

William W. Pugh, National Motor Freight Traffic Association, 1616 P Street, NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Max Pieper, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7552.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly Sections 20(11), 219 and 413 of the Interstate Commerce Act.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-21918 Filed 7-16-79; 8:45 am]
BILLING CODE 7035-01-M

[Decision Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Cost

Decided: July 10, 1979.

In our decision of June 26, 1979, a 7-percent surcharge was authorized on all owner-operator and truckload traffic. We ordered that all owner-operators were to receive compensation at this level. As indicated in the prior decision, further upward changes are not contemplated until the Commission's weekly fuel index exceeds this 7-percent figure. The weekly figure set forth in the Appendix to this decision for all owner-operator and truckload traffic is 6.7 percent. Accordingly, the 7 percent figure authorized on June 26, 1979 remains in effect.

With regard to the second percentage surcharge figure for less-than-truckload (LTL) traffic, the index has risen to 3.0 percent. As noted in our prior decision of July 3, 1979, we are presently considering a petition filed jointly by the National Small Shipments Traffic Conference, Inc. and Drug and Toilet Preparation Traffic Conference, Inc. This petition alleges that the 7.5 percentage of fuel expense to total revenue figure used to derive the LTL surcharge is too high. As stated in the prior decision, while we are attempting to determine whether petitioners' contention has merit, no change will be made in the existing authorization of a 2.7 percent on LTL traffic performed by carriers not utilizing owner-operators.

We have received many inquiries on the particular question of whether, in reissuing a new tariff supplement for a revised surcharge figure, the prior surcharge may be incorporated into the rate structure. The Commission wishes to emphasize that for the present all X-311 surcharges authorized are to be separate and apart from the rate structure.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each state and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC, for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

This decision shall become effective July 10, 1979.

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

H. G. Homme, Jr.,
Secretary.
July 9, 1979.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)	
January 1, 1979.....	63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)	
July 9, 1979	86.5¢
Average Percent: Fuel Expenses (Including Taxes) of Total Revenue	
(1)	(2)
From Transportation Performed by Owner Operators (Apply to All Truckload Traffic)	Other (Including Less-Truckload Traffic)
16.8%	7.5%
Percent Surcharge	
6.7%	3.0%

[FR Doc. 79-21961 Filed 7-16-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 113]

Office of Proceedings

Motor Carrier Temporary Authority Applications

June 26, 1979.

Important Notice: 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.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2934 (Sub-27TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington, St., Suite 1000, Indianapolis, IN 46204. *Restaurant equipment* from the facilities of Raygal Design Associates at Anaheim, CA, and suppliers or warehouses within 50 miles of Anaheim, CA to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Raygal Design Associates Incorporated, 1550 Bayside Drive, Corona del Mar, CA 92625. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 2934 (Sub-28TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington, St., Suite 1000, Indianapolis, IN 46204. *Restaurant equipment*, from the facilities of Bridgewater and Associates at the City of Commerce, CA, and suppliers or warehouses within fifty (50) mile radius of the City of Commerce, CA, to points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Bridgewater and Associates, 3338 South Malt Avenue, City of Commerce, CA. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E.

Ohio Street, Room 429, Indianapolis, IN 46204.

MC 2934 (Sub-29TA), filed May 21, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 Michigan Road, Carmel, IN 46032. Representative: James L. Beatty, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *New furniture* from the plant site of Hiebert Inc. at or near Torrance, CA to points in the United States (excluding Alaska and Hawaii) for 180 days. Supporting shipper: Hiebert Incorporated, 23605 Tello St., Torrance, CA 90505. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 8535 (Sub-87TA), filed June 15, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin (same address as above). *Iron and steel articles (except in dump vehicles)* from Madison, IN to points in IL, IN, MI and OH, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Jerry L. Grooms, Madison River Terminal, Inc., P.O. Box 253, Madison, IN 47250. Send protests to: W. L. HUGHES, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 13134 (Sub-68TA), filed May 29, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Aluminum and aluminum articles* from the facilities of Kaiser Aluminum & Chemical Corp. at or near Ravenswood, WV to pts. in DE, IL, IN, KY, MD, MI, MO, NJ, OH, PA, VA, WV, WI, DC for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26184. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 52704 (Sub-229TA), filed May 30, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Glass containers* from Midland Glass Company, Inc., at Cliffwood, NJ, to Houston County, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616, 2121 8th Avenue, North, Birmingham, AL 35203.

MC 52704 (Sub-230TA), filed June 13, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200

Century Parkway, Atlanta, GA 30345. *Charcoal (except in bulk) and lighter fluid (Naphtha Distillate), hichory chips, fireplace logs and vermiculite, other than crude, when moving in mixed shipments with charcoal*, from the facilities of The Kingsford Company at or near Dothan, AL, to points in DC and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-85TA), filed May 9, 1979. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 N. Third St., Harrisburg, PA 17108. *Canned and preserved foodstuffs* from facilities of Heinz U.S.A., division of H. J. Heinz Co., at or near Holland, MI, to points in MD, PA on and east of U.S. Hwy 219, and Washington, DC and points in its commercial zone as defined by the Commission; restricted to traffic originating at the named facilities and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: ICC, Fed Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 85934 (Sub-105TA), filed June 11, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48617. *Liquid cleaning compounds*, in bulk, in tank vehicles, from Detroit, MI to York, PA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newbell Industries, 800 South Broadway, Suite 103C, Walnutcreek, CA 94596. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 83835 (Sub-182TA), filed June 15, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, 5801 Marvin D. Love Fwy., Suite 301, 1st Continental Bank, Dallas, TX 75237. *Lumber, wood products, and millwork* from Spokane, WA to points in AR, KS, KY, LA, MI, MO, OH, OK, PA, TN, and TX for 180 days. Supporting shipper(s): Sunrise Forest Products Company, P.O. Box 25060, Portland, OR 97225. Send protests to: Opal M. Jones, Trans. Asst.,

I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 60014 (Sub-123TA), filed June 13, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, Esquire, 100 East Broad Street, Columbus, OH 43215. *Lumber and finished forest products*, from the plantsite of Weyerhaeuser Corp. at or near Lewiston, Plymouth, Jacksonville, Weyco (near Askin), NC to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, WV, WI and DC, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: John J. England, DS, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 95084 (Sub-141TA), filed May 31, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. (1) *Agricultural machinery and materials and supplies, used in the distribution and sale of agricultural machinery (except commodities in bulk)*, from the facilities of DewEze Mfg., Inc. at or near Harper, KS to points in the U.S. (except AK and HI); and (2) *materials and supplies used in the manufacture, distribution, and sale of the commodities in (1) above, (except commodities in bulk)*, from points in the U.S. (except AK and HI) to the facilities of DewEze Mfg., Inc., at or near Harper, KS for 180 days. Supporting shipper(s): DewEze Mfg., Inc., R.R. #2—P.O. Box 4A, Harper, KS 67058. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 106074 (Sub-116TA), filed June 14, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Canned goods* from the facilities of Woldert Canning, Inc. at or near Lindale, TX to all points in AL, GA, KY, NC, SC, VA and WV, for 180 days. Supporting shipper(s): Woldert Canning, Inc., P.O. Box 1140, Tyler, TX 75701. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 99334 (Sub-5TA), filed June 13, 1979. Applicant: TARHEEL EXPRESS, INC., P.O. Box 8825, Charlotte, NC 28208. Representative: Julian S. Puckett, (same address as applicant). *New furniture in cartons, crates or wrapped between points and places in the counties of Cabarrus, Alamance, Cherokee,*

Cumberland, Davie, Davidson, Forsyth, Gaston, Durham, Cleveland, Halifax, Iredell, Jackson, Lee, Johnson, Mecklenburg, Montgomery, McDowell, Randolph, Rockingham, Richmond, Rowan, Surry, Stanly, Anson, Caldwell, Edgecombe, Catawba, Guilford, Haywood, New Hanover, Henderson, Wilkes, Union, Vance and Wake, NC on the one hand, and on the other, points and places in the counties of Burke, Lincoln, Rutherford, Buncombe, Chatham, Orange, Scotland, Robeson, Mitchell, Graham, Sampson, Beaufort and Alexander, NC, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority sought herein with its MC 99334. Applicant intends to interline with other carriers at Hickory, Lenoir, High Point, Lexington, Statesville and Greensboro, NC. Supporting shipper(s): Terminal Freight Cooperative Association, P.O. Box 665, Hudson, NC 28638, and Furniture Shippers Association, P.O. Box 854, High Point, NC 27261. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 106074 (Sub-115TA), filed June 12, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and US Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, PO Box 720434, Atlanta, GA 30342. (1) *plastic articles and materials*; and (2) *materials, equipment and supplies used in the manufacture and distribution of plastic articles* (1) from Forest City, NC to all points in GA, IL and MI and (2) from points in GA, IL and MI to Forest City, NC, for 180 days. Supporting shipper(s): A & E Warbern, Incorporated, Foothill Rd and Vance St., Forest City, NC 28043. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 107515 (Sub-1250TA) filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs* from the facilities of J. M. Smucker Co. at or near Memphis, TN to points in FL, GA, NC, SC, AL, KS, NE, MO, IL and IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. M. Smucker Company, 4740 Burbank, Memphis, TN 38118. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1251TA) filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308,

Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs (except commodities in bulk)* from facilities of ALEX-XLNT Foods, Inc., Vernon, CA to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ALEX-XLNT Foods, Inc., 2750 East 50th St., Vernon, CA 90058. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1252TA), filed May 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Foodstuffs (except commodities in bulk)* from facilities of M&M/Mars, Snack-Master Division, at or near Albany, GA to points in AL, AZ, AR, CA, CO, FL, IL, IN, IA, KS, LA, ME, MO, NE, NV, NH, NJ, MN, NY, OK, OR, PA, TX, UT and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M/Mars, Snack-Master Division, P.O. Box 3289, Albany, GA 31706. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 109094 (Sub-17TA), filed May 21, 1979. Applicant: GAULT TRANSPORTATION, INC., 2381 Cranberry Highway, Wareham, MA 02571. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. *Odophos in bulk*, from Sayreville, NJ to points in MA, RI, CT, NY, NJ, PA and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Davis Chemicals Division of Davis Water and Waste Industries, Inc., P.O. Box A, 2700 Tallevast Rd., Tallavest, FL 33588. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 109124 (Sub-86TA), filed June 4, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Lime, limestone and limestone products*, from the facilities of Edward Kraemer & Sons, Inc. at Clay Center, OH, to points in PA, WV, IN, IL, MI, and KY, for 180 days. Supporting shipper(s): Edward Kraemer & Sons, Inc., Bolander Rd., Clay Center, OH 43408. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111045 (Sub-174TA), filed May 29, 1979. Applicant: REDWING CARRIERS,

INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). *Chemicals*, in bulk, in tank vehicles from Longview, TX to Lemoyne, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Virginia Chemicals, Inc., 3340 W. Norfolk Road, Portsmouth, VA 23703. Send protests to: Donna M. Jones, T/A, ICC, Suite 101, 8410 NW 53rd Terr., Miami, FL 33166.

MC 112304 (Sub-190TA), filed May 9, 1979. Applicant: ACE DORAN HAULING AND RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). (1) *Metal roofing and siding and fabricated metal products*, and (2) *materials and supplies used in manufacture of commodities in (1) above*, (1) From Lancaster, PA, Gridley, IL, Jackson, GA, and Idabel, OK, to points in the U.S. (except AK and HI), and (2) from points in the U.S. (except AK and HI), to Lancaster, PA, Gridley, IL, Jackson, GA, and Idabel, OK, for 180 days. Supporting shipper(s): Alcan Aluminum Corp., P.O. Box 6977, Cleveland, OH 44101. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113784 (Sub-88TA), filed June 12, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland, same address as above. *Hydraulic building cement*, between ports of entry on the U.S.-Canadian boundary line located in MI and NY and points in MI, OH, IN, PA, NY and KY, for 180 days. An underlying ETA seeks 90 days authority. Note: Applicant intends to tack the authority sought herein with its MC-113784. Supporting shipper(s): Federal White Cement Limited, Box 548, Woodstock, Ontario. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 114334 (Sub-54TA), filed June 8, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from the facilities of Inland Steel Co. at East Chicago, IN to points in AR, KY, MO and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Steel Company, 30 W. Monroe St., Chicago, IL 60603. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main

Street, 100 North Main Building—Suite 2006, Memphis, TN 38103.

