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THURSDAY, FEBRUARY 19, 1976

highlights

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Rules Going Into Effect Today

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

Daily List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

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

Monday	Tuesday	Wednesday	Thursday	Friday
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	LABOR			LABOR

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

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Title 3—The President

Proclamation 4415 • **February 17, 1976**

Designating the Clark and Mark Twain National Forests as the Mark Twain National Forest

By the President of the United States of America

A Proclamation

The Mark Twain National Forest and the Clark National Forest were established within the State of Missouri. Part of the Clark National Forest was later transferred to the Mark Twain National Forest; at the same time, part of the Mark Twain National Forest was transferred to the Clark National Forest. Subsequently, both national forests have been successfully administered as if they were a single national forest. This experience indicates that it is now in the public interest to consolidate these two national forests.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 24 of the Act of March 3, 1891, 26 Stat. 1103, as amended (16 U.S.C. 471), the Act of June 4, 1897, 30 Stat. 34, 36 (16 U.S.C. 473), and by Section 11 of the Act of March 1, 1911, 36 Stat. 963 (16 U.S.C. 521), do hereby proclaim that the Clark National Forest in the State of Missouri (Proclamation No. 2363 of September 11, 1939, as amended), and the Mark Twain National Forest in the State of Missouri (Proclamation No. 2362 of September 11, 1939, as amended), are hereby designated and hereafter shall be known as the Mark Twain National Forest.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of February, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundredth.

Gerald R. Ford

[FR Doc.76-4863 Filed 2-17-76;1:04 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

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

[Navel Orange Reg. 368]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Feb. 20–26, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.668 Navel Orange Regulation 368.

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

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges appears to be improving on size 72's and larger but is slow on size 88's and smaller. Prices f.o.b. averaged $3.32 a carton on a reported sales volume of 1,121 carlots last week, compared with an average f.o.b. price of $3.25 per carton and sales of 1,116 carlots a week earlier. Track and rolling supplies at 351 cars were down 192 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 17, 1976.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period February 20, 1976, through February 26, 1976, are hereby fixed as follows:

(i) District 1: 984,000 cartons;

(ii) District 2: 216,000 cartons;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: February 18, 1976.

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

[FR Doc.76-4993 Filed 2-18-76;11:28 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 443.1]

PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

Farm Loan Disbursement System

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by administrative personnel in obligating funds used to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comment is unnecessary.

Various sections of Subpart A of Part 1821, Title 7, Code of Federal Regulations (38 FR 27055) are amended as set forth below:

1. In § 1821.18, paragraph (d) is amended by providing that comments concerning market value of the security be made by the loan approval official in Form FmHA 422–1, "Appraisal Report (Farm Tract)," under certain conditions, and reads as follows:

§ 1821.18 Certification by County Committee.

* * * * *

(d) When a loan cannot be processed promptly, a decision will be made on the eligibility of the applicant in accordance with Subpart A of Part 1801 of this Chapter. He must be notified in writing of the initial action taken by the County Committee, and then a loan docket should be processed and submitted to the Committee for disposition. Ordinarily,

the amount of the loan plus any other debts against the security may not be in excess of the recommended market value of the security as shown on the appraisal report(s). A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended market value of the security. In an unusual case when the amount of a loan needed for success plus any other debts that will be against the security is slightly above the recommended market value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FmHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is feasible to establish the market value of the security above the appraiser's recommended market value. If the loan approval official determines that the market value is in excess of the appraiser's recommended market value, he will record his determination of the market value of the security in the comments section of Form FmHA 422–1, "Appraisal Report (Farm Tract)." Federal Land Bank (FLB) Association stock required to be purchased by Federal Land Bank Association borrowers is usually not assignable but it does have security value. Therefore, when FmHA and FLB loans are being made simultaneously, the loan approval official may find the market value of the total security to be equal to the market value of the real estate plus the value of FLB Association stock. He will record his determination of the market value of the security in such a case in the comments section of Form FmHA 422–1.

2. In § 1821.20, paragraphs (c)(2) and (d) are amended to prescribe use of new Forms FmHA 440–1, "Request for Obligation of Funds," and FmHA 440–57, "Acknowledgment of Obligation Fund/Check Request," and to make minor editorial changes as set forth below:

§ 1821.20 Loan approval.

* * * * *

(c) *Loan approval action.*

* * * * *

(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FmHA 440–1, "Request for Obligation of Funds," any conditions not required by FmHA Instructions that must be met before the loan is closed and specify the special security requirements, such as conditions under which a prior lien may remain outstanding, the kind of additional security required, and so forth. If title evidence is required in accordance with Part 1807 of this Chapter or in accordance with any special requirements for the loan, but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original and one copy of Form FmHA 440–1 and insert his title in the space provided.

(iii) If the loan is disapproved after the loan docket is developed, the loan approval official will explain on Form FmHA 440–1 the reasons therefor and initial and date the original. The County Supervisor will notify the applicant, giving the reasons for the disapproval of the loan. If the notice was not in writing the County Supervisor will record in the Running Record a brief summary of the discussion with the applicant. He should also advise the County Committee of the action taken on the loan.

(d) *Distribution of docket forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) *To the Finance Office.* Form FmHA 440–1 (original, and copy). After Form FmHA 440–1 is processed in the Finance Office, the original will be stamped "processed" and returned to the County Office with an original and copy of Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request"; original of Form FmHA 443–12; and original of Form FmHA 492–19 when required by applicable regulations.

(2) *To the County Office.* One conformed copy of Form FmHA 440–1 and the remainder of the loan docket.

(3) *To the State Office.* If a loan is approved in the State Office, a copy of Form FmHA 440–1 and a copy of Form FmHA 443–12 will be retained. If the loan is approved in the County Office, conformed copies of Form FmHA 440–1 and Form FmHA 443–12 will be sent to the State Office for retention; also a copy of Form FmHA 492–19 will be forwarded when required by applicable regulations.

(4) *To the borrower.* A signed copy of Form FmHA 440–1 will be sent to the borrower on the date of loan approval.

3. In § 1821.22, paragraphs (a) and (b) are amended to prescribe the use of new Forms FmHA 440–1 and FmHA 440–57 in closing loans 10 days from the date of the loan check instead of 30 days, as set forth below:

§ 1821.22 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, and approval conditions can be met, any necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a tentative date has been set for loan closing, the County Supervisor or his delegate will complete the original and copy of Form FmHA 440–57 in accordance with instructions for preparation of this form available in any FmHA Office, and send the copy to the Finance Office. If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval, or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 15 days from the date of the check request, the loan check may be requested at the time of loan approval by entering the amount of the loan in block 21 of Form FmHA 440–1. (Special Instructions will be issued to Oregon, New York, and Kentucky for requesting loan checks).

(b) *Handling loan checks.* (1) When the loan check or borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. In loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this Chapter soon as possible, but no case later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 10 working days from the date of the check, the County Supervisor will take appropriate action in accordance with applicable regulations.

(3) When a check is returned and the loan will be closed at a subsequent date, another check will be requested in accordance with applicable regulations.

AUTHORITY: (7 U.S.C. 1989; delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70).

Effective date. This document shall become effective February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4354 Filed 2–18–76;8:45 am]

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Policies, Procedures and Authorizations

Sections 1822.7, 1822.12, 1822.13, and 1822.14 of Subpart A, Part 1822 of Title 7, Code of Federal Regulations are revised.

The following amendments are for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comments is unnecessary.

1. Paragraphs 1822.7 (e)(3)(i) and (m)(6) are revised to refer to Form FmHA 440–1, "Request for Obligation of Funds."

2. Paragarph 1822.12(e) is revised to refer to Form FmHA 440–1, "Request for Obligation of Funds," and to change the distribution and number of copies. Reference to Form FmHA 440–3 is deleted.

3. Paragraph 1822.13(c)(2)(i), (ii) and (iii); (c)(3), (c)(3)(i)(A), and (c)(3)(ii) are revised to refer to correct forms. Paragraphs 1822.13(c)(2)(ii) and (c)(3)(i)(C) are deleted and § 1822.13(c)(2)(iii) and (iv) are renumbered to § 1822.13(c)(2)(ii) and (iii) respectively.

4. Paragraph 1822.14(a) and (b) are revised to describe the correct procedures for requesting and handling loan checks.

As amended, §§ 1822.7, 1822.12, 1822.13, and 1822.14 read as follows:

§ 1822.7 Special requirements.

* * * * *

(e) *Loan Limitations.*

* * * * *

(3) * * *

(i) In unusual cases, when the amount of a loan plus any other liens that will be against the security is slightly above its recommended value and the County Supervisor believes that the loan should be made, the completed loan docket will be submitted to the State Office for a determination as to whether it is justifiable to establish the market value of the security above the appraiser's recommended value. If the State Director determines that the market value is in excess of the appraiser's recommended value, he will record his determination of the market value of the security on Form FmHA 440–1, "Request for Obligation of Funds," before approving the loan. This authority will not be redelegated below the State Office level.

* * * * *

(m) *Section 502 Loans to Farm Ownership (FO), Individual Soil and Water (SW) and Recreation (RL), Borrowers and Applicants.*

* * * * *

(6) In determining the market value of the FO, SW, or RL farm in connection with a Section 502 loan when a new appraisal report is not required under § 1822.9(c), the loan approval official will consider the previous appraisal report, if one is available, and the definition of market value in Subpart A of Part 1809 of this Chapter. The loan approval official's determination of market value of the farm or nonreal estate assets will be recorded on Form FmHA 440–1.

* * * * *

§ 1822.12 Preparation of loan docket.

