Defense, Washington, D.C.; Ray-O-Vac Division, Madison, Wis.; U.S. Department of Energy, Washington, D.C.; Beech Aircraft Corp., Wichita, Kans.; Altus Corp., Palo Alto, Calif.	49 CFR 173.315(a)(1), 175.3..	To to become a party to exemption 7052. (See application No. 7052-X.) (Modes 1, 2, 3, and 4.)
7438-X	DOT-E 7438	Ethyl Corp., Baton Rouge, La.	49 CFR 173.354(a)(5)	To ship a class B poisonous liquid in non-DOT specification cargo tanks designed and constructed in accordance with ASME specification U-68. (Mode 1.)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, Calif.	49 CFR 173.119(a)(17), 173.245(a) (30), (31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell certain non-DOT specification cargo tanks for the shipment of flammable liquids and corrosive liquids. (Mode 1.)
7505-X	DOT-E 7505	Platte Chemical Co., Greeley, Colo.	49 CFR 173.28(m), 173.346(a)(2), 173.358(a)(2), 173.359(a)(2), 173.359(b)(2).	To ship certain class B poisonous liquids in DOT specification 17C drums. (Mode 1.)
7576-X	DOT-E 7576	Ugine Kuhlmann of America, Inc., Paramus, N.J.	49 CFR 173.620(a), 173.630(b).	To ship ORM-A liquids in a non-DOT specification portable tank. (Mode 3.)
7597-P	DOT-E 7597	Cotton States Chemical Co., Inc., West Monroe, La.; Southland Agricultural Chemicals, Montgomery, Ala.; Hanshaw Manufacturing Co., Inc., Jonesboro, Ark.; Woolfolk Chemical Works, Inc., Fort Valley, Ga.; Apollo Enterprises, Inc., Fort Valley, Ga.; United Seed Co., Bunkie, La.; Cleveland Chemical Co., Cleveland, Miss.; Micro Chemical Co., Winnsboro, La.	49 CFR 173.358, 173.359	To become a party to exemption 7597. (See application No. 7597-X.) (Mode 1.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft, East Hartford, Conn.	49 CFR Part 173, 178.255-1(a).	To ship certain corrosive materials, oxidizers and class B poisons in portable tanks complying with DOT specification 60 with certain exceptions. (Mode 1.)
7607-X	DOT-E 7607	Century Systems Corp., Arkansas City, Kans.	49 CFR 172.101, 175.3	To ship hydrogen in certain non-DOT specification stainless steel cylinders. (Mode 5.)
7607-P	DOT-E 7607	U.S. Department of Health, Education, and Welfare, Rockville, Md.	49 CFR 172.101, 175.3	To become a party to exemption 7607. (See application No. 7607-X.) (Mode 5.)
7638-X	DOT-E 7638	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 173.304(a), 175.3	To manufacture, mark, and sell DOT specification 4L welded cylinders for shipment of nonflammable gases. (Modes 1, 2, 3, and 4.)
7671-X	DOT-E 7671	Sea Containers, Inc., New York, N.Y.	46 CFR 90.05-35; 49 CFR Part 173.	To ship certain hazardous materials in a non-DOT specification IMCO type 2 insulated portable tank. (Modes 1, 2, and 3.)
7674-X	DOT-E 7674	U.S. Department of Defense, Washington, D.C.	49 CFR 174.104(a)	To ship captor mine/torpedo, class A explosives, on a Mk 24, model O, modified skid. (Mode 2.)
7686-X	DOT-E 7686	Arthur E. Scholl, Riverside, Calif.	49 CFR 175.3, 175.35	To carry M-18 smoke grenades, flash roman candles, and shower of sparks aboard private aircraft. (Mode 4.)
7686-P	DOT-E 7686	Bob and Pat Wagner Air Shows, West Carrollton, Ohio.	49 CFR 175.3, 175.35	To become a party to exemption 7686. (See application No. 7686-X.) (Mode 4.)
7708-X	DOT-E 7708	HTL Industries, Inc., Monrovia, Calif.	49 CFR 173.302(a), 175.3	To ship a nonflammable compressed gas in an non-DOT specification girth welded steel cylinder. (Modes 1, 2, 4, and 5.)
7719-X	DOT-E 7719	Turner Co., Sycamore, Ill	49 CFR 173.304, 178.65	To ship certain flammable compressed gases in DOT specification 39 non-refillable steel cylinders. (Modes 1 and 2.)
7720-X	DOT-E 7720	Mitsui O.S.K. Lines Ltd., and Shoji America, Inc., San Francisco, Calif.	49 CFR 173.119	To ship a certain flammable liquid in non-DOT specification stainless steel cargo tanks. (Modes 1, 2, and 3.)
7741-X	DOT-E 7741	Bell Aerospace, Buffalo, N.Y.	49 CFR 173.276(a), 173.302(a), 173.34(d), 175.3, 175.30.	To ship a flammable liquid and compressed gas in a non-DOT specification packaging. (Modes 1, 3, and 4.)
7819-P	DOT-E 7819	LOWACO, S.A., Geneva, Switzerland.	49 CFR Part 173, 46 CFR 90.05-35.	To become a party to exemption 7819. (See application No. 7819-X.) (Modes 1, 2, and 3.)
7876-P	DOT-E 7876	Ashland Chemical Co., Columbus, Ohio.	49 CFR 173.299	To become a party to exemption 7876. (See application No. 7876-N.) (Modes 1, 2, 3, and 4.)

New Exemptions

7769-N	DOT-E 7769	Brunswick Corp., Lincoln, Neb.	49 CFR 173.302(a)(1), 175.3..	To manufacture, mark and sell non-DOT specification filament-wound reinforced plastic aluminum lined cylinders for shipment of compressed air. (Modes 1, 2, 3, 4, and 5.)
7874-N	DOT-E 7874	GTE Sylvania, Inc., Danvers, Mass.	49 CFR 173.206, 175.3	To ship metallic sodium in non-DOT specification packaging. (Modes 1, 2, 3, and 4.)
7887-N	DOT-E 7887	Estes Industries, Inc., Penrose, Colo.	49 CFR 172.101, 173.111, 175.3.	To ship toy propellant devices and igniters therefor as flammable solid. (Modes 1, 2, 3, 4, and 5.)
7898-N	DOT-E 7898	U.S. Department of Defense, Washington, D.C.	49 CFR 173.31(a)(4), 173.145, 179.200-7(d).	To ship methylhydrazine in DOT specification 103CW and 103A-AL-W tank cars. (Mode 2.)
7918-N	DOT-E 7918	W. R. Grace & Co., Cambridge, Mass.	49 CFR 170-189	To ship certain soda lime, solid essentially excepted from the regulations. (Modes 1, 2, 3, 4, and 5.)
7919-N	DOT-E 7919	Crowley Maritime Corp., Alaska Hydro-Train, Seattle, Wash.	49 CFR 176.83(d)(1)	To stow certain hazardous materials, which normally may not be stowed together, in the same hold or compartment. (Mode 3.)
7927-N	DOT-E 7927	Barber Steamship Lines, Inc., New York, N.Y.	49 CFR 172.101	To transport motorcycles containing fuel and batteries in nonventilated freight containers. (Mode 3.)
7929-N	DOT-E 7929	Canadian Industries Ltd., Montreal, Canada.	49 CFR 173.65	To ship pelletized trinitrotoluene in a woven polyethylene outer bag. (Modes 1 and 2.)
7933-N	DOT-E 7933	Greif Brothers Corp., Union, N.J.	49 CFR Part 173, 178.19	To manufacture, mark and sell non-DOT reusable, blow-molded, polyethylene containers for shipment of certain hazardous materials. (Modes 1, 2, and 3.)
7955-N	DOT-E 7955	Allied Chemical Co., Morristown, N.J.	49 CFR 173.34(e)	To ship a nonflammable gas in DOT 3AA2015 cylinders overdue for retest. (Mode 1.)
7959-N	DOT-E 7959	Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, Woods Hole, Mass.	49 CFR 172.101, 176.76(g)(3), 176.78(k).	To transport vehicles and motor vehicles containing compressed gases stowed on the vehicle deck of ferries and passenger vessels. (Mode 3.)

Emergency Exemptions—Applications Received and Granted

EE7724-P	DOT-E 7724	Aero Systems, Inc., Boulder, Colo.	49 CFR ch. I, subch. C except as otherwise provided.	To become a party to exemption 7724. (See application No. 7724-X.) (Mode 4.)
EE7932-P	DOT-E 7932	Schlumberger Offshore Services, Houston, Tex.	49 CFR 173.110(b)	To become a party to exemption 7932. (See application No. 7932-X.) (Mode 3.)
EE7995-N	DOT-E 7995	Sohio-BP Co., Prudhoe Bay, Alaska.	49 CFR 173.119	To ship a flammable liquid in heavy polyethylene containers overpacked in boxes. (Mode 4.)

7854-N Request by Pocono Airlines, Inc., Avoca, Pa.—To transport packages of radioactive materials in cargo-only aircraft, without complying with certain regulations, denied May 8, 1978.

7900-N Request by Agrico Chemical Co., Tulsa, Okla.—To authorize private carriage of anhydrous ammonia, for agricultural purposes, in non-DOT specification "nurse tanks" having a minimum design pressure of 250 psig, denied May 31, 1978. (HM-139 obviates the need.)

7900-P Request by Monsanto Co., St. Louis, Mo.—To become a party to DOT-E 7900 to ship anhydrous ammonia, for agricultural purposes, in non-DOT specification "nurse tanks" having a minimum design pressure of 250 psig, denied May 31, 1978. (HM-139 obviates the need.)

7903-N Request by Oxy Metal Industrial Corp., Warren, Mich.—For reconsideration of denial of application to authorize use of shipping papers which show the hazard class followed by the proper shipping name, denied May 31, 1978.

7906-N Request by Sargent Industries, San Francisco, Calif.—To ship class C explosives in packages exceeding 100 pounds gross weight, denied May 12, 1978. (HM-139 obviates the need.)

7913-N Request by Cherokee Chemical Co., Inc., Compton, Calif.—To ship certain corrosive materials in a DOT specification 57 portable tank, denied May 10, 1978. (HM-139 obviates the need.)

7914-N Request by Southern Pacific Transportation Co., San Francisco, Calif.—To allow operation of unit tank car trains of petroleum crude oil without buffer cars, denied May 31, 1978.

EE7970-N Request by Gas Spring Corp., Montgomeryville, Pa.—For an emergency exemption to ship limited quantities of compressed nitrogen gas in non-DOT specification packagings not subject to the regulations, denied May 25, 1978.

WITHDRAWALS

EE7979-N Request by Texas Gas Transport Co., Austin, Tex.—For an emergency exemption to ship hydrocarbon gas, consisting primarily of methane and ethane,

in DOT-3T cylinders, withdrawn May 18, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-18255 Filed 6-30-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP78-6; Notice 1]

GENERAL MOTORS CORP.

Receipt of Petition for Determination of Inconsequentiality

General Motors Corp. of Warren, Mich. ("GM" herein), has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, Tire Selection and Rims for Passenger Cars, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Approximately 1,402 1978 model Oldsmobile Cutlass Calais passenger cars equipped with bucket seats may carry tire inflation placards (required by standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the front seating capaity is three persons when the correct capacity is two, that the occupant capacity is six when actually it is five, and that the total passenger capacity weight is 1,060 pounds when it is 950 pounds.

GM argues that the incorrect seating capacity noncompliance is inconsequential because the physical limitations of the vehicle preclude the addition of a third passenger in the front compartment. Further, even if the vehicle were loaded with an additional 150 pounds, its tire load limits would not be exceeded, because "they are identical to Cutlass series vehicles equipped with bench seats and six-passenger capacity." The noncompliance arose through a computer programing error which called for a five-passenger placard for vehicles with bucket seats but not for bucket seats with reclining backs. The error has now been corrected.

Interested persons are invited to submit written data, views, and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: August 17, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on June 26, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-18197 Filed 6-30-78; 8:45 am]

[4910-59]

[Docket No. IP-77; Notice 2]

HARBOROUGH CONSTRUCTION CO., LTD. ET AL.

Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Harborough Construction Co., Ltd., and Crosby Valve & Engineering Co., Ltd., of Leicestershire, England, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, Glazing Materials. The companies had applied for a determination on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 29, 1977 (42 FR 43469), and an opportunity afforded for comment.

Petitioners manufactured 30 electric trucks, according to specifications of the U.S. Postal Service, which have been in operation in Cupertina, Calif., since March 1974. Motor vehicle safety standard No. 205 allows glazing used in the front side windows in trucks to meet the requirements specified for AS-2 glazing. The trucks in question incorporate glazing made of plastic materials which cannot meet the requirements specified for AS-2 glazing. The reason for nonconformance is that Postal Service specifications required a window unit larger than the standard sliding window unit in which "the window itself could, after being disengaged, drop down completely within the solid portion of the door frame. Since the sliding doors in the vehicles were curved the bottom section of the glazing materials also had to be curved. * * * Glass glazing material could not be secured to accomplish this result, and resort to the plastic material above described was required. * * *" The petitioners argued that the noncompliance is inconsequential as the vehicles have been in active service for over 3 years with no complaints from the Postal Service of a safety nature as of the time the petition was submitted.

The U.S. Postal Service, owners of all the vehicles in question, was the sole commenter on the petition. It stated that the nonconforming glazing in their trucks was cracked, crazed, and discolored, and did not have sufficient transparency to permit adequate visibility for side viewing. It recommended that the petition be denied and that the manufacturer be required to comply with the notification and remedy requirements of the act.

The National Highway Traffic Safety Administration appears to find itself in a dispute between contracting parties. The Postal Service, dissatisfied with visibility from its vehicles, which, after all, were manufactured to its specifications, and accepted by it, is now complaining about it. The manufacturer, on the other hand, is seeking to avoid the expense of remedy. This agency, however, is neither a court of law or equity and must determine whether the noncompliance admitted by the manufacturer is inconsequential as it relates to motor vehicle safety. The comment of the vehicle owner that the glazing is crazed, cracked, and discolored indicates that the noncompliance is not inconsequential, that while the nonconforming glazing may have been acceptable originally it has deteriorated in use in a manner that would not occur in conforming glazing. Adequate visibility through the windows to the immediate right and left of the driver is required for safe operation of the vehicle.

Harborough Construction Co., Ltd., and Crosby Valve & Engineering Co., Ltd., have not met their burden of convincing this agency that the noncompliance with standard No. 205 is inconsequential as it relates to motor vehicle safety and their petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on June 28, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-18377 Filed 6-30-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 1]

ALLIED SURETY CO.

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Allied Surety Company, Reading, Pennsylvania, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds, is hereby terminated effective July 3, 1978. The company was last listed as an acceptable surety on Federal bonds in Part II of the FEDERAL REGISTER of Friday, June 30, 1978.

Allied Surety Company was placed in liquidation by the Pennsylvania Insurance Department effective April 25, 1978. The company's December 31, 1977 financial statement filed with the Treasury reflected a substantial amount of surplus. However, based on information revealed by a subsequent on-site examination of Allied Surety Company, the company was placed in liquidation by order of the Commonwealth Court of Pennsylvania.

With respect to any bonds currently in force with Allied Surety Company, bond-approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

There is reprinted below a copy of the liquidation notice dated May 1, 1978, issued by the Pennsylvania Insurance Department. Please note that the notice stipulates all claims against the company must be filed by *July 31, 1978.*

Mr. A. Moore Lifter has been appointed Special Deputy Insurance Commissioner to handle the liquidation proceedings of the company. Information and Proof of Claim forms on which to submit claims are available from Mr. Lifter at the address shown in the notice, or he may be telephoned on 717—787-7823.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, and provide them with copies of the notice of liquidation.

Questions concerning this termination notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone 202-634-5978.

Dated: June 27, 1978.

LLOYD L. MORGAN,
Acting Commissioner.

To the Debtors, Principals, Obligees, Claimants, and All Other Persons Interested in the Affairs of ALLIED SURETY COMPANY, Reading, Pennsylvania.

NOTICE IS HEREBY GIVEN:

Allied Surety Company, Abraham Lincoln Motor Inn, Reading, Pennsylvania, was placed in liquidation by Order of the Commonwealth Court of Pennsylvania, dated April 25, 1978.

William J. Sheppard, Insurance Commissioner of the Commonwealth of Pennsylvania, has been directed by the Order of the Court to take possession of the Company's property and to liquidate its business. The Commissioner has appointed A. Moore Lifter, as Special Deputy Insurance Commissioner, his agent to liquidate the business of said Company.

All rights and liabilities of the Company other than under insurance contracts or surety bonds are fixed as of 12 o'clock Midnight, Eastern Standard Time, of the date of the Court's Order.

All insurance in effect at the time of issuance of the Order of Liquidation shall continue in force only with respect to the risks in effect at that time:

(a) for a period of thirty days from the date of entry of the liquidation order;

(b) until the normal expiration of the policy coverage;

(c) until the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy; or

(d) until the Liquidator has effected a transfer of the policy obligation, whichever time is less.

Anyone having a claim against the Company, whether under a policy of insurance, surety bond, or otherwise, must file a Proof of Claim against the Company with the undersigned, NOT LATER THAN *JULY 31, 1978,* or be forever barred from presenting such claim. A Proof of Claim must be filed against the Company even though a claim had been made against the Company prior to the date of dissolution.

Proof of Claims forms will be distributed to all known policyholders, claimants, and creditors of the Company. Persons who do not receive a Proof of Claim form within thirty (30) days, should so notify the undersigned.

All obligations of the Company will be payable in money only, to the extent funds are available at the conclusion of the liquidation process. If there is a lawsuit pending against a policyholder of the Company with respect to a claim, the responsibility of investigation, defense, settlement, and payment falls upon the policyholder. A Proof of Claim must be filed for reimbursement of any costs or payments made applicable to such suits.

The Decree of the Commonwealth Court of Pennsylvania enjoined and restrained all persons from instituting any action at law or in equity or any attachment or execution against the Company, and further enjoined and restrained agents, officers, and employees of the said Company from transacting any of the business of the Company, or disposing of any of its property.

All persons indebted to, or having any property of said Company in their possession, are hereby required forthwith to render an account of said indebtedness, and to pay the same and deliver such property to the Liquidator.

All communications and transactions relating to the Company and to the liquidation thereof should be addressed to said A. Moore Lifter, at the office indicated in this letterhead.

Dated: May 1, 1978.