MC 115654 (Sub-152TA), filed May 31, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. *Refined sugar (except in bulk)* from Kenner and Reserve, LA to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Godchaux-Henderson Sugar Co., Inc., P.O. Drawer AM R, Reserve, LA 70884. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116254 (Sub-271TA), filed June 13, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Mr. M. D. Miller (same address as applicant). *Cast iron pipe, fittings, valves, hydrants, castings and accessories and parts thereof*, from the facilities of U.S. Pipe and Foundry in Birmingham and Bessemer, AL to KY, MI, OH, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Pipe and Foundry Company, 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 117765 (Sub-264TA) filed June 13, 1979. Applicant: HAHN TRUCK LINE, INC., 100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Malt beverages*, in containers, from St. Louis, Mo, to Hutchinson, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): City Beverage Co., Inc., 317 South Adams, Box 685, Hutchinson, KS 67501. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119634 (Sub-37TA), filed June 12, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). *Fertilizer*, in bulk and bags, between points in MT, on the one hand, and, on the other, points in WY, ND, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cenex, Plant Food Division, P.O. Box 1321, Billings, MT 59103. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 117574 (Sub-336TA), filed May 22, 1979. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike,

Carlisle, PA 17013. Representative: James W. Hagar, 100 Pine St., P.O. Box 166, Harrisburg, PA 17108. *Materials, equipment and supplies used in the manufacture, sale and distribution of metal buildings and metal building parts (except commodities in bulk)*, from Cleveland, OH, Indiana Harbor, IN, and Hennepin, IL, to the plantsite and storage facilities of Butler Manufacturing Co. at or near Laurinburg, NC, Birmingham, AL, and Kansas City, MO, and Galesburg, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jones and Laughlin Steel Corp., 1600 W. Carson Ave., Pittsburgh, PA 15263. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124174 (Sub-150TA), filed June 11, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Hides*, from the facilities of Baker Hide & Fur Company, Inc., at or near Tampa, FL to Laredo, TX; Johnstown and Gloversville, NY; Ontario and Quebec, Canada via Detroit, MI; Buffalo, NY; Port Huron, MI; Rouses Point, NY; Niagara Falls, NY; Lebanon, NH; Peabody and Salem, MA; Tullahoma, TN; Hartland, ME; Wilmington, DE and Newark, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Baker Hide and Fur Co., Inc., P.O. Box 5403, Tampa, FL 33605. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 124774 (Sub-114TA), filed May 30, 1979. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Iron and steel articles*, from Detroit, MI and its commercial zone to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phillips Manufacturing Co., Inc., 4601 S. 76th Street, Omaha, NE 68127. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 126514 (Sub-58TA), filed June 15, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Such merchandise as is dealt in by pharmaceutical houses (except commodities in bulk)*, between Norwich and North Norwich, NY, on the one hand, and, on the other, points in AZ and CA, for 180 days. An underlying

ETA seeks 90 days authority. Supporting shipper(s): Norwich-Eaton Pharmaceuticals Division, Morton-Norwich Products, 13-27 Eaton Ave., Norwich NY 13815. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 133035 (Sub-26TA), filed June 11, 1979. Applicant: DILTS TRUCKING, INC., Route No. 1, P.O. Box 156, Crescent, IA 51526. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Nitrogen fertilizer solution, in bulk*, from the facilities of Agrico Chemical Co. at Blair, NE to all points in IA, MN, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 133494 (Sub-19TA), filed June 15, 1979. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, TX 76201. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Potash* from Lea and Eddy Counties, MN to points within the states of OK and TX for the 180 days. Supporting shipper(s): There are five (5) supporting shippers. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-27TA), filed June 15, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Plastic and Burlap Articles (except commodities in bulk)* (1) From the facilities of PPD Corporation, at or near Newark, NJ to points in MD, DC, VA, WV, FL, NC, SC, GA, AL, and TN; (2) From the facilities of PPD Corporation at or near Atlanta, GA to points in AL, TN, MS, LA, AR, TX and OK for 180 days. An underlying ETA seeks 90 days authority filed. Supporting shipper(s): PPD Corporation, 574 Ferry Street, Newark, NJ 07105. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134405 (Sub-76TA), filed May 31, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Gasoline and diesel fuel*, in bulk, in tank vehicles, from Coffeyville, KS, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B

& M Oil Company, Inc., P.O. Box 1173, Bartlesville, OK 74003. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134545 (Sub-1TA), filed May 15, 1979. Applicant: FRANK SALERNO, 3400 Bridlepath Rd., Easton, PA 18042. Representative: Frank Salerno (same address as applicant). Contract carrier, irregular routes, *sulphuric acid*, in glass-lined tank vehicles, from Newark, NJ to Edelman, Northampton County, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hi-Pure Chemicals, Inc., P.O. Box 351, R.D. #3 (Edelman), Nazareth, PA 18064. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 136384 (Sub-18TA), filed June 14, 1979. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same address as applicant). *Household or commercial appliances, or parts thereof, including, but not limited to the following: Refrigerators, freezers, cooling boxes, ranges, washing machines, dryers, and air conditioners*, between the facilities of General Electric, Atlanta and Norcross, GA, on the one hand, and on the other, points in FL, for 180 days. Supporting shipper(s): General Electric Company, 6205 Best Friend Road, Norcross, GA 30071. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 136605 (Sub-121TA), filed June 13, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Charcoal, charcoal briquettes, hickory chips, lighter fluid, and related barbecue supplies* from the facilities of Husky Industries, Inc., located at or near Dickinson, ND to points in CA, MT, AZ, OR, TX, SD, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 136644 (Sub-9TA), filed May 14, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: R. D. Davis, President (same address as applicant), (707) 552-8777. *Contract carrier, irregular routes: Fiberglass Ceiling Tile* from the plant site of Owens-Corning Fiberglass Corporation at or near St. Helens, OR to points in CA, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp.,

Fiberglass Tower, Toledo, OH 43659. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 138395 (Sub-11TA), filed April 13, 1979. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Printed matter*, from facility of Middle Atlantic Printing Co., Inc., at or near Salisbury, MD to Phila., PA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Middle Atlantic Printing Co., Inc., 2015 Industrial Parkway, Salisbury, MD 21801. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 138875 (Sub-204TA), filed June 6, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Sand, except commodities in bulk*, from points in Gem County, ID to points in MT, OR, WA, and WY, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Wedron Silica Co., West of City, Emmett, ID 83617 and C & C Contractors, Inc., P.O. Box 35, Veradale, WA 99037. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-205TA), filed June 13, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Brick, except commodities in bulk*, from points in Spokane County, WA to points in ID, in and south of Adams, Lemhi and Valley Counties, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): The Masonry Center, Inc., P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 140665 (Sub-56TA), filed June 12, 1979. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: John D. Varda, 121 South Pickney St., Madison, WI 53703. *Paper and paper products (except in bulk), and products (except in bulk) produced or distributed by manufacturers and converters of paper and paper products*, from the facilities of Nekoosa Papers, Inc. in Little River County, AR, to points in AZ, CA, CO, IA, ID, IL, IN, KY, MI, MN, MO, MT, NE, NV, OH, OR, UT, WA, WI, and WY, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin

River Dr., Port Edwards, WI 54469. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 143044 (Sub-3TA), filed March 7, 1979. Applicant: EQUIPMENT EXPRESS LIMITED, 8105 Woodbine Avenue, Markham, Ontario, Canada L3R 2P1. Representative: H. McNamara (same as applicant). *Structural Steel Girders of 85' to 140' in length*, from ports of entry on the international boundary between Canada and United States on the Niagara River to construction site at or near Troy, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cannon Eastern Structural Div., 100 Disco Road, Rexdale, Ontario, Canada. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 143325 (Sub-3TA), filed June 5, 1979. Applicant: THOMAS L. ROLLANS, P.O. Box 365, Bryant, AR 72022. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902. *Concrete building blocks* from the plant sites and storage facilities of Arkhola Sand & Gravel Company at or near Little Rock, AR to Odessa and Waco, TX, for 180 days as a contract carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arkhola Sand & Gravel Company, a Division of Ashland-Warren, Inc., P.O. Box 1627, Garrison Building, Fort Smith, AR 72902. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143334 (Sub-2TA), filed May 30, 1979. Applicant: WALTEC DISTRIBUTION LIMITED, P.O. Box 936, 471 Dundas Street, Cambridge, Ontario N1R 5X9. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier—irregular routes. (1) Molds for plastic injection machines, and (2) plastic articles*, between Chicago, IL, on the one hand, and, on the other, ports of entry on the International Boundary line between the US and Canada at or near Detroit, MI, restricted to the transportation of traffic in foreign commerce between the United States and Canada, transported under a continuing contract or contracts with Midland Industries Limited, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Midland Industries Limited, 682 Hugel Avenue, Midland, Ontario L4R 1W9. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 143754 (Sub-6TA), filed June 5, 1979. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearingen, P.O. Box 456, Jefferson City, MO 65102. Liquid fertilizer and liquid fertilizer ingredients, in bulk, in tank vehicles, from the facilities of U.S. Steel Corporation, Agri-Chemical Div., at or near Selma and Waverly, MO to all points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 233 Peachtree St. NE., Atlanta, GA 30303. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144844 (Sub-7TA), filed June 4, 1979. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. Iron and steel articles from the facilities of Jones & Laughlin Steel Company at or near Chicago, IL commercial zone to points in IL, KS, KY, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, 3001 Dickey Rd., E. Chicago, IN 46312. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 143754 (Sub-7TA), filed June 15, 1979. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearingen, P.O. Box 456, Jefferson City, MO 65102. *Liquid feed*, in tank vehicles, from the facilities of Farmland Industries, Inc., Kansas City, KS (Muncie, KS) to points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 143995 (Sub-17TA), filed June 11, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Dr. Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority—*Malt beverages* from the facilities of Anheuser-Busch, Inc. at Kansas City and St. Louis, MO and Columbus, OH, and from Fort Wayne, Belleville and Evansville, IN to Galesburg, IL under continuing contract(s) with G & M Distributors, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G & M Distributors, Inc., 200 N. Linwood Rd., Galesburg, IL 61401. Send protests

to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145054 (Sub-19TA), filed June 12, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Absorbents, in bags*, from Taft and McKittrick, CA to points in CO and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Excel-Mineral Company, P.O. Box 4548, Santa Barbara, CA 93103. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145195 (Sub-4TA), filed June 12, 1979. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58047. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Non-alcoholic beverages*, from the facilities of Shasta Beverages, Inc., at or near Omaha, NE, to points in ND, SD, WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shasta Beverages, Inc., 4400 S. 76th Street, Omaha, NE 68127. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146075 (Sub-1TA), filed June 12, 1979. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 29th Place, Wheat Ridge, CO 80214. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203. *Paint* from Houston, TX and Denver, CO to points in UT for 180 days. An underlying ETA filed seeking 90 days authority. Supporting shipper(s): Devoe & Reynolds Co., 4000 Du Pont Circle, Louisville, KY 40207. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146725 (Sub-3TA), filed May 15, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. (1) *Pultruded FRP Fiberglass products* from Bristol, VA to Houston, TX, and (2) *electrical and instrument cable suspension trays* from Houston, TX to points in AR, LA, MS and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): JBC Enterprises, Inc., 1115 Naylor, Houston, TX 77002. Send protest to: L. D. Helfer,

DS, ICC, 5301 Federal Bldg., Salt City, UT 84138.