* * * * *

(e) *Loan Docket.* Loan docket forms will be prepared in accordance with the Forms Manual Insert for distribution as follows:

Form FmHA 444–12 Check Sheet for Rural Housing Loan Package;
Form FmHA 410–1 Application for FmHA Services;
Form FmHA 410–4 Application for Rural Housing Loan (Nonfarm Tract);
Form FmHA 410–5 Request for Verification of Employment;
Form FmHA 410–8 Applicant Reference Letter;
Form FmHA 431–2 Farm and Home Plan;
Form FmHA 431–1 Long-Time Farm and Home Plan;
Form FmHA 431–3 Family Budget;
Form FmHA 440–2 County Committee Certification or Recommendation;
Form FmHA 427–8 Agreement with Prior Lienholder (or similar form);
Form FmHA 440–34 Option to Purchase Real Property;
Form FmHA 424–1 Development Plan (including any plans, specifications, and cost estimates);
Form FmHA 422–8 Property Information and Appraisal Report (Rural Housing Nonfarm Tract);
Form FmHA 422–1 Appraisal Report (Farm Tract) (with attachments);
Form FmHA 426–1 Valuation of Buildings;
Form FmHA 444–6 Interest Credit Agreement (Section 502 RH Loans);
Form FmHA 440–1 Request for Obligation of Funds;
Form FmHA 444–2 Housing Fund Analysis;
Form FmHA 440–35 Acceptance of Option;
Form FmHA 440–41 Disclosure Statement for Loans Secured by Real Estate;
Form FmHA 440–42 Credit Sale Disclosure Statement;
Form FmHA 440–43 Notice of Right to Rescind;
Form FmHA 400–3 Notice to Contractors and Applicants;
Form FmHA 400–6 Compliance Statement;
Form FmHA 440–9 Supplementary Payment Agreement;
Form FmHA 440–45 Nondiscrimination Certificate (Individual Housing);

Other Loan Docket Items: Title opinion, mortgage, title policy or report of lien search, if available, foreclosure notice agreement, original or certified copy of deed, purchase contract, lease, or other instrument of ownership, information on prior mortgage and information on cosigner. When the County Supervisor is the loan approval official, he may, in lieu of including the document evidencing ownership, include a statement in the docket indicating that he has seen and reviewed the document. Estimate of the value of any security not appraised on Form FmHA 422–1 or Form FmHA 422–8.

§ 1822.13 Loan approval.

* * * * *

(c) *Loan approval action.*

* * * * *

(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FmHA 440–1 any condition that must be met before the loan is closed and specify the security requirement that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain prior liens and so forth. If title evidence is required in accordance with Part 1807 of this chapter or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original and one copy of Form FmHA 440–1 and insert his title in the space provided. The remaining copies will be conformed.

(iii) If a loan is not approved after the docket has been developed, the reasons for such action will be shown on the original Form FmHA 440–1; it will be initialed and dated and the County Supervisor will notify the applicant of the disapproval and the reasons. If the notice was not in writing, the County Supervisor will record in the running record a brief summary of the discussion with the applicant.

(3) *Distribution of Docket Forms.* The applicable docket forms will be distributed concurrently as outlined below by the loan approval official after a loan is approved:

(i) To the Finance Office:

(A) Form FmHA 440–1 (original and one copy). After being processed in the Finance Office, the original will be stamped "processed", and returned to the County Office with an original and one copy of Form FmHA 440–57 "Acknowledgment of Obligated Funds/Check Request."

(B) Form FmHA 444–2 (original).

(ii) To the State Office. If the loan is approved by the County Supervisor, an unsigned copy of Form FmHA 440–1 and a copy of Form FmHA 444–2. If the loan is approved in the State Office, an unsigned copy of Form FmHA 440–1 and a copy of Form FmHA 444–2 will be retained in the State Office.

(iii) To the borrower. A signed copy of Form FmHA 440–1 the original of Form FmHA 440–41 and, if applicable, the original and copy of Form FmHA 440–43 and a copy of Form FmHA 440–34.

§ 1822.14 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, any necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a tentative date has been set for loan closing, the County Supervisor or his delegate will complete the original and copy of Form FmHA 440–57 in accordance with guidelines for preparation of this form available in all FmHA offices, and send the copy to the Finance Office. If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval, or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 15 days from the date of the check request, the loan check may be requested at the time of loan approval by entering the amount of the loan in block 21 of Form FmHA 440–1.

(b) *Handling loan checks.*

(1) When the loan check or borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this chapter as soon as possible, but

in no case later than the first banking day following the date of loan closing.

(2) If a loan treasury check is received and the loan cannot be closed within 10 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA regulations.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

* * * * *

Effective date. This revision shall become effective February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4355 Filed 2-18-76;8:45 am]

[FmHA Instruction 444.4]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Farm Labor Housing Loan Policies, Procedures and Authorizations

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comments is unnecessary.

The amended paragraphs in §§ 1822.72 and 1822.73 are set forth below:

§ 1822.72 Final preparation and processing of loan docket.

* * * * *

(f) When it is determined that a loan can be approved, a press release will be prepared in accordance with FmHA regulations available at any FmHA office.

§ 1822.73 Loan approval official's responsibility.

* * * * *

(c) *Approval or disapproval of a loan.* (1) When a loan is approved, the approval official will: (i) Sign the original and copy of Form FmHA 440–1, insert his title in the space provided. Indicate on Form FmHA 440–3, including all copies, any conditions that must be met at or before the time the loan is closed, including the amount of surety and fidelity bond coverage and other insurance, the title evidence, and any other special requirements. If more space is needed, the form will be supplemented by a memorandum.

(ii) Prepare Form FmHA 071–1 and handle in accordance with guidelines for preparing this Form available at any FmHA office.

(iii) Forward an executed Form FmHA 440–1 to the applicant in accordance with FmHA regulations available at any FmHA office.

(2) When a loan is disapproved after the docket has been developed, the reason for such action will be shown on the original Form FmHA 440–1. Form FmHA 440–1 will be initialed and dated. The County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor. The disapproved docket will then be handled in accordance with FmHA regulations available at any FmHA office.

* * * * *

Effective date. These revisions shall become effective on February 19, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4356 Filed 2-18-76;8:45 am]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Policies, Procedures and Authorizations

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comment is unnecessary.

1. In § 1822.92, paragraph (g) is revised to read as follows:

§ 1822.92 Preparation of completed loan docket.

* * * * *

(g) *Press release.* When it is determined that the loan can be approved, a press release will be prepared in accordance with FmHA regulations available at any FmHA office.

2. In § 1822.93, paragraphs (b)(2)(i) and (ii), and (b)(2)(i)(A), (B) and (C) are revised to read as follows:

§ 1822.93 Loan approval.

* * * * *

(b) *Loan approval action.*

* * * * *

(2) *Approval or disapproval of a loan.* (i) Approval. When a loan is approved, the approval official will: (A) Sign the original and one copy of Form FmHA 440–1 and insert his title in the space provided.

(B) Prepare a completed Form FmHA 071–1 and handle in accordance with guidelines for preparing this Form available at any FmHA office.

(C) Forward an executed Form FmHA 440–1 to the applicant in accordance with FmHA regulations available at any FmHA office.

(ii) Disapproval. If a loan is disapproved after the docket has been developed, the reason for such action will be shown on the original Form FmHA 440–1. Form FmHA 440–1 will be initiated and dated. The County Supervisor will notify the applicant of the disapproval of the loan and the reasons therefor. The disapproved docket will then be handled in accordance with FmHA regulations available at any FmHA office.

3. In § 1822.94, paragraph (b) and the 7th and last 2 sentences of paragraph (b)(2) are revised to read as follows:

§ 1822.94 Actions subsequent to loan approval.

* * * * *

(b) *Multiple advances of RRH loan funds.* In the event interim commercial financing is not available, multiple advances will be used for all loans subject to the following:

* * * * *

(2) * * * After the County Supervisor determines that the estimate prepared by the borrower is adequate, he will request the advance on Form FmHA 440–57 in accordance with guidelines for preparing this Form available at any FmHA office and forward to the Finance Office, St. Louis, Missouri. * * * A copy of Form FmHA 440–57 specifying the amount then will be forwarded to the Finance Office. The same routine will be followed for each advance until the project is completed.

* * * * *

4. In § 1822.95, paragraph (c)(7) is deleted and paragraphs (c)(1) and (c)(3) are revised to read as follows:

§ 1822.95 Loan closing.

* * * * *

(c) *Promissory note.* (1) The total amount to be shown in the note will be shown on Form FmHA 440–1. * * *

(3) For a loan to an individual, Form FmHA 440–16, "Promissory Note," will be used. Instructions for preparation for monthly installments are available at any FmHA office. Form FmHA 440–16 may be used for a partnership with modification as approved by the OGC. Type on the reverse of the form a Record of Advances such as is printed on the reverse of Form FmHA 440–22, "Promissory Note (Association or Organization)," and complete this part in accordance with guidelines available at any FmHA office.

* * * * *

(7) [Removed].

5. The last sentence of § 1822.97 is revised as follows:

§ 1822.97 Coding loans as to initial or subsequent.

* * * Codes to be used will be in accordance with guidelines available at any FmHA office for Forms FmHA 440–1, FmHA 440–57 and FmHA 444–5.

Effective date. These revisions shall become effective on February 19, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4357 Filed 2-18-76;8:45 am]

[FmHA Instruction 444.6]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Farm Labor Housing Grant Policies, Procedures and Authorizations

The following amendment is for the purpose of changing reference to a form that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The change will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comment is unnecessary.