A. MOORE LIFTER,
Special Deputy
Insurance Commissioner.

[FR Doc. 78-18299 Filed 6-30-78; 8:45 am]

[4810-28]

Office of Revenue Sharing

ENTITLEMENT PERIOD 9

Date of Adjustment Allocation

ENTITLEMENT PERIOD 10

Date of Allocation and Close of Data Definitions

Pursuant to section 51.23(a) of the revenue-sharing regulations (31 CFR, part 51, section 51.23(a)), published in the FEDERAL REGISTER on September 22, 1977 (42 FR 47997), promulgated under the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.) adjustment allocations applicable to entitlement period 9 (October 1, 1977, to September 30, 1978) were computed on or about June 19, 1978. This adjustment allocation reflects changes made in the data factors since the entitlement period 9 allocation. The difference between the allocation and adjustment allocation amounts for entitlement period 9 will, in most instances, be added to or subtracted from the State or local governments' payments for entitlement period 10.

After the adjustment allocation for entitlement period 9, a State or local government (or the Secretary of the Treasury) may make a demand for adjustment on or before September 30, 1979, pursuant to section 102(b) of the

State and Local Fiscal Assistance Act of 1972, as amended by § 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (90 Stat. 2347). If a demand for adjustment is made by a recipient government, the demand shall be made in writing and contain evidence and documentation to fully justify the proposed corrections of data. In that event, the adjustment, if any, will affect only the recipient government for which a demand for adjustment has been made.

Pursuant to the notice of procedure for imporvement of data for entitlement period 10 published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14785) notice is given that allocations for entitlement period 10 were computed on or about June 19, 1978. The amount of revenue-sharing funds each recipient government is scheduled to receive for entitlement period 10 will be printed on Statement of Assurances forms for entitlement period 10, which are scheduled to be sent to all recipient governments on or about July 31, 1978.

Entitlement period 10 allocation amounts printed on the Statement of Assurances forms will be subject to change as a result of an adjustment allocation which will be computed during 1979. Differences between the allocation and adjustment allocation amounts for entitlement period 10 will be added to or subtracted from the State or local government's payments for the following entitlement period.

Pursuant to section 51.23(a) of the revenue-sharing regulations (31 CFR, Part 51, § 51.23), the data definitions upon which the allocations and entitlements for recipient governments for entitlement period 10 are based will become final on June 30, 1978. These data definitions were published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14785) when recipient governments were first notified of and given the opportunity to participate in the data improvement program for entitlement period 10.

Since § 51.23(a) of the regulations defines any change in the computation of local tax effort to credit certain county sales taxes to units of local government, pursuant to section 109(e)(2)(B) of the act (31 U.S.C. 1228(e)(2)(B)), "the Memphis rule," to be a change in a data definition, such change will not be given effect for entitlement period 10 after June 30, 1978. Thus, the requirement for electing the application of the Memphis rule, set out in the data definition of adjusted taxes for entitlement period 10 (43 FR 14785), that the Governor of a State must certify that the requirements of the Memphis rule have been met before the beginning of the entitlement period in which the Memphis rule is to take effect, means that such certification must have been received on or before June 30, 1978.

For further information contact: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 E Street NW., Washington, D.C. 20226, 202-634-5166.

Dated: June 26, 1978.

BERNADINE DENNING,
Director,
Office of Revenue Sharing.

[FR Doc. 78-18361 Filed 6-30-78 8:45 am]

[4810-25]

Office of the Secretary

LIST OF COUNTRIES REQUIRING COOPERATION WITH AN INTERNATIONAL BOYCOTT

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). This list is the same as the list published in the April 3, 1978, FEDERAL REGISTER.

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Libya; Oman; Qatar; Saudi Arabia; Syria; United Arab Emirates; Yemen Arab Republic; Yemen, Peoples Democratic Republic of.

Dated June 27, 1978.

DONALD C. LUBICK,
Assistant Secretary-Designate (Tax Policy).

[FR Doc. 78-18200 Filed 6-30-78; 8:45 am]

[8410-01]

WATER RESOURCES COUNCIL

UTILIZATION OF COMPREHENSIVE REGIONAL WATER RESOURCE MANAGEMENT PLANS

Policy Statement No. 4

AGENCY: Water Resources Council.

ACTION: Adoption of policy.

SUMMARY: This policy provides that selected Federal agency water and related land resource programs and projects shall be consistent with approved regional water resources management plans. The policy was adopted by the Water Resources Council on May 24, 1978, to improve the efficiency and effectiveness of comprehensive planning, and to assist in the implementation of the Federal portion of the approved plans.

FOR FURTHER INFORMATION CONTACT:

Donald F. Parsons, Program Specialist, Policy Division, U.S. Water Resources Council, 2120 L Street NW., Washington, D.C. 20037, phone 202-254-6453.

GUY R. MARTIN,
Alternate to the Chairman.

POLICY STATEMENT: THE UTILIZATION OF COMPREHENSIVE REGIONAL WATER RESOURCES MANAGEMENT PLANS

I. PREAMBLE

This policy statement established Water Resources Council policy for the implementation of Federal portions of regional resource management plans.

II. EFFECTIVE DATE

This policy is effective January 1, 1979.

III. DEFINITIONS

A. *Consistency.* The term "consistency" as used in this statement means that Federal water and related resource activities are carried out in agreement with regional plans to the maximum extent practicable.

B. *Approved Regional Plan.* An "approved regional plan" is a comprehensive water resource management plan adopted by a river basin commission or other Council-designated regional entity, or by the Council following appropriate review and comment under statutory or other requirements of Federal agencies, and in consultation with affected States. Such plan or revision adopted or approved in this manner shall be the "approved regional plan." The plan shall include an evaluation of all reasonable alternative means of achieving development of water and related land resources of the region reflective of the region's preference between the two national objectives of National Economic Development and Environmental Quality.

C. *Regional Entity.* A "regional entity" is a title II (Pub. L. 89-80) river basin commission, a Federal-interstate compact commission approved by Congress and the respective State legislatures, or other regional organization designated by the Council in conjunction with the affected States, to function similar to a title II river basin commission. The Council may designate itself to act as a "regional entity" where no title II river basin commission or Federal-interstate compact commission exists.

IV. PURPOSE

This statement provides the policy of the Water Resources Council for the utilization of approved regional water resource management plans in order to improve the efficiency and effectiveness of comprehensive planning.

V. POLICY

Federal agency water and related land resource programs and projects shall be consistent with approved regional water resource management plans or satisfactory reasons for the inconsistency shall be given by the responsible Federal agency.

Federal projects and programs required to be formulated and evaluated under the WRC Principles and Standards (P&S) may be found not fully in accord or consistent with goals and objectives desired by regional planning entities not bound by the requirements of the P&S. This occurrence, because of the required application of P&S, will be prima facie evidence of a satisfactory reason for inconsistency.

VI. CONSISTENCY CERTIFICATION

A statement shall be included with the annual budget submission of each member agency to the Office of Management and Budget which (1) certifies that the agency budget submission is consistent with the appropriate regional water resource management plan(s), or (2) provides reasons satisfactory to the President such as statutory requirements or overriding national priorities or constraints, such as application of principles and standards, for those exceptions where the budget submission is inconsistent with the appropriate plan(s).

VII. FEDERAL ACTIVITIES COVERED

Direct Federal Activities—This policy on consistency covers the water related land resource planning and implementation studies, land acquisition and construction and specified operational activities of the member agencies shown below.

Department/Agency and Activity

Agriculture: FS—NFS Management, Wilderness Area Recommendations, Wild and Scenic River Recommendations.
Army: COE—General Investigations,[1] Construction General,[2] Flood Control, Miss. R. & Trib.[3]
Commerce: NOAA—None; EDA—None; OMBE—None.
Energy: None.
Environmental Protection Agency: None.
Housing and Urban Development: None.
Interior: F&WS—Wildlife Refuge Acquisition; Land Acquisition for National Fish Hatcheries. HC&RS—None. BLM—Management of Lands and Resources (Appropriation Account 14-1109). NPS—Wild and Scenic River Recommendations; Potential Additions to National Park System. BuRec—Planning Studies—General Investigations; Implementation Studies—Advance Planning, Construction & Rehab., U. Colorado R. Storage Proj., Colorado Basin Proj., Colorado R.B. Salinity Control Proj.,—Land Acquisition (same list as Advance Planning)—Construction Activities (same list as Advance Planning)—Operations Activities Operations and Maintenance. USGS—None. BIA—None. Bu. Mines—None.
Transportation: None.

Federally Assisted Activities—States and local governments exercise the primary initiative and control of implementation activities supported by Federal assistance programs by: Assessing the needs for projects, preparing comprehensive plans, establishing priorities for projects and development activities, and coordinating such planning and development activities through procedures established by OMB Circulars A-95 and A-111. Consistency or compatibility of the federally supported activities shown below with approved regional water resources plans should be assured, insofar as practicable, by the State and local governments through the coordination procedures promulgated by the above circulars.

Department/Agency and Activity

Agriculture: FmHA—None. SCS—Small Watershed Programs (Operations)—(Planning).—Resource Conservation and Development Water Resource Measures.—River Basin Programs. FS—Cooperative Programs. YCC (Youth Conservation Corps).
Army: COE—None.
Commerce: NOAA—None. EDA—None. OMBE—None.
Energy: None.
Environmental Protection Agency: None.
Housing and Urban Development: None.
Interior: F&WS—Fish and Wildlife Restoration (Pittman-Robertson). Fish and Wildlife Restoration (Dingell-Johnson). HC&RS—Land and Water Conservation Fund. OWRT—None. BLM—None. NPS—None. BuRec—Loan Programs—Small Reclamation Projects (Pub. L. 84-984), Distribution Systems (Pub. L. 84-130), Irrigation Systems (Pub. L. 81-385), Rehabilitation and Betterment Programs. USGS—None. BIA—None. Bu. Mines—None.
Transportation: None.

Acronyms

BIA—Bureau of Indian Affairs.
BLM—Bureau of Land Management.
BUREC—Bureau of Reclamation.
COE—Corps of Engineers.
EPA—Economic Development Administration.
FmHA—Farmers Home Administration.
HC&RS—Heritage Conservation and Recreation Service.
NOAA—National Oceanic and Atmospheric Administration.
OMBE—Office of Minority Business Enterprise.
OWRT—Office of Water Research and Technology.
USGS—United States Geological Survey.

[FR Doc. 78-18363 Filed 6-30-78; 8:45 am]

[1] Excluded are such activities as those surveys not oriented toward implementation of Corps projects (such as coordination with other agencies and non-Federal interests), collection and study of basic data, and research and development.

[2] Excluded are miscellaneous small categories not involving construction of new Corps projects or project elements, such as small projects for mitigation of shore damages attributable to navigation projects, emergency stream bank and shoreline protection, aquatic plant control, etc.

[3] Excludes maintenance.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 77]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. FD-28775, filed May 31, 1978. Transferee: DRUMMOND LIGHTERAGE CO., 2401 Fourth Avenue, Seattle, WA 98111. Transferor: PUGET SOUND TUG AND BARGE CO., 2401 Fourth Avenue, Seattle, WA 98111. Applicants' representative: John Cunningham, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Suite 500, Washington, DC 20006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. W-586 Sub-5, issued March 20, 1974, as follows: Operation as a *common carrier* by water in freighting and towing operations of *general commodities* in Pacific coastwise and oversize articles in intercoastal and Atlantic Gulf coastwise operations. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-W-580 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77653, filed May 2, 1978. Transferee: MEDICAL EMERGENCY TRANSPORTATION CORP., d.b.a. METCOR, P.O. Box 8, Califon, NJ 07830. Transferor: Cormett Forwarding Co., Inc., P.O. Box 38, Jersey City, NJ 07303. Applicant's representative: Morton E. Kiel, Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Pemits No. MC 113545 and Sub-numbers 7, 9, 10, 13, 15, 16, and 18, issued June 24, 1959, May 28, 1974, April 26, 1974, September 19, 1974, May 10, 1976, August 3, 1976, December 23, 1977, and January 4, 1978 as follows: *Pharmaceutical chemicals*, between Teterboro, NJ, on the one hand, and, on the other, New York, NY and

points in Westchester and Nassau Counties, NY. *Radiopharmaceuticals and medical isotopes,* from Newark Airport, NJ and LaGuardia and Kennedy Airports in New York, NY, to points in specified counties in NJ, NY, and CT. From Philadelphia International Airport at Philadelphia, PA, to points in specified counties in PA, NJ, and DE. From North Billerica, MA to specified points in NY, VA, NJ, CT, PA, and DE. *Radiopharmaceuticals, radioactive drugs, and medical isotopes,* from South Plainfield, NJ, to specified points in NJ, NY, MD, DE, CT and PA. From the Miami Airport at Miami, FL, to points in FL. *Radiopharmaceuticals, radioactive drugs, medical isotopes, medical test kits and apparatus for medical test kits,* from South Plainfield, NJ, to specified points in MD. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77663, filed May 15, 1978. Transferee: DAVID E. STUTSMAN d.b.a. WOODY'S GARAGE & TOW SERVICE, 1014 East 24 Highway, Independence, MO 64051. Transferor: Charles D. Woody, d.b.a. Woody Garage, 1014 East 24 Highway, Independence, MO 64051. Applicant's representative: Donald J. Quinn, Attorney at Law, Suite 900-1012 Baltimore, Kansas City, MO 64105. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 116508, issued December 26, 1957, as follows: *Wrecked and disabled motor vehicles,* in truckaway service, from points in KS, to Independence, MO. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77680, filed May 22, 1978. Transferee: WARREN H. CLARK, d.b.a. COLORADO MOTOR EXPRESS, 3770 Holland Street, Wheat Ridge, CO 80033. Transferor: Mercury Warehousing & Freight Systems, Inc., 6275 East 39th Avenue, Denver, CO 80216. Applicants' representative: Edward C. Hastings, Attorney, 666 Sherman Street, Denver, CO 80203. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121195 (Sub-No. 1), issued August 6, 1965, as follows: *General commodities,* except commodities which, because of size or weight, require special equipment, from point to point within the city and county of Denver, State of CO, extended to include an area within a radius to 10 miles from the Denver County Boundary as it exists on January 1, 1959. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77697, filed June 2, 1978. Transferee: INTERMOUNTAIN TRANSPORT, INC., 22030 Edgar Street, Carson, CA. Transferor: Coffin Brothers, Inc., 801 North 17th Avenue, Phoenix, AZ. Applicants' representatives: Milton W. Flack, Esq., 4311 Wilshire, Suite 300, Los Angeles, CA 90010. Peter A. Winkler, Esq., 100 W. Washington Street, Phoenix, AZ 85003. Authority sought for purchase by transferee of that portion of Certificate No. MC-41036 (Sub-No. 4), issued May 1, 1953, to transferor as follows: Commodities requiring special equipment because of size or weight, between points in Arizona. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(a)(b) of the act.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18386 Filed 6-30-78 8:45 am]

[7035-01]

[Notice No. 699]

ASSIGNMENT OF HEARINGS

JUNE 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 82492 (Sub-No. 173), Michigan & Nebraska Transit Co., Inc. now being assigned for hearing September 6, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

No. MC 143516, Rail Highway Transportation, Inc., now being assigned for hearing on September 7, 1978 (2 days), at Columbus, OH, in a hearing room to be later designated.

No. MC 143925, Springfield Bus Co, Inc., now being assigned for hearing on September 11, 1978 (1 week), at Springfield, OH, in a hearing room to be later designated.

No. MC 109736, (Sub-No. 38), Capitol Bus Co., d.b.a. Capitol Trailways, now assigned July 24, 1978 at Williamsport, PA, will be held in Room 414, New Federal Building, Third Street.

No. MC 115826, (Sub-No. 274), W. J. Digby, Inc., now assigned July 11, 1978, at Denver, CO will be held at the Inn at the Mart, 401 East 58th Street.

No. MC 116254, (Sub-No. 188), Chem-Haulers, Inc., now assigned June 30, 1978, at Louisville, KY is postponed indefinitely.

No. MC 2960, (Sub-Nos. 9, 10, 11, 13, 14, 16 and 18), England Transportation Company of Texas, now assigned July 10, 1978 at Dallas, TX at the U.S. District Court and the Federal Building; is transferred to the Executive Inn, West Mockingbird Lane, Dallas, TX.

No. MC 144251, J. T. I. Corporation, now being assigned September 19, 1978 (1 day), at Boston, MA, in a hearing room to be later designated.

No. MC 96007, (Sub-No. 31F), Kenneth Hudson, Inc. d.b.a. Hudson Bus Lines, now being assigned for September 20, 1978 (3 days), at Boston, MA, in a hearing room to be later designated.

No. MC 115676, (Sub-No. 4), Conway's Bus Service, Inc., now being assigned for hearing on September 25, 1978 (1 week), at Providence, RI, in a hearing room to be later designated.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18387 Filed 6-30-78; 8:45 am]

[7035-01]

[Notice No. 107]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 28, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce

Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30204 (Sub-No. 38TA), filed May 24, 1978. Applicant: HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, MA 02740. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 02740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Passadumkeag, ME, to points in NY and PA, for 180 days. Supporting shipper(s): Diamond International Corp. 733 Third Avenue, New York, NY 10017. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

No. MC 36918 (Sub-No. 5TA), filed April 24, 1978. Applicant: FASTWAY TRANSPORTATION, INC., P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Applicant's representative: Thomas F. X. Foley, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass food, beverage, beer and liquor containers*, between the facilities of Midland Glass Co., Inc., at Cliffwood, NJ, on the one hand, and, on the other, East Hartford, Meriden, New Haven and New London, CT, New Castle and Wilmington, DE, Baltimore, MD; Catonsville, Brainstree, Lowell, Lynn, Millis, New Bedford, Northampton, Sagamore, Somerville, Waltham, Worcester, MA; Albany, Fulton, Hamlin, Middletown, Newburgh, New York, Rochester, Saratoga Springs, Scotia, South Volney, Syracuse and Williamson, NY; Allentown, Conshohocken, Harrisburg, Philadelphia, Reading, Scranton, and Wilkes-Barre, PA; Providence, RI; Martinsville, Norfolk, Suffolk and Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., Cliffwood, NJ 07721. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 204 Carroll Building, 428 East State Street, Trenton, NJ 08608.