MC 146875 (Sub-1TA), filed May 8, 1979. Applicant: K & L Grain, Inc., Rural Route #2, Box 32A, Franklin, IN 46131. Representative: Richard E. Aikman, Jr., 300 Merchants National Bank Bldg., Indianapolis, IN 46131. Contract carrier: Irregular routes: *Feed ingredients. Products of wheat milling viz: Wheat Middlings, Wheat Red Dog, Wheat Germ, Wheat Bran, Wheat Flour*, in Bulk or bags, from the facilities of Acme-Evans Division of General Grain, Inc., 902 West Washington Street, Indianapolis, IN, to points and places within the State of KY for 180 days. Supporting shipper: Acme-Evans Company, 902 W. Washington Ave., Indianapolis, IN 46204. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 146994 (Sub-1TA), filed June 12, 1979. Applicant: MOTOR-RAIL DELIVERY, INC., 600 Fern Street, Ferndale, MI 48220. Representative: William R. Ralls, 427 S. Capitol Avenue, Lansing, MI 48220. *Plastic containers* in trailer on flat car service having a prior or subsequent movement by rail beyond Michigan, between Detroit, MI and Coleman, MI. Ultimate destinations are Houston, TX, Dallas, TX, and Los Angeles, CA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vercon, Inc., 57 W. Shaffer road, Coleman, MI 48618. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147205 (Sub-2TA) filed May 16, 1979. Applicant: RUSSELL E. BASTIAN, d.b.a. BASTIAN TRUCKING, P.O. Box 1143, Aurora, UT 84620. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Contract carrier: Irregular route: *Sea coal and clay*, in bags, from Aurora, UT to CA, WA, and AZ, under a continuing contract or contracts with Western Clay, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Clay, Aurora, UT 84620. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 147355 (Sub-1TA), filed June 13, 1979. Applicant: TYCER LIVESTOCK, INC., P.O. Box 601, Amite, LA 70422. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. Applicant is seeking authority to operate as a contract carrier over irregular routes transporting (1) *Fertilizer, in bags and in bulk*, from

Jackson, MS to all points in LA; and (2) *Ammonium nitrate in bags and in bulk*, from Beaumont, TX to all points in LA, for 180 days. This will be under a continuing contract or contracts with Swift Agricultural Chemicals Corporation. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Swift Agricultural Chemicals Corp., 30 N. LaSalle, Chicago, IL 60602. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147394 (Sub-1TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier, irregular routes, paint products and/or raw materials utilized in the manufacture and production of paint products.* Between: Everett, MA and: Lewiston, ME, Augusta, ME, Rochester, NY, Montclair, NJ, Bridgeport, CT, Westport, CT, Philadelphia, PA, Carlisle, PA, Erie, PA, Atlanta, GA, Vienna, VA, Nashville, TN, Miami, FL, Dallas, TX, Ogden, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Touraine Paints, Inc., Everett, MA 02149. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147394 (Sub-2TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier, irregular routes, (1) paint products and/or materials utilized in the manufacture and production of paint products, (2) petroleum products.* Between: Chelsea, MA and Brisbane, CA, Bell Gardens, CA, Melrose Pk., IL, Minneapolis, MN, Marietta, GA, Charlotte, NC, Houston, TX, Fort Lauderdale, FL, Richmond, VA, Grand Rapids, MI. Supporting shipper(s): Samuel Cabot Inc., 1 Union Street, Boston, MA 02108. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147394 (Sub-3TA), filed June 8, 1979. Applicant: COASTAL REFRIGERATED SERVICE, INC., 34 Market Street, Room 30, Everett, MA 02149. Representative: Joseph F. Nomile, 71 Cale Avenue, Haverhill, MA 01830. *Contract carrier, irregular routes, (1) Office equipment, steel office furniture, and office equipment components utilized in the manufacture and*

production of office equipment, (2) Photo paper and film, (3) Photographic Chemicals. Between: Reading, MA, including Essex and Middlesex Counties, and, Pinebrook, NJ, Decatur, GA, Arlington Heights and Chicago, Proper, IL, Englewood, CO, Dallas, TX, Cerritos, CA, Redmond, WA, Orlando, FL, Bloomington, MN, Hayward, CA, Springfield, VA, Shawnee Mission, KS, Cincinnati, OH, Richmond, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Compugraphic, ASD, North Reading, MA 01864. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 147364 (Sub-1A), filed June 11, 1979. Applicant: P. W. McCULLERS TRUCK BROKERS, INC., 6010 Avery Street, Orlando, FL 32808. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. *Contract carrier, irregular routes, Fruits and vegetables, in vehicles equipped with mechanical refrigeration units,* between ports of Entry and Departure at the United States of America and Canada, located at or near Houlton, ME and Calais, ME, on the one hand, and on the other points in ME, MA, CT, NJ, NY, PA, RI, MD, VA, DC, NC, SC, OH, GA, FL, AL, TN, MS, LA, TX, NM, AZ, CO, CA, MO, DE, NH, and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. M. McLean Limited, P.O. Box 1111, Charlottetown, P.E.I. C1A 7M8. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-21962 Filed 7-16-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 138

Tuesday, July 17, 1979

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

	Item
Civil Aeronautics Board.....	1-9
Commodity Futures Trading Commission.....	10
National Railroad Passenger Corp.	11
Federal Communications Commission.....	12
Federal Home Loan Bank Board.....	13
Federal Maritime Commission.....	14
Federal Reserve System.....	15
National Transportation Safety Board.....	16
Occupational Safety and Health Review Commission.....	17-19
White House Conference on Library and Information Services.....	20

1

[M-235, July 10, 1979]

CIVIL AERONAUTICS BOARD.

Short notice of closure of item.

TIME AND DATE: 9 a.m., June 11, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Negotiations with Pakistan (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Pakistan consultations will be held beginning on July 12. The short notice request is necessary because of the immanence of the consultations and because we were first informed on the negotiation dates on June 28. Accordingly, the following Board Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This meeting concerns strategy and positions to be taken by the United States in negotiations with Pakistan. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States

Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Steven H. Lachter.

Managing Director.—Mr. Cressworth Lander. **Executive Assistant to the Managing Director.**—Mr. John R. Hancock.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.

Bureau of International Aviation.—Mr. Sanford Reder, Mr. Rosario J. Scibilia, Mr. Willard L. Demory, Mr. James McMahon, and Mr. Douglas Leister.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.

Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,

General Counsel.

[S-1416-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

2

[M-235, Amdt. 1; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item.

TIME AND DATE: 9 a.m., July 11, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Negotiations with Pakistan (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: On July 10, 1979, the staff requested for this item to be scheduled on July 11 as a closed item in order to consider the Board's recommendation to the Department of State on the Pakistan talks. These talks are scheduled to begin on July 12. The staff's recommendation was delivered to the Board in the late afternoon on July 11, after the meeting announcement was posted. In view of the routine nature of the recommendation, the Board subsequently decided to vote by notation and a meeting was no longer necessary. Accordingly, the following Members have voted that this item be deleted and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1417-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

3

[M-233, Amdt. 2; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the July 12, 1979, meeting.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 23b. Docket 32851, Agreements adopted by the International Air Transport Association relating to the traffic conferences.

STATUS:

Partially open and partially closed.

Open—Extension of Procedural Dates.

Closed—Invitations Participants.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Chairman will not be here for the July 19, 1979 meeting and the meetings concerning IATA will start July 22, so this item should be discussed at the July 12, 1979 meeting. Accordingly, the following Members have voted that

agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

The Board will also discuss who it plans to invite to participate in its October, 1979 hearings in this proceeding. A frank discussion of individuals and their value to the Board in this context is anticipated. So that a full discussion can take place without harm to any person's reputation or privacy and because observation of this matter might disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy within the meaning of 5 U.S.C. 552b(c)(6) and 14 CFR 310b.5(6), this portion of the meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, and Mr. Mark Kahan.
Bureau of International Aviation.—Mr. Sanford Rederer and Mr. Rosario J. Scibilia.
Bureau of Domestic Aviation.—Mr. Paul H. Karlsson and Mr. Charles McNaghy.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(6) and 14 CFR 310b.5(6) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,
General Counsel.

[S-1418-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

4

[M-233, Amdt. 3; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Dockets 29525 and 30332; Disposition of the Board's tentative findings in Order 76-11-9, which would apply the domestic substitute service rules to the U.S. legs of international air freight movements; and IATA agreement proposing restrictions on the use of surface transportation on the U.S. legs of South Pacific air freight movements (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: This item is being deleted from the July 12, 1979 agenda in order that the staff may have additional time to consider this item. Accordingly, the following Members have voted that agency business requires the deletion of this item from the July 12, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1419-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

5

[M-233, Amdt. 4; July 12, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item and closure of item to the July 12, 1979, meeting.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 24a. Removal of Requirement that Service Between the United States and Europe stop at Iceland. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Interagency Committee is going to reconsider the pending matter of allowing Loftleidir, H.F. to operate between the United States and Europe without stopping at Iceland, and the Board's policy concerning this matter needs to be dealt with at today's

meeting (July 12, 1979). Accordingly, the following Members have voted that Item 24a be added to the July 12, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments, of opinions, evaluations and strategies discussed in connection with this item could seriously compromise the United States Government's ability to achieve future bilateral understandings which would be in the best interests of the United States. The Board, therefore, believes that public observation of this meeting would reveal matters which, if prematurely disclosed, could significantly frustrate future action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR 310b.5(9)(B) and that this meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Steven H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Mark Kahan, Mr. Gary J. Edles, and Mr. Peter B. Schwarzkopf.
Bureau of International Aviation.—Mr. Sanford Rederer and Mr. Rosario J. Scibilia.
Bureau of Domestic Aviation.—Mr. Paul H. Karlsson and Mr. Charles McNaghy.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia Kennedy.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR 310b.5(9)(B) and that this meeting may be closed to public observation.

Philip J. Bakes, Jr.,
General Counsel.

[S-1420-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

6

[M-233, Amdt. 5; July 13, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the July 12, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

4. Docket 32566, *Alice D. Wallace v. Capitol International Airways, Inc.*, discretionary review, on BCP petition, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo 8962, OGC)

5. Docket 31622 and 31625, *Michael David Beeler and Morton Rosenberg v. Delta Air Lines, Inc.*, discretionary review, on petitions, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo 8961, OGC)

21. Docket 34762, Application of Andral E. Pearson and Trans World Airlines, Inc. (TWA) for approval of interlocking relationships involving TWA and PepsiCo, Inc. (PepsiCo) and for disclaimer of jurisdiction over those involving TWA and Trans World Corporation (TWC). (Memo 8954, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: These items were deleted from the July 12, 1979 meeting because the staff needs additional time to consider these items. Accordingly, the following Members have voted that agency business requires the deletion of items 4, 5, and 21 from the July 12, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1421-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

7

[M-233 Amdt. 6; July 13, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the July 12, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 12, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1a. Docket 34228, Amendment to application of Eastern Air Lines, Inc. for approval of acquisition of control of National Airlines, Inc.

18a. Docket 34812, United's notice of intent to suspend Bakersfield-San Francisco service. (Memo 8415-D, BDA, OCCR)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 1a was added because Eastern assumed that they were free to buy as much stock as Pan Am and TXI unless they heard otherwise from the Board. The Board wanted to act on this as quickly as possible. By Order 79-7-44, the Board required United to resume its obligations in the Bakersfield-San Francisco market to ensure that essential air service is provided through August 6. The staff was subsequently advised that the replacement carrier, Air Pacific, would not be able to provide its full Dash 7 service pattern until July 16. Item 18a was added to July 12, meeting to alleviate further inconvenience to the traveling public. Accordingly, the following Members have voted that agency business requires that Items 1a and 18a be placed on the July 12 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1422-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

8

[M-236, July 12, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 35054, Consumer Protection for Old-rule Charters. (OGC, BCP)

3. Freedom of Information Act Request. Counsel for Texas International Airlines, Inc. has requested access to document which contain information derived from records obtained during an inspection pursuant to Section 407(e). (BCP)

4. Proposed temporary waiver of Board rules requiring employees to file confidential statements of financial interests and employment under 14 C.F.R. 370.735-73 (OGC)

5. Dockets 31622 and 31625, *Michael David Beeler and Morton Rosenberg v. Delta Air Lines, Inc.*, discretionary review, on petitions, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo No. 8961, OGC)

6. Docket 32566, *Alice D. Wallace v. Capitol International Airways, Inc.*,

discretionary review, on BCP petition, of ALJ dismissal of Part 252 "no-smoking" enforcement proceeding. (Memo No. 8962, OGC)

7. Docket 34397, *Rulemaking to Consider Eliminating Minimum Rates for Military Transportation, Parts 288, 208 and 399—draft final rule.* (OGC, BDA)

8. Docket 35117, Petition of Hawaiian Airlines for a rulemaking proceeding to increase the minimum rates for Logair and Quicktrans Services. (Memo No. 8923, BDA, OGC)

9. Interpretation of Public Charter regulations on surety bonds. (OGC)

10. Docket 32665, California/South West-Western Mexico Route Proceeding (Part II). Request for Instructions. (OGC)

11. Docket 30170, *West Coast-Alaska Investigation*—applications for certificate authority deferred by Order 79-4-36. (OGC)

12. Dockets 33275 and 32709, *New Orleans-West Service Investigation; Tucson-San Diego Nonstop Route Investigation*, Petitions of Continental Air Lines for reconsideration. (Memo No. 8973, OGC)

13. Docket 35090, International Air Cargo Corporation, Egypt (IACC)—Application and Motion for show cause order to amend the 402 permit of IACC to allow New York-Cairo operations via Amsterdam. (BIA, OGC)

14. Dockets 34332 and 34311: Applications of Alia—the Royal Jordanian Airlines Corporation (Alia) and Syrian Arab Airlines (Syrianair) to renew and amend their permits to add Houston to their route schedules, to increase their weekly frequencies from two to four, and to add Public Charters. (Memo No. 8978, BIA, BLJ, OGC)