Section 1822.220(d) is amended to read as follows:

§ 1822.220 Actions subsequent to grant approval.

* * * * *

(d) *How to request a grant check.* The County Supervisor will request advances by indicating the amount on Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," in accordance with guidelines for preparing this Form available at any FmHA office and forward it to the Finance Office in St. Louis.

* * * * *

Effective date. This revision shall become effective February 19, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri. 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4358 Filed 2–18–76;8:45 am]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.8]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Rural Housing Site Loan Policies, Procedures, and Authorizations

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comment is unnecessary.

1. In § 1822.271, paragraph (d)(4) is removed and (d)(1), (2) and (3) are revised to read as follows:

§ 1822.271 Processing applications.

* * * * *

(d) *Preparation of docket forms.* (1) *Request for obligation of funds.* Form FmHA 440–1, "Request for Obligation of Funds," will be completed in accordance with guidelines for preparing this Form available at any FmHA office.

(2) *Fund analysis.* Form FmHA 444–5, "Multiple Housing Fund Analysis," will be completed in accordance with guidelines for preparing this Form available at any FmHA office. Items 1, 2, and 3 of Part I of the form will be left blank, with items 4 through 10 being completed when appropriate.

(3) *County committee certification or recommendation.* Before executing Form FmHA 440–2, "County Committee Certification or Recommendation," the County Committee will consider all pertinent information concerning the applicant and the proposed project, and will be given an opportunity to talk with the applicant's representative if the Committee desires to do so.

(4) [Removed]

2. Section 1822.271(e) is amended to delete Forms FmHA 400–2 and 440–3, and to change the titles of Forms FmHA 444–5 and 440–1, to read as follows:

(e) *Loan docket items.* * * *

FmHA 444–5 Multiple Family Housing Fund Analysis.
FmHA 440–1 Request for Obligation of Funds.

* * * * *

3. In § 1822.272, paragraphs (a)(1) and (2) are revised and paragraphs (a)(3), (4) and (5) are deleted as follows:

§ 1822.272 Approval or disapproval of a loan.

(a) *Approval.* * * *

(1) Sign the original and one copy of completed Form FmHA 440–1 and insert his title in the space provided. Indicate on Form FmHA 440–1, including all copies, any conditions that must be met at or before the time the loan is closed, including the amount of surety and fidelity bond coverage and other insurance, the title evidence and any other special requirements. If more space is needed, Form FmHA 440–1 will be supplemented by a memorandum.

(2) After the loan is approved, distribute the contents of the docket in accordance with § 1822.92(e) and FmHA regulations available at any FmHA office.

(3)–(5) [Removed]

* * * * *

4. In § 1822.274, paragraph (c)(2) is revised to read as follows:

§ 1822.274 Loan closing.

* * * * *

(c) *Promissory note.* * * *

(2) The total amount to be shown in the note will be amount of the loan shown on Form FmHA 440–1. The note will be dated the date of loan closing.

* * * * *

Effective date. These revisions shall become effective February 19, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4359 Filed 2–18–76;8:45 am]

[FmHA Instruction 444.10]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Self-Help Technical Assistance

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comment is unnecessary.

1. In § 1822.329, paragraph (e) is amended to delete Form FmHA 440–3 and to change the title of Form FmHA 440–1, as follows:

§ 1822.329 Processing applications and completing loan dockets.

* * * * *

(e) *Agreement docket items.* * * *

FmHA 440–1 Request for Obligation of Funds. * * *

2. In § 1822.330, paragraph (b)(2)(i)(*a*), (*b*) and (*c*) are revised to read as follows:

§ 1822.330 Agreement approval.

* * * * *

(b) *Agreement approval action.*

* * * * *

(2) *Approval or disapproval of an agreement.*

(i) * * *

(*a*) Prepare and sign the original and one copy of Form FmHA 440–1 in accordance with guidelines for preparing this Form available at any FmHA office.

(*b*) Indicate on Form FmHA 440–1, and all copies, any conditions that must be met at or before the time the Agreement is closed, including the amount of fidelity bond coverage and any other special requirements. If more space is needed, Form FmHA 440–1 will be supplemented by a memorandum.

(*c*) A completed Form FmHA 071–1 will be prepared and handled in accordance with FmHA regulations available at any FmHA office.

* * * * *

3. In § 1822.331, paragraph (c)(2), the first sentence of paragraph (d)(2)(i) and paragraph (d)(2)(ii) are revised as set forth below:

§ 1822.331 Actions subsequent to approval of an agreement.

* * * * *

(c) *Requesting initial TA check.*

* * * * *

(2) The initial check will be requested on Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," in accordance with FmHA regulations available at any FmHA office.

(d) *Requesting additional TA checks.*

* * * * *

(2) If the applicant's reports are satisfactory, the county supervisor will order the check in the following manner:

(i) The county supervisor and the applicant will at this time determine the

amount of funds necessary for the next month and complete a Form FmHA 440–57, accordingly. * * *

(ii) The county supervisor will forward the signed copy of Form FmHA 440–57 to the Finance Office.

* * * * *

Effective date. These revisions shall become effective February 19, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4360 Filed 2–18–76;8:45 am]

[FmHA Instructions: 442.2, 442.8, 442.11]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Miscellaneous Amendments

Various sections of Part 1823 of Title 7, Code of Federal Regulations, Chapter XVIII are revised to:

1. Reflect a change in the title of Form FmHA 440–1.

2. Delete reference to Form FmHA 440–3.

3. Add reference to Form AD–621.

These changes which are made to implement a new loan fund disbursing method will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes publication for public comments is unnecessary.

Accordingly, the amended sections are as follows:

§ 1823.55 [Amended]

1. *Section 1823.55(o)* is amended to change the title of Form FmHA 440–1, which now reads "Payment Authorization," to "Request for Obligation of Funds" and to delete Form FmHA 440–3, "Record of Actions."

§ 1823.234 [Amended]

2. *Section 1823.234* is revised to add Form AD–621, "Preapplication for Federal Assistance" to the docket listing, to change the title of Form FmHA 440–1, which now reads "Payment Authorization," to "Request for Obligation of Funds," and to delete Form FmHA 440–3, "Record of Actions."

3. *Section 1823.413* is revised to amend the third sentence to read:

§ 1823.413 Loan approval.

* * * The State Director will forward an executed Form FmHA 440–1, "Request for Obligation of Funds," to the Finance Office for each loan approved. * * *

4. In Exhibit A of Subpart N, Part 1823, "Loan Docket Items—Loans to Indian Tribes and Tribal Corporations," change the title of Form FmHA 440–1 which now reads "Payment Authorization" to read "Request for Obligation of Funds," and delete Form FmHA 440–3, "Record of Actions."

(7 U.S.C. 1989, 5 U.S.C. 301, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective Date: These amendments are effective on February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4352 Filed 2–18–76;8:45 am]

[FmHA Instructions 442.4, 442.6, 442.7, 442.9, 442.12, 446.2, and 447.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Miscellaneous Amendments

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes publication for public comment is unnecessary. Accordingly, the amended sections of the listed subparts are as follows:

1. *Subpart D:* Section 1823.114 is amended to change the title in the loan processing docket for Form FmHA 440–1 and to delete reference to Form FmHA 440–3 as set forth below:

§ 1823.114 Loan processing. * * *

* * * * *

FmHA 440–1 Request for Obligation of Funds

* * * * *

2. *Subpart F:* Section 1823.174 is amended to delete reference to Standard Form 101 and FmHA Form 440–3, add AD Form 621, to change the title of Form FmHA 440–1, add reference to Form FmHA 440–57, and make certain deletions and procedural reference changes. Paragraphs (c), (e)(4), (e)(4)(i), (ii), and (iii) are revised; (e)(4)(iv), (e)(4)(iv)(*a*), (e)(4)(iv)(*a*)(*1*), (2), and (3), (e)(4)(iv)(*b*), (*c*), (*d*), and (*e*), (e)(4)(iv)(*e*)(*1*), (2), (3) and (*4*), (e)(4)(iv)(*f*), and (e)(4)(v) are deleted and paragraph (e)(4)(iv)(*g*) is redesignated as (e)(5). As amended § 1823.174 reads as set forth below:

§ 1823.174 Processing TD loans.

* * * * *

(c) *Loan docket assembly.* * * *

AD Form 621—Preapplication for Federal Assistance

* * *

FmHA 440–1, Request for Obligation of Funds

* * * * *

(e) *State office docket review.*

* * * * *

(4) *Loan approval.* Upon receipt of written authorization from the National Office to approve a loan, the State Director may obligate funds when they are available and in accordance with the following:

(i) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(ii) A copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(iii) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1, "Request for Obligation of Funds," in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservation by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notified the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA regulations in order that notification required by that regulation may be accomplished and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the county office project file.

* * * * *

3. *Subpart G:* Section 1823.209 paragraphs (c) (7) and (8), (e) are amended to change the title of Form FmHA 440–1, add reference to Form FmHA 440–57 and change procedural reference as set forth below:

§ 1823.209 Processing applications for comprehensive planning grants.

(a) *Applications.* * * *

* * * * *

(7) Form FmHA 440–1, "Request for Obligation of Funds."

(8) Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request."

* * * * *

(e) *Grant closing.* When the applicant proposes to have the plan prepared under contract, the grant will not be closed until the proposed contract has been approved by the State Director. When the grant is approved, Forms FmHA 440–1 and FmHA 442–14 together with copies of the approval memorandum, will be sent to the Finance Office. The request for the check or checks will be forwarded as provided in Part 1823 Subpart A. When the grant is closed, the original of the agreement by the recipient organization will be sent to the Finance Office.