No. MC 57275 (Sub-No. 14TA), filed April 18, 1978. Applicant: SCHADE REFRIGERATED LINES, 4420 North 42d Avenue, Phoenix, AZ 85019. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-developing film packs, unexposed film, cameras, camera outfits, developing chemicals, sensitized photographic paper, and other commodities requiring protective service*, between points in AZ, for 180 days. Applicant intends to interline with other carriers at Phoenix and Tucson, AZ. Supporting Shipper(s): Polaroid Corporation, 140 Kendrick St., Needham Heights, MA 02194. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 65941 (Sub-No. 54TA), filed May 22, 1978. Applicant: TOWER LINES, INC., 3rd and Warwood Avenue, Wheeling, WV 26003. Applicant's representative: George V. Thieroff, 3rd and Warwood Avenue, Wheeling, WV 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc or zinc alloys, viz: anodes, ingots, pigs and slabs*, from the facilities of St. Joe Minerals Corp., Josephtown (Potter Township, Beaver County), PA, to Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): St. Joe Minerals Corp., Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old P.O. Building, Wheeling, WV 26003.

No. MC 95920 (Sub-No. 48TA), filed May 26, 1978. Applicant: SANTRY TRUCKING CO. 11552 Southwest Pacific Highway, Portland, OR 97223. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and supplies, materials, and equipment* used in the manufacture of malt beverages (except commodities in bulk), from St. Paul MN, to points in FL, GA, KY, TN, MN and TX; and (2) *Supplies, materials, and equipment* used in the manufacture of malt beverages, from FL, GA, KY, TN, MN and TX, to St. Paul, MN, under a continuing contract, or contracts, with Olympia Brewing Co., for 180 days. Supporting shipper(s): Olympia Brewing Co., P.O. Box 947, Olympia, WA 98501. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

No. MC 107012 (Sub-No. 264TA), filed April 25, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Hwy East and Meyer Road, Fort Wayne, IN 46801. Applicant's representative: Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, marketed and distributed by Strolee of California, including but not limited to baby strollers, high chairs, playpens, walkers, bassinettes, swings and other articles of juvenile furniture and equipment, from the facilities of Strolee of California at or near Compton, CA, to points in AL, AZ, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, WY, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Strolee of California, 19067 South Teyes Avenue, Compton, CA 90221. Send protest to: J. H. Gray, District Supervisor, Bureau of Operations, Interestate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107496 (Sub-No. 1147TA), filed May 26, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High fructose corn syrup*, (in bulk, in tank vehicles), from Memphis, TN, to Garland, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, Decatur, IL 62525. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 107615 (Sub-No. 12TA) filed May 1, 1978. Applicant: UNTCO, INC., 850 East Luzerne Street, Philadelphia, PA 19124. Applicant's representative: Richard A. Mehley, 1000-16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and products, materials, and supplies* used in the manufacture and production thereof, between East Greenville, PA, on the one hand, and, on the other, points in MD, NJ, WV, DC, and New York, NY, and points in Rockland, Suffolk and Westchester Counties, NY, which are not within the New York, NY, commercial zone, for 180 days. Supporting shipper(s): Brown Printing Co., Waseca, MN. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 108937 (Sub-No. 49TA), filed May 23, 1978. Applicant: MURPHY MOTOR FREIGHT LINES, INC.,

2323 Terminal Road, St. Paul, MN 55113. Applicant's representative: Jerry E. Hess, 2323 Terminal Road, St. Paul, MN 55113. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Motors Corp. at Janesville, WI, as an off-route point in conjunction with carriers regular route operations, for 180 days. Carrier intends to tack. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Motors Corp., 30007 Van Dyke, Warren, MI 48090. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 110563 (Sub-No. 233TA), filed May 22, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Applicant's representative: Cictor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine and table sauces*, from the facilities owned and/or utilized by J. H. Filbert, Inc., in Baltimore, MD and Anne Arundel, Baltimore, Howard and Prince George's Counties, MD, to points in CT, DE, IL, IN, KY, ME, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT VA, WV, DC, and WI, for 180 days. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 111302 (Sub-No. 126TA), filed May 15, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Applicant's representative: David A. Petersen, P.O. Box 10470, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, (in bulk, in tank vehicles), from the facilities of Cargill, Inc., at Gainesville, GA, to points in IL, KS, MI, MO, NY, OH, WI, IN, and PA, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 1298, Gainesville, GA 30501. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 113855 (Sub-No. 424TA), filed May 15, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements and parts and attachments for agricultural machinery and agricultural implements*, from New Albany, MS, to Coldwater, OH, Indianapolis, IN, Battlecreek, MI, Des Moines, IA, Omaha and Lexington, NE, Windom, MN, Garfield, WA, Springfield and Milan, IL, Kansas City and St. Louis, MO, and Blenheim, ON, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. E. Love Co., P.O. Box 188, Garfield, WA 99130. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114569 (Sub-No. 224TA), filed April 25, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors and supplies* used in the bottling and sale of alcoholic liquors, viz: *advertising materials, barrels, botanicals, bottle tops and closures, boxes, flavor extracts, glass containers, labels, and sugar*, from the facilities of Hiram Walker & Sons, Inc., at or near Peoria, IL, to points in States of DE, MD, NJ, PA, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 115826 (Sub-No. 307TA), filed April 20, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Terminal Annex, 1960 31st Street, Denver, CO 80217. Applicant's representative: Charles J. Kimball, Kimball, Williams & Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Alpha Beta Packing Co., at or near Pueblo, CO, to points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alpha Beta Packing Co. of Pueblo, CO, 303 South Santa Fe, Pueblo, CO 81002. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 117883 (Sub-No. 226TA), filed May 22, 1978. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, P.O. Box 62, Versailles, OH 45380. Applicant's representative: Edward J. Subler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Buffalo, NY, to DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, OH, NJ, PA, and DC. Restriction: Restricted to traffic originating at the facilities of or utilized by Freezer Queen Foods, Inc., at named origin and destined to the named destinations, for 180 days. Supporting shipper(s): Freezer Queen Foods, Inc., Eugene R. Boudreau, Traffic Manager, 975 Fuhrmann Boulevard, Buffalo, NY 14203. Send protests to: Paul J. Lowery, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 118159 (Sub-No. 261TA), filed May 15, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded cellular foam rubber*, from Baltimore, MD, to Action, Beverly, Boston, Stoughton, Norwood, Peabody, Salem, Haverhill, Newburyport, Lawrence, Lowell, Worcester, and Gilbertville, MA, and Peace Dale, Wakefield, Providence, Johnston, and Summerville, RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William T. Burnett & Co., Inc., 1500 Bush Street, Baltimore, MD 21230. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 124174 (Sub-No. 118TA), filed April 24, 1978. Applicant: MOMSEN TRUCKING CO., P.O. Box 37490, 13811 L Street, Omaha, NE

68137. Applicant's representative: Karl E. Momsen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinet doors and drawer fronts*, from the plantsite of Aztec Woodcraft, Inc., at Falls City, NE, to Salem, OR; Cottonwood, MN; Red Wing, MN; Lancaster, OH; Colorado Springs, CO; Arthur, IL; and Oshkosh, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morley Zipursky, President, Aztec Woodcraft, Inc., P.O. Box 154, Falls City, NE 68355. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 125985 (Sub-No. 22TA), filed April 24, 1978. Applicant: AUTO DRIVEAWAY CO., 310 South Michigan Avenue, Chicago, IL 60604. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck cabs and chassis and complete truck and body units* in initial and secondary movement in driveaway service, from Huntington Park, CA; Fort Wayne, Winamac, IN; Cedar Falls, IA; Louisville, KY; Kingsford, MI; Cleveland, Galion, OH; Tulsa, OK; Allentown, PA; Knoxville, TN; Sohkosh and the State of WV; to points in Phoenix, AZ; El Cajon, Lancaster, San Diego, Sun Valley, CA; Boulder, Englewood, CO; Hartford, CT; Felton, New Castle, DE; Bradenton, Fort Lauderdale, Fort Myers, Fruitland Park, Hollywood, Jacksonville, Jupiter, Key West, Melbourne, Orlando, Pompano Beach, FL; College Park, Doraville, Kale City, GA; Antioch, Aurora, Calument City, Chicago, Chicago Ridge, Cicero, Crestwood, Elgin Wynwood, Franklin Park, Joliet, Kankakee, Lansing, Lockport, McHenry, Naperville, Northfield, Pekin, Peoria, Rosemont, Skokie, Urbana, West Chicago, IL; Gary, Kokomo, Portage, South Bend, Valparaiso, IN; Des Moines, IA; Topeka, KS; New Orleans, LA; Bowie, MD; Battle Creek, Grand Rapids, Holland, Wayne, MI; Anoka, MN; Buffalo, East Rochester, NY; Cincinnati, Columbus, Cuyahoga Falls, Grove City, Northwood, OH; Erie, Philadelphia, PA; Port Royal, Spartansburg, SC; Dallas, Houston, TX; Salt Lake City, UT; Bellevue, WA; Franklin, Green Bay, Madison, Menomonie Falls, Milwaukee, WI; and points in their commercial zones for 180 days. Supporting shipper(s): Waste Management, Inc., Willis L. Thon, Purchasing Manager, 900 Jorie Boulevard, Oakbrook, IL 60521. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 127187 (Sub-No. 36TA), filed May 18, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, P.O. Box 415, Fergus Falls, MN 56537. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and animal and poultry feed ingredients*, from the facility of Darling & Co., at or near Tama, IA, to points in the Milwaukee, WI, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Darling & Co., P.O. Box 269, Tama, IA 52339. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 127187 (Sub-No. 37TA), filed May 18, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, P.O. Box 415, Fergus Falls, MN 56537. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried meat scraps and dried blood meal* (in bulk), from Des Moines, IA, to points in the Milwaukee, WI, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 128220 (Sub-No. 23TA), filed May 15, 1978. Applicant: RALPH LATHAM, d.b.a. Latham Trucking Co., P.O. Box 596, Burnside, KY 42519. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite* (except commodities in bulk), from Crossville, TN, to Burnside, KY, and Cotter, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard A. Parks, Traffic Manager, Kingsford Co., a division of Clorox Co., 940 Commonwealth Building, Louisville, KY 40201. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 129537 (Sub-No. 23TA), filed May 22, 1978. Applicant: REEVES TRANSPORTATION CO. Route 5, Dews Pond Road, Calhoun, GA 30701. Applicant's representative: John C. Vogt, Jr., 406 North Morgan Street, Tampa, FL 33602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, floor covering, carpet padding, materials, supplies, and equipment* used in the installation and manufacture thereof, to, from and between all points in Floyd, Bartow, Chattooga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa, and Troup Counties, GA, on the one hand, and all points in the State of AL, on the other hand, for 180 days. Supporting shipper(s): There are approximately 97 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 134035 (Sub-No. 23TA), filed May 18, 1978. Applicant: DOUGLAS TRUCKING CO., P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck and trailer parts*, from Montgomery, AL; East Chicago, IN; Akron, Frankfort, and Cleveland, OH; and Detroit and Muskegon, MI, to Tempe, AZ; Los Angeles, San Diego, and San Leandro, CA; and Dallas and Houston, TX, for 180 days. Supporting shipper(s): Wheel Industries, 3050 East 11th Street, Los Angeles, CA 90023. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 134090 (Sub-No. 5TA), filed April 18, 1978. Applicant: ALL BEST TRANSFER & WAREHOUSE, INC., 405 Division Street, Elizabeth, NJ 07201. Applicant's representative: Anthony J. Fimiano, 405 Division Street, Elizabeth, NJ 07201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden products, supplies, materials, and equipment*, from O. M. Scott & Sons distribution center at North Brunswick, NJ, to Scotts customers located at points

and places in CT, DE, MA, NY, PA, and RI, under a continuing contract, or contracts, with O. M. Scott Co., Marysville, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): O. M. Scott Co., 333 North Maple Street, Marysville, OH 43040. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 135598 (Sub-No. 10TA), filed April 21, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 546, 3803 Dye Road, Quincy, IL 62301. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone, limestone products, mineral mixtures for animal and poultry feeding, and trace mineral ingredients*, from Quincy, IL and Hannibal, MO, to all points in the states of AR, IL, IN, IA, KY, MI, MO, OH, TN, and WI; and (2) *Empty drums and wood pallets, minerals and other ingredients* used in the manufacture of mineral mixtures for animal and poultry feeding, trace mineral ingredients and limestone products, from all points in the states of AR, IL, IN, IA, KY, MI, MO, OH, TN and WI, to Quincy, IL, and Hannibal, MO., for 180 days. Supporting shipper(s): Russell E. Kanauss, Traffic Manager, Calcium Carbonate Co., P.O. Box 4005, Quincy, IL 62301. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 135732 (Sub-No. 31TA), filed April 18, 1978. Applicant: AUBREY FREIGHT LINES, INC., 625 Grove Street, P.O. Box 503, Elizabeth, NJ 07030. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, in mechanical refrigerated equipment, (1) from the facilities of Nabisco, Inc., at or near Richmond, VA, to points in the states of AZ, CA, OR, TX, WA; and (2) from the facilities of Nabisco, Inc., at or near Buenta Park, Calif., to Richmond, Va., for 180 days. Supporting shipper(s): Nabisco, Inc., East Hanover, N.J. 07936. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18388 Filed 6-30-78 8:45 am]

[7035-01]

[Notice No. 106]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 27, 1978.

The following are notices of filing of application 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 operation authority upon which it is predicted, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13134 (Sub-No. 54TA), filed May 17, 1978. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, in* bags and in bulk, from the facilities of Kentucky-Tennessee Clay Co. located in Graves County, KY, Henry and Weakley Counties, TN, and Quitman County, MS, to points in CT, DE, IL, IN, MD, MA, MI, NJ, NY, OH, PA, RI, VA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John M. Kennedy, Secretary-Treasurer, Kentucky-Tennessee Clay Co., P.O. Box 449, Mayfield, KY 42066. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 20916 (Sub-No. 32TA), filed April 28, 1978. Applicant: JOHN T. SISK, Route 2, Box 182-B, Culpeper, VA 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities and sawmills of the Dick Purcell Lumber Corp. in Louisa County, VA, to points in DE, OH, TN, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dick Purcell Lumber Corp., Louisa, VA. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, District Supervisor, Washington, DC. 20423.

No. MC 22301 (Sub-No. 25TA), filed May 10, 1978. Applicant: SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, P.O. Box 3088, Sioux City, IA 51102. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Sioux City, IA and Sioux Falls, SD serving all intermediate points, and the off-route point of Vermillion, SD, from Sioux City, IA over Interstate Hwy 29 to Sioux Falls, SD, and return over the same route. Applicant intends to tack authority and also interline at Sioux Falls, SD and Sioux City, IA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are 32 (thirty-two) supporting shippers attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC or copies may be obtained at field office below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 60102.

No. MC 78276 (Sub-No. 12TA), filed May 24, 1978. Applicant: MAZZO & SONS EXPRESS, 311 South River Street, Hackensack, NJ 07601. Applicant's representative: Fred L. Cardascia (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel, loose, on hangers*, when moving

with wearing apparel in cartons, in mixed loads, between points in the Baltimore, MD, commercial zone, points in NJ, points in the New York, NY, commercial zone, points in Nassau, Rockland, and Suffolk Counties, NY, points in the Philadelphia, PA, commercial zone, points in the Wilmington, DL, commercial zone, on the one hand, and, on the other, points and places in the States of GA, NC, and SC. (2) *Materials, supplies and equipment,* used or useful in the manufacture and sale of wearing apparel, when moving with the commodities in (1) above, from points in the Baltimore, MD, commercial zone, points in NJ, points in the New York, NY, commercial zone, points in Nassau, Rockland, and Suffolk Counties, NY, points in the Philadelphia, PA, commercial zone, points in the Wilmington, DL, commercial zone, on the one hand, to points and places in the States of GA, NC, and SC. (3) *Wearing apparel, loose, on hangers,* when moving in mixed loads with wearing apparel, in cartons, between Atlanta, GA; Charlotte, NC; Hialeah and Orlando, FL; Memphis, TN, and Spartanburg, SC, and points and places in the States of AL, AR, FL, GA, KY, MS, NC, SC and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cohen Bros. Dress Corp., New York, NY, Jana Lee, New York, NY, Silverstyle Dress Corp., New York, NY, K Mart Apparel Corp., North Bergen, NJ, Sears, Roebuck & Co., New York, NY, International Outerwear Inc., New York, NY, Roget, IN, New York, NY. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 96992 (Sub-No. 9TA), filed May 10, 1978. Applicant: HIGHWAY PIPELINE CO., P.O. Box 1517, Edinburg, TX 78539. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Building, Suite 3300, Houston, TX 77002. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Greenvill, MS to AL, AR, FL, GA, IL, IN, KS, KY, LA, MO, OK, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vlasik Foods, Inc., 33,200 West Fourteen Mile Road, Bloomfield, MI 48033. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 East Durango, San Antonio, TX 78206.

No. MC 106398 (Sub-No. 805TA), filed June 2, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Hardwood, plywood, paneling, hardboard, particle board, gypsum, mold and trim,* from the ports of Charleston, SC, Jacksonville and Tampa, FL, New Orleans, LA, and Savannah, GA to the facilities of Paneling Industries, Inc. at Fort Valley, GA and from the facilities of Paneling Industries at Fort Valley, GA to points in AL, AR, FL, IL, IN, KY, LA, MN, MO, MS, KS, NC, OH, PA, SC, TN, TX, VA, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Paneling Industries, Inc., P.O. Box 1288, Albany RR Station, Fort Valley, GA 31030.