15. Dockets 33100 and 32333: Application of American Airlines, Inc. to amend its certificate for Route 134 to add Manzanillo and Zihuatanejo, Mexico and to amend Condition (5) to reflect the added routes; Application of American Airlines, Inc. to amend its certificate for Route 134 to amend Condition (5) of that route. (Memo No. 8381-A, BIA, OGC, BLJ)

16. Dockets 33502, 33611, 33736, 33918, 33928, 34669, 34914, 33993, 34076, 34888, 34896, 34902, 34904, 34905, 35076, and 33958; Braniff, Northwest, Continental, Allegheny, Ozark, TXI, Western, Delta, American, Southern, and North Central, requesting Dallas/Fort Worth/Houston-Detroit/Cleveland/Pittsburgh certificate authority in whole or in part. (Memo No. 8470-A, BDA)

17. Dockets 34623, 34890, 34975, 35055, 35065, and 35557; United's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority; Ozark's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Continental's application for Denver-

Orlando/Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Western's application for Denver/Chicago/Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami nonstop authority and motion to consolidate; National's application for Denver/Colorado Springs-Fort Lauderdale/Miami/Orlando/Tampa nonstop authority and motion to consolidate; Trans International's application (in part) for Chicago-Orlando/Tampa/Miami nonstop authority and motion to consolidate (the balance of this application is to be dealt with by separate order). (Memo No. 8974, BDA)

18. Dockets 33142, 33166, and 33143; Applications of Air Florida for certificates to perform charter air transportation domestically and throughout North America and the Caribbean; Request of Air Florida for blanket exemption authority to engage in the charter operations described above pending decisions on its certificate requests. (BDA)

19. Dockets 33928, 33958, 34029, and 34205; Applications of Allegheny and Ozark for Pittsburgh-Houston-El Paso-Albuquerque-San Diego certificate authority; Allegheny's application for Houston-Pittsburgh exemption authority. (Memo No. 8975, BDA)

20. Dockets 35306, 35536, 35456, and 35647; Applications of American and Ozark for Dallas/Fort Worth-San Antonio authority; Applications of Continental and USAir for Dallas/Fort Worth-San Antonio/Austin/Houston nonstop authority. (Memo No. 8976, BDA)

21. Dockets 35368 and 35543; TXI's application for Salt Lake City-Reno authority; PSA's application for Salt Lake City-Las Vegas/Reno authority. (BDA)

22. Docket 35137, Trans World Airlines' request for an exemption to permit it to operate nonstop service between Seattle and Portland until 60 days after the Board's final decision in Docket 33520. (Memo No. 8979, BDA)

23. Dockets 33826, 34086, 34145, 34174, 33894, 34696, 34687, 34704, 34690, 34694, 34718, 34750, 34659, 34303, 34698, and 34693; Continental's petition for clarification and reconsideration of Order 79-5-82. (Memo No. 8432-B, BDA)

24. Docket 35736, Capitol International Airways, Inc. request for an exemption. (BDA)

25. Dockets 34751 and 35546; Piedmont's notice of intent to suspend air service at Danville, Virginia, and motion and application for exemption to allow it to suspend service at Danville by July 1, 1979. (BDA)

26. Docket 34591, Essential Air Transportation at Hot Springs, Virginia. (BDA, OCCR)

27. Docket 34832, Interim Essential Air Service at Crescent City, California. (BDA)

28. Dockets 32773, 33026, 33508, 34333, 34349, 34350, and 34465; Allegheny Airlines' petitions for reconsideration of Orders 79-2-108 and 79-3-166. (Memo No. 8984, BDA, OCCR, OGC, BCP)

29. Proposed regulation governing fitness data to be submitted with route applications for passenger service and by commuter carriers serving an eligible point. (BDA)

30. Dockets 34007, 34371, 34420, 34520, 35031, 35083, 35333, and 35369; Burlington Northern Air Freight Inc., Northern Air Cargo, Inc., Delta Air Lines, Inc., Ball Brothers, Inc., Continental Air Lines, Inc., Aero Union Corporation, Great Northern Airlines, Inc., and USAir, Inc. d.b.a. USAir—certification as section 418 all-cargo air carriers. (BDA)

31. Docket 34762, Application of Andral E. Pearson and Trans World Airlines, Inc. (TWA) for approval of interlocking relationships involving TWA and PepsiCo., Inc. (PepsiCo) and for disclaimer of jurisdiction over those involving TWA and Trans World Corporation (TWC). (Memo No. 8954-A, BDA)

32. Dockets 32338, 32339, and 32340; Joint applications of Neil A. Armstrong, United Air Lines, Inc., and UAL, Inc., for approval of interlocking relationships under section 409 of the Act. (BDA, OGC)

33. Docket 35040, Application of Alaska International Industries, Inc., and Robert N. Hampton for disclaimer of jurisdiction over, approval, or exemption of an interlocking relationship. (Memo No. 8977, BDA, OGC, BCP)

34. Proposal of Air Florida to allow unrestricted reservations for its senior citizen fares. (BDA)

35. Docket 35935, Increased excess baggage charges in certain Caribbean and Central American markets proposed by Eastern. DHL, air courier, complains that the proposed level is not cost-justified (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068

[S-1424-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

9

[M-237, July 13, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: July 21, 1979, 1 p.m.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Docket 33465—Continental-Western Merger Case (instructions to staff).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

Note.—Please use the Florida Avenue entrance. The Connecticut Avenue entrance is closed on Saturday.

[S-1424-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 6320-01-M

10

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 20, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1427-79 Filed 7-17-79; 8:45 am]

BILLING CODE 6351-01-M

11

NATIONAL RAILROAD PASSENGER CORPORATION

Board of Directors Meeting.

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad passenger Corporation, notice is given that the Board of Directors will meet on July 25, 1979.

A. The meeting will be held on Wednesday, July 25, 1979, in the National Guard Association Building, 3rd Floor, 1 Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—July 25, 1979

Closed session (9:30)

1. Internal personnel matters.
2. Litigation matters.

Open session (10:30)

3. Approval of minutes of regular meeting of June 27, 1979.
4. Election of Vice Chairman of the Board.
5. Approval of affirmative action plan.
6. Commitment approval requests:
 - 79-99 Adopt BN material management system.
 - 79-101 Capital improvements—Ogden/Los Angeles Service.
 - 77-242-S3 Supplemental funding for Chicago, Illinois; modernization of 12th and 16th Street Yards, Phase IIIA.
 - 79-78 Conversion and modification of hi-level transition coaches.
 - 79-102 Cant deficiency testing.
 - 77-266-S4 Completion of EMD contract for 30 AEM7 locomotives.
 7. Presentation on Equipment Requirements
 8. Report on Air Conditioning and Maintenance Systems.

9. Board Committee Reports: Equipment, Finance, Northeast corridor improvement project, and Organization and compensation.
10. President's Report.
11. New business.
12. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Assistant Corporate Secretary at (202) 383-3991.

Dated: July 13, 1979.
Barabara Willman,
Assistant Corporate Secretary.
[S-1414-79 Filed 7-13-79; 3:25 pm]

12

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Wednesday, July 18, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Oral Argument and closed instruction following Oral Argument.

MATTERS TO BE CONSIDERED:

The Commission will hold a closed meeting on Wednesday, July 18, 1979, for the purpose of issuing instructions to the staff following oral argument in RKO General, Inc. (WNAC-TV, Channel 7), Boston, Mass. proceeding [Docket numbers 18759-61].

Oral Argument, which is open to the public, is scheduled to start at 10:30 a.m. in Room 856, 1919 M Street, N.W., Washington, D.C. (see News Release of June 21, 1979, Report Number 18608).

The closed meeting will take place in Room 856 at the same address after the conclusion of the oral argument.

If additional information is required concerning this meeting it may be obtained from FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 12, 1979.
[S-1411-79 Filed 7-13-79; 11:49 am]
BILLING CODE 6712-01-M

13

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., July 12, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202-377-6677).

MATTERS TO BE CONSIDERED:

Consideration of Request to Employ Individual Convicted of a Felony.

Announcement is being made at the earliest practicable time.

No. 252, July 12, 1979.
[S-1410-79 Filed 7-13-79; 11:49 am]
BILLING CODE 6720-01-M

14

FEDERAL MARITIME COMMISSION.

TIME AND DATE: July 13, 1979, 9 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Legislative Proposals.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1409-79 Filed 7-13-79; 11:49 am]
BILLING CODE 6730-01-M

15

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, July 20, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
2. Federal Reserve Board officer compensation program.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

[S-1412-79 Filed 7-13-79; 11:49 am]
BILLING CODE 6210-01-M

16

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 3 p.m., Tuesday, July 17, 1979 [NM-79-23].

PLACE: Room 312A, 800 Independence Avenue, S.W., Washington, D.C. 20591.

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:

Request for Public Hearing—Air New England, DHC-6-300, N383EX, Yarmouthport, Mass., June 17, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

July 13, 1979.
[S-1415-79 Filed 7-13-79; 3:25 pm]
BILLING CODE 4910-58-M

17

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: July 16, 1979 at 9:30 a.m.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634-4015.

Dated: July 13, 1979.
[S-1425-79 Filed 7-13-79; 3:25 p.m.]
BILLING CODE 7600-01-M

18

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 37431.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on July 12, 1979.

CHANGES IN THE MEETING: This meeting is canceled. It will be rescheduled at a later date to be announced.

Dated: July 12, 1979.
[S-1408-79 Filed 7-13-79; 11:49 am]
BILLING CODE 7600-01-M

19

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 37431, June 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m. on July 19, 1979.

CHANGES IN THE MEETING: This meeting has been rescheduled for July 20, 1979, at 9:30 a.m.

Dated: July 13, 1979.
S-1426-79 Filed 7-13-79; 3:25 pm]
BILLING CODE 7600-01-M

20

**WHITE HOUSE CONFERENCE ON LIBRARY
AND INFORMATION SERVICES.**

Information Organization Heads
Meeting.

TIME: 9 a.m.

DATE: August 1, 1979.

PLACE: Washington Hilton Hotel,
Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Second in a series of meetings in
which participants discuss the
following:

Means for effectively involving each
organization in the White House Conference
process.

Issue positions with input from
organizational memberships, which will be
accepted by the White House Conference as
formal input to its planning.

Participating organizations' roles in
implementing recommendations of the White
House Conference.

CONTACT PERSON FOR MORE

INFORMATION: Heather Nicoll,
Coordinator, (202) 653-6252.

July 9, 1979.

Marilyn K. Gell,

Director.

[S-1413-79 Filed 7-13-79; 3:25 pm]

BILLING CODE 7527-01-M

Federal Register

**Tuesday
July 17, 1979**

Part II

Department of Health, Education, and Welfare

**Health Care Financing Administration and
Office of Human Development Services**

**Federal Health Insurance for the Aged
and Disabled; and Social Services
Programs for Individuals and Families**

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405, 420, 431, and 455

Medicare and Medicaid Providers; Disclosure of Information and Access to Provider Records; Requirements and Conditions for Participation

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Regulation.

SUMMARY: These regulations establish new requirements for disclosure of information by institutions and organizations providing services under Medicare and Medicaid (titles XVIII and XIX of the Social Security Act). The regulations:

1. Require Medicare and Medicaid providers and fiscal intermediaries or fiscal agents to disclose to the Secretary or the State Medicaid agency certain information about owners, employees, subcontractors, and suppliers;
2. Authorize the Secretary or the State agency to refuse to enter into or renew an agreement with a provider if any of its owners, officers, directors, agents, or managing employees has been convicted of a criminal offense involving any of the programs under titles XVIII, XIX, or XX of the Social Security Act;
3. Authorize the Secretary or the State agency to terminate an agreement with a provider that failed to disclose fully and accurately the identity of any of its owners, officers, directors, agents, or managing employees who have been convicted of a program-related criminal offense at the time the agreement was entered into;
4. Require that a provider of services under Medicare promptly notify the Secretary of its employment of an individual who during the preceding year worked for that provider's fiscal intermediary or carrier in a managerial, accounting, auditing, or similar capacity; and
5. Authorize access by the Secretary to Medicaid providers' records.

The regulations implement sections 3, 8, 9, and 15 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (P.L. 95-142). The purpose of the statute is to strengthen the Department's capability to detect fraudulent activities in Federal health care programs.

EFFECTIVE DATE: These regulations are effective on July 17, 1979 for Medicare and on October 15, 1979 for Medicaid.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 588 East High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, Phone: (301) 594-5415.

SUPPLEMENTARY INFORMATION: Public Law 95-142 contained several provisions designed to prevent and detect fraud and abuse and to preserve the integrity and improve the effectiveness of the Medicare and Medicaid programs. Some of these provisions apply as well to the maternal and child health and the crippled children's services programs (title V of the Social Security Act) and the title XX services program.