* * * * *

4. *Subpart I:* § 1823.267 is revised to change the title of Form FmHA 440–1, add reference to Form FmHA 440–57 and make certain deletions and procedural reference changes. In § 1823.267 paragraphs (c) (3) (iii) and (d), (d) (1), (2), and (3) are revised, subparagraphs (c) (3) (iii) (*a*), (*b*), (c) (3) (iii) (*b*) (1) and (2), (c) (3) (iv), (v), (vi), (vii), and (viii) are deleted.

The amendments to § 1823.267 are set forth below:

§ 1823.267 Review and approval.

* * * * *

(c) *Docket processing.* * * *

(3) * * *

* * * * *

(iii) The County Supervisor will sign the letter of conditions, discuss its requirements with applicant representatives, and afford them an opportunity to execute Form FmHA 442–46. If the applicant declines to execute Form FmHA 442–46, the County Supervisor will immediately notify the State Director and provide him with complete information as to the reasons for such declination. If the applicant executes Form FmHA 442–46, the County Supervisor will complete Form(s) FmHA 442–14, "Association Project Fund Analysis," and the original and four copies of (each) Form FmHA 442–14, and Form FmHA 440–1 to the State Director.

(d) *Obligating funds.* State Directors may obligate funds when they are available and in accordance with the following:

(1) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(2) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(3) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1 in an original and four copies.

The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservation by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA regulations in order that notification required by that regulation may be made and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office project file.

* * * * *

§ 1823.271 is revised to reference Form FmHA 440–57, and make other procedural revisions necessary to implement the new loan obligating method. In § 1823.271 paragraphs (c) (1) (iv), (c) (2) and (3), and (d) are revised, and paragraphs (c) (4) and (5) are deleted. Paragraphs 1823.271 (c) (3) (i), (c) (3) (ii), (c) (3) (ii) (A) and (B), and (c) (3) (iii) are added.

The amendments to § 1823.271 are set forth below:

§ 1823.271 Preparation for loan closing and ordering loan checks.

* * * * *

(c) *Ordering loan checks.*

(1) * * *

(iv) Form FmHA 440–57, has been received from the Finance Office as stated in § 1823.267(d) (3).

(2) In those cases where relatively large amounts of funds are to be expended for purchase of real estate or for other reasons at the time of closing, separate checks for such purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing such loan funds in the supervised bank account and reduce the amount of required collateral.

(3) Multiple advances will be used for all loans in excess of $50,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30 day period. Normally, the advances should not exceed 24 in number nor extend longer than two years beyond loan closing. Normally, the retained percentage withheld from the contractor to assure that construction will be completed in accordance with the contract documents will be included in the last advance.

(i) Sections 1823.41 to 1823.48, Part 1823, Subpart A, contain instructions for making multiple advances to public bodies.

(ii) The following will apply when a nonpublic body will evidence its indebtedness by using Form FmHA 440–22, "Promissory Note (Association or Organization)," or similar instrument.

(A) One note will be used to disburse the total amount of the loan.

(B) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way, and land, legal, engineering, and other expenses as needed. The association will prepare Form FmHA 440–11, "Estimate of Funds Needed for 30 Day Period Commencing," to show the amount of funds needed during the 30 day period. This form will be approved by the County Supervisor. After the County Supervisor determines that the estimate prepared by the association is adequate, he will request the advance by executing and forwarding to the Finance Office Form FmHA 440–57. For instance, with a loan of $200,000, advances will be made as follows: assuming that the loan will be closed on July 1, the association will complete Form FmHA 440–11 in sufficient time so that funds will be available on the day of loan closing. The estimate should be broken down for the first advance in a manner similar to the following:

Construction	$43,000
Land acquisition	10,000
Engineering	14,000
Legal	3,000
Total	70,000

An advance in the amount of $70,000 would then be available on July 1, the day of loan closing. The second advance will also be based on the association's estimate prepared on Form FmHA 440–11, and will be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	$19,600
Engineering fees	400
Total	20,000

The same routine will be followed for each advance until the project is completed. In this example, the initial principal payment will be deferred until the second January 1 following loan closing.

(iii) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(d) *Borrowers receiving funds from other agencies.* Before closing the FmHA loan, County Supervisors will be sure that FmHA borrowers expecting funds from other agencies such as ASCS, SCS, and others for use in completing projects being partially financed with FmHA funds have evidence that funds from such other agencies will be available at the time needed for construction of the project. If there are any questions regarding the availability of such funds, the County Supervisor will report the complete circumstances to the State Director and request instructions for proceeding.

* * * * *

§ 1823.277 [Amended]

Section 1823.277 is amended by deleting paragraph (c) in its entirety and redesignate paragraph (d) as (c).

5. *Subpart K:* § 1823.325 is revised to change the title of Form FmHA 440–1 and make other necessary changes. § 1823.325 paragraph (a) is revised to change the title of Form FmHA 440–1. Paragraph (d) is deleted and paragraphs (e), (f), (g), and (h) are redesignated to (d), (e), (f), and (g) respectively without change.

The amended § 1823.325 reads as follows:

§ 1823.325 Preparation and assembly of loan docket.

(a) Form FmHA 440–1, "Request for Obligation of Funds," prepared in an original and four copies.

* * * * *

Section 1823.327 is amended to add reference to Form FmHA 440–57 and make certain procedural deletions and to reflect current FDIC coverage. The amended § 1823.327 is set forth below:

§ 1823.327 Loan approval and loan closing.

(a) *Action by State Director.* When it is determined that the loan can be approved and funds are available, the State Director:

(1) Will send the docket to the Office of the General Counsel (OGC) for issuance of closing instructions.

(2) Will forward the loan docket and closing instructions received from OGC with any additional instructions for closing the loan to the County Supervisor.

(3) May obligate funds in accordance with the following:

(i) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(ii) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(iii) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1, "Request for Obligation of Funds," in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservation by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA regulations in order that notification required by that regulation may be accomplished and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the county office project file.

(b) *Action by the county supervisor.* * * *

(4) Order the loan check by preparing a copy of Form FmHA 440–57 after the applicant has complied with loan approval conditions and closing instructions except for actions to be completed on or immediately before loan closing.

(c) *Loan check.* The loan check will be delivered as soon as it is determined that loan approval conditions can be met and loan closing instructions are issued by the OGC. The check will be deposited in a supervised bank account. At the time of loan closing, loan funds may be disbursed for purchase of real estate and for other costs or expenditures essential to loan closing. All actions at the time of loan closing will be in accordance with closing instructions. Disbursements of loan funds for development or improvements will not be made until the County Supervisor receives the final opinion of the OGC in accordance with § 1823.328 (c). Banks in which accounts in excess of $40,000 are maintained will provide collateral security for balance in excess of that amount.

§ 1823.328 paragraph (c) is revised for editorial purposes to read as follows:

§ 1823.328 Actions following loan closing.

* * * * *

(c) *Final opinion.* As soon as advice is received from the County Supervisor of the manner in which loan approval conditions and loan closing instructions have been met, the State Director will refer the matter to the OGC for final opinion after loan closing. The final opinion will be forwarded to the County Supervisor as soon as it is received from the OGC.

6. *Subpart L:* § 1823.353 paragraph (d) is revised to change the title of Form FmHA 440–1 and delete reference to Form FmHA 440–3, as set forth below:

§ 1823.353 Preparation of the docket for a watershed loan.

* * * * *

(d) *Assembly of the docket.* * * *

FmHA 440–1, "Request for Obligation of Funds."

* * * * *

In § 1823.355 paragraphs (c), (c) (1), (2) and (3) are revised to add reference to Form FmHA 440–57, and make certain deletions and procedural reference changes. Paragraph (b) (3) is deleted in its entirety and paragraphs (4), (5) and (6) are redesignated as paragraphs (3), (4) and (5) without change, as set forth below:

§ 1823.355 Loan approval.

* * * * *

(c) *Obligating funds.* State Directors may obligate funds when they are available and in accordance with the following:

(1) Funds may not be obligated until the applicant has legal authority to contract for a loan and enter into the required agreements.

(2) If approval was authorized by the National Office, a copy of the memorandum authorizing approval will be attached to the original of Form FmHA 440–1.

(3) The State Director will request that funds be obligated for the project by preparing Form FmHA 440–1 in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that funds are available. The Finance Office will reserve funds for the project and notify the State Director of such reservations by forwarding Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete the obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his reports to the National Office as required by FmHA regulations in order that notification required by that regulation may be made and the applicant is informed of loan approval not later than the date of obligation. Notice of approval to the applicant will be accomplished by providing the applicant with the signed copy of Form FmHA 440–1. The State Director will record the actual date of applicant notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office project file.

* * * * *

§ 1823.356 paragraphs (c) (1) and (e) (1) are revised to reference Form FmHA 440–57 and reflect current FDIC coverage. Paragraphs (c) (1) (i) and (ii) are deleted in their entirety. The amendments to § 1823.356 are set forth below:

§ 1823.356 Loan closing.

* * * * *

(c) *Ordering loan checks.*

(1) Checks will not be ordered until Form FmHA 440–57 has been received from the Finance Office as stated in § 1823.355(c) (3).

* * * * *

(e) *Use of and accountability for, loan and advance proceeds.* * * *

(1) Loan funds will be deposited in a bank in which deposits are covered by Federal Deposits Insurance and handled in accordance with FmHA regulations. The funds so deposited in a supervised bank account are public monies under Title 12, Section 265 United States Code, because they are subject to control by an employee of the United States and, therefore, if the amount deposited exceeds $40,000 the bank will be required to pledge collateral security for such excess pursuant to Treasury Department Circular No. 176 before the funds are deposited.