No. MC 110012 (Sub-No. 44TA), filed April 27, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425-13th Street NW., Washington, DC 20004. Applicant seeks authority to engage in operation, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *New furniture,* from Dandridge, TN, to points in the United States (except AK and HI) and *return shipments of new furniture and materials and supplies used in the manufacture of new furniture* (except commodities in bulk, in tank vehicles) from points in the United States (except AK and HI) to Dandridge, TN for 180 days. Supporting shipper: Dandridge Furniture Co., P.O. Box 99, Dandridge, TN 37725. Send protests to Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 110686 (Sub-No. 57TA), filed May 10, 1978. Applicant: McCORMICK DRAY LINE, INC., Route 220, Avis, PA 17721. Applicant's representative: David A. Sutherland, 1150 Connecticut Avenue NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wire and chain; wire, chain and fiber rope; and wire, chain, fiber and synthetic slings and webbings, and sling and webbing assemblies,* from the facilities of Bridon American Corp. located at Kingston (Luzerne County), PA, to points in AL, CT, DE, IL, IN, KY, ME, MD, MA, MI, MS, MO, NH, NJ, NY, OH, PA, RI, TN, VT, VA, WV, WI, and DC, and (2) *materials and supplies,* used in the manufacture, handling and packaging of the commodities described in (1) above (except commodities in bulk), from points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, to the facilities of Bridon American Corp. located at Kingston (Luzerne County), PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bridon American Corp., P.O. Box 320, Muncy, PA 17756. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 119789 (Sub-No. 471TA), filed May 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Applicant's representative: Lewis Coffey (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by wholesale and retail grocery houses from the facilities of Southern States Distribution, Inc. at Memphis, TN to points in Al, AR, MA, LA, FL, TN, and KY on and west of U.S. Hwy 31E and points in MO, on and south of U.S. Hwy 66, for 180 days. Supporting shipper: Southern States Distribution, Inc., 1655 Panama Street, Memphis, TN 38108. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12. Dallas, TX 75242.

No. MC 121108 (Sub-No. 4TA), filed May 23, 1978. Applicant: MICHAEL GORDON, 136 North Washington, Dillon, MT 59725. Applicant's representative: W. G. Gilbert II, 15 South Idaho Street, Dillon, MT 59725. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction at intersection of U.S. Hwy 10 and State Hwy 41 and Twin Bridges, MT via State Hwy 41; (2) junction at intersection of U.S. Hwy 10 and State Hwy 55 and junction of State Hwy 41; (3) Twin Bridges, MT and Dillon, MT via State Hwy 41; (4) Twin Bridges, MT and junction at intersection of U.S. Hwy 10 and U.S. Hwy 287 via State Hwy 287, and U.S. Hwy 287; (5) Harrison, MT and Pony, MT over unnumbered hwys; (6) Harrison, MT and Cardwell, MT via State Hwy 359; (7) junction at intersection of U.S. Hwy 287 and State Hwy 287 and Reynolds Pass via U.S. Hwy 287; and (8) junction of U.S. Hwy 10 and

U.S. Hwy 287 and Butte, MT via U.S. Hwy 10 and Interstate 90 in closed door operations for carrier convenience only; serving all intermediate points and the off route points of Waterloo and Cliff Lake, MT for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 10 (ten) supporting shippers attached to application which may be examined at Washington, DC or copies may be obtained at the field office below. Send protests to: D/S Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue, North, Billings, MT 59101.

No. MC 124174 (Sub-No. 119TA), filed May 15, 1978. Applicant: MOMSEN TRUCKING CO., 13811 L Street, Omaha, NE 68137. Applicant's representative: 7100 West Center Road, Marshall D. Becker, 530 Univac Building, Omaha, NE 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Hides, skins, and pelts, and pieces* therefrom (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE to points in the States of AL, AR, CA, GA, KS, LA, MS, MO, NV, NC, OR, SC, WA, and the ports of entry on the International Boundary Line between the United States and Canada, located in ID, MN, MT, MI, NY, ND, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert E. Gillespie, Manager Rates and Regulatory Affairs, Iowa Beef Processors, Dakota City, NE 68731.

No. MC 127840 (Sub-No. 70TA), filed May 2, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible grease*, from Davenport, IA to Mendota, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar Meyer & Co. Inc., James V. Baker, Jr., Traffic and Transportation Planner, P.O. Box 7188, Madison, WI 53707. Send protests to: Transportation Consumer Specialist Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 129387 (Sub-No. 64TA), filed June 1, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Applicant's representative: Doug W. Sinclair (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Meats, meat products, and meat by-products and articles distributed by meat packing houses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificate 61 MCC 209 and 766 (except commodities in bulk); from National Stockyards, IL, to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper: Royal Packing Co., Inc., box 156, St. Clair Avenue and Ice Plant Road, National Stock Yards, IL 62071, Marc Sokolik. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 136332 (Sub-No. 7TA), filed May 10, 1978. Applicant: A. & M. TRANSPORT LTD., P.O. Box 11, Havelock, NB, Canada E0A1W0. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, ME 04038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products*, in bulk and in bags from the ports of entry located on the International Boundary line between the United States and Canada, located in Aroostook County, ME, to points in Aroostook County, ME, under a continuing contract or contracts with Havelock Lime Works, Ltd., for 180 days. Supporting shipper(s): Havelock Lime Works, Ltd., Havelock, NB, Canada. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 138956 (Sub-No. 8TA), filed April 28, 1978. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, MS 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite* in bulk, from Malvern, AR, to Abbeville, Bossier City, Crowley, Intercoastal City, Lake Charles and New Iberia, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: NL Bariod Petroleum Service, P.O. Box 51287, Layfayette, LA 70505. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 142207 (Sub-No. 18TA), filed May 10, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., Chef Menteur Highway, P.O. Box 29287, New Orleans, LA 70189. Applicant's representative: Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, in tank vehicles), in containers, and empty containers and chassis, between New Orleans, LA and Mobile County, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (6) statements of support attached to the application which may be examined at the field office named below. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 143824 (Sub-No. 1TA), filed May 11, 1978. Applicant: G & S TRUCKING, INC., Box 5A, Fenwick, WV 26202. Applicant's representative: Dan Callaghan, Main Street 48E, Richwood, WV 26261. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Big Bull Mining Co., near Richwood, WV to Covington, VA, under a continuing contract with Jerry Hatley, Vice President, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jerry Hatley, Vice President, Big Bull Mining Co., Inc., Richwood, WV 26261. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 144030 (Sub-No. 2TA), filed April 28, 1978. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, OH 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty used whiskey barrels and half whiskey barrels*, from Bardstown, Boston, Clermont, Frankfort, Louisville, Owensboro, KY; Lawrenceburg, IN; Pekin, IL; Cincinnati, Overpeck, OH; Schenley, PA; Tullashoma, TN, to points and places, in the States of AL, AR, GA, IL, IN, IA KS, KY, MD, MI, MN, NE, NC, OH, SD, VA, WV, WI, for 180 days. Supporting shipper: Load Commodity Sales, Inc., 3100 Mill Street, Suite 219, Reno, NV 89502. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 144726 (Sub-No. 1TA), filed May 9, 1978. Applicant: K. K. W.

TRUCKING, INC., 516 West 140th Street, Gardena, CA 90248. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blanket wrapped furniture and cartoned furniture* moving in mixed shipments with merchandise dealt in by home furnishing stores, from the Los Angeles, CA Commercial Zone to points in the Commercial Zones of Flagstaff, Glendale, Mesa, Phoenix and Yuma, AZ and Henderson, Las Vegas and North Las Vegas, NV. Restricted to traffic destined to the facilities of McMahan's Furniture Co., Carlsbad, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McMahan Furniture Co., P.O. Box 7000, 2333 State Street, Carlsbad, CA 92008. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144773 (Sub-No. 1TA), filed May 3, 1978. Applicant: SUPER-TRANS, INC., P.O. Box 3004, Dilworth Station, Charlotte, NC 28203. Applicant's representative: Eric Meierhoefer, Suite 432, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: *Piece goods* (over 15 pcf) between the facilities of Mohican Mills, Inc., located at or near Lincolnton, NC, on the one hand, and, on the other, the facilities of Mohican Mills, Inc., located at or near Calrstadt, NJ. Restricted to traffic moving in shipper-owned trailers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mohican Mills, Inc., Lincolnton, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 144776 (Sub-No. 1TA), filed May 10, 1978. Applicant: APACHE TRANSPORT, INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene forms and shapes*, from the plantsite of Dolco Packaging Corp., at Dallas, TX, to Odenville, AL; Miami, FL; Douglas and Bainbridge, GA; Hammond and Ponchatoula, LA; Pelahatchie, Collins, and New Albany, MS; Roseboro and New London, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dolco Packaging Corp., P.O. Box 567, Lawrenceville, GA 30245. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 144806TA, filed May 17, 1978. Applicant: FRED M. ANDERSON d.b.a. Delta Valley Trucking, 69 North 200 West, Delta, UT 84624. Applicant's representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beet pulp pellets*, from Idaho Falls, ID, to Delta UT, under a continuing contract with Delta Milling Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delta Milling Co., 284 South 5th West, Delta, UT 84624. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 144815TA, filed May 18, 1978. Applicant: CHARLES A. HURST, d.b.a. Char-Lee Leasing Co., 1416 Southview Drive, Bluefield, WV 24701. Applicant's representative: Stephen P. Swisher, 339 12th St., Dunbar, WV 25064. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery*, which because of size and weight requires the use of special equipment for loading and unloading and parts thereof, from the facilities of WVA Administration Corp. and/or West Virginia Armature Co., Inc., in Glen Lyn, VA; Beckley and Bluefield, WV; and Isom, KY, to coal mining sites in VA, WV, KY, OH, PA, TN, AL, CO, UT, IN, and IL, under a continuing contract with WVA Administration Corp., for 180 days. Applicant has also filed an underlying ETA seking up to 90 days of operating authority. Supporting shipper: Ms. Shirley Nelson, Corporate Secretary, WVA Administration Corp., P.O. Box 1000, Rich Creek VA 27174. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 144838TA, filed May 31, 1978. Applicant: ARDIS L. KEMP and BRENDA VASQUEZ, d.b.a. Abco Truck, 1818 West Adams, West Covina, CA 91791. Applicant's representative: William J. Monheim, P.O. Box 1756, 13710 East Whitter Bulovard, Suite 203, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film or sheeting*, from City of Industry, CA, to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, *Materials, equipment, and supplies*, used in the manufacture, sale, and distribution of plastic film or sheeting, from Gloucester, MA, and points in LA and TX to City of Industry, CA, under a continuing contract with B & K Industry Plastics, for 180 days. Supporting shipper: B & K Industry Plastics, 18901 East Railroad Street, City of Industry, CA 91748. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144840TA, filed June 1, 1978. Applicant: C. P. INDUSTRIES, INC., 510 Securities Building, Seattle, WA 98101. Applicant's representative: Glenn W. Toomey, 3822 Seattle First National Bank Building, Seattle, WA 98154. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from United States/Canadian border (WA, ID, and MT), on the one hand, to points in AZ, CA, NV, and TX, on the other hand, shipments to originate in BC, Alta, SK, Canada, under a continuing contract, or contracts, with Columbia Pacific Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Pacific Industries, Inc., Forest Products Division, 510 Securities Building, Seattle, WA 98111. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18389 Filed 6-30-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6320-01]

1

[M-144, Amdt. 2, June 27, 1978]

NOTICE OF ADDITION OF ITEM TO THE JUNE 29, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m., June 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 8a. Dockets 30236 and 32814* Subpart N application of United Air Lines—Cleveland-San Diego Nonstop Authority—Petition for Reconsideration of American Airlines; Application of United for an exemption to allow it to institute service on July 2 rather than August 1 (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Final pleadings were not filed in this matter until June 22, 1978, and therefore, the staff was unable to complete the processing of this item in time for it to be placed on the calendar for the June 29 meeting. However, in order that the carrier be able to implement service on July 2, as requested in its application, Board action is required on June 29. Accordingly, the following Members have voted that agency business requires the addition of Item 8a to the June 29, 1978 agenda and that no earlier announcement of this addition was possible:

*To reflect correct docket number.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1377-78 Filed 6-29-78; 3:21 pm]

[6320-01]

2

[M-144, Amdt. 3, June 28, 1978]

NOTICE OF ADDITION OF ITEM TO THE JUNE 29, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m., June 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Dockets 30616, 31556, 32234, et al., Termination of Deep-discount Fare Reporting Requirements (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item is being added to the June 29, 1978, agenda because the new reporting requirements take effect on July 1. Accordingly, the following Members have voted that agency business requires the addition of Item 2a to the June 29, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1378-78 Filed 6-29-78; 3:21 pm]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., July 5, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission Review of Proposed Supporting Objectives and Priorities for fiscal year 1980-82 Plan and Budget; Desirability of reestablishing "fully disclosed basis" futures commission merchants ("FCM's").

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1376-78 Filed 6-29-78; 3:21 pm]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 7, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1379-78 Filed 6-29-78; 3:33 pm]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., July 6, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of release from pledge and escrow agreements and request for delegation of authority—United Federal Savings & Loan Association, San Francisco, Calif.
Consideration of proposed revision of the regulations of the Federal Savings & Loan System.
Service Corporation Activity Application Re: Advising Administrators of Pension Funds—California Federal Savings & Loan Association, Los Angeles, Calif.
Consideration of Pittsburgh Home Improvement Loan Program.
Concurrent consideration of Branch Office Application filed by San Diego Fedral Savings & Loan Association, San Diego, Calif.; and (2) Limited facility application, Coast Federal Savings & Loan Association, Los Angeles, Calif.

Designation of Elective Directorships for Federal Home Loan Banks—1978 Election.
Consideration of Advisory Council Travel Expenses—June 5, 1978, Advisory Committee Meeting.
Consideration of Advisory Council Travel Expenses—Advisory Council Meeting to be held on July 16, 17, 18, and 19, 1978.
Branch Office Application—Brevard Federal Savings & Loan Association, Brevard, N.C.
Limited Facility Application—State Federal Savings & Loan Association, Beatrice, Nebr.
Application for Extension of Time—Grand County Savings & Loan Association, Granby, Colo.
Concurrent Consideration of Branch Office Applications—(1) Home Federal Savings & Loan Association of the South, Birmingham, Ala.; and (2) First Federal Savings & Loan Association of Decatur, Decatur, Ala.
No. 161, June 28, 1978.
Merger Application—Rochester Savings & Loa Association, Rochester, Minn. into Home Federal Savings & Loan Association, Spring Valley, Minn.

[S-1373-78 Filed 6-29-78; 11:29 am]

[7020-02]

6

UNITED STATES INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR, p. 26531, June 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Thursday, June 29, 1978.

CHANGES IN THE MEETING: Deletion of Agenda Item No. 4c: Fabricated Steel (Docket No. 521).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1374-78 Filed 6-29-78; 11:29 am]

[4910-58]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, June 29, 1978 [NM-78-28].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Aircraft Incident—at La Guardia Airport, N.Y., June 21, 1978, involving a Cessna 500 Citation and a North Central DC-9; Air Traffic Control involvement and the Safety Board's special investigation.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1380-78 Filed 6-29-78; 3:55 pm]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

WEDNESDAY, JULY 5, 9:30 A.M.

1. Discussion of PG&E petition re Trojan (approximately 1½ hours—public meeting).
2. Discussion of safeguards upgrade rule (approximately 1 hour—public meeting).

WEDNESDAY, JULY 5, 1:30 P.M.

1. Discussion of standardization of nuclear powerplants (approximately 1 hour—public meeting).
2. Discussion of resource requirements (approximately 1 hour—public meeting).
3. Affirmation items (approximately 5 minutes—public meeting):
   a. Prop. amendments to 10 CFR 30, 40 and 70.
   b. Approval Under Sec. 145b for Employment.
   c. Proposed amendment to 10 CFR 73.55 Physical "Pat Down" Search.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 28, 1978.

[S-1371-78 Filed 6-29-78; 11:29 am]

[7590-01]

9

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 27641.

TIME AND DATE: June 28 and 29, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed (Changes).

MATTERS TO BE CONSIDERED:

WEDNESDAY, JUNE 28, 1:30 P.M.

1. The meeting titled Discussion of Seabrook Opinion (closed—exemption 10)—(approximately 1 hour) will be held at 4 p.m. instead of 1:30 p.m.
2. The meeting titled Discussion of Personnel Matter (closed—exemption 6)—(approximately 1 hour) is canceled.
3. The meeting titled Discussion of OIA/OGC Inquiry in Testimony of the Executive Director for Operations (closed—exemption 1)—(approximately 1 hour) is canceled.

THURSDAY, JUNE 29, 9:30 A.M.

1. the meeting titled Discussion of Seabrook Opinion (closed—exemption 10)—(approximately 2 hours) will be held at 11 a.m. and 4 p.m.

THURSDAY, JUNE 29, 2:30 P.M.

2. All meetings previously scheduled for the afternoon have been postponed to a later date.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 28, 1978.

[S-1372-78; Filed 6-29-78; 11:29 am]

[7600-01]

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., July 6, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: June 29, 1978.

[S-1375-78 Filed 6-29-78; 11:51 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 27642, June 26, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

TIME AND DATE PREVIOUSLY ANNOUNCED: June 29, 1978, 2:30 p.m.

CHANGES IN THE MEETING: Additional items to be considered.

The following additional items will be considered by the Commission at the open meeting scheduled for Thursday, june 29, 1978, at 2:30 p.m.:

1. Consideration of a Freedom of Information Act appeal filed by Mark C. Cohen for a review of the denial by the Commission's Freedom of Information Act Officer concerning confidential commercial and financial information relating to transfer agents.
2. Consideration of an application filed by the Media Investment Co. and the E. W. Scripps Co. for an exemptive order under provisions of the Investment Company Act of 1940, respecting a proposed merger of companies.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

JUNE 28, 1978.

[S-1369-78 Filed 6-29-78; 11:29 am]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 27642, June 26, 1978.

STATUS: Open meeting; closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: Thursday, June 29, 1978, 2:30 p.m.

The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, June 29, 1978, at 2:30 p.m.:

Proposed transmittal of comments to Senator William Proxmire concerning S. 2339, the Municipal Securities Full Disclosure Act of 1977.

The following additional items will be considered by the Commission at a closed meeting scheduled for Thursday, June 29, 1978, immediately following the open meeting, at 2:30 p.m.:

Freedom of Information Act appeals.
Regulatory matters bearing enforcement implications.
Consideration of amicus participation.
Other litigation matters.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these items and that no earlier notice thereof was possible.

JUNE, 27, 1978.

[S-1370-78 Filed 6-29-78; 11:29 am]

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[7590-01]

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 6, 1978.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

THURSDAY, JULY 6

10 a.m.

1. Discussion of Personnel Matter (Approx. 15 minutes) (Closed—Exemption 6).

2. Discussion of OIA/OGC Inquiry in Testimony of the Executive Director, for Operations (Approx. 2 hours) (Closed—Exemption 1).

1:30 p.m.

1. Discussion of Health and Safety Considerations in NRC Reactor Export Licensing & Nuclear Assistance Program (Approx. 1½ hours) (Public meeting).