This rule is one of a number of regulations promulgated by the Department to implement P.L. 95-142. It encompasses four provisions of P.L. 95-142—sections 3, 8, 9, and 15—which deal with disclosure of information to the Department by health care providers and fiscal agents involved in the Medicare and Medicaid programs.

In addition to the new regulations to implement P.L. 95-142, this rule revises the existing Medicare regulation (42 CFR 405.603) authorizing the Department to refuse a provider agreement to a provider which is bankrupt or insolvent. This revision is intended to improve clarity and understanding without making any substantive changes.

Elsewhere in this issue of the *Federal Register* are rules for the Maternal and Child Health and the Crippled Children's Services (MCH-CC) programs implementing section 3 of P.L. 95-142; and for title XX services programs, implementing sections 3 and 8.

All of these rules have been developed cooperatively among the Health Care Financing Administration, the Public Health Service, and the Office of Human Development Services in order to achieve as much consistency as possible. This preamble attempts to deal with the issues pertaining to all these programs in order to avoid repetition in the preambles for the other rules.

The statutory provisions being implemented are as follows:

A. Disclosure of ownership and related information.—Section 3 requires specified agencies and institutions (known as "disclosing entities") to disclose certain ownership information to the Secretary or to the appropriate State agency as a condition to their participation in the Medicare, Medicaid, MHC-CC, or title XX services programs. Section 3 also requires that health care

providers disclose certain information about their business transactions.

1. Disclosing entities.—The statutory definition includes hospitals, skilled nursing facilities, clinical laboratories, renal disease facilities, health maintenance organizations, and rural health clinics (as established by P.L. 95-210) under Medicare; entities (other than practitioners or groups of practitioners) that furnish or arrange for the furnishing of services under the Medicaid or title V MCH-CC programs; fiscal intermediaries, fiscal agents, and carriers participating in Medicare or Medicaid; and providers of health-related services under title XX.

2. Ownership information that must be disclosed.—The statute requires that a disclosing entity provide the names of any person with an ownership or control interest in the entity or in a subcontractor in which the entity has at least a 5 percent ownership interest.

3. Identification of common ownership.—The statute also requires that, to the extent determined by the Secretary to be feasible, a disclosing entity must report on whether any of the persons whom it must identify as having an ownership or control interest in itself also has an ownership or control interest in another disclosing entity. Such information is to be disclosed to the extent an entity can obtain it by making a written request of those people having an ownership or control interest in the entity.

4. When the information must be disclosed.—The statute requires that ownership information noted above must be supplied to the Secretary or the appropriate State agency as a condition for participation in, certification or recertification for, or approval of a contract or agreement under any of the programs established under title V, XVIII, XIX, or XX. This is to be implemented by requiring every disclosing entity to submit the information routinely, at specified intervals. We are following the congressional intent by requiring disclosing entities to supply the information as part of either the certification or the contractual process, depending on the nature of the disclosing entity. Those entities which, as providers or suppliers of services, are surveyed annually for compliance with Federal and State standards would be required to furnish the information to the survey agency. Disclosing entities subject to this procedure include hospitals, nursing homes, intermediate care facilities, home health agencies, outpatient clinics, independent clinical laboratories, renal disease facilities and

rural health clinics. The survey agency will give the information to HCFA, which would be responsible for collecting and compiling the information on all disclosing entities. Since health maintenance organizations and Medicare fiscal intermediaries and carriers enter into contracts with HCFA, ownership information will be obtained directly from these disclosing entities.

Updated information may be requested by the Secretary or the State at intervals between recertifications or contract renewals.

5. Requirements for disclosing information about business transactions.—Section 3 of Pub. L. 95-142 also requires a health care provider under Medicare, Medicaid, or title XX to comply with a request from the Secretary or appropriate State agency for information about the ownership of any subcontractor with whom the provider has had more than \$25,000 in business transactions during the previous 12 months or for any information as to any significant business transactions occurring during the previous 5 years between the provider and a subcontractor or a wholly-owned supplier.

6. Consequences of failure to disclose information.—As noted above, the requirement to disclose ownership and control information is stated in the statute as a condition for participation, certification, or approval of any agreement between the disclosing entity and the Secretary or the State agency. Therefore, the Secretary will not approve or renew a Medicare agreement with any provider, fiscal intermediary, or carrier that failed to supply such information. Moreover, in the case of hospitals and other Medicare providers whose agreements or eligibility is not renewed annually, the Secretary will terminate their existing provider agreements or eligibility if they failed to supply the information to the survey agency.

Similar provisions apply for the Medicaid, MCH-CC, and the title XX services programs. A State Medicaid agency, a State title V agency, or a State title XX agency will not approve or renew an agreement with a provider or fiscal agent that fails to supply required information. These State agencies are also authorized to terminate a provider agreement or other contract with any disclosing entity that fails to submit the information when required. Since supplying ownership information is a precondition for participation, the Department will withhold Federal financial participation in Medicaid, title

V, or title XX payments to providers who fail to furnish the information.

The statute imposes the requirement on Medicare providers to disclose information about business transactions by authorizing the Secretary to terminate the Medicare provider agreement for any provider who fails to comply with a request for that information. The regulation establishes the Medicare provider's obligation to disclose this information by treating the failure to disclose as grounds for terminating a provider agreement. For Medicaid and title XX, the statute mandates that the State plan requires a provider to furnish the information on business transactions upon request by the Secretary or the State agency. The statute also precludes Federal financial participation in any Medicaid or title XX payments made to a provider who has failed to comply with a request from either the Secretary or the State agency. The regulation follows these statutory requirements.

B. Disclosure of owners and certain other individuals convicted of certain offenses.—Section 8 of P.L. 95-142 requires that as a condition of participation in Medicare, Medicaid, or the title XX services program all institutional providers of services must disclose to the Secretary or appropriate State agency the name of any owner, officer, director, agent, or managing employee who has been convicted of a criminal offense related to his involvement in these programs.

1. Persons who must be identified.—With respect to Medicare and Medicaid, the persons who must be identified under section 8 (if they have a criminal conviction) are the same as those who must be disclosed under section 3, plus agents and managing employees. As explained in the regulation for title XX, the types of providers covered under that program are broader.

2. Date of conviction.—The regulation requires the identification and disclosure of any convictions which occurred since the date of inception of Medicare (July 1, 1966), Medicaid (January 1, 1966), or the services program (October 1, 1975).

3. When information must be disclosed.—The information must be furnished to the Secretary before a Medicare provider agreement is approved or renewed, to a State Medicaid agency before participation in Medicaid is approved or renewed, and to a State title XX agency before a contract is entered into. Additionally, information must be furnished to the Secretary or the State agency at intervals between recertification or

contract renewals upon written request. Failure to supply requested information may result in the refusal by the Secretary to recertify or renew a contract or agreement.

4. Denial of participation.—If a provider discloses that an owner, officer, director, agent, or managing employee has been convicted of a crime related to his involvement in these programs, the statute authorizes the Secretary to deny (or refuse to renew) a Medicare agreement and authorizes the State agency to deny (or refuse to renew) a contract or agreement under Medicaid or the services program.

5. Termination of participation.—The statute authorizes the Secretary to terminate a Medicare agreement if the provider did not fully and accurately disclose the required information at the time the agreement was approved. The statute also authorizes the State agency to terminate a contract, agreement, or approval to participate in Medicaid or the services program under the same circumstances.

C. Federal access to records of Medicaid providers.—Section 9 of P.L. 95-142 provides that persons or institutions providing services under Medicaid are to furnish information to the Secretary to the extent they are already required to furnish it to the State Medicaid agencies under section 1902(a)(27) of the Social Security Act. Providers are also required to provide this information directly to the State Medicaid fraud control unit, if such a unit has been established by the State and approved by the Secretary in accordance with 42 CFR 450.310. The regulation also includes a clarification of the language regarding what information a Medicaid provider is required to disclose.

D. Disclosure of the hiring of certain former employees of fiscal intermediaries.—Section 15 of P.L. 95-142, in order to preserve the integrity of the relationship between intermediary and provider, and the integrity of the auditing process, requires any Medicare provider to notify the Secretary promptly of its employment of an individual who at any time during the preceding year was employed in a managerial, accounting, auditing or similar capacity (as defined in the regulation) by a fiscal intermediary or carrier who served that provider.

We have reorganized the location of the Medicare regulations from where they appeared in the Proposed Rule of August 4, 1978. Since the purpose of P.L. 95-142 was to strengthen the Government's antifraud and abuse efforts, the appropriate implementing

regulations are located in new Part 420 which will eventually contain all Program Integrity-related regulations under Medicare.

Regulations were published in the *Federal Register* as a Proposed Rule on August 4, 1978, and the public was invited to comment. We received 26 comments on the Proposed Rules. Although many of the comments which were received expressed dissatisfaction with the provisions of the statute, a number of them questioned the technical requirements for implementation contained in the proposed regulations. All of the comments have been reviewed and evaluated and, where appropriate, incorporated into the final rule.

Discussion of Major Comments

The most significant comments and changes to the regulations are described below:

Section 3—Disclosure of Ownership and Related Information

1. Definitions of terms.—A number of commenters questioned several of the definitions contained in the proposed regulation.

One commenter requested a definition of the term "control interest." This term is defined in Section 1124(a)(3) of the Social Security Act as part of the definition of the term "person with an ownership or control interest." Specifically, "control interest" is defined in that section in the following clauses: "(B) is an officer or director of a disclosing entity that is organized as a corporation; or (C) is a partner in a disclosing entity that is organized as a partnership."

"Group of Practitioners"—A commenter took exception to our proposed definition in that it placed a disclosure responsibility on groups of practitioners organized as partnerships or corporations while excusing from disclosure requirements those less formally affiliated practitioners operating at a common location. He suggested that it was not the intent of the statute to differentiate, for reporting purposes, those practitioners who had formed less formal group organizations. We have reviewed this carefully and have concluded that groups of practitioners organized as partnerships or corporations should not be included in the disclosing requirement. Because they do not enter into formal agreements with the Secretary, and are not certified for participation in these programs, they do not seem to be an "entity" within the terms of the statute.

"Indirect Ownership Interest"—Several commenters asked that we include the formula for determining "indirect ownership interest" (420.201 and 455.101) as well as an example of such ownership interest. We accept this suggestion and have provided the formula and an example in §§ 420.202 and 455.102.

"Person with an ownership or control interest"—One commenter suggested that the regulation include the formula for determining ownership interest of 5 percent or more in any mortgage, deed of trust, etc. (clause iii of the definition) as well as an example of such ownership interest. We accept this suggestion and have provided the formula and an example in §§ 420.202 and 455.102.

"Significant Business Transaction"—Several commenters suggested that the minimum of \$25,000 or 5 percent be increased to \$100,000 or 10 percent since the lower figure would require the reporting of too many transactions. As discussed in the NPRM, the figure of \$25,000 was selected in order to conform to the \$25,000 figure specified in the statute for reporting of transactions with subcontractors. In recognition that many small providers would be engaged in transactions totalling less than \$25,000, but which would still represent a substantial portion of their overall business, we included the 5 percent alternative in order to assure the reporting of these transactions by smaller providers. We believe that the use of the proposed standards, \$25,000 or 5 percent, would effectively reduce the opportunity for abuse. It should be noted that the law does not require the submission of information on "significant business transactions" on a routine basis. Rather, it is our intent to request such information only if the facts show it to be necessary.

"Subcontractor"—Several commenters stated that the definition was too broad and ambiguous. Our intent was to provide a broad definition of this term. A more narrow definition would exclude too many individuals and organizations from the disclosure requirements intended by the Congress. For the sake of clarity, however, we are revising 420.202 and 455.101 to separately define the term as it applies to fiscal intermediaries and fiscal agents as distinguished from health care providers. For fiscal intermediaries and fiscal agents, subcontractor has been defined as "any organization which has entered into a contract, agreement, purchase order, or lease (including leases of real property) with an intermediary (including a Blue Cross

plan) or carrier to obtain space, supplies, equipment or services under the Medicare or Medicaid agreement."

2. Information to be disclosed.—A commenter suggested that the requirements for reporting the names of persons who are related to each other (420.206(a)(1) and 455.104(b)(2)) be expanded to include siblings. We accept this suggestion and have revised the regulation accordingly.

Proposed regulations 405.603-3(a)(2) (now 420.206(a)(2)) and 455.104(b)(3) require the name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest. A commenter asked whether this means that a disclosing entity which is participating in one program would be required to furnish the name of another disclosing entity which participates only in another program where both entities are owned or controlled by the same person. The answer is clearly, yes. The statute defines a disclosing entity as including those entities which furnish services covered under titles V, XVIII, XIX, and XX. For example, if a disclosing entity participating only in the Medicaid program has knowledge that one of its owners also has an ownership interest in a disclosing entity that participates only in the Medicare program, the name of the entity participating in Medicare must also be reported.