* * * * *

7. *Subpart O:* § 1823.459, paragraph (b)(2), is revised to change the title of Form FmHA 440–1 as set forth below:

§ 1823.459 Processing applications.

* * * * *

(b) *Preapplication review.* * * *

(2) Form FmHA 440–1, "Request for Obligation of Funds."

* * * * *

Effective Date: This amendment is effective on February 19, 1976.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4353 Filed 2–18–76;8:45 am]

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FmHA Instruction 441.1]

PART 1831—OPERATING LOANS

Policies and Authorizations

Sections 1831.10 and 1831.11 of Subpart A of Part 1831, Chapter XVIII, Title 7, Code of Federal Regulations are revised.

The following amendments are for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes publication for public comments is unnecessary.

Subpart A of Part 1831 of Chapter XVIII of Title 7 of the Code of Federal Regulations is amended as set forth below:

1. Section 1831.10 is amended as follows: The last sentence of paragraph (f)(1) is revised and paragraph (g) is deleted. As amended, paragraph (f)(1) of § 1831.10 reads as follows:

§ 1831.10 Special requirements and loan limitations.

* * * * *

(f) *Loans to individuals jointly engaged in farming, recreational, and other nonfarm enterprises.*

(1) A joint loan may be made to two eligible applicants living together or living separately and operating jointly not larger than the equivalent of one adequate family farming operation. When joint loans are made, both individuals will execute the documents required in connection with making and closing the loan.

2. Section 1831.11, introductory text and paragraph (a) are revised to read as follows:

§ 1831.11 Rates and terms.

An interest will be charged at the rate shown in Subpart A of Part 1810 of this chapter. Interest on an immediate advance will accrue from the date of the promissory note. Interest on subsequent advances will accrue from the date of the loan check for each such advance.

(a) Payments of principal and interest on Operating loans will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his operations as reflected on his Form FmHA 431–2, or Form FmHA 431–4. All installment dates will be January 1 of each year except the final installment which will be determined in accordance with § 1831.32(h). No installment will be made payable later than 7 years from the date of the note. When it is determined that income sufficient to meet any payment of principal will not be received by the borrower until the second or third January 1 following the date of the promissory note, the repayment of principal may be deferred to the second or third January 1, as appropriate, following the date of the note. When the payment of principal is deferred to the second January 1 following the date of the note, the first scheduled installment will be the amount of accrued interest from the date of the note to January of the next calendar year. When the payment of principal is deferred to the third January 1 following the date of the note, the second scheduled installment will be the amount of accrued interest for a full year and the first scheduled installment will be the amount of accrued interest from the date of the note to January 1 of the next calendar year.

* * * * *

(7 U.S.C. 1989; delegation of authority by Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date. These amendments are effective on February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4349 Filed 2–18–76;8:45 am]

[FmHA Instruction 441.3]

PART 1831—OPERATING LOANS

Processing Procedures

Sections 1831.32, and 1831.34 of Subpart B of Part 1831, Chapter XVIII, Title 7, Code of Federal Regulations are revised. The following amendments are for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publications for public comments is unnecessary.

Subpart B of Part 1831 is amended as set forth below:

1. In § 1831.32, paragraphs (h), (h)(1), (j), (k), (l), (l)(1), (l)(2), (l)(3), and (l)(3)(i), (ii), (iii), and (iv) are revised. Paragraph (l)(4) is added. Paragraphs (J)(1), (J)(1)(i) and (ii), and (J)(2) are deleted. The amended text reads as set forth below:

§ 1831.32 Loan forms and routines.

* * * * *

(h) *Form FmHA 441–1, "Promissory Note."* One note will be prepared showing the full amount of the loan regardless of the number of advances involved except as provided in subparagraph (1) of this paragraph. The amount of the note will be rounded to the nearest $10. In addition to the principal, each scheduled installment will include interest. The first installment may not be less than the amount equal to interest on the loan from the estimated date of closing to January 1 of the next calendar year. Refer to Subpart A of Part 1810 of this Chapter and the guidelines for preparation of Form FmHA 441–1 available in any FmHA office for the computation of interest. All installment due dates will be January 1 of each year except the final installment. The final installment will be payable on the date of the note plus the number of years over which the loan is amortized. No installment will be made payable later than seven years from the date of the note. The note will be dated on the date the loan is closed. The applicant's spouse will be required to execute Form FmHA 441–1 when legally required by State law, the loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security, or it is determined by the State Director on a state basis that the spouse's signature will be required. The State Director, with the advice of the Office of the General Counsel (OGC) will issue an appropriate State Instruction concerning the spouse's signature on Form FmHA 441–1. In all cases in which the wife joins with her husband in executing a promissory note or other evidence of indebtedness, the purpose and effect of the wife's signature will be, in addition to any other purpose and effect for which her signature is obtained, to engage her separate and individual personal liability regardless of any State law to the contrary.

(1) When an Operating loan is made for purposes for which the security provisions of paragraphs (a), (b), or (c) in § 1831.12 of Subpart A of this part apply, separate notes will be required.

* * * * *

(j) *Form FmHA 440–1, "Request For Obligation of Funds."* This form is prepared by the County Office to request the Finance Office to obligate loan funds. The County Office may also use this form to request an immediate advance of all or part of the loan funds.

(k) *Form FmHA 440–57, "Acknowledgment of Obligated Funds/ Check Request."* This form is initiated by the Finance Office to acknowledge the obligation of loan funds, set forth loan account information and transmit loan checks to the County Office. The County

Office may use this form to request an immediate advance of all or part of the loan funds or a subsequent advance of loan funds.

(l) *Immediate and subsequent advances.* The applicant's total anticipated credit need for the crop or operating year will be planned when Form FmHA 431–2, or Form FmHA 431–4, "Business Analysis–Nonagricultural Enterprises," as applicable, is developed. Loan funds for the full amount of FmHA credit required may be requested in an immediate advance through the use of Form FmHA 440–1 or Form FmHA 440–57, or an immediate advance and one or more subsequent advances. The check date for any advance will not be later than the date shown as the ending date of the crop or operating year, Item 2 of Form FmHA 440–2. When additional FmHA credit is required that could not be foreseen at the time plans for the year were completed, Form FmHA 431–2 or Form FmHA 431–4 will be revised to include the additional amount and a subsequent loan docket will be submitted to the Finance Office.

(1) Each advance will be limited to an amount which can be expanded promptly, usually within sixty days from the date of the check. Loan checks not endorsed within 10 working days from the date of the check will be returned in accordance with paragraphs (l) (3) and (4) of this section.

(2) For the loan advance and check request dates to be available in County Offices, appropriate notations should be inserted on Form FmHA 405–1, "Management System Card Individual."

(3) When a loan check and obligation is to be cancelled, the following actions must be taken:

(i) Complete Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with the guidelines for preparation of this form available in any FmHA office.

(ii) Prepare and execute a substitute note on Form FmHA 441–1 reflecting the revised total of the loan and the revised repayment schedule.

(iii) Prepare a Form FmHA 441–7, "OL–EM and Other Credit Analysis," to show borrower's name and case number and enter under Item 1 the amount for each purpose being reduced or cancelled and the total of such amounts." In the space above Item 1 enter in large red letters the word "Reduction."

(iv) Transmit the loan check and Form FmHA 444–10, and Form FmHA 441–7 in accordance with guidelines for the preparation of this form and regulations available in any FmHA office.

(4) When a loan check is to be cancelled and the obligation retained, Form FmHA 440–10 will be prepared in accordance with guidelines for preparation of this form available in any FmHA office and transmitted with the loan check in accordance with regulations available in any FmHA office. The Finance Office will prepare a revised Form FmHA 440–57 and send it to the County Office as a notification of the action taken.

* * * * *

2. Section 1831.34, paragraph (a) is revised to read as follows:

§ 1831.34 Review and approval or rejection.

(a) *Approval of loans.* If the loan is to be approved, the loan approval official will execute Form FmHA 440–1 and distribute copies in accordance with guidelines for preparation of this form available in any FmHA office. The loan approval official also will set forth any special conditions or approval or special security requirements in the running record in the loan docket or by memorandum.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective Date: These amendments are effective on February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–4351 Filed 2–18–76;8:45 am]

[FmHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Disbursement System

The following are miscellaneous amendments for the purpose of changing certain forms that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes publication for public comment is unnecessary.

Various sections of Subpart A of Part 1832, Title 7, Code of Federal Regulations (40 FR 42320) are amended as set forth below:

1. In § 1832.27, the second sentence in the introductory text is amended to read as follows:

§ 1832.27 Environmental impact requirements.

* * * Federal requirements that may be applicable are those contained in the National Environmental Policy Act of 1969 (42 U.S.C. 1857), the Federal Water Pollution Control Act (33 U.S.C. 1251), Executive Order 11738 (38 FR 25161), need State and local laws. * * *

2. Section 1832.30 is amended by revising the last sentence in paragraph (a)(2), revising paragraph (b) introductory text, deleting paragraphs (b) (1) and (2), redesignating paragraph (b) (3) as (b)(1) and redesignating paragraph (b)(4) as (b)(2) with amendments, to read as follows:

§ 1832.30 Loan docket forms.

(a) *Promissory note(s).* * * *

(2) * * * Also, this note may be used when the first three installments are unequal and the balance consists of equal installments.