ADDITIONAL INFORMATION:

1. The Meeting titled Discussion of Resource Requirements (Approx. 1 hour) (Public meeting) scheduled for 2:30 p.m. Wednesday, July 5, has been postponed.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 29, 1978.

[S-1381-78 Filed 6-30-78; 10:39 am]

federal register

MONDAY, JULY 3, 1978
PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

LAND SNAILS

Endangered or Threatened Species

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination That Seven Eastern U.S. Land Snails are Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines two Eastern U.S. land snails to be endangered species and five Eastern U.S. land snails to be threatened species. This action is being taken because of the threats of habitat modification and overcollecting. This rule provides additional protection necessary for these species. Each species of snail occurs in a single State. The States are Florida, Iowa, New York, North Carolina, Tennessee, Virginia, and West Virginia.

DATES: This rulemaking will become effective on August 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1976, the Service published a proposed rulemaking in the Federal Register (41 FR 17742-17747) advising that sufficient evidence was on file to support proposing a determination that 11 snail species were endangered or threatened species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq. That proposal summarized the factors thought to be contributing to the likelihood that each species could become extinct immediately or within the foreseeable future, specified the prohibitions which would be applicable to each species if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person.

Summary of Comments and Recommendations

Section 4(b)(1)(A) of the act requires that the Governor of each State within which a resident species of wildlife is known to occur, be notified and provided 90 days to comment before any such species is determined to be a threatened or an endangered species. Letters were sent to the Governors of nine States on May 20, 1976, notifying them of the proposed rulemaking and requesting comments. On this same date, letters were sent to other interested parties. The April 28, 1976, proposed rulemaking which appeared in the Federal Register (41 FR 17742-17747) constituted the beginning of the official 60-day public comment period which expired on June 28, 1976. However, comments received until November 30, 1977 were included. Section 4(b)(1)(C) of the act requires that a "* * * summary of all comments and recommendations received * * *" be published in the Federal Register prior to adding any species to the list of endangered and threatened wildlife.

The Service received the following comments: Harold S. Feinberg, American Museum of Natural History, New York; F. Wayne Grimm, National Museum of Natural Sciences, Vanier, Ontario, Canada; Leslie Hubricht, Meridian, Mississippi; and G. Alan Solem, Chicago Field Museum of Natural History. All are recognized eastern land snail experts, and all expressed support for listing the seven land snails in this rulemaking.

Letters of general support were received from the Environmental Defense Fund and from two private citizens. Responses from the States and specific comments are as follows:

Painted snake coiled forest snail (*Anguispira picta*)—the Tennessee Wildlife Resources Agency favors listing this species as endangered for the reasons stated in the proposal: Restricted range and lumbering activities. Hubricht and Solem support listing. Solem believes that *Anguispira picta* lives in a thin habitat and could be "wiped out" by avid collectors.

Iowa Pleistocene snail (*Discus macclintocki*)—Grimm, Hubricht, and Solem support listing. Grimm had no additional observations or recommendations beyond those he submitted in 1972 which were incorporated in the proposal. Solem believes that *Discus macclintocki* lives in a thin habitat and could be "wiped out" by avid collectors.

Noonday snail (*Mesodon Clarki nantahala*)—this species is restricted to Blowing Spring and Handpole Brook in Nantahala Gorge. The gorge, which is very narrow and deep, receives sunlight for only short daily periods. "Nantahala" is a Cherokee word meaning noonday, an allusion to the late rising of the sun over the gorge. Consequently, North Carolina has changed this species' name to noonday on their State list of threatened species; we accept the name change. On August 18, 1976, at the request of the State of North Carolina, Dr. Marc Imlay, of the Fish and Wildlife Service's Office of Endangered Species, joined a habitat inspection trip with ten representatives of the State Wildlife Resources Commission, the North Carolina Department of Transportation, and the North Carolina State Museum. On this trip seven recently dead shells of *Mesodon clarki nantahala* were found where they had been previously reported; they were not found elsewhere. *Mesodon clarki nantahala* was found in several other localities in the gorge. It was generally agreed among the 11 participants that if the highway were widened, as proposed, all or most of the known and potential habitat of the subspecies would be destroyed. The State of Georgia commented that *Mesodon clarki nantahala* was endangered rather than threatened because of the proposed highway project (U.S. 19). However, the service recognizes that the project is still in the proposal stage. The snail is threatened at this time. The U.S. Forest Service recommends that the listing of the noonday snail (*Mesodon clarki nantahala*) "be deferred pending a systematic search by trained technicians to ascertain if the true range of the species is not in fact larger than stated." The only evidence presented was that it "occurs in habitats representative of land forms which are locally quite extensive." Hubricht and Solem support listing. Solem believes that the *Mesodon clarki nantahala* population could not be dented by collectors but could be destroyed by highway widening.

Stock Island tree snail (*Orthalicus reses*)—the Florida Game and Fresh Water Fish Commission favors listing, since intensive development has reduced the range to Stock Island. Hubricht and Solem support listing. Solem believes that collecting or expansion of tourist facilities could have drastic effects.

Virginia fringed mountain snail (*Polygyriscus virginianus*)—Grimm, Hubricht, and Solem support listing. Grimm and Solem reiterated their originally submitted evidence that was incorporated in the proposal. The Department of Transportation, Federal Highway Administration, commented on provisions which had been made in regard to maintenance of a specific FHA project to avoid impacting this species.

Chittenango ovate amber snail (New York Population of *Succinea chittenangoensis*)—the State of New York inspected the site of this snail and supported its listing. Dr. Arthur Clarke, U.S. National Museum, documented the presence of pollution. Grimm and Hubricht support listing. Solem does not believe collectors pose a threat whereas Grimm does. Hubricht and others explain the decline in the snail

population as likely a result of snails in the untrampled areas moving into the trampled areas.

Pilsbry (1948), regarded *chittenangoensis* to be a subspecies of *Succinea ovalis;* we hesitate to follow this taxonomy since *chittenangoensis* and *ovalis* may occur sympatrically. Leslie Hubricht (1972), Arthur Clarke (letter), and Wayne Grimm (letters) considered *chittenangoensis* to be a full species of *Succinea;* Solem (1976), regarded it as only a form of *Succinea ovalis.* Solem states that the shell difference exhibited by *chittenangoensis* could be the result of a simple dominant gene change, but that the extent to which this shell difference is linked to physiological and/or biochemical changes that aid adaptation to the unusual environment is not known and should be investigated. Until such an investigation is completed, we follow in this rulemaking the suggestions of Hubricht, Clarke, and Grimm that *chittenangoensis* is a full species of *Succinea.*

Grimm, Clarke, and Hubricht continue to support the specific use of *chittenangoensis* at this time. Grimm and Hubricht believe *Succinea chittenangoensis* to be the direct descendant of *Succinea pleistocenica,* F.C. Baker, 1927, a fossil snail of Illinois and southern Ontario. New evidence indicating that *Succinea chittenangoensis* may indeed be a Pleistocene relic is the recent discovery of a snail population on the North Carolina-Tennessee border that has been identified by Leslie Hubricht as *chittenangoensis.* The Service is investigating the status of this population. The New York population is listed as threatened at this time. A decision about the species as a whole will be made upon completion of the study.

Flat-spired three-toothed snail (*Triodopsis platysayoides*)—Grimm, Hubricht, and Solem support listing. Grimm and Solem reiterated their originally submitted evidence that was incorporated in the proposal. In addition, Grimm believes that "Smoking by persons standing on top of the caprock and throwing cigarettes into the leaves provides a serious hazard to the snail."

Four other snail species were proposed for listing in the same proposed rulemaking as the above seven. Comments on them are as follows: Jones' middle-toothed land snail (*Mesodon jonesianus*)—Tennessee provided additional information on *Mesodon jonesianus.* It probably occurs on both sides of the State line at Newfound Gap in both Tennessee and North Carolina, but is restricted to the older forest. Its existence in Tennessee and North Carolina in the older damp birch, beech, maple, and hemlock was confirmed by Wayne Grimm but he believes the size of the population is unknown. The National Park Service, in a letter to the State of Tennessee, supported the listing of *Mesodon jonesianus* as endangered because of the restricted habitat and because wild boars are disturbing and uprooting "areas of the forest floor in the vicinity of Newfound Gap and are known to eat snails." Hubricht and Solem support listing. Solem stated that expansion of tourist facilities could have drastic effects on the species and that the species could be "wiped out" by avid collectors. The Service believes that the range of the species needs to be more precisely determined before the effects of wild boars, collectors, or facilities can be evaluated.

Magazine Mountain snail (*Mesodon magazinensis*)—Solem supports listing because of the threat of expansion of tourist facilities. Hubricht indicated that the species is probably not as rare as indicated, although limited to Magazine Mountain. He suggests that the snail can probably be found over the whole north side of the mountain. The Service believes that the range of the species needs to be more precisely determined before the effects of tourist facility expansion can be evaluated.

Strange many-whorled land snail (*Polygyra peregrina*)—Hubricht presented evidence which showed that the range of the strange many-whorled land snail, *Polygyra peregrina,* is sufficiently widespread so that it is not endangered or threatened. The Forest Service recommended that classification of this species be deferred pending a systematic search by trained technicians to ascertain if its true range is not, in fact, larger than stated. The Service agrees.

Pilsbry's narrow apertured land snail (*Stenotrema pilsbryi*)—the U.S. Forest Service recommended that the listing of *Stenotrema pilsbryi* "be deferred pending a systematic search by trained technicians to ascertain if the true range of the species is not, in fact, larger than stated." The only evidence presented was that it "occurs in habitats representative of land forms which are locally quite extensive." However, the Service agrees that the range needs to be better determined. Hubricht supports listing the species. Oklahoma wrote that it had not information on this species.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that seven Eastern U.S. snails are in danger of extinction (endangered) or are likely to become so (threatened) throughout all or a significant portion of their range due to one or more of the factors described in section 4(a) of the act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (41 FR 17742-17747). Those factors are as follows:

1. *The present or threatened destruction, modification or curtailment of its habitat or range.* Painted snake coiled forest snail, *Anguispira picta,* threatened—discovered in 1906 in Buck Creek Cove, south of Sherwood, Franklin County, Tenn., it has never been found elsewhere although it has been extensively searched for by several competent malacologists. The area is subject to periodic lumbering; this species is not found in habitats no longer having good cover and cannot survive such lumbering activities. It is listed as threatened rather than endangered because the logging threats have not been demonstrated to be imminent.

Iowa Pleistocene snail, *Discus macclintocki,* endangered—this is a relic of preglacial times; it was once widespread but is now known only from a cave in Bixby State Park, Clayton County, Iowa. The park has been turned over to the county for management. The snail's survival in a nonglaciated driftless area within the boundaries of the last four glaciations is so unique that the species was first described and had long been known only as a fossil.

General threats in the driftless area include the spraying of 2,4,5-T, a defoliant. This spraying is being done to convert forest and brushland into pasture for livestock. The existence of this species depends upon its requirement for a "fossil" climate at the mouth of the cave where temperature and humidity are relatively constant. If the talus is undisturbed this will be an effective reservoir, but the talus habitat appears thin. An ardent collector in the process of turning over the rocks, could destroy it, and thereby the species, in one afternoon. A new footpath cuts through the habitat and the park is heavily vandalized. Probably fewer than 100 live individuals exist.

Noonday land snail, *Mesodon clarki nantahala,* threatened—this subspecies is restricted to the Blowing Spring area of Nantahala Gorge and Handpole Brook in Swain County, N.C. Widening of U.S. 19 to four lanes, as is now proposed, could destroy most of the known colonies of this subspecies.

Stock Island tree snail, *Orthalicus reses,* threatened—once known from Key West, other lower Keys, Key Vaca, and Stock Island, it has been extirpated from all but the latter. It was extirpated on Key West by real estate development and requires the retention of some natural habitats on Stock Island, where it is similarly threatened, for its continued existence. It may be threatened by overgrazing of livestock.

Virginia fringed mountain snail, *Polygyriscus virginianus,* endangered—

known only from a small area of a single river bluff opposite Radford in Pulaski County, Va., there are only a few hundred individuals at most in existence, and their continued existence is jeopardized by the destruction of rockslide habitat from quarrying and anticipated road construction. The population of Radford increased 24 percent from 1960 to 1970. The Virginia fringed mountain snail is the only species in its genus. Thus the genus is endangered and loss of the Virginia fringed mountain snail would detract greatly from living diversity.

Chittenango ovate amber snail, New York population of *Succinea chittenangoensis*, threatened—restricted to the spray zone talus and rocks under Chittenango Falls, Madison County, N.Y., this population requires cool to cold air circulating through the talus area.

This snail was common in 1905, rare in 1965, and very rare in 1974. It occupies a total area of less than 200 square feet. There has been a drastic decrease in populations of other mollusks downstream and this species is believed to have declined because of pollution in the spray. An estimated 60 percent of the habitat is trampled by park visitors. The snail is listed as threatened, although it was proposed as endangered, because it is not likely to become extinct in the foreseeable future.

Flat spired three-toothed land snail, *Triodopsis platysayoides*, threatened—this species is restricted to isolated patches of deep undisturbed litter and sheltered retreats among rocks in a small area of less than one-quarter square mile on the summit of Copper's Rock, Monongalia County, W. Va. In dry seasons the snails retreat in among the huge, scattered, and split boulders just below the summit.

The entire one-quarter square mile area is regularly and frequently visited by the public. A concession stand is at the top of the rock with moderately extensive parking available. There are about, 300 to 500 living individuals. The species is threatened because trampling of the foraging litter is reducing the available food space niche for this highly restricted species. Although proposed as endangered the snail is determined to be threatened because of the protection received by virtue of being in a state park.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The Virginia fringed mountain snail and the Iowa Pleistocene snail, could be made extinct by one or two collections; the painted snake coiled forest snail and the Stock Island tree snail are threatened by overcollecting.

3. *Disease or predation.* The Iowa Pleistocene snail is threatened by predation by beetles; the Chittenango ovate amber snail is seriously threatened by predation by the introduced and now established European snails, *Discus rotundatus* and *Oxychilus*.

4. *The inadequacy of existing regulatory mechanisms.* No specific regulatory mechanisms adequate to protect these species from overcollecting, or other human pressure presently exist.

5. *Other natural or manmade factors affecting its continued existence.* Not known to be applicable to any of the seven above-named species.

In summary, two Eastern U.S. land snails are endangered because they are in immediate danger of extinction throughout their range: Iowa Pleistocene snail (*Discus macclintocki*); and the Virginia fringed mountain snail (*Polygyriscus virginianus*).

The other five species are threatened because they are likely to become endangered in the foreseeable future over most of their range; painted snake coiled forest snail (*Anguispira picta*), noonday snail (*Mesodon clarki nantahala*); Stock Island tree snail (*Orthalicus reses*); Chittenango ovate amber snail (New York population of *Succinea chittenangoensis*), and the flat-spired three-toothed land snail (*Triodopsis platysayoides*).

Jones' middle-toothed land snail (*Mesodon jonesianus*), Magazine Mountain snail (*Mesodon magazinensis*), Pilsbry's narrow-apertured land snail (*Stenotrema pilsbryi*), although not finally determined at this time, remain proposed until such time as their distribution and numbers, and the threats are more precisely identified so as to allow a more accurate determination.

Strange many-whorled land snail, *Polygyra peregrina:* This snail is determined to be neither endangered or threatened and should no longer be considered a candidate for determination unless more widespread threat to its survival is demonstrated.

Effect of the Rulemaking

Section 7 of the act (16 U.S.C. 1536) provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the asistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Final Regulations for interagency cooperation were published in 50 CFR Part 402 on January 4, 1978, in the Federal Register (43 FR 870-876) to assist Federal agencies in complying with section 7 of the act.

Although no critical habitat has yet been determined for these species, the other provisions of section 7 are applicable.

Endangered species regulations already published in title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to endangered and threatened species, are found at §§ 17.21 and 17.31 of title 50 and are summarized below.

With respect to these species all prohibitions of section 9(a)(1) of the act, as implemented by 50 CFR Part 17.21, would apply. These prohibitions, in part would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce these species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available from the Service for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

In addition to the protection provided by the act, the Service will review these species to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix(ices) to that Convention or whether they should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action

as it involves these species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1960.

The primary authors of this final rulemaking are Marc J. Imlay, Ph. D and Clare Senecal, Office of Endangered Species, 202-343-7814.

Accordingly, part 17 of chapter I of title 50 of the Code of Federal Regulations is amended by adding alphabetically under "Snails" the following to the list of endangered and threatened wildlife in § 17.11:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
*	*	*	*	*			*
Snails:							
Snail, painted snake coiled forest	*Anguispira picta*	NA	U.S.A. (Tennessee)	Entire	T	41	NA
Snail, Iowa Pleistocene	*Discus macclintocki*	NA	U.S.A. (Iowa)	do	E	41	NA
Snail, noonday	*Mesodon clarki nanthahala*	NA	U.S.A. (North Carolina)	do	T	41	NA
Snail, Stock Island tree	*Orthalicus reses*	NA	U.S.A. (Florida)	do	T	41	NA
Snail, Virginia fringed mountain	*Polygyriscus virginianus*	NA	U.S.A. (Virginia)	do	E	41	NA
Snail, Chittenango ovate amber	*Succinea chittenangoensis New York*		U.S.A. (New York)	do	T	41	NA
Snail, flat-spired three-toothed	*Triodopsis platysayoides*	NA	U.S.A. (West Virginia)	do	T	41	NA

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated June 26, 1978.

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

[FR Doc. 78-18304 Filed 6-30-78; 8:45 am]

Federal Register

MONDAY, JULY 3, 1978
PART III

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Rulemaking

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants

Proposed Endangered or Threatened Status or Critical Habitat for 10 Butterflies or Moths

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine 10 U.S. butterflies or moths to be endangered species or threatened species and to identify critical habitat. This action is being taken because of their decreased population levels and anticipated adverse modification of their habitat. The proposed action, if finalized, would protect the populations of these butterflies and moths and their habitat. The butterflies and moths are known to occur in Arizona, California, Colorado, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, and Wisconsin.