3. Time and manner of disclosure.—One commenter suggested that the term "survey agency" as used in 420.206(b)(1) and 455.104(c)(1) may not be commonly used or understood in the health care field. The term "survey agency" as used, for example, in 442.12 has been in wide use by both Medicare and Medicaid since the 1972 amendments to the Social Security Act which required the use of common standards for surveying providers. All certification agreements are between the provider and the State survey agency. In order to further assure a common understanding of this term, we have inserted the word "State" before survey agency.

A Medicaid State agency has commented that it was not sure whether it must obtain new agreements with providers under which the providers agree to furnish information on business transactions. Since the statute mandates that the State plans require a provider to furnish information on business transactions, State plans will be amended to require that all new provider agreements contain this agreement with the provider. This agreement by the provider will be

inserted in all existing agreements at the time they are scheduled for renewal.

A commenter noted that in 455.104(c)(1) we failed to provide for referral of disclosure information by the survey agency to the State agency. We have revised that part of the regulation to correct this oversight.

4. Time limit for business transaction information.—Many commenters protested that the time limits of 35 days after the date of request allowed providers for the submission of business transaction information (405.614(a)(6) and 455.105(b)) is insufficient. We recognize that there may be instances where it will take the provider longer than 35 days to collect, compile, and submit the required information. It is not our intention to be unreasonable in such cases. It should, therefore, be noted that the Secretary's termination authority for noncompliance within this prescribed time period is discretionary, not mandatory. The Secretary will consider any possible extenuating circumstances in a particular case and may allow more time for the submission of information before terminating a provider agreement or withholding Federal financial participation. It should, however, be emphasized that such extensions for compliance will be the exception rather than the rule and that the provider bears the burden of persuading the Secretary of the validity of the reason for noncompliance.

5. Ownership/control reporting form.—A number of commenters have proposed that HCFA develop a standard form to be used for the collection of ownership/control disclosure information. Recognizing the desirability of having such a form available, HCFA has been developing a form to be used for the collection of ownership and control data for both Medicare and Medicaid as well as the Maternal and Child Health and services programs during surveys or at the time provider agreements are signed. These forms should be available for distribution at the time of the publication of this regulation or very soon thereafter.

6. Chain reporting.—As noted in the discussion above, all providers, whether or not chain affiliated, are required to furnish the ownership/control information mandated by the statute. While some commenters have suggested that disclosure for the entire chain could be made from the home office, we do not agree that this would satisfy the requirements of the law. Since there is a wide variety of management, control, and ownership arrangements in force and applicable to individual providers within a chain, we believe that only by

receiving the ownership/control information from each disclosing entity (individual provider) can we be assured of adequate data. In developing and evaluating the system for data collection and compilation, HCFA will place particular emphasis on assuring that there are no unnecessary duplicative reporting requirements imposed on chain providers.

7. Reporting responsibility.—One comment received from an intermediary association noted that since the majority of its affiliates (fiscal intermediaries) were organized as not-for-profit corporations, it believed that they would not have to comply with the ownership disclosure requirements. This is an erroneous interpretation of the law. The law does not distinguish between not-for-profit and for-profit organizations in that provision which requires the disclosure of ownership or control interest by disclosing entities (which includes agencies or organizations acting as fiscal intermediaries or agents). The same commenter further raised the question of the need for ownership disclosure for intermediaries which are organized as mutual insurance companies owned by the policyholders. Even though the entity may be organized as a mutually owned insurance company, the law still requires that entity to identify any person with a 5 percent or more ownership or control interest in the entity. In addition, a mutually owned insurance company must furnish full and complete information as to the identity of a person who is an officer or director of the entity, if a corporation, or in any subcontractor in which the disclosing entity corporation has a 5 percent or more ownership interest.

A comment from a State agency questioned the appropriateness of considering all entities under Medicaid (other than individual practitioners or groups of practitioners) as disclosing entities for disclosure requirement purposes. We must point out that the proposed regulation conforms to the language of the statute. The law is clear in that it requires such disclosure from any entity that furnishes, or arranges for the furnishing of items or services with respect to which payment may be claimed by the entity under any plan established under a State plan approved under title XIX.

It was suggested by one commenter that since the Securities Exchange Commission (SEC) has disclosure requirements for publicly held companies, we should recognize the procedures established by the SEC for obtaining ownership data in order to

avoid duplication. In developing our system of data collection and compilation, we have been coordinating with the SEC in order to avoid the possibility of placing unnecessarily duplicative reporting requirements on disclosing entities.

8. Efforts to obtain information.—Several commenters have asked for more explanation and detail on what could be considered sufficient effort for disclosing entities to obtain information required to be disclosed. Specifically, the questions were asked as they relate to (1) the requirement of reporting the name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest, to the extent that the information can be obtained by requesting it in writing from the person, and (2) the requirement to supply full and complete information as to the ownership of a subcontractor with whom the disclosing provider has had, during the previous 12 months, business transactions amounting to more than \$25,000.

As a minimum, we would recommend that an entity would make at least two written requests for the required information and, if necessary, a third request by registered mail if the first two requests elicited an unacceptable or no response. The regulations require the disclosing entity making such written requests to keep on record and to be able to furnish to the Secretary or State agency, copies of all requests as well as any responses received. The regulations also require the disclosing entity making the written requests to notify the Secretary or State agency when the requests have failed to obtain the information requested.

In any case where the disclosing entity has been unable to furnish the required information, the degree of effort put forth by the entity to obtain the information will be closely reviewed by the Secretary or the State agency.

9. Appeals.—A commenter suggested that since terminations or nonrenewals of provider agreements are subject to administrative hearings, the termination or nonrenewal due to noncompliance with the disclosure requirements should be delayed until the hearing has been completed. The appeals procedures, §§ 405.1501-405.1595, which have been in operation since 1968, provide only for hearings subsequent to the action being appealed. We think this is both constitutionally valid and appropriate and, therefore, do not accept the suggestion for a pretermination hearing in this situation.

10. *State agency authority and responsibility.*—In response to a question by a commenter, we wish to emphasize that nothing in these rules is intended to slow the process by which the State agency certifies and enters into agreements with providers. The State agency is encouraged to carry out without delay its responsibilities under the law and regulations without waiting until DHEW acknowledges the receipt of or approval of the ownership information.

Section 8—Disclosure by Institutions, Organizations, and Agencies of Owners and Certain Other Individuals Who Have Been Convicted of Certain Offenses

1. *Purpose and use of the statute.*—As a result of the concerns expressed by a number of commenters, we wish to state clearly that in implementing this provision of the law, it is not mandatory that the Secretary or State agencies deny approval or renewal of an agreement for every provider that has in any of the statutorily enumerated capacities (owner, officer, director, agent, or managing employee) a person who has been convicted of a crime related to any of the programs under titles XVIII, XIX, or XX. Rather, the purpose of the law and the role of the Secretary and State agencies is to enable them to deny program participation to a provider when it is apparent that participation in any of the programs by that provider will likely result in fraud and/or abuse of the programs. The statute is intended as a deterrent and will be used to protect the programs, not to mete out further punishment to persons already punished by the courts.

2. *Pre-employment approval.*—A commenter asks that a procedure be developed whereby the provider, prior to entering into an agency or employee relationship with a previously convicted person, could expeditiously determine from the Secretary or State agency the effect such a relationship would have on its provider status. It would be neither possible nor practical for this decision to be made prior to the actual employment of such a previously convicted person. To attempt to make such a pre-employment decision would subject the Secretary or State agency to charges of interference with that person's right to seek and obtain employment. It will, however, be the policy of the Department to make a prompt decision when it learns of the employment of a previously convicted person by a provider.

3. *Standards for making determinations.*—It was suggested by one commenter that the regulations set forth the specific standards and guidelines to be used in determining whether a provider agreement will be approved or renewed.

We cannot accept this suggestion since it is not possible to provide such a check list. Each case must be considered and weighed on its own facts and merits. As stated in the preamble to the proposed regulations, in reviewing the facts and circumstances of each case, consideration will be given to the nature and severity of the crime; the extent to which it adversely affected beneficiaries and the programs involved; and, whether reasonable assurance has been given that the person will not commit any further criminal offenses against the program.

4. *Notice of reversal of conviction.*—A commenter has suggested that the regulations should require notification from the provider of the reversal on appeal of the conviction of any owner, officer, director, agent, or managing employee.

We do not believe such a regulatory requirement is necessary. If such a reversal occurs prior to the time that reporting of a conviction is due from the provider, it would not be necessary to report such a reversed conviction. If, however, a reversal occurs subsequent to the notification by the provider of the conviction, it would likely be reported to the Secretary or State agency despite the absence of a regulation since it would be in the provider's best interest to report a reversal.

5. *Persons to be reported.*—A commenter suggests the use of the SEC standard for determining "controlling persons" and that this be our criterion for requiring reporting of convictions under this section of the law.

Section 1126(a) of the Social Security Act identifies those persons who must be identified if convicted. We cannot, therefore, accept this suggestion since it was clearly the intent of the drafters of this provision to require that any person in any type of managerial capacity, not only "controlling persons", be identified.

6. *Definition of "agent."*—A commenter has stated the definition of the term "agent" (420.201 and 455.101) is too broad in that it encompasses virtually any person who has the authority to obligate or act on behalf of the provider. As discussed in Comment 3 above under Disclosure of Ownership and Related Information (Section 3) this is precisely what must be reported. The intent here is to have knowledge of not only those persons in top provider

management, but also those persons who, although on a lower management level, are in positions where there is a potential to engage in fraud and/or abuse. Since any person who can obligate or act on behalf of the provider is in such a position, we need the identity of any such previously convicted person in order to protect the integrity of the programs.

7. *Definition of "managing employee."*—Two commenters have written that the definition of the term "managing employee" (420.201 and 455.101) is too broad. The definition used in the proposed regulation is identical to the definition contained in the statute. We have not, therefore, acted upon this suggestion.

8. *Date of conviction.*—Two commenters objected to the decision by the Secretary to require the reporting of convictions which occurred prior to October 25, 1977, the date of enactment of this section of the law. The commenters reasoned that for those earlier periods other sanctions were available and that the person may not have been associated with the instant provider during that earlier period. Although we do not dispute the accuracy of these statements, we believe that the information we want is necessary and that our proposal is justified. We must reiterate that the reporting by a provider of the identity of a previously convicted person will not result in an automatic denial of or refusal to renew an agreement. Considering that the purpose of P.L. 95-142 was to strengthen the capability of the Government to prevent and detect fraud and abuse of the programs, we would be underutilizing this provision of the law if we suggested that we were only interested in criminal activity and convictions occurring on or after October 25, 1977. Knowledge of earlier convictions will not result in any type of retroactive denial action by the Secretary or State agency. We will use this information only in connection with current or future requests for approval or renewal of a provider agreement.

9. *Availability of medical services in the community.*—It was suggested by one commenter that in determining whether to renew an agreement, the Secretary or State agency should consider as a factor the availability or shortage in the community of the medical services offered by the subject provider. In essence, this suggests that a provider should be allowed to continue participation in the programs where there is a medical shortage in the community notwithstanding the continued involvement with the facility

of a person convicted of a program-related crime who has not satisfied the Secretary or State agency that such future crimes are not likely.

Unlike another provision of P.L. 95-142 (Section 7) which explicitly allows for consideration of an imputes much weight to the medical services availability factor in determining whether a convicted practitioner should be suspended from program participation, there is nothing in this section of the law concerning any consideration of this factor. As previously stated, the Secretary or State agency may consider any factor in each case individually.

10. *Failure to disclose.*—Commenters asked whether an unintentional failure to disclose a program-related conviction of an employee (because the employee withheld such information from the provider) would result in a termination action against the provider. We view the failure by a provider to report such information fully and accurately as a serious matter warranting termination of the provider agreement. However, the provider will be allowed to present any mitigating factors which might justify the nondisclosure. For example, the provider might show that the employment application completed by the employee included a clearly worded question regarding any prior convictions for crimes against the programs; the employee gave a written negative response; and the employer had no reason to doubt the truth of such response. Clearly, however, the burden is on the provider to show why it should not be terminated in accordance with the law for such failure to disclose.

At any time during the agreement period, it is the responsibility of the provider to promptly notify the Secretary or State agency upon learning of a conviction which occurred prior to the agreement period and which was not previously reported.

Section 9—Federal Access to Records

1. Two commenters objected to the Secretary's access to the records of Medicaid providers (431.107(b)(2)), claiming that such access would destroy the traditional confidentiality between the physician and the patient.