* * * * *

(b) Form FmHA 440–1, *"Request for Obligation for Funds."* This form is used to obligate loan funds, to provide certain statistical information about the loan and applicant; and to request all or part of the loan funds.

* * * * *

(2) The Finance Office will not process Form FmHA 440–1 for EM loans that are not coded with a disaster designation number.

3. Section 1832.31 is amended by revising listed items in the Loan Docket Summary; paragraphs (a) and (b) remain unchanged, but are republished for clarity.

§ 1832.31 Loan docket summary.

The following loan docket forms will be prepared and distributed in accordance with instructions available in all FmHA Offices (Form manual inserts).

FmHA form No.	Name of form	Total number copies	Number signed by borrower	Loan docket	Copy for borrower	Copy for others
[1] 400–4	Nondiscrimination Agreement	2	2–O&C	1–O	1–C	
402–1	Deposit Agreement	3	2–O&C	1–O	1–C	1—Signed C bank.
[1] 402–5	Deposit Agreement (non-FmHA funds).	4	3–O&2C	1–O	1–C	1—Signed C to each bank and other lender.
[1] 403–1	Debt Adjustment Agreement	3	1–O	1–O	1–C	1–C creditor.
410–1	Application for FmHA Services (attachments).	1	1–O	1–O		
[1] 422–1	Appraisal Report—Farm Tract	1		1–O		
[1] 427–1	Real Estate Mortgage or Deed of Trust for (State).					
	Assignment, pledge, or other security interest in stock, or other evidence of ownership.					

FmHA form No.	Name of form	Total number copies	Number signed by borrower	Loan docket	Copy for borrower	Copy for others
431-2	Farm and Home Plan	1	1-O	1-O	(2)	1-O landlord.
431-4	Business Analysis—Nonagricultural Enterprise.	2	2-O&C	1-O	1-C	
440-1	Request for Obligation of Funds	5	1-O	2-O&C [3]	1-C	State Director.
440-2	County Committee Certification or Recommendation.	1	----------	1-O	----------	
[1] 440-4	Security Agreement (chattels and crops).	3	1-O	2-O&C	1-C	
[1] 440-4A	Security Agreement (crops)	3	1-O	2-O&C	1-C	
[1] 440-6	Severance Agreement	3	1-O	1-O	1-C	1-C each part to agreement.
[1] 440-9	Supplementary Payment Agreement.	2	1-O	1-O	1-C	
[1] 440-16	Promissory Note	3	1-O	3-O&C	1-C	
[1] 440-21	Appraisal of Chattel Property	1	----------	1-O	----------	
[1] 440-25	Financing Statement	3	1-O	1-C	1-C	1-C public record file.
[1] 440-26	Consent and Subordination Agreement.	3	----------	1-O	1-C	1-C each part to agreement.
[1] 440-32	Request for Statement of Debts and Collaterals.	3	2-O&C	1-O	1-C	1-O other creditors.
440-41	Disclosure Statement for Loans Secured by Real Estate.	(4)	----------	1-O [4]	1-O [4]	(4)
440-43	Notice of Right to Rescind	(5)	----------	1-O [5]	2-O&C [5]	(5)
[1] 440-45	Nondiscrimination Certificate (individual housing).	2	1-O	1-O	1-C	
[1] 440-46	Environmental Impact Assessment.	2	----------	1-O	----------	State Director.
[1] 441-1	Promissory Note	3	1-O	2-O&1C	1-C	
[1] 441-5	Subordination Agreement	2	----------	1-O	----------	1-C.
[1] 441-8	Assignment of Proceeds From the Sale of Agricultural Products.	3	2-O&C	1-O	1-C	1—Signed purchaser.
[1] 441-10	Nondisturbance Agreement	3	----------	1-O	1-C	1-C lienhold.
[1] 441-12	Agreement for Disposition of Jointly Owned Property.	1	----------	1-O	----------	
[1] 441-13	Division of Income and Nondisturbance Agreement.	3	----------	1-O	1-C	1-C lienhold.
441-18	Consent to Payment of Proceeds From Sale of Farm Products.	3	(6)	1-O	1-C	1—Signed purchaser.
441-22	Certification of Disaster Losses	1	1-O	1-O	----------	
[1] 441-25	Assignment of Proceeds From the Sale of Dairy Products and Release of Security Interest.	4	3-O&2C	1-O	1-C	1—Signed C purchaser.
441-26	County Supervisor's Calculations and Verification of Qualifying Production Losses.	1	----------	1-O	----------	
441-29	ASCS Verification of Farm Production History and Payments.	2	1-O	1-O	----------	1-ASCS C.
----------	Running Case Record	1	----------	1-O	----------	
----------	Tenure Agreement [1]	3	2-O&C	1-C	1-O	1—Signed, C—Landlord.
----------	Timber Management Plan [1]					

O—Original.
C—Copy.
[1] When applicable.
[2] In record book.
[3] Original and copy to finance office. Original returned to county office after loan is obligated.
[4] Original to borrower; copy to each person who has right to rescind; copy retained by FmHA in right to rescind cases.
[5] Original and 1 copy to borrower; 2 copies to each person who has right to rescind; copy retained by FmHA.
[6] All.

NOTE.—(a) The documents to be submitted will be examined thoroughly by the county office clerk to make sure that they are complete as to dates, signatures, and mechanical accuracy. For loans requiring approval other than in the county office, the loan submission will consist of the required documents enumerated above and all of the applicant's county office case folders. (b) After the documents have been assembled, the loan approval official will make the determinations required in § 1832.32.

4. Section 1832.32(c) is amended to read as follows:

§ 1832.32 Loan approval or rejection.

* * *

* * * * *

(c) *Approval of loan.* If the loan is to be approved, the loan approval official will date and sign Form FmHA 440–1. The loan official also will set forth any special conditions of approval, including any special security requirements in item 35 of Form FmHA 440–1. The original and an unsigned copy will be forwarded to the Finance Office with a copy of the letter from the National Office authorizing approval of the loan when such authorizations is required. The other copy of Form FmHA 440–1 will be dated and signed by the loan approval official and mailed to the applicant on the date of approval.

* * * * *

5. Section 1832.39 is amended by revising the text to provide for proper notation when borrower objects to use of Social Security Number as his/her case number, as follows:

§ 1832.39 Borrower's Case Number.

The case number should be the applicant's Social Security or Internal Revenue Service (IRS) tax number, whichever is appropriate. If such party is an individual, his or her Social Security should be used. If such party is husband and wife, the husband's Social Security number will be used. If such party objects to the use of the Social Security number, a case number will be assigned. In these cases the notation, "Borrower object to use of Social Security Number," should be made on Form FmHA 440–1 when it is submitted to the Finance Office for obligation. If such party is a legal entity, its IRS tax number will be used. The applicant's Social Security or IRS tax number preceded by State and County code numbers will constitute the entire case number to be used on all FmHA forms.

(7 U.S.C. 1989; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., Rural Development, 7 CFR 2.70)

Effective date. This document shall be effective on February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4350 Filed 2-18-76;8:45 am]

[FmHA Instruction 449.1]

PART 1845—FmHA EMERGENCY LIVESTOCK LINE OF CREDIT GUARANTEES

Forms and Processing Steps

Sections 1845.30 and 1845.40 of Part 1845 of Chapter XVIII, Title 7, Code of Federal Regulations are revised for the purpose of adding Form FmHA 440-1, Request for Obligation of Funds, to those that will be used by Administrative personnel in obligating funds and to change the method of obligating funds. The changes will result in increased efficiency in the lending processes of the Agency. Since it involves only internal changes, publication for public comments is unnecessary.

Sections 1845.30 and 1845.40 (c)(1), (d) and (e) as amended, read as follows:

§ 1845.30 Forms and forms distribution.

The following chart lists the applicable FmHA Forms, number to be prepared, signatures required, and manner of distribution. Any of these forms needed by Lenders or applicants may be obtained from FmHA:

FmHA form No.	Name of form	Total number	Signed by [1]	Distribution
[2] 400-1	Equal Opportunity Agreement	3	B-O	O-L, C-B, C- FmHA.
[2] 400-3	Notice to Contractors and Applicants	4	L-O	O-Con, C-B, C-L, C-FmHA.
400-6	Compliance Statement	4	L&Con 3-O	O-L, C-Con, C-B, C-FmHA.
440-1	Request for Obligation of Funds	4	FmHA-O	O&C-FC, C-County office C-State director.
440-2	County Committee Certification or Recommendation.	1	County committee.	FmHA.
[2] 449-6	Application for Guaranteed Loan (farmer programs).	2	B-O	O-L, C-FmHA.
449-13	Denial Letter	2	FmHA-O	Do.
[2] 449-20	Report of Loss	3	L-O	O-FmHA, C-L, C-FmHA.
[2] 449-25	Request for Contract of Guarantee (emergency livestock loan).	2	do	O-FmHA, C-L.
449-26	Certificates of Lender Loan Applicant (emergency livestock loan).	3	L&B-O	O-FmHA, C-L, C-B.
449-27	Contract of Guarantee (emergency livestock loan).	2	FmHA-O	O-L, C-FmHA.
449-31	Emergency Livestock Loan Analysis	3	do	O-FC, C-FmHA, C-State director.
[2] 471-7	Notice and Acknowledgment of Sale of Insured Loan or Guaranteed Loan.	4	L-O	O-FC, C-FC, C-L, C-FmHA.

[1] Signature and distribution "L"—Lender (includes holder); "B"—borrower or assumptor; "FC"—finance office; "FmHA"—authorized FmHA official; "Con"—contractor; "O"—original; "C"—copy.
[2] Forms needed by a lender for use in preparing the EL guarantee request.