DATES: Comments from the public must be received by September 1, 1978. Comments from the Governors of the States involved with this action must be received by October 1, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 20, 1975, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (40 FR 12691) to the effect that a review of 42 butterflies was being conducted. The Dakota skipper butterfly (*Hesperia dacotae*), Great Basin silverspot butterfly (*Speyeria nokomis nokomis*), Oregon silverspot butterfly (*Speyeria zerene hippolyta*), and Karner blue butterfly (*Lycaeides melissa samuelis*) were included as part of the review. As a result of the notice of review, responses were received from the Iowa Department of Agriculture; Office of the Governor, State of Utah; Department of Entomology, Oregon State University; and New York State Department of Environmental Conservation. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

The Iowa Department of Agriculture acknowledged that the Dakota skipper butterfly has always been uncommon in the State of Iowa. It has been reported from three Iowa counties, Woodstock, Powershiek, and Dickinson, with the most recent siteing in Dickinson County in 1974. That Department did not feel that there was enough information to support a classification of endangered or threatened.

The Governor of Utah's response on the Great Basin silverspot butterfly was that the State would protect the species by action of the Wildlife board and suggested that the species be included on appendix III of the Convention on International Trade. It was urged that no further action be taken until a complete survey and habitat inventory had been taken.

The Oregon State University's, Department of Entomology response on the Oregon silverspot recommended that efforts be initiated to preserve the needed habitat. Habitat preservation may be more feasible than species preservation.

The New York State Department of Environmental Conservation acknowledged that the Karner blue butterfly may warrant endangered status, as much of the essential habitat has been eliminated by suburban, commercial, and industrial development.

Petitions requesting addition to the U.S. list of endangered and threatened wildlife and plants were received by the U.S. Fish and Wildlife Service for two species, the Kern primrose sphinx moth and Karner blue butterfly. Dr. Paul Tuskes, University of California at Davis, submitted the petition for the Kern primrose sphinx moth. Mr. Don Rittner, Pine Bush Historic Preservation Project, submitted the petition for the Karner blue butterfly.

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) states:

"General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to these species of butterflies and moths, are as follows:

SAN FRANCISCO TREE LUPINE MOTH

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species was originally discovered in the San Francisco dune system in the 1880's. It had been thought extinct since 1960 but a few small colonies were rediscovered in 1977. It is currently found in three small colonies: (a) Southeast of Baker Beach, San Francisco County; (b) southern margin of Lake Merced, San Francisco County, and (c) base of Guadalupe Canyon. Since the settlement and urbanization of the San Francisco sand dune ecosystem, only small elements of the original community remain. Any development in these three areas could destroy the remaining population.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or man-made factores affecting its continued existence.* None.

KERN PRIMROSE SPHINX MOTH

(1) *The present or threatened destruction, modification, or curtailment of it habitat or range.* This species had been thought extinct but was rediscovered in 1975. It was rediscovered in Walker Basin, Calif., an area between the Greenhorn and Piute Mountains. The habitat occupies an area of 4,000 square yards; three/fourths of the colony is located in a cultivated barley field on a cattle ranch. The present management of the barley field does not seem to be a threat to the species or its larval food plant, a primrose. If the management of the field is changed, the primrose, and thus this species, may be affected.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Since this species is so limited, overcollecting may be a threat.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State of Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

DAKOTA SKIPPER BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species originally occurred from southern Manitoba, Canada, south through North Dakota, South Dakota, Minnesota, Iowa, and Illinois. It now is apprarently extirpated from Manitoba and Illinois, while its occurrence in the remainder of its range is reduced. This species is found in virgin prairie areas. Conversion of virgin prairie to alternate human-related land uses has drastically reduced the available habitat. Some of these human-related land uses include agriculture, urbanization, quarry operation, highway construction, weed control, and inundation from dam construction.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

PAWNEE MONTANE SKIPPER BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The only known population of this species occurs in a 12-mile section of canyon bottom of the South Platte River in Douglas and Jefferson Counties, Colo. The Two Forks Dam, one of the alternatives of the Foothills Project, would inundate all but the upper three miles of the species range, where only a few small colonies occur.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CALLIPPE SILVERSPOT BUTTERLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is found in the northern coastal scrub complex in California. It is known to have occurred only in San Francisco, San Bruno Mountains, Oakland Hills, and northeast Ballejo. It no longer exists in San Francisco because of urbanization and development pressure. Conversion of habitat to other uses has reduced the habitat available to this species. A large part of the San Bruno area is proposed for homesite and commercial development.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

GREAT BASIN SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is restricted to isolated seeps and springs in the Colorado Plateau and Great Basin. This species needs an abundant and constant supply of water to form a marshy meadow where the larval food plant, violets, grow. This species is known to occur on a one-acre site in Unaweep Canyon, Mesa County, Colorado, and in Paradox Valley, Montrose County, Colorado. A few scattered colonies may extend into Utah. The main threat facing this species is the conflict between the violet's need for moist habitat and man's growing water needs. Farming and irrigation practices, construction, haying and grazing affect the continued existence of this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

BLUE-BLACK SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is restricted to isolated seeps and springs in the Colorado Plateau and Great Basin. They typically occur in spring-fed meadows or spring-fed hillside seeps where the larval food plant, violets, grow. It occurs in the Rio Grande Valley in southern Conejos County, Colo., southward into New Mexico, where it may be extinct. It is extinct from its type locality-Sapello Canyon, San Miguel County, N. Mex. A colony has been found near Tsaile Creek, eight miles north of Wheatfields Lake, Ariz. Man's growing need for water is reducing the habitat available to this species. Other man-related activities that are affecting this species are farming and irrigation, construction of roads, haying, and grazing.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

OREGON SILVERSPOT BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is found only in the salt spray meadows along the extreme edge of the Pacific Coast. It has been reported from one site in Washington and seven sites in Oregon. It is now apparently extinct from four of these sites, weak colonies exist at two sites, and healthy colonies exist at the remaining two sites. The currently healthy colonies exist at Tenmile Creek, Lane County, Oregon, and Rock Creek to Big Creek, Lane County, Oregon. The Tenmile Creek site is privately owned and is apparently destined to become a site for condominiums. Real estate development is rapidly decreasing the available salt spray meadows.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

KARNER BLUE BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species has local, scattered populations occurring in an east-west belt running from Minnesota and Wisconsin through Michigan, Indiana, Illinois,

Ohio, Pennsylvania, Ontario, and New York to New Hampshire and Massachusetts. The records from Massachusetts, New Hampshire, Ohio, northern Illinois, and Ontario are old records. This species has been reported in four Pennsylvania counties, three north Indiana locations, and a few localities in Michigan since 1960. A small isolated colony (100x100 ft. area) was reported near Hessville, Ind., just outside Chicago. Several were found at the Indiana Dunes State Park. A small colony was reported in Anoka County, Minn., in 1975. The largest known population now occurs in the Albany Pine Bush region, a pine barrens community between Albany and Schenectady. A population is present on the Tpmawamda Indian Reservation, Genessee County, N.Y. Several populations have been found in the Hudson Valley Sand Belt, Warren and Saratoga Counties. Throughout its range, it is very local. It is closely associated with fire climax vegetation known as the "pine barrens." This is the type of habitat in which wild blue lupine, its larval food plant, exists. Extinction of populations has occurred in the vicinity of large urban centers such as Chicago and New York City. Urbanization, with its resultant destruction of habitat, is seriously affecting the continued existence of this species. Land management practices which suppress natural fire change the character of the habitat, making it unsuitable for wild blue lupine.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* This species is currently protected by the Sate of New York.

(5) *Other natural or manmade factors affecting its continued existence.* None.

PALOS VERDES BLUE BUTTERFLY

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is exclusively peninsular, being restricted to the cool, fog-shrouded side of Palos Verdes Hills. The only presently known population occupies several acrea near the intersection of Los Verdes Drive and Hawthorne Boulevard. Accelerated residential and commercial development on the Palos Verdes Peninsula is threatening the continued existence of this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876 to be codified at 50 CFR Part 402) and is reprinted below.

"Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constitutent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation effects Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above definition, or how to best legally delineate this habitat, but any resultant destination must correspond with the bets available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should and can more conveniently be dealt with after critical habitat has been designated. Provisions for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876 to be codified at 50 CFR 402) to assist Federal agencies in complying with their responsibilities under section 7 of the Endangered Species Act.

As specified in the regulations for interagency cooperation, the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of listed species in determining what areas or parts of habitats are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

These requirements and their application to the species of moths and butterflies for which critical habitat is being proposed within this rulemaking are as follows.

SAN FRANCISCO TREE LUPINE MOTH

This species was originally described from the San Francisco sand dune system. The larval host plant of this species, *Lupine arboreus*, occurs on sandy soils along the coastline from Del Norte County south to Ventura County. In the original San Francisco sand dune ecosystem, the host plant probably occurred in a fairly broad band between the ocean dunes and the western base of the hills extending from the Golden Gate Bridge southward to Pacifica. Since the urbanization of the San Francisco sand dune ecosystem, only small elements of the original community now remain. The areas proposed as critical habitat represent two of the last three known populations of this species. These sites provide all the requirements needed for the continued existence of this species.

DAKOTA SKIPPER BUTTERFLY

This species originally occurred in virgin tall-grass prairies from southern Manitoba, south through North Dakota, South Dakota, Minnesota, Iowa, and Illinois. It is now extirpated from Manitoba and Illinois and reduced in the remainder of its range. They feed on particular species of perennial bunchgrasses. Older larvae may feed away from the shelter; often a trail of silk leads from the shelter, which may be partly subterranean, to that part of the grass tuft most recently fed upon. Pupation usually takes place in a loose cocoon constructed amid debris, often some distance from the larval shelter. The sites proposed as critical habitat are representative of the type of habitat in which this species occurred. This species has consistently been found at these locations in the recent past.

PAWNEE MONTANE SKIPPER BUTTERFLY

The area proposed as critical habitat for this species contains the only known population of this species of butterfly. The life history of this species is not yet known but all *Hesperia*, as far as is known, feed upon particular species of perennial bunchgrasses. Older larvae may feed away from the shelter which may be partly subterranean. Pupation occurs amid debris often some distance from the larval shelter. The only known population of this butterfly occurs in a 12-mile section of canyon bottom of the South Platte River in Douglas and Jefferson Counties, Colo. This area provides all the requirements needed for the existence of this species.

CALLIPPE SILVERSPOT BUTTERFLY

This species is restricted to the San Francisco peninsula. Encroachment of the city of San Francisco has extirpated this species from its type locality. The areas proposed as critical habitat represent two of the three currently known locations for this species. The larval food plant of this species is the violet, *Viola pedunculata*. The eggs are laid among the debris and dried stems of dead perennial violets (and sometimes pansy) leaves. The newly hatched larvae hatch and immediately hibernate. They revive in late winter when the rains have moistened the dry hills and the violets put forth new growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of all *Speyeria* is strong and rapid. Males and females may not fly together and may keep to different areas. The areas proposed as critical habitat for this species are representative of its habitat and provide the requirements for its continued existence.

GREAT BASIN SILVERSIDE BUTTERFLY

This species is restricted to seeps and spring areas in the Colorado Plateau and Great Basin. An abundant and constant source of water forms a marshy meadow containing sedge grass, scrub willows, thistles, burdock, and violets, the larval food source. Sufficient water to support an abundant supply of violets is essential for this species. Burdock and thistles, the adult nectar source, must also be present. Eggs are laid among the debris and dried stems of dead perennial violet leaves. The newly hatched larvae eat out of the eggshell and hibernate immediately. They break diapause in the later winter or early summer when the rains renew the violet's growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of all *Speyeria* is strong and rapid. Adults visit burdock and thistle for a supply of nectar. Males and females do not necessarily fly together and may keep to different areas. The areas proposed as critical habitat for this species are representative of the type of habitat occupied by this species.

BLUE-BLACK SILVERSPOT BUTTERFLY

This species is restricted to isolated seep and spring areas. It occurs in the Rio Grande Valley in southern Colorado southward into New Mexico, where it may now be extinct. An abundant and constant supply of water is essential to support an abundant supply of the larval food source, a violet. Eggs are laid among the debris and dried stems of dead perennial violet leaves. The newly hatched larvae eat out the interior of the eggshell and immediately hibernate. They break diapause in late winter or early spring when the rains renew the violet's growth. Larval and pupal development is rapid. Adults emerge in early summer. The flight of this species is strong and rapid. Adults visit burdock and thistle for a source of nectar. Males and females may not fly together but may occupy different areas. The area near Tsaile Creek, Ariz., proposed as critical habitat for this species is typical of the habitat occupied by this butterfly and contains all the requirements needed for its continued existence.

OREGON SILVERSPOT BUTTERFLY

This species occurs only on the Pacific coast from central Oregon to extreme southwestern Washington. It favors open, sunny glades and is restricted to the salt spray meadows along the edge of the coast. These meadows contain a variety of native, salt-tolerant grasses. Eggs are laid on or as much as 1 foot downwind of the larval food plant, *Viola adunca*. Larvae hatch and overwinter without feeding. Diapause occurs on vegetation near the soil surface. Larvae break diapause and begin feeding in spring. They pupate in meadow litter. Adults of both sexes fly to various wildflowers, particularly *Aster chilensis*, to obtain nectar. Adults often shelter in Sitka spruce forest just inland from the meadows during frequent windy weather. Mating may take place among the Sitka spruce. The salt spray meadow habitat is rapidly decreasing. Only two natural salt spray meadows of appreciable size remain. These are at the mouth of Tenmile Creek, Lane County, Oreg., and at Rock Creek and Big Creek, Lane County, Oreg. The proposed critical habitat areas include these two salt spray meadows, the two strongest remaining populations of this species. These areas are representative of the habitat required for this species and contain all the needed life requirements.

KARNER BLUE BUTTERFLY

This species is very local and scattered throughout its range. The area proposed as critical habitat for this species represents the best known and most widely studied population of this species. This species is found in the fire climax vegetation known as the "pine barrens." This assemblage is dominated by pitch pine and scrub oak. These species have an open enough canopy to allow sufficient light penetration to support wild blue lupine, *Lupinus perennis*, the larval food source. Two generations of Karner blue butterflies are produced yearly. The cycle begins in late May and early June when first brood butterflies appear. Eggs are deposited on lupine leaves. Larvae appear and begin to eat the leaves. The larvae have a characteristic habit of eating all but the upper epidermis, leaving translucent windows in the leaves. The naked chrysalis hangs in a sheltered place on the stem or twig. Adults emerge within 10 days. This second generation appears in late July and early August. The second generation females deposit eggs on dried seed pods of the lupine. These eggs diapause through the winter, producing caterpillars the following April when new lupine shoots are appearing. These caterpillars grow and pupate in time to produce adults in late May to early June. The area proposed as critical habitat for this species represents the type locality of the Karner blue and is well representative of the pine barrens assemblage inhabited by this species and fulfills all the requirements for the continued existence of the species.

The areas delineated do not necessarily include the entire critical habitat of these species, and modifications of their critical habitat designations may be proposed in the future. In accordance with section 7 of the act, all Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them would not result in the destruction or

adverse modification of the critical habitats of these species.

Also, in accordance with section 7 of the act, Federal agencies would have to consult with the Secretary of the Interior with respect to any action which is considered likely to affect critical habitat. Consultation pursuant to section 7 would be carried out using the procedures contained in the "Interagency Cooperation Regulations" which were published in the FEDERAL REGISTER on January 4, 1978 (43 FR 870-876 to be codified at 50 CFR 402).

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, the effects of this rulemaking would include, but would not necessarily be limited to, those mentioned below.

The act and implementing regulations published in 50 CFR Part 17 already set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to endangered and threatened species, are found at section 17.21 and 17.31 of title 50, and are summarized below.

These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell, or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship the species if they had been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

The act and 50 CFR Part 17 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Arizona, California, Colorado, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, and Wisconsin, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspects of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to 10 butterflies or moths;

(2) The location of and reasons why any habitat of these 10 butterflies and moths should or should not be determined to be critical habitat as provided for by section 7 of the act;

(3) Additional information concerning the range and distribution of the 10 butterflies and moths.

Final promulgation of the regulations on the 10 butterflies and moths will take into consideration the comments and any additional information received by the Director, and such communications may cause him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 103(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of this proposed rulemaking are Dr. Paul A. Opler and Mrs. Lorraine K. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations, as set forth below.

1. It is proposed to amend section 17.11 by adding, in alphabetical order under "Insecta," the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion endangered	Status	When listed	Special rules
Insecta:							
Butterfly, blue-black silverspot	*Speyeria nokomis nigrocaerulea*	NA	U.S.A. (Arizona, Colorado, New Mexico).	Entire	T		NA
Butterfly, Callippe silverspot	*Speyeria callippe callippe*	NA	U.S.A. (California)	do	E		NA
Butterfly, Dakota skipper	*Hesperia dacotae*	NA	U.S.A. (Illinois, Iowa, Minnesota, North Dakota, South Dakota).	do	T		NA
Butterfly, Great Basin silverspot	*Speyeria nokomis nokomis*	NA	U.S.A. (Colorado, Utah)	do	T		NA
Butterfly, karner blue	*Lycaeides melissa samuelis*	NA	U.S.A. (Illinois, Indiana, Massachusetts, Michigan, Minnesota, New Hampshire, New York, Ohio, Pennsylvania, Wisconsin).	do	T		NA
Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	NA	U.S.A. (Oregon)	do	T		NA
Butterfly, Palos Verdes blue	*Glaucopsyche lygdamus palosverdesensis.*	NA	U.S.A. (California)	do	E		NA
Butterfly, pawnee montane skipper.	*Hesperia pawnee montana*	NA	U.S.A. (Colorado)	do	E		NA
Moth, Kern primrose sphinx	*Euproserpinus euterpe*	NA	U.S.A. (California)	do	T		NA
Moth, San Francisco tree lupine	*Grapholitha edwardsiana*	NA	U.S.A. (California)	do	T		

Also, the Service proposes to amend § 17.95 by adding Critical Habitats of one moth and seven butterflies in a new subsection (i) of § 17.95 as follows:

§ 17.95 Critical habitat—fish and wildlife.