This provision was included in the law specifically to allow the Secretary access to the records of persons or institutions providing services under Medicaid in the same manner that such access was provided to the State agency administering the State Medicaid plan. (See H. Rept. 95-393, Part 1, p. 65; S. Rept. 95-453, p. 29.) Prior to P. L. 95-142, the State plans under Medicaid were

required to provide for agreements with every person or institution providing services so that such persons or entities would keep complete records of services provided under the program and furnish the State agency, upon request, with information regarding any payments claimed under the program. Similar access to the Secretary was not expressly authorized. The Congress concluded that this omission hampered the Federal efforts to obtain information necessary to detect and examine potential instances of fraudulent or abusive activities and, therefore, legislatively provided the Secretary with the same access to records as provided to the State Medicaid agencies.

Federal examination of any records of Medicaid recipients will be done judiciously and for the sole purpose of determining that payments made under Medicaid are proper. The patients' right of privacy will be protected under the rules and regulations implementing the Privacy Act (5 U.S.C. 522a) and the laws the various States have concerning the patients' right to privacy.

2. *Access to State Medicaid fraud control units.*—One commenter objected to the access to records by State Medicaid fraud control units proposed in 431.107(b)(2) noting that such units already have an indirect access to records through the single State agencies.

As we stated in the preamble to the proposed regulations, direct access by the fraud control units will negate the administrative delay which would be caused by requiring the units to request the Medicaid agency to obtain the records so that they may be then turned over to the fraud control unit. The final regulations for establishing State Medicaid fraud control units (42 FR 32078-32082) noted that consideration was then being given to revising 431.107 to allow record access by the units. The revision is now being accomplished in these regulations.

Section 15—Disclosure by Providers of the Hiring of Certain Former Employees of Fiscal Intermediaries

1. *Purpose of the statute.*—Several commenters have expressed opposition to the proposed regulation requiring a provider to notify the Secretary of its employment of certain former employees of its intermediary.

The regulation in this instance is not interpretive but merely conforms to the law which clearly states that a Medicare provider must agree to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was

employed in a managerial, accounting, auditing, or similar capacity by its Medicare intermediary or carrier.

Information obtained under this notification requirement will be used by the Department to discourage such practices, especially when such information suggests possible conflict of interest situations. (See H. Rept. 95-393, Part 1, p. 70; S. Rept. 95-453, p. 33.)

2. *Chain organization employee.*—A commenter asked whether reporting is necessary when a former intermediary or carrier employee is employed by a chain organization and is not on the staff of an individual reporting entity but rather on the staff of the chain organization serving many reporting entities.

The language of the proposed regulation (405.607(c)) requires reporting by a provider "... If it employs or obtains the services of ..." In including the term "obtains the services of" it was intended that such a chain home office employee be reported by the individual disclosing entity serviced by the intermediary or carrier by whom he was formerly employed. Even though the employee is not directly employed by any individual facility in the chain, his employment by the chain home office presumes that his services are, in fact, rendered to all of the facilities in the chain.

42 CFR Chapter IV is amended as set forth below:

1. Section 405.603 is revised to read as follows:

§ 405.603 Decision by the Secretary to deny an agreement.

(a) *Bases for denial.*—The Secretary may refuse to enter into or renew an agreement for any of the following reasons:

(1) Bankruptcy or insolvency of the provider;

(2) Principals of the provider have been convicted of fraud (see § 420.204 of this chapter); or

(3) The provider has failed to disclose ownership and control interests in accordance with § 420.206 of this chapter.

(b) *Bankruptcy or insolvency.*—(1) Prior to the Secretary's acceptance of a provider agreement, the provider must furnish a statement in writing indicating whether it has been adjudged insolvent or bankrupt in any State or Federal court or there is pending a court proceeding to make a judgment of this matter.

(2) The Secretary will not enter into an agreement with a provider that has been adjudged insolvent or bankrupt under appropriate State or Federal law,

or against which there is pending a court proceeding to make a judgment concerning this matter, on the grounds that the provider is unable to give satisfactory assurances of compliance with the requirements of title XVIII of the Act.

(3) If a provider who is participating and receiving payments under Medicare is subsequently adjudged insolvent or bankrupt by a court of competent jurisdiction, the Secretary will not terminate the provider's participation in the program because of that financial condition.

2. Section 405.607 is amended by revising the introductory language and adding a new paragraph (c) to read as follows:

§ 405.607 Essentials of agreements with providers of services.

The provider must agree:

(c) to comply with the requirements of § 420.203 of this chapter when it hires certain former employees of intermediaries.

3. Section 405.614 is amended by adding new paragraphs (a)(6), (a)(7), and (a)(8), to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if he determines that the provider of services:

(6) Failed to furnish information on business transactions as required in § 420.205 of this chapter.

(7) Failed at the time the agreement was entered into or renewed to disclose information on convicted individuals as required in § 420.204 of this chapter.

(8) Failed to furnish ownership information as required in § 420.206 of this chapter.

4. Section 405.1121 is amended by revising paragraph (a) to read as follows:

§ 405.1121 Conditions of participation—governing body and management.

(a) *Standard: Disclosure of ownership.*—The facility complies with the disclosure requirements of § 420.206 of this chapter.

5. Part 420 is amended by adding a new Subpart C to read as follows:

PART 420—PROGRAM INTEGRITY

Subpart C—Disclosure of Information

Sec.
420.200 Purpose.

- Sec.
420.201 Definitions.
420.202 Determination of ownership or control percentages.
420.203 Disclosure of hiring of intermediary's former employees.
420.204 Principals convicted of a program related crime.
420.205 Disclosure by providers of business transaction information.
420.206 Disclosure of identities of persons having ownership, financial, or control interest.
- Authority:** Secs. 1102, 1124, 1126, 1861(j)(1), 1866(a), and 1866(b)(2), of the Social Security Act (42 U.S.C. 1302, 1320a-3, 1320a-5, 1395x(j)(11), 1395cc(a), 1395cc(b)(2)).

Subpart C—Disclosure of Information

§ 420.200 Purpose.

This subpart implements sections 1124, 1126, 1861, and 1866 of the Social Security Act. It sets forth requirements for providers, intermediaries, and carriers to disclose ownership and control information. It also sets forth requirements for disclosure of information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, or the title XX services program.

§ 420.201 Definitions.

As used in this subpart unless the context indicates otherwise: "Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.

"Disclosing entity" means:

(1) A provider of services, an independent clinical laboratory, a renal disease facility, a rural health clinic, or a health maintenance organization (as defined in section 1301(a) of the Public Health Services Act); and

(2) A carrier or other agency or organization that is acting as a fiscal intermediary or agent for one or more providers of services for purposes of Part A or Part B of Medicare.

"Other disclosing entity" means any other Medicare disclosing entity and any entity that does not participate in Medicare, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XIX, or XX of the Act. This includes:

(1) An entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services for which payment may be claimed by the entity under any plan or program established under title V of the Social Security Act or under an approved State Medicaid plan;

(2) An entity (other than an individual practitioner or group of practitioners)

that furnishes, or arranges for the furnishing of, health related services for which payment may be claimed by the entity under an approved State plan and services program under title XX of the Act; or

(3) A Medicaid fiscal agent.

"Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

"Indirect ownership interest" means any ownership interest in an entity that has an ownership interest in the disclosing entity. The term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

"Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the institution, organization, or agency.

"Ownership interest" means the possession of equity in the capital, the stock, or the profits of the disclosing entity.

"Person with an ownership or control interest" means a person or corporation that:

(1) Has an ownership interest totalling 5 percent or more in a disclosing entity;

(2) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(3) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(4) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(5) Is an officer or director of a disclosing entity that is organized as a corporation; or

(6) Is a partner in a disclosing entity that is organized as a partnership.

"Significant business transaction" means any business transaction or series of transactions during any one fiscal year, the total of which exceeds the lesser of \$25,000 and 5 percent of the total operating expenses of the provider.

"Subcontractor" means:

(1) An individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients, or

(2) An individual, agency, or organization with which an intermediary or carrier has entered into a contract, agreement, purchase order or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicare agreement.

"Supplier" means an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicare (e.g. a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).

"Wholly owned supplier" means a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

§ 420.202 Determination of ownership or control percentages.

(a) *Indirect ownership interest.*—The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 percent of the stock in a corporation that owns 80 percent of the disclosing entity, A's interest equates to an 8 percent indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80 percent of the stock of a corporation that owns 5 percent of the stock of the disclosing entity, B's interest equates to a 4 percent indirect ownership interest in the disclosing entity and need not be reported.

(b) *Person with an ownership or control interest.*—In order to determine the percentage of ownership interest in any mortgage, deed of trust, note, or other obligation, the percentage of interest owned in obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.

§ 420.203 Disclosure of hiring of intermediary's former employees.

A provider must notify the Secretary promptly if it, or its home office (in the case of a chain organization), employs or obtains the services of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting,

auditing or similar capacity by an agency or organization which currently serves, or at any time during the preceding year, served as a Medicare fiscal intermediary or carrier for the provider. "Similar capacity" means the performance of essentially the same work functions as those of a manager, accountant, or auditor even though the individual is not so designated by title.

§ 420.204 Principals convicted of a program related crime.

(a) *Information required.*—Prior to the Secretary's acceptance of a provider agreement, or at any time upon written request by the Secretary, the provider must furnish the Secretary with the identity of any person who has an ownership or controlling interest in the provider, or who is an agent or managing employee of the provider, and has been convicted of a criminal offense relating to involvement in Medicare, Medicaid, or the title XX services program since the inception of those programs.

(b) *Refusal to enter into or renew agreement.*—The Secretary may refuse to enter into or renew an agreement with a provider of services if any person who has an ownership or controlling interest in the provider, or who is an agent or managing employee, has been convicted of a criminal offense related to the involvement of that person in Medicare, Medicaid, or the title XX services program. In making this decision, the Secretary will consider the facts and circumstances of the specific case, including the nature and severity of the crime and the extent to which it adversely affected beneficiaries and the programs involved. The Secretary will also consider whether he has been given reasonable assurance that the person will not commit any further criminal offense against the programs.

(c) *Notification of Inspector General.*—The Secretary will promptly notify the Inspector General of the Department of receipt of any application or request for participation, certification, or recertification that identifies any person described in paragraph (a) of this section and of the action taken on that application or request.

§ 420.205 Disclosure by providers of business transaction information.

A provider must submit to the Secretary, within 35 days after the date of a written request, full and complete information on:

(a) The ownership of a subcontractor with whom the provider has had, during the previous 12 months, business

transactions in an aggregate amount in excess of \$25,000; and

(b) Any significant business transactions between the provider and any wholly owned supplier or between the provider and any subcontractor, during the 5 year period ending on the date of the request.

§ 420.206 Disclosure of persons having ownership, financial, or control interest.

(a) *Information that must be disclosed.*—A disclosing entity must submit the following information in the manner specified in paragraph (b) of this section.

(1) The name and address of each person with an ownership or control interest in the entity or in any subcontractor in which the entity has a direct or indirect ownership interest totalling 5 percent or more;

(2) Whether any of the persons named, in compliance with paragraph (a)(1) of this section, is related to another as spouse, parent, child, or sibling; and

(3) The name of any other disclosing entity in which any person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent the entity can obtain the information by requesting it in writing from the person. The disclosing entity must:

(i) Keep copies of all these requests and the responses to them;

(ii) Make them available to the Secretary or the Medicaid agency upon request; and

(iii) Advise the Secretary when there is no response to a request.

(b) *Time and manner of disclosure.*—(1) Any disclosing entity that is subject to periodic survey and certification of its compliance with Medicare standards must supply the information specified in paragraph (a) of this section to the State survey agency at the time it is surveyed. The survey agency will promptly furnish the information to the Secretary.

(2) Any disclosing entity that is not subject to periodic survey and certification must supply the information specified in paragraph (a) of this section to the Secretary before entering into a contract or agreement to participate in Medicare.

(3) Updated information must be furnished to the Secretary at intervals between recertifications or contract renewals, within 35 days of a written request.

(c) *Consequences of failure to disclose.*—(1) The Secretary will not approve an agreement or contract with, or make a determination of eligibility

for, any disclosing entity that fails to comply with paragraph (b) of this section.

(2) The Secretary will terminate any existing agreement or contract with, or withdraw a determination of eligibility for, any disclosing entity that fails to comply with paragraph (b) of this section.

(d) *Public disclosure.*—Information furnished to the Secretary under the provisions of this section shall be subject to public disclosure as specified in 20 CFR Part 422.

6. Section 431.107 is revised to read as follows:

§ 431.107 Required provider agreement.