§ 1845.40 Guarantee processing steps.

* * * * *

(c) *When County Supervisor is Sole Guarantee Approval Official* * * *

(1) Prepare Forms FmHA 440-1, in an original and three copies; and FmHA 449-31, in an original and two copies, sign the originals, and conform all copies. These forms will be prepared on the basis of information contained in Forms FmHA 449-6, FmHA 449-25 and enclosures, and FmHA 449-26. They will be completed on the same date the Contract of Guarantee is executed, and the original and a copy of Form FmHA 440-1 and the original Form FmHA 449-31 will be sent to the Finance Office and copies will be immediately transmitted to the State Office.

* * * * *

(d) *When District Director is Guarantee Approval Official.* The County Supervisor will take the actions required by paragraphs (a), (b) and (c) above, except that he will *not* execute Forms FmHA 440-1 and FmHA 449-27, or send Forms FmHA 440-1 and FmHA 449-31 to the State Office or Finance Office. Instead, he will forward the complete loan docket to the District Director for approval action. If the District Director determines approval is proper, he will *execute* Forms FmHA 440-1 and FmHA 449-27, and *date* Form FmHA 449-31. He will then immediately forward the original and a copy of Form FmHA 440-1 and the original of Form FmHA 449-31 to the Finance Office, and copies to the State Office. The balance of the loan docket will be returned to the County Office. Upon receipt of the conformed Form FmHA 440-1 and the executed Form FmHA 449-27, the County Supervisor will send or deliver it to the lender and conform his copy.

(e) *When State Director is Guarantee Approval Official.* The County Supervisor will take the actions required by paragraphs (a), (b) and (c) above, except that he will *not* execute Forms FmHA 440-1 and FmHA 449-27, or send Forms FmHA 440-1 and FmHA 449-31 to the State Office or Finance Office. Instead, he will forward the complete loan docket to the State Office through the District Director for approval action. If the State Director determines approval is proper, he will *execute* Forms FmHA 440-1 and FmHA 449-27, and *date* Form FmHA 449-31. He will then immediately forward the original and a copy of Form FmHA 440-1 and the original of Form FmHA 449-31 to the Finance Office, and retain copies for the State Office records. The balance of the loan docket will be returned to the County Office. Upon receipt of the conformed Form FmHA 440-1 and the executed Form FmHA 449-27, the County Supervisor will send or deliver it to the lender and conform his copy.

* * * * *

(Sec. 10 P.L. 93-357, 88 Stat 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date. This document shall be effective on February 19, 1976.

Dated: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4361 Filed 2-18-76;8:45 am]

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

[FmHA Instruction 451.5]

Servicing of Community Program Loans and Grants

Part 1861 of title 7, Code of Federal Regulations, Chapter XVIII is revised to reflect a change in a form used from Form FmHA 440-3 to Form FmHA 440-1. This change is necessary for promoting increased efficiency in the lending process of the Agency. The form is used by administrative personnel in obligating funds and results from a change in the method of obligating funds. Since it involves only internal changes publication for public comments is unnecessary.

In § 1861.85(f) the last sentence is revised to read as follows:

§ 1861.85 Transfer of security and assumption of loans.

* * * * *

(f) *Assumption agreement; release from personal liability receipts.* * * * If a loan is involved, Form FmHA 440-1, "Request for Obligation of Funds," will also be sent to the Finance Office.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 2942; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by the Dir., OEO 29 FR 14764, 33 FR 9850)

Effective date: This amendment is effective February 19, 1976.

Date: February 3, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4362 Filed 2-18-76;8:45 am]

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FmHA Instruction 465.2]

PART 1872—REAL ESTATE SECURITY

Management and Sale of Acquired Real Estate

Sections 1872.65(b)(1) and 1872.66(c)(4)(i) of Subpart C of Part 1872, Title 7, Code of Federal Regulations (38 FR 19204, as amended at 38 FR 22544; 38 FR 33763; 39 FR 1830; 39 FR 15024) are amended to delete Form FmHA 440-

3, "Record of Actions." This deletion will result in a conformed copy of Form FmHA 465–10, "Invitation, Bid, and Acceptance—Sale of Real Property by the United States," being sent to the Finance Office in lieu of Form FmHA 440–3, to advise the Finance Office of the sale of acquired property. All purchase offers will be recorded in writing on Form FmHA 465–10.

Since the changes being made are internal in nature, publication for public comment is unnecessary.

1. Section 1872.65(b)(1) is revised to read as follows:

§ 1872.65 Method of sale of property that was security for a loan made under the Consolidated Farm and Rural Development Act.

* * * * *

(b) *Processing.* * * *

(1) Purchase offers for all sales of acquired property will be reduced to writing on Form FmHA 465–10, "Invitation, Bid, and Acceptance—Sale of Real Property by the United States." For cash sales the conformed copy of Form FmHA 465–10 will be sent to the Finance Office with the Form FmHA 451–2, "Schedule of Remittances," remitting the balance of the total purchase price. For credit sales to eligibles and ineligibles, the conformed copy of Form FmHA 465–10 will be sent to the Finance Office with the appropriate Promissory Note attached. The docket forms will show the inventory property number and identify the credit sale as an initial loan unless the applicant already is indebted for the same type loan. A loan of the same type made simultaneously with the credit sale will be considered a subsequent loan.

* * * * *

2. 1872.66(c)(4)(i) is revised to read as follows:

§ 1872.66 Sale of property that was security for Rural Housing loans only.

* * * * *

(c) *Property suitable for FmHA programs.* * * *

* * * * *

(4) * * *

(i) Purchase offers for all sales of acquired property will be reduced to writing on Form FmHA 465–10. For cash sales the conformed copy of Form FmHA 465–10 will be sent to the Finance Office with the Form FmHA 451–2 remitting the balance of the total purchase price. For credit sales to eligibles and ineligibles, the conformed copy of Form FmHA 465–10 will be sent to the Finance Office with the appropriate Promissory Note attached. The docket forms will show the inventory property number and identify the credit sale as an initial loan unless the applicant already is indebted for the same type loan. A loan of the same type made simultaneously with the credit sale will be considered a subsequent loan.

* * * * *

Effective date. These amendments are effective February 19, 1976.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., O.E.O., 29 FR 14764, 33 FR 9850.)

Dated: January 5, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-4363 Filed 2-18-76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Extension of Interim Price Rule for Retail Sales of Gasoline in Alaska

In its rulemaking proceedings relating to the amount which may be added to the retail price of gasoline to reflect operating cost increases, FEA determined that a special interim rule permitting a maximum markup of 5 cents per gallon to reflect operating cost increases in retail sales of gasoline in Alaska was justified for a period of 90 days, effective November 19, 1975 (40 FR 54561, November 25, 1975), pending further review by FEA of data indicating that substantially higher cost levels currently prevail in Alaska. In all other states, the maximum markup allowed to reflect operating (non-product) cost increases remains 3 cents per gallon.

Collection of relevant cost data in Alaska has proved more difficult and more time-consuming than anticipated. FEA estimates that an aditional period of two months will be required to complete this aspect of its rulemaking proceeding and to issue a final rule concerning the maximum markup in Alaska to reflect operating cost increases.

FEA believes that in view of its preliminary findings relating to the extraordinarily high labor and other cost levels now prevailing in Alaska (40 FR 54561), and the need for interim relief pending more detailed analysis, it would be appropriate to continue in effect the interim rule applicable to retail sales of gasoline in Alaska for an additional period of two months. Accordingly, the amendments adopted today increase from 90 days to 150 days the period during which the special rule for Alaska is effective.

Since rulemaking proceedings in this matter have been expressly continued with respect to Alaska, and since public hearings in this matter were held in Anchorage as well as in Washington, D.C., no further compliance with the requirements for notice and opportunity for comment under section 7(i)(1)(B) and (C) of the Federal Energy Administration Act appears necessary.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133 and Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790 (39 FR 23185))

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective February 17, 1976.

Issued in Washington, D.C., February 13, 1976.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

§ 212.87 [Amended]

1. In section 212.87, paragraph (c)(4)(ii)(B) is amended by deleting "90-day" and substituting therefor "150-day".

§ 212.93 [Amended]

2. In section 212.93, paragraph (b)(1)(ii)(B) is amended by deleting "90-day" and substituting therefor "150-day".

[FR Doc.76-4783 Filed 2-13-76;3:51 pm]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Regs. K, M, and Y]

STOCK INTERESTS IN FOREIGN JOINT VENTURES

Statement of Policy

On December 31, 1975, there was published in the FEDERAL REGISTER (40 FR 60082) a notice of the proposed adoption by the Board of Governors of the Federal Reserve System of a "Statement of Policy on Stock Interests in Foreign Joint Ventures." Interested persons were invited to submit written comments by January 24, 1976.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board has decided to adopt the proposal with the following two changes that have been made in light of certain public comments received: (1) The final statement of policy more clearly indicates that the statement is designed to deal with a particular aspect of foreign joint venture investments by U.S. banking organizations—the possibility that the U.S. banking organization may feel impelled to provide financial support to the venture should it have liquidity or other financial needs—and is not intended to specify all the factors that are taken into account by the Board in deciding whether to approve any such investment; and (2) the final statement of policy also differs from the proposal by indicating that in assessing the potential support that a U.S. banking organization might have to provide to a foreign joint venture in which it has an equity interest, the Board will also consider the identity and financial strength of other partners and investors in the venture and their respective ability to provide support to the venture, if needed.

Accordingly, effective February 12, 1976, Parts 211, 213, and 225 of Title 12 are amended by adding the following new sections as set forth below.