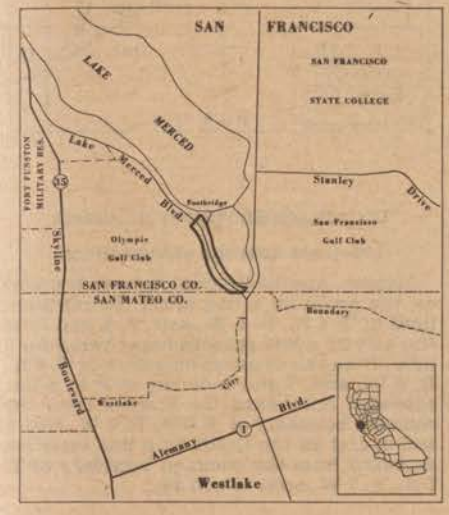
* * * * *

(i) *Insecta.*

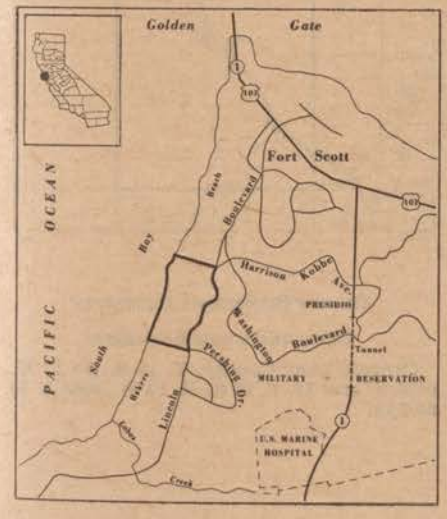
SAN FRANCISCO TREE LUPINE MOTH

(*Grapholitha edwardsiana*)

California. (1) *Lake Merced Zone.* San Francisco County. A narrow strip of land 75 yards on either side of Lake Merced Boulevard extending from the footbridge at the south end of Lake Merced southward to the San Francisco-San Mateo County line.



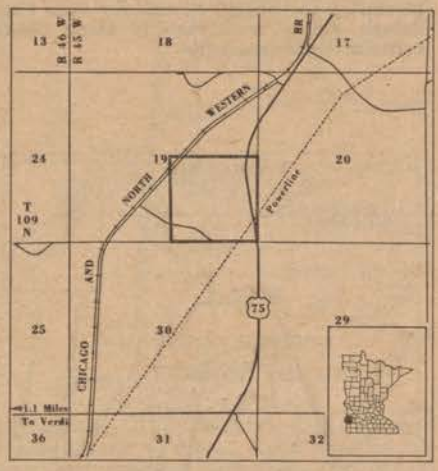
(2) *Baker Beach Zone.* San Francisco County. An area at Baker Beach bordered by the mean high water line of the Pacific Ocean on the west, Lincoln Boulevard on the east, a line extended westerly from the northernmost part of Pershing Drive on the south and a line extended westerly from the intersection of Lincoln Boulevard and Harrison Kobbe Avenue on the north.



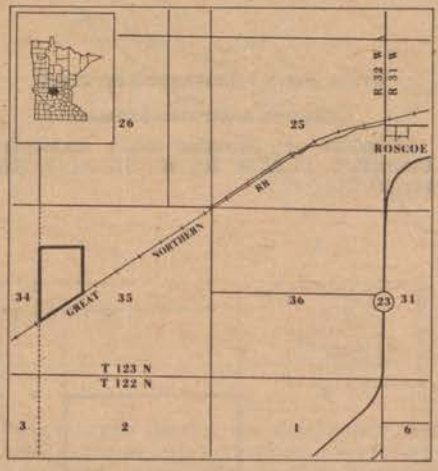
DAKOTA SKIPPER BUTTERFLY

(*Hesperia dacotae*)

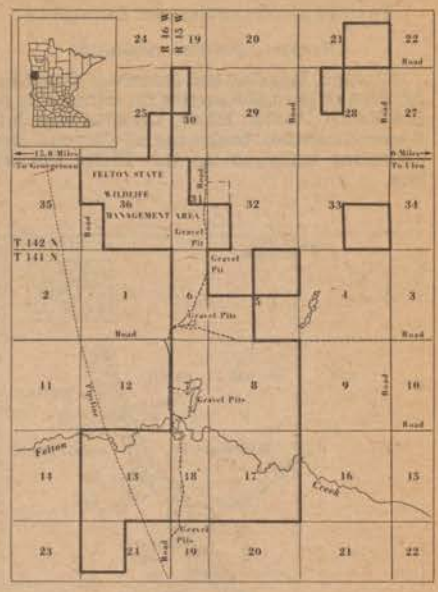
Minnesota. (1) *Lincoln County Zone.* T. 109 N., R. 45 W., S¼ Sec. 19.

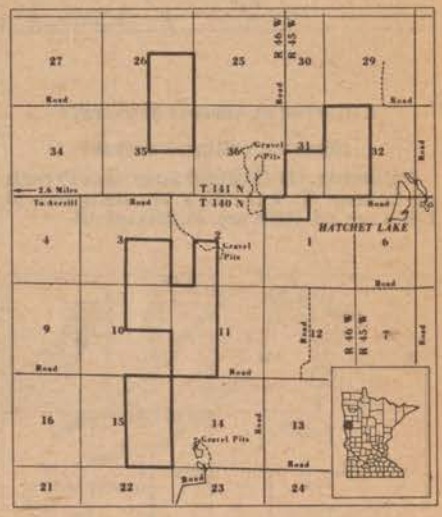


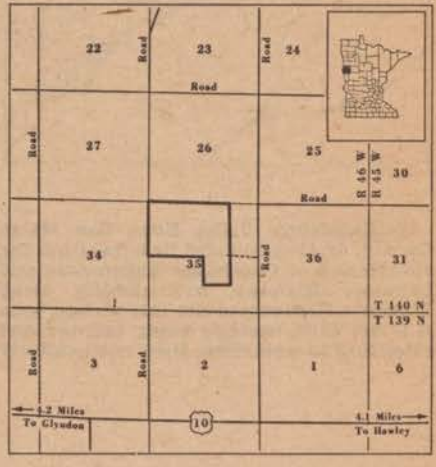
(2) *Stearns County Zone.* T. 123 N., R. 32 W., SW¼ of NW¼ of sec. 35 and that part of NW¼ of SW¼ of sec. 35 north of railroad tracks.



(3) *Clay County Zone.* R. 45 W., T. 141 N., NE¼ and SW¼ sec. 5, sec. 6, sec. 7, sec. 8, sec. 17, sec. 18, S½ sec. 31, W½ sec. 32; R. 45 W., T. 142 N., SE¼ sec. 21, E½ of NW¼ sec. 28, W½ of SW¼ sec. 32, SE¼ sec. 33, NW¼ sec. 30, NW¼ and S½ sec. 31; R. 46 W., T. 140 N., N½ of NW¼ sec. 1, E½ of SW¼ of sec. 2, SE¼ sec. 3, NE¼ sec. 10, W½ sec. 11, E½ sec. 15, NW¼ and W½ of NE¼ and NW¼ of SE¼ sec. 35; R. 46 W., T. 141 N., sec. 13, NW¼ sec. 24, SE¼ sec. 26, NE¼ sec. 35; R. 46 W., T. 142 N., E½ of SW¼ sec. 25, N½ and SE¼ and E½ of SW¼ of sec. 36.



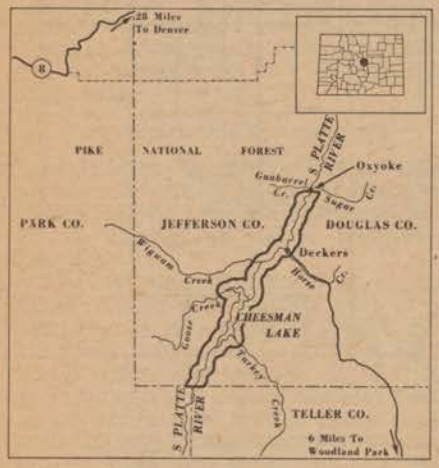




PAWNEE MONTANE SKIPPER BUTTERFLY

(*Hesperia pawnee montana*)

Colorado. Douglas and Jefferson Counties. An area of land 500 meters on either side of the South Plattee River, Douglas and Jefferson Counties, beginning at Oxyoke and extending upstream to the Teller County line.



CALLIPPEE SILVERSPOT BUTTERFLY

(*Speyeria callippe callippe*)

California. (1) *Oakland Zone.* San Francisco County. T. 1 S., R. 3 W., SE¼ sec. 27, SW¼ sec. 26, NE¼ sec. 34, N½ sec. 35.

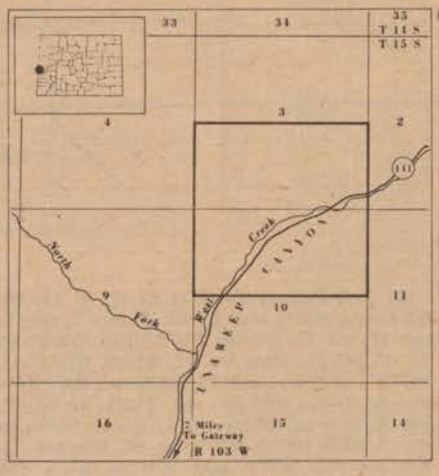
(2) *Guadalupe Valley Zone.* San Mateo County. An area bounded by a line from the intersection of Guadalupe Expressway and Bayshore Highway, southeasterly along Bayshore Highway to the intersection with railroad, then westerly along railroad and extending to powerline, then northeasterly along powerline to Guadalupe Expressway, then easterly along Guadalupe Expressway to Bayshore Highway.

(3) *San Bruno Mountain Zone.* San Mateo County. An area bounded by a line southeasterly along a three-pole powerline to the 400-ft. contour near Randolph Avenue, northwesterly along the 400-ft. contour to the two-pole powerline, northeasterly along powerline to the 300-ft. contour near Guadalupe Valley, southeasterly along 300-ft. contour to the powerline.

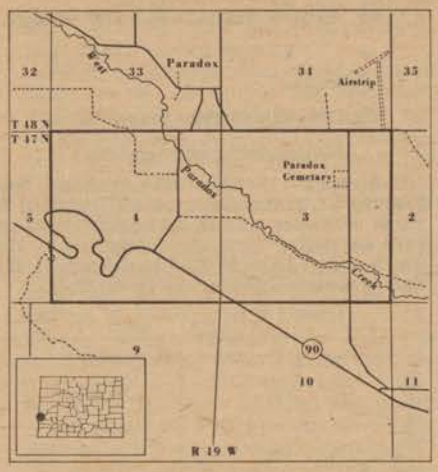
GREAT BASIN SILVERSPOT BUTTERFLY

(*Speyeria nokomis nokomis*)

Colorado. (1) *Paradox Zone.* Montrose County. T. 15 S., R. 103 W., S½ sec. 3, N½ sec. 10.



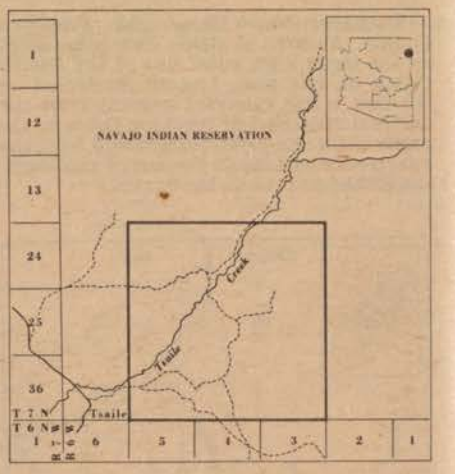
(2) *Unaweep Canyon Zone.* Meas County. T. 47 N., R. 19 W., secs. 3 and 4.



BLUE-BLACK SILVERSPOT BUTTERFLY

(*Speyeria nokomis nigrocaerulea*)

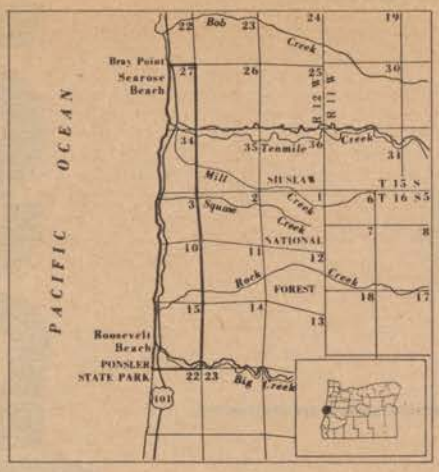
Arizona. Apache County. An area bounded on the south by a line along the northern limit of T. 6 N., R. 6 W., secs. 3, 4, and 5; on the east by a line extended northward for 3 miles from the common boundary of T. 6 N., R. 6 W., secs. 2 and 3; on the west by a line extended northward for 3 miles from the common boundary of T. 6 N., R. 6 W., secs. 5 and 6; and on the north by a line extended eastward from the common boundary of T. 7 N., R. 7 W., secs. 13 and 24.



OREGON SILVERSPOT BUTTERFLY

(*Speyeria zerene hippolyta*)

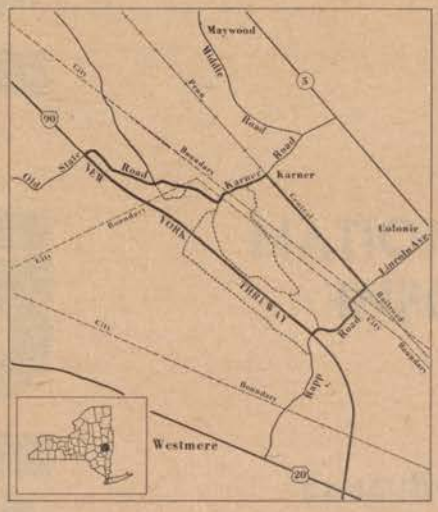
Oregon. Lane County. T. 15 S., R. 12 W., secs. 27 and 34, T. 16 S., R. 12 W., secs. 3, 10, and 15.



KARNER BLUE BUTTERFLY

(*Lycaeides melissa samuelis*)

New York. Albany County. An area bounded by the Penn Central Railroad tracks on the northeast, Rapp Road on the southeast, the New York State Thruway on the southwest, and Old State Road and Karner Road on the northwest.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 16, 1978.

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

[FR Doc. 78-18305 Filed 6-30-78; 8:45 am]

federal register

MONDAY, JULY 3, 1978
PART IV

THE PRESIDENT

■

NATIONAL SECURITY INFORMATION

Executive Order 12065 and Order Designating Certain Officials Within the Executive Office of the President To Classify Information

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presidential documents

[3195-01]

Title 3—The President

Executive Order 12065 • **June 28, 1978**

National Security Information

By the authority vested in me as President by the Constitution and laws of the United States of America, in order to balance the public's interest in access to Government information with the need to protect certain national security information from disclosure, it is hereby ordered as follows:

TABLE OF CONTENTS

SECTION 1. ORIGINAL CLASSIFICATION.

1-1. *Classification Designation.*

1-101. Except as provided in the Atomic Energy Act of 1954, as amended, this Order provides the only basis for classifying information. Information may be classified in one of the three designations listed below. If there is reasonable doubt which designation is appropriate, or whether the information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

1-102. "Top Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

1-103. "Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

1-104. "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause identifiable damage to the national security.

1-2. *Classification Authority.*

1-201. *Top Secret.* Authority for original classification of information as Top Secret may be exercised only by the President, by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, and by officials to whom such authority is delegated in accordance with Section 1-204:

The Secretary of State
The Secretary of the Treasury
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Attorney General
The Secretary of Energy
The Chairman, Nuclear Regulatory Commission
The Director, Arms Control and Disarmament Agency
The Director of Central Intelligence
The Administrator, National Aeronautics and Space Administration
The Administrator of General Services (delegable only to the Director, Federal Preparedness Agency and to the Director, Information Security Oversight Office)

1-202. *Secret.* Authority for original classification of information as Secret may be exercised only by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, by officials who have Top Secret classification authority, and by officials to whom such authority is delegated in accordance with Section 1-204:

The Secretary of Commerce
The Secretary of Transportation
The Administrator, Agency for International Development
The Director, International Communication Agency

1-203. *Confidential.* Authority for original classification of information as Confidential may be exercised only by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, by officials who have Top Secret or Secret classification authority, and by officials to whom such authority is delegated in accordance with Section 1-204:

The President and Chairman, Export-Import Bank of the United States
The President and Chief Executive Officer, Overseas Private Investment Corporation

1-204. *Limitations on Delegation of Classification Authority.*

(a) Authority for original classification of information as Top Secret may be delegated only to principal subordinate officials who have a frequent need to exercise such authority as determined by the President or by agency heads listed in Section 1-201.

(b) Authority for original classification of information as Secret may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201 and 1-202, and by officials with Top Secret classification authority.

(c) Authority for original classification of information as Confidential may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201, 1-202, and 1-203, and by officials with Top Secret classification authority.

(d) Delegated original classification authority may not be redelegated.

(e) Each delegation of original classification authority shall be in writing by name or title of position held.

(f) Delegations of original classification authority shall be held to an absolute minimum. Periodic reviews of such delegations shall be made to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

1-205. *Exceptional Cases.* When an employee or contractor of an agency that does not have original classification authority originates information believed to require classification, the information shall be protected in the manner prescribed by this Order and implementing directives. The information shall be transmitted promptly under appropriate safeguards to the agency which has appropriate subject matter interest and classification authority. That agency shall decide within 30 days whether to classify that information. If it is not clear which agency should get the information, it shall be sent to the Director of the Information Security Oversight Office established in Section 5-2 for a determination.

1-3. *Classification Requirements.*

1-301. Information may not be considered for classification unless it concerns:

(a) military plans, weapons, or operations;

(b) foreign government information;

(c) intelligence activities, sources or methods;

(d) foreign relations or foreign activities of the United States;

(e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities; or

(g) other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Section 1-201, or by an agency head.

1-302. Even though information is determined to concern one or more of the criteria in Section 1-301, it may not be classified unless an original classification authority also determines that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security.

1-303. Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

1-304. Each determination under the criterion of Section 1-301(g) shall be reported promptly to the Director of the Information Security Oversight Office.

1-4. *Duration of Classification.*

1-401. Except as permitted in Section 1-402, at the time of the original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.

1-402. Only officials with Top Secret classification authority and agency heads listed in Section 1-2 may classify information for more than six years from the date of the original classification. This authority shall be used sparingly. In such cases, a declassification date or event, or a date for review, shall be set. This date or event shall be as early as national security permits and shall be no more than twenty years after original classification, except that for foreign government information the date or event may be up to thirty years after original classification.

1-5. *Identification and Markings.*

1-501. At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

(a) the identity of the original classification authority;

(b) the office of origin;

(c) the date or event for declassification or review; and

(d) one of the three classification designations defined in Section 1-1.

1-502. Documents classified for more than six years shall also be marked with the identity of the official who authorized the prolonged classification. Such documents shall be annotated with the reason the classification is expected to remain necessary, under the requirements of Section 1-3, despite the passage of time. The reason for the prolonged classification may be stated by reference to criteria set forth in agency implementing regulations. These criteria shall explain in narrative form the reason the information needs to be protected beyond six years. If the individual who signs or otherwise authenticates a document also is authorized to classify it, no further annotation of identity is required.