(a) *Basis and purpose.*—This section sets forth State plan requirements, based on sections 1902(a)(4) and 1902(a)(27) of the Act, that relate to the keeping of records and the furnishing of information by all providers of services (including individual practitioners and groups of practitioners).

(b) *Agreements.*—A State plan must provide for an agreement between the Medicaid agency and each provider furnishing services under the plan in which the provider agrees to:

(1) Keep any records necessary to disclose the extent of services the provider furnishes to recipients;

(2) On requests, furnish to the Medicaid agency, the Secretary, or the State Medicaid fraud control unit (if such a unit has been approved by the Secretary under § 455.300 of this chapter), any information maintained under paragraph (b)(1) of this section and any information regarding payments claimed by the provider for furnishing services under the plan; and

(3) Comply with the disclosure requirements specified in Part 455, Subpart B of this chapter.

7. Section 431.115 is amended by revising the title and paragraph (e)(4) to read as follows:

§ 431.115 Disclosure of survey information and provider or contractor evaluation.

(e) *Documents subject to disclosure.*—Documents subject to disclosure include—

(4) Ownership and contract information as specified in § 455.104 of this subchapter.

8. Part 455, Subpart B, is revised to read as follows:

PART 455—PROGRAM INTEGRITY

Subpart B—Disclosure of Information by Providers and Fiscal Agents

Secs.

455.100 Purpose.

455.101 Definitions.

455.102 Determination of ownership or control percentages.

455.103 State plan requirement.

455.104 Disclosure by providers and fiscal agents: Information on ownership and control.

455.105 Disclosure by providers: Information related to business transactions.

455.106 Disclosure by providers: Information on persons convicted of crimes.

Authority: Secs. 1102, 1124, 1126, 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act (42 U.S.C. 1302, 1320a-3, 1320a-5, 1396a(a)(38), 1396b(i)(2), and 1396b(n)).

§ 455.100 Purpose.

This subpart implements sections 1124, 1126, 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act. It sets forth State plan requirements regarding:

(a) Disclosure by providers and fiscal agents of ownership and control information; and

(b) Disclosure of information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, or the title XX services program.

The subpart also specifies conditions under which the Administrator will deny Federal financial participation for services furnished by providers or fiscal agents who fail to comply with the disclosure requirements.

§ 455.101 Definitions.

"Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.

"Convicted" means that a judgment of conviction has been entered by a Federal, State, or local court, regardless of whether an appeal from that judgment is pending.

"Disclosing entity" means a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.

"Other disclosing entity" means any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:

(1) Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);

(2) Any Medicare intermediary or carrier; and

(3) Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under title V or title XX of the Act.

"Fiscal agent" means a contractor that processes or pays vendor claims on behalf of the Medicaid agency.

"Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

"Indirect ownership interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

"Managing employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of, an institution, organization, or agency.

"Ownership interest" means the possession of equity in the capital, the stock, or the profits of the disclosing entity.

"Person with an ownership or control interest" means a person or corporation that:

(1) Has an ownership interest totalling 5 percent or more in a disclosing entity;

(2) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(3) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(4) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(5) Is an officer or director of a disclosing entity that is organized as a corporation; or

(6) Is a partner in a disclosing entity that is organized as a partnership.

"Significant business transaction" means any business transaction or

series of transactions that, during any one fiscal year, exceed the lesser of \$25,000 and 5 percent of a provider's total operating expenses.

"Subcontractor" means:

(1) An individual, agency, or organization to which a disclosing entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients; or

(2) An individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicaid agreement.

"Supplier" means an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicaid (e.g., a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm).

"Wholly owned supplier" means a supplier whose total ownership interest is held by a provider or by a person, persons, or other entity with an ownership or control interest in a provider.

§ 455.102 Determination of ownership or control percentages.

(a) *Indirect ownership interest.*—The amount of indirect ownership interest is determined by multiplying the percentages of ownership in each entity. For example, if A owns 10 percent of the stock in a corporation which owns 80 percent of the stock of the disclosing entity, A's interest equates to an 8 percent indirect ownership interest in the disclosing entity and must be reported. Conversely, if B owns 80 percent of the stock of a corporation which owns 5 percent of the stock of the disclosing entity, B's interest equates to a 4 percent indirect ownership interest in the disclosing entity and need not be reported.

(b) *Person with an ownership or control interest.*—In order to determine percentage of ownership, mortgage, deed of trust, note, or other obligation, the percentage of interest owned in the obligation is multiplied by the percentage of the disclosing entity's assets used to secure the obligation. For example, if A owns 10 percent of a note secured by 60 percent of the provider's assets, A's interest in the provider's assets equates to 6 percent and must be reported. Conversely, if B owns 40 percent of a note secured by 10 percent of the provider's assets, B's interest in the provider's assets equates to 4 percent and need not be reported.

§ 455.103 State plan requirement.

A State plan must provide that the requirements of §§ 455.104–455.106 are met.

§ 455.104 Disclosure by providers and fiscal agents: Information on ownership and control.

(a) *Information that must be disclosed.*—The Medicaid agency must require each disclosing entity to disclose the following information in accordance with paragraph (b) of this section:

(1) The name and address of each person with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has direct or indirect ownership of 5 percent or more;

(2) Whether any of the persons named, in compliance with paragraph (a)(1) of this section, is related to another as spouse, parent, child, or sibling; and

(3) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest. This requirement applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person. The disclosing entity must:

(i) Keep copies of all these requests and the responses to them;

(ii) Make them available to the Secretary or the Medicaid agency upon request; and

(iii) Advise the Medicaid agency when there is no response to a request.

(b) *Time and manner of disclosure.*—(1) Any disclosing entity that is subject to periodic survey and certification of its compliance with Medicaid standards must supply the information specified in paragraph (a) of this section to the State survey agency at the time it is surveyed. The survey agency must promptly furnish the information to the Secretary and the Medicaid agency.

(2) Any disclosing entity that is not subject to periodic survey and certification and has not supplied the information specified in paragraph (a) of this section to the Secretary within the prior 12-month period, must submit the information to the Medicaid agency before entering into a contract or agreement to participate in the program. The Medicaid agency must promptly furnish the information to the Secretary.

(3) Updated information must be furnished to the Secretary or the State survey or Medicaid agency at intervals between recertification or contract renewals, within 35 days of a written request.

(c) *Provider agreements and fiscal agent contracts.*—A Medicaid agency shall not approve a provider agreement or a contract with a fiscal agent, and must terminate an existing agreement or contract, if the provider or fiscal agent fails to disclose ownership or control information as required by this section.

(d) *Denial of Federal financial participation (FFP).*—FFP is not available in payments made to a provider or fiscal agent that fails to disclose ownership or control information as required by this section.

§ 455.105 Disclosure by providers: Information related to business transactions.

(a) *Provider agreements.*—A Medicaid agency must enter into an agreement with each provider under which the provider agrees to furnish to it or to the Secretary on request, information related to business transactions in accordance with paragraph (b) of this section.

(b) *Information that must be submitted.*—A provider must submit, within 35 days of the date on a request by the Secretary or the Medicaid agency, full and complete information about:

(1) The ownership of any subcontractor with whom the provider has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and

(2) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractor, during the 5-year period ending on the date of the request.

(c) *Denial of Federal financial participation (FFP).*—(1) FFP is not available in expenditures for services furnished by providers who fail to comply with a request made by the Secretary or the Medicaid agency under paragraph (b) of this section or under section 420.205 of this chapter (Medicare requirements for disclosure).

(2) FFP will be denied in expenditures for services furnished during the period beginning on the day following the date the information was due to the Secretary or the Medicaid agency and ending on the day before the date on which the information was supplied.

§ 455.106 Disclosure by providers: Information on persons convicted of crimes.

(a) *Information that must be disclosed.*—Before the Medicaid agency enters into or renews a provider agreement, or at any time upon written

request by the Medicaid agency, the provider must disclose to the Medicaid agency the identity of any person who:

(1) Has ownership or control interest in the provider, or is an agent or managing employee of the provider; and

(2) Has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the title XX services program since the inception of those programs.

(b) *Notification to Inspector General.*—(1) The Medicaid agency must notify the Inspector General of the Department of any disclosures made under paragraph (a) of this section within 20 working days from the date it receives the information.

(2) The agency must also promptly notify the Inspector General of the Department of any action it takes on the provider's application for participation in the program.

(c) *Denial or termination of provider participation.*—(1) The Medicaid agency may refuse to enter into or renew an agreement with a provider if any person who has an ownership or control interest in the provider, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid or the title XX Services Program.

(2) The Medicaid agency may refuse to enter into or may terminate a provider agreement if it determines that the provider did not fully and accurately make any disclosure required under paragraph (a) of this section.

(Sections 1102, 1124, 1126, 1861(j)(11), 1866(a), 1866(b)(2), 1902(a)(38), 1903(i)(2), and 1903(n) of the Social Security Act; 42 U.S.C. 1302, 1302a-3, 1320a-5, 1395x(j)(11), 1395cc(a), 1395cc(b)(2), 1396a(a)(38), 1396(i)(2), and 1396b(n).)

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Programs; 13.773, Medicare-Hospital Insurance; and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: April 20, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing
Administration.

Approved: June 17, 1979.

Hale Champion,
Acting Secretary.

[FR Doc. 79-21825 Filed 7-16-79; 8:45 am]

BILLING CODE 4110-35-M

Office of Human Development Services

45 CFR Part 228

Social Services Programs for Individuals and Families; Disclosure by Providers of Certain Ownership Interests and Other Information

AGENCY: Administration for Public Services (APS), Office of Human Development Services (HDS), Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: These regulations require private providers of medical or remedial care and health-related homemaker services under title XX of the Social Security Act to disclose the names of persons with an ownership or control interest. They also require both public and private institutions, organizations or agencies which provide any service under title XX to identify any owners or other specified individuals who have been convicted of a criminal offense in any program under Medicare, Medicaid or title XX. These regulations implement sections 3 and 8 of the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977 (Pub. L. 95-142, October 25, 1977), and this final rule reflects changes made as a result of the comment period on the proposed regulations which were published August 4, 1978 in the Federal Register (FR 34719).

EFFECTIVE DATE: These regulations are effective on July 17, 1979, except that States with a program year starting July 1, 1979 may have up to 90 days after this date to secure the disclosure statements if, when processing a contract, they reserve the right to take appropriate action on the basis of the information received or the provider's failure to provide the information.

FOR FURTHER INFORMATION, CONTACT: Mrs. Johnnie U. Brooks, Room 2225, MES Building, 330 C Street, SW., Washington, D.C. 20201, (202) 245-9415.

SUPPLEMENTARY INFORMATION:

Background

Elsewhere in this issue of the Federal Register there appear final rules implementing sections 3 and 8 of Pub. L. 95-142 for Medicare and Medicaid, and implementing section 3 for the maternal and child health and crippled children's services program. Both the proposed and final rules were developed cooperatively by the Office of Human Development Services, the Health Care Financing Administration, and the Public Health Service in the

interests of attaining as much consistency as possible among the programs. The comments which were received as a result of the publication of the proposed rules on August 4, 1978 and actions which were taken in response to them are described in the preambles: problems common to all the programs and responses to them appear in the preamble to the rules for Medicare and Medicaid; problems and responses unique to title XX are discussed in the material following.

Comments and Responses

Comments were received from 11 respondents on the proposed rule for title XX. These included six State agencies, one county agency, three private non-profit agencies, and one HEW Regional Office. All the comments have been reviewed and evaluated and the following discussion presents the main points and our responses.

1. *Additional Computer Funding.* Respondents saw the reporting procedure required by these rules to be an additional administrative burden on the State agency, requiring additional expenditures. It was suggested that HEW obtain additional funding for the needed computer work and that simple reporting forms be used. In response, we must state that there is no possibility of securing extra earmarked funds for computer work. Moreover, HCFA will do the compilation for the Department (see the next point, Collection of Data by HCFA). We are developing reporting forms and will attempt to keep them as simple as possible.

2. *Collection of Data by HCFA.* Several respondents were perplexed by the statement in the preamble to the proposed HCFA regulation which implied that all information, including that on title XX providers, would be compiled and analyzed by HCFA.

The provider will supply the information to the State title XX agency on forms provided for that purpose. The State title XX agency will then furnish a copy to HCFA which will do the compilation on behalf of HEW. In order to facilitate this process, providers will be asked to submit two copies of the information to the title XX agency.

3. *Phase-in Period to Install the System.* States expressed concern about putting the reporting requirement into effect: they asked for "a reasonable amount of time for implementation and phase-in of the requirement." In our view, it is important to implement these regulations as quickly as possible, since the legislation was enacted in late 1977. Therefore, the regulations will become effective on the date of publication of