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

§ 211.52 Statement of policy on stock interests in foreign joint ventures.

(a) In general, when a member bank or a corporation organized under section 25(a) of the Federal Reserve Act (an "Edge" corporation), or operating pursuant to an agreement with the Board under section 25 thereof (an "Agreement" corporation), or a bank holding company requests the Board's specific consent to acquire the stock or other certificates of ownership of a foreign corporation that will be jointly-owned by the U.S. banking organization and other foreign or domestic participants (hereinafter referred to as a "foreign joint venture"[1]), the Board considers, among other factors, the degree of legal and practical business responsibility the U.S. banking organization will bear for the financial condition and operations of the foreign joint venture in foreign and international financial markets. In the Board's judgment, this factor, among others, is relevant in assessing what effects the proposed investment may have on the financial and managerial resources of the applying U.S. banking organization.

(b) Based on the recent experience of certain foreign joint ventures in foreign and international financial markets, the Board has found that a U.S. banking organization may, in certain circumstances, feel impelled for business reasons to provide financial support[2] to a foreign joint venture in which it has an equity interest in the event the venture has liquidity or other financial needs. This support may be substantially in excess of the U.S. banking organization's original equity investment and may, in some situations, be well in excess of its *pro-rata* share. This has seemed most likely to occur in situations where (1) the foreign joint venture has included in its name a reference to the U.S. banking organization, (2) the U.S. banking organization or its affiliates have consistently provided financial support to the foreign corporation in amounts significantly beyond usual commercial limits or significantly disproportionate to its *pro-rata* stock interest, or (3) as the result of substantial managerial support furnished by the U.S. banking organization under a contract or other arrangement, the foreign corporation has been publicly identified as or considered to be, sometimes with the active encouragement of the U.S. banking organization, an integral part of the U.S. banking organization's international operations.

(c) Accordingly, the Board, in considering applications by U.S. banking organizations to invest in foreign joint ventures, will, as a matter of policy, take into account the possibility that the applicant may feel impelled for business reasons to provide financial support for such foreign joint venture in the event the venture has liquidity or other financial needs, and that such support could be significantly greater than the amount of its proposed equity investment. The Board will therefore consider such application in light of the relative ability of the applicant to meet the demands that such potential support could place on its financial and managerial resources. In doing so, the Board will take into consideration the risks associated with the total assets and liabilities of the foreign joint venture and its projected expansion, and not merely the size of the proposed equity investment by the applicant. In particular, the Board will give great weight to these potential risks and their implications for the applicant in cases where the applicant proposes (1) to include a reference to its name in that of the foreign joint venture, (2) to provide general funding support to the foreign joint venture in amounts disproportionate to its *pro-rata* stock interest, or (3) to provide virtually all of the management for such foreign joint venture.

If, however, in the case of any such proposed joint venture investment, the U.S. banking organization can establish in the record of its application that it has reached an agreement or arrangement whereby its support of the proposed joint venture in the event of liquidity or other financial needs will be limited to its initial equity investment or to some fixed amount, or will be shared *pro-rata* or otherwise with the other shareholders, or will otherwise be limited, the Board will consider the application and the risks associated therewith on the basis of this additional information. In this regard, the Board will also consider the identity and financial strength of other partners and investors in the venture and their respective ability to provide support to the venture, if needed.

(d) This statement of policy is not intended to prohibit or discourage investments by U.S. banking organizations in foreign joint ventures, which can be a useful form of corporate organization in appropriate circumstances; rather, due to the difficulty of ascertaining the precise risks undertaken in joint venture investments, its primary purpose is to clarify for all parties concerned the probable dimensions of risks assumed in any particular investment. Thus, even if an applicant proposes to assume a disproportionate share of the risks in any joint venture, e.g., agrees to stand behind more than its *pro-rata* share of the joint venture's obligations, the Board might be willing to approve the investment if the applicant's financial and managerial resources could bear this additional risk and if other factors indicated that approval would be consistent with the public interest and the governing statute and regulations.

(e) The Board further notes that any action that it might take on an application should not be viewed or relied upon by the applying U.S. banking organization, other participants in the venture, or any third party as constituting approval or disapproval, or ratification or rejection of any agreement or arrangement that may have been entered into by the shareholders of a foreign joint venture; specifically, any Board action should not be viewed as constituting any expression of judgment as to the validity or enforceability of any such agreement or arrangement. Any agreement or arrangement will, rather, be merely one among many factors considered by the Board in deciding an application.

(f) This statement is intended to apply primarily to proposed investments by U.S. banking organizations in the stock of foreign corporations in which they do not already have an equity investment. Applications involving an additional investment in an ongoing foreign joint venture will continue to be considered by the Board on the basis of outstanding facts and circumstances. In the case of any ongoing foreign joint venture the Board will, of course, continue to consider carefully the amount of support, if any, that is being provided by the applicant to the venture and any agreement or arrangement among the joint venturers for the provision of any future support.

[1] The term "foreign joint venture" is used to describe a situation in which a U.S. banking organization with a minority share interest participates, directly or indirectly, in the overall management of the corporation and thus has an active operating interest. A purely passive minority investment in a foreign corporation will not be deemed a "joint venture" investment for purposes of this statement of policy. This "joint venture" determination will be made on the basis of the facts and circumstances of each case.

[2] As used herein, the term "support" includes, without limitation, contributions to capital, purchase (or causing the purchase) from the foreign corporation of loans or securities, making (or causing the making) of loans to the foreign corporation, and the making (or causing the making) of deposits in the foreign corporation.

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

§ 213.52 Statement of policy on stock interests in foreign joint ventures.

For text of interpretation, see § 211.52 of this chapter.

PART 225—BANK HOLDING COMPANIES

§ 225.51 Statement of policy on stock interests in foreign joint ventures.

For text of interpretation, see § 211.52 of this chapter.

(Interprets or applies 12 U.S.C. 601, 615, and 1843(c)(13))

By order of the Board of Governors of the Federal Reserve System, February 12, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-4807 Filed 2-18-76;8:45 am]

[Reg. M]

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Reserves Against Foreign Branch Deposits

The Board of Governors has amended § 213.7(b) of its Regulation M, Foreign

Activities of National Banks, to prevent duplication of Eurodollar reserve requirements in two situations.

Currently, § 213.7(b) of Regulation M requires member banks that have one or more foreign branches to maintain reserves equal to 4 per cent of the daily average credit outstanding from such branches to United States residents.[1] However, the regulation provides several exceptions from this reserve requirement, one of which is for credit extended "to another member bank that will be maintaining reserves on such credit under § 204.5(c) of Regulation D." This exception was added to Regulation M, effective May 24, 1974, and was intended to prevent duplication of Eurodollar reserve requirements.

The amendment adopted today expands this exception to prevent duplication of reserve requirements in two other situations: (1) when a foreign branch lends to a corporation operating under section 25 or 25(a) of the Federal Reserve Act that is maintaining reserves on such credit under § 211.7(c) of Regulation K (12 CFR 211.7(c)), and (2) when a foreign branch lends to a foreign-owned U.S. banking institution (including branches and agencies of foreign banks, U.S. subsidiaries of foreign banks, and investment companies affiliated with foreign banks) that is voluntarily maintaining member bank reserves on such credit pursuant to the Board's requests of June 1, 1973 and April 9, 1975.

Regulation M currently prevents duplication of Eurodollar reserve requirements in one situation, that is, when the foreign branch of a member bank extends credit to another member bank. The Board believes that it is in the public interest to eliminate immediately duplication of reserves in the two situations described above. Therefore, with respect to this amendment, the Board believes that good cause exists for dispensing with the notice and public participation required by § 553(b) of Title 5 of the United States Code. The effective date of this amendment is postponed for less than the 30 days required by § 553(d) of Title 5 because the amendment relieves a restriction.

This action is taken pursuant to the Board's authority under section 25 of the Federal Reserve Act.

[1] "United States resident" is defined as (a) any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

Effective February 6, 1976, § 213.7(b) of Regulation M is amended to read as follows:

§ 213.7 Reserves against foreign branch deposits.

* * * * *

(b) *Credit extended to United States residents.* During each week of the four-week period beginning May 22, 1975, and during each week of each successive four-week maintenance period, a member bank having one or more foreign branches shall maintain with the Reserve Bank of its district, as a reserve against its foreign branch deposits, a daily average balance equal to 4 percent of the daily average credit outstanding from such branches to United States residents[1] (other than assets acquired and net balances due from its domestic offices) during the four-week computation period ending on the Wednesday fifteen days before the beginning of the maintenance period: *Provided,* That this paragraph does not apply to credit extended (1) in the aggregate amount of $100,000 or less to any United States resident, (2) by a foreign branch which at no time during the computation period had credit outstanding to United States residents exceeding $1 million, (3) to enable the borrower to comply with the requirements of the Office of Foreign Direct Investments, Department of Commerce,[2] (4) under binding commitments entered into before May 17, 1973, or (5) to an institution that will be maintaining reserves on such credit under § 204.5(c) of Regulation D or § 211.7(c) of Regulation K or to a foreign-owned banking institution that will voluntarily be maintaining member bank reserves on such credit.

By order of the Board of Governors, February 6, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-4772 Filed 2-18-76;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[76-117]

PART 556—STATEMENTS OF POLICY

Suretyship Authorization

FEBRUARY 12, 1976.

The Federal Home Loan Bank Board, by Resolution No. 75-300, dated April 2, 1975, proposed in part to issue a new statement of policy at § 556.7 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 556) regarding Board authorization of