1-503. Only the designations prescribed by this Order may be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" may not be used for that purpose. Terms such as "Conference" or "Agency" may not be used in conjunction with the classification designations prescribed by this Order; e.g., "Agency Confidential" or "Conference Confidential."

1-504. In order to facilitate excerpting and other uses, each classified document shall, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. The Director of the Information Security Oversight Office may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information.

1-505. Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection equivalent to that required by the entity that furnished the information.

1-506. Classified documents that contain or reveal information that is subject to special dissemination and reproduction limitations authorized by

this Order shall be marked clearly so as to place the user on notice of the restrictions.

1-6. *Prohibitions.*

1-601. Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

1-602. Basic scientific research information not clearly related to the national security may not be classified.

1-603. A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified under this Order until and unless the government acquires a proprietary interest in the product. This Order does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181-188).

1-604. References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

1-605. Classification may not be used to limit dissemination of information that is not classifiable under the provisions of this Order or to prevent or delay the public release of such information.

1-606. No document originated on or after the effective date of this Order may be classified after an agency has received a request for the document under the Freedom of Information Act or the Mandatory Review provisions of this Order (Section 3-5), unless such classification is consistent with this Order and is authorized by the agency head or deputy agency head. Documents originated before the effective date of this Order and subject to such a request may not be classified unless such classification is consistent with this Order and is authorized by the senior official designated to oversee the agency information security program or by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis.

1-607. Classification may not be restored to documents already declassified and released to the public under this Order or prior Orders.

SECTION 2. DERIVATIVE CLASSIFICATION.

2-1. *Use of Derivative Classification.*

2-101. Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

2-102. Persons who apply such derivative classification markings shall:

(a) respect original classification decisions;

(b) verify the information's current level of classification so far as practicable before applying the markings; and

(c) carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings, in accordance with Sections 2-2 and 2-301 below. A single marking may be used for documents based on multiple sources.

2-2. *Classification Guides.*

2-201. Classification guides used to direct derivative classification shall specifically identify the information to be classified. Each classification guide shall specifically indicate how the designations, time limits, markings, and other requirements of this Order are to be applied to the information.

2-202. Each such guide shall be approved personally and in writing by an agency head listed in Section 1-2 or by an official with Top Secret classification authority. Such approval constitutes an original classification decision.

2-3. *New Material.*

2-301. New material that derives its classification from information classified on or after the effective date of this Order shall be marked with the declassification date or event, or the date for review, assigned to the source information.

2-302. New material that derives its classification from information classified under prior Orders shall be treated as follows:

(a) If the source material bears a declassification date or event twenty years or less from the date of origin, that date or event shall be carried forward on the new material.

(b) If the source material bears no declassification date or event or is marked for declassification beyond twenty years, the new material shall be marked with a date for review for declassification at twenty years from the date of original classification of the source material.

(c) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond thirty years, the new material shall be marked for review for declassification at thirty years from the date of original classification of the source material.

SECTION 3. DECLASSIFICATION AND DOWNGRADING.

3-1. *Declassification Authority.*

3-101. The authority to declassify or downgrade information classified under this or prior Orders shall be exercised only as specified in Section 3-1.

3-102. Classified information may be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, by a successor, or by a supervisory official of either.

3-103. Agency heads named in Section 1-2 shall designate additional officials at the lowest practicable echelons to exercise declassification and downgrading authority.

3-104. If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

3-105. The provisions of this Order relating to declassification shall also apply to agencies which, under the terms of this Order, do not have original classification authority but which had such authority under prior Orders.

3-2. *Transferred Information.*

3-201. For classified information transferred in conjunction with a transfer of functions—not merely for storage purposes—the receiving agency shall be deemed to be the originating agency for all purposes under this Order.

3-202. For classified information not transferred in accordance with Section 3-201, but originated in an agency which has ceased to exist, each agency in possession shall be deemed to be the originating agency for all purposes under this Order. Such information may be declassified or downgraded by the agency in possession after consulting with any other agency having an interest in the subject matter.

3-203. Classified information transferred to the General Services Administration for accession into the Archives of the United States shall be declassi-

fied or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and the agency guidelines.

3–204. After the termination of a Presidential administration, the Archivist of the United States shall review and declassify or downgrade all information classified by the President, the White House Staff, committees or commissions appointed by the President, or others acting on the President's behalf. Such declassification shall only be undertaken in accordance with the provisions of Section 3–504.

3–3. *Declassification Policy.*

3–301. Declassification of classified information shall be given emphasis comparable to that accorded classification. Information classified pursuant to this and prior Orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

3–302. When information is reviewed for declassification pursuant to this Order or the Freedom of Information Act, it shall be declassified unless the declassification authority established pursuant to Section 3–1 determines that the information continues to meet the classification requirements prescribed in Section 1–3 despite the passage of time.

3–303. It is presumed that information which continues to meet the classification requirements in Section 1–3 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head, a senior agency official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under this Order, an official with Top Secret classification authority, or the Archivist of the United States in the case of material covered in Section 3–503. That official will determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure.

3–4. *Systematic Review for Declassification.*

3–401. Classified information constituting permanently valuable records of the Government, as defined by 44 U.S.C. 2103, and information in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes twenty years old. Agency heads listed in Section 1–2 and officials designated by the President pursuant to Section 1–201 of this Order may extend classification beyond twenty years, but only in accordance with Sections 3–3 and 3–402. This authority may not be delegated. When classification is extended beyond twenty years, a date no more than ten years later shall be set for declassification or for the next review. That date shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten year intervals. The Director of the Information Security Oversight Office may extend the period between subsequent reviews for specific categories of documents or information.

3–402. Within 180 days after the effective date of this Order, the agency heads listed in Section 1–2 and the heads of agencies which had original classification authority under prior orders shall, after consultation with the Archivist of the United States and review by the Information Security Oversight Office, issue and maintain guidelines for systematic review covering twenty-year old classified information under their jurisdiction. These guide-

lines shall state specific, limited categories of information which, because of their national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond twenty years is needed. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information. All information not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

3–403. Nothwithstanding Sections 3–401 and 3–402, the Secretary of Defense may establish special procedures for systematic review and declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review and declassification of classified information concerning the identities of clandestine human agents. These procedures shall be consistent, so far as practicable, with the objectives of Sections 3–401 and 3–402. Prior to implementation, they shall be reviewed and approved by the Director of the Information Security Oversight Office and, with respect to matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Disapproval of procedures by the Director of the Information Security Oversight Office may be appealed to the National Security Council. In such cases, the procedures shall not be implemented until the appeal is decided.

3–404. Foreign government information shall be exempt from automatic declassification and twenty year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty years from its date of origin. Such review shall be in accordance with the provisions of Section 3–3 and with guidelines developed by agency heads in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information.

3–405. Transition to systematic review at twenty years shall be implemented as rapidly as practicable and shall be completed no more than ten years from the effective date of this Order.

3–5. *Mandatory Review for Declassification.*

3–501. Agencies shall establish a mandatory review procedure to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information. This procedure shall apply to information classified under this Order or prior Orders. Except as provided in Section 3–503, upon such a request the information shall be reviewed for possible declassification, provided the request reasonably describes the information. Requests for declassification under this provision shall be acted upon within 60 days. After review, the information or any reasonably segregable portion thereof that no longer requires protection under this Order shall be declassified and released unless withholding is otherwise warranted under applicable law.

3–502. Requests for declassification which are submitted under the provisions of the Freedom of Information Act shall be processed in accordance with the provisions of that Act.

3–503. Information less than ten years old which was originated by the President, by the White House Staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator

of General Services pursuant to 44 U.S.C. 2107 or 2107 note, is exempted from the provisions of Section 3-501. Such information over ten years old shall be subject to mandatory review for declassification. Requests for mandatory review shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures shall provide for consultation with agencies having primary subject matter interest. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council through the process set forth in Section 3-104.

3-504. Requests for declassification of classified documents originated by an agency but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be referred by the Archivist to the agency of origin for processing in accordance with Section 3-501 and for direct response to the requestor. The Archivist shall inform requestors of such referrals.

3-505. No agency in possession of a classified document may, in response to a request for the document made under the Freedom of Information Act or this Order's Mandatory Review provision, refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable under this Order.

3-6. *Downgrading.*

3-601. Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders.

3-602. Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by other authorized officials when such downgrading is appropriate. Notice of downgrading shall be provided to holders of the information to the extent practicable.

SECTION 4. SAFEGUARDING.

4-1. *General Restrictions on Access.*

4-101. No person may be given access to classified information unless that person has been determined to be trustworthy and unless access is necessary for the performance of official duties.

4-102. All classified information shall be marked conspicuously to put users on notice of its current classification status and, if appropriate, to show any special distribution or reproduction restrictions authorized by this Order.

4-103. Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

4-104. Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of Chapters 21 and 33 of Title 44 of the United States Code, which governs disposition of Federal records.

4-105. Classified information disseminated outside the Executive branch shall be given protection equivalent to that afforded within the Executive branch.

4-2. *Special Access Programs.*

4-201. Agency heads listed in Section 1-201 may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or prior Orders. Such pro-

grams may be created or continued only by written direction and only by those agency heads and, for matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Classified information in such programs shall be declassified according to the provisions of Section 3.

4–202. Special access programs may be created or continued only on a specific showing that:

(a) normal management and safeguarding procedures are not sufficient to limit need-to-know or access;

(b) the number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved; and

(c) the special access controls balance the need to protect the information against the full spectrum of needs to use the information.

4–203. All special access programs shall be reviewed regularly and, except those required by treaty or international agreement, shall terminate automatically every five years unless renewed in accordance with the procedures in Section 4–2.

4–204. Within 180 days after the effective date of this Order, agency heads shall review all existing special access programs under their jurisdiction and continue them only in accordance with the procedures in Section 4–2. Each of those agency heads shall also establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office shall have non-delegable access to all such accountings.

4–3. *Access by Historical Researchers and Former Presidential Appointees.*

4–301. The requirement in Section 4–101 that access to classified information may be granted only as is necessary for the performance of official duties may be waived as provided in Section 4–302 for persons who:

(a) are engaged in historical research projects, or

(b) previously have occupied policy-making positions to which they were appointed by the President.

4–302. Waivers under Section 4–301 may be granted only if the agency with jurisdiction over the information:

(a) makes a written determination that access is consistent with the interests of national security;

(b) takes appropriate steps to ensure that access is limited to specific categories of information over which that agency has classification jurisdiction;

(c) limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed or received while serving as a Presidential appointee.

4–4. *Reproduction Controls.*

4–401. Top Secret documents may not be reproduced without the consent of the originating agency unless otherwise marked by the originating office.

4–402. Reproduction of Secret and Confidential documents may be restricted by the originating agency.

4–403. Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

4–404. Records shall be maintained by all agencies that reproduce paper copies of classified documents to show the number and distribution of reproduced copies of all Top Secret documents, of all documents covered by special access programs distributed outside the originating agency, and of all Secret and all Confidential documents which are marked with special dissemination and reproduction limitations in accordance with Section 1–506.

4–405. Sections 4–401 and 4–402 shall not restrict the reproduction of documents for the purpose of facilitating review for declassification. However,

such reproduced documents that remain classified after review must be destroyed after they are used.

SECTION 5. IMPLEMENTATION AND REVIEW.

5-1. *Oversight.*

5-101. The National Security Council may review all matters with respect to the implementation of this Order and shall provide overall policy direction for the information security program.

5-102. The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. This responsibility shall be delegated to an Information Security Oversight Office.

5-2. *Information Security Oversight Office.*

5-201. The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Administrator also shall have authority to appoint a staff for the Office.

5-202. The Director shall:

(a) oversee agency actions to ensure compliance with this Order and implementing directives;

(b) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the information security program, including appeals from decisions on declassification requests pursuant to Section 3-503;

(c) exercise the authority to declassify information provided by Sections 3-104 and 3-503;

(d) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order which shall be binding on the agencies;

(e) report annually to the President through the Administrator of General Services and the National Security Council on the implementation of this Order;

(f) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

(g) exercise case-by-case classification authority in accordance with Section 1-205 and review requests for original classification authority from agencies or officials not granted original classification authority under Section 1-2 of this Order; and

(h) have the authority to conduct on-site reviews of the information security program of each agency that handles classified information and to require of each agency such reports, information, and other cooperation as necessary to fulfill his responsibilities. If such reports, inspection, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect until the appeal is decided or until one year from the date of the denial, whichever occurs first.

5-3. *Interagency Information Security Committee.*

5-301. There is established an Interagency Information Security Committee which shall be chaired by the Director and shall be comprised of representatives of the Secretaries of State, Defense, Treasury, and Energy, the Attorney General, the Director of Central Intelligence, the National Security Council, the Domestic Policy Staff, and the Archivist of the United States.

5-302. Representatives of other agencies may be invited to meet with the Committee on matters of particular interest to those agencies.

5-303. The Committee shall meet at the call of the Chairman or at the request of a member agency and shall advise the Chairman on implementation of this order.

5-4. *General Responsibilities.*

5-401. A copy of any information security regulation and a copy of any guideline for systematic declassification review which has been adopted pursuant to this Order or implementing directives, shall be submitted to the Information Security Oversight Office. To the extent practicable, such regulations and guidelines should be unclassified.

5-402. Unclassified regulations that establish agency information security policy and unclassified guidelines for systematic declassification review shall be published in the FEDERAL REGISTER.

5-403. Agencies with original classification authority shall promulgate guides for security classification that will facilitate the identification and uniform classification of information requiring protection under the provisions of this Order.

5-404. Agencies which originate or handle classified information shall:

(a) designate a senior agency official to conduct an active oversight program to ensure effective implementation of this Order;

(b) designate a senior agency official to chair an agency committee with authority to act on all suggestions and complaints with respect to the agency's administration of the information security program;

(c) establish a process to decide appeals from denials of declassification requests submitted pursuant to Section 3-5;

(d) establish a program to familiarize agency and other personnel who have access to classified information with the provisions of this Order and implementing directives. This program shall impress upon agency personnel their responsibility to exercise vigilance in complying with this Order. The program shall encourage agency personnel to challenge, through Mandatory Review and other appropriate procedures, those classification decisions they believe to be improper;

(e) promulgate guidelines for systematic review in accordance with Section 3-402;

(f) establish procedures to prevent unnecessary access to classified information, including procedures which require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and which ensures that the number of people granted access to classified information is reduced to and maintained at the minimum number that is consistent with operational requirements and needs; and

(g) ensure that practices for safeguarding information are systematically reviewed and that those which are duplicative or unnecessary are eliminated.

5-405. Agencies shall submit to the Information Security Oversight Office such information or reports as the Director of the Office may find necessary to carry out the Office's responsibilities.

5-5. *Administrative Sanctions.*

5-501. If the Information Security Oversight Office finds that a violation of this Order or any implementing directives may have occurred, it shall make a report to the head of the agency concerned so that corrective steps may be taken.

5-502. Officers and employees of the United States Government shall be subject to appropriate administrative sanctions if they:

(a) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directives; or

(b) knowingly, willfully and without authorization disclose information properly classified under this Order or prior Orders or compromise properly classified information through negligence; or

(c) knowingly and willfully violate any other provision of this Order or implementing directive.

5-503. Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law and agency regulations.

5-504. Agency heads shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5-502 occurs. The Director of the Information Security Oversight Office shall be informed when such violations occur.

5-505. Agency heads shall report to the Attorney General evidence reflected in classified information of possible violations of Federal criminal law by an agency employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

SECTION 6. GENERAL PROVISIONS.

6-1. *Definitions.*

6-101. "Agency" has the meaning defined in 5 U.S.C. 552(e).

6-102. "Classified information" means information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of, the United States Government, and that has been determined pursuant to this Order or prior Orders to require protection against unauthorized disclosure, and that is so designated.

6-103. "Foreign government information" means information that has been provided to the United States in confidence by, or produced by the United States pursuant to a written joint arrangement requiring confidentiality with, a foreign government or international organization of governments.

6-104. "National security" means the national defense and foreign relations of the United States.

6-105. "Declassification event" means an event which would eliminate the need for continued classification.

6-2. *General.*

6-201. Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended. "Restricted Data" and information designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto.

6-202. The Attorney General, upon request by the head of an agency, his duly designated representative, or the Director of the Information Security Oversight Office, shall personally or through authorized representatives of the Department of Justice render an interpretation of this Order with respect to any question arising in the course of its administration.

6-203. Executive Order No. 11652 of March 8, 1972, as amended by Executive Order No. 11714 of April 24, 1973, and as further amended by Executive Order No. 11862 of June 11, 1975, and the National Security Council Directive of May 17, 1972 (3 CFR 1085 (1971-75 Comp.)) are revoked.

6-204. This Order shall become effective on December 1, 1978, except that the functions of the Information Security Oversight Office specified in Sections 5-202(d) and 5-202(f) shall be effective immediately and shall be performed in the interim by the Interagency Classification Review Committee established pursuant to Executive Order No. 11652.

Jimmy Carter

THE WHITE HOUSE,
June 28, 1978.

[FR Doc. 78-18505 Filed 6-29-78; 4:18 pm]

EDITORIAL NOTE: The President's statement of June 29, 1978, on issuing Executive Order 12065, is printed in the Weekly Compilation of Presidential Documents (vol. 14, No. 26).

[3195-01]

Order of June 28, 1978

Designation of Certain Officials Within the Executive Office of the President To Classify National Security Information

Pursuant to the provisions of Section 1-201 of Executive Order 12065 of June 28, 1978, entitled "National Security Information", I hereby designate the following officials within the Executive Office of the President to originally classify information as "Top Secret".

The Vice President
The Assistant to the President for National Security Affairs
The Director, Office of Management and Budget
The Director, Office of Science and Technology Policy
The Special Representative for Trade Negotiations
The Chairman, Intelligence Oversight Board

Pursuant to the provisions of Section 1-202 of said Order, I designate the Chairman of the Council of Economic Advisers and the President's Personal Representative for Micronesian Status Negotiations to originally classify information as "Secret".

Any delegation of this authority shall be in accordance with Section 1-204 of the Order.

This Order shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
June 28, 1978.

[FR Doc. 78-18506 Filed 6-29-78; 4:19 pm]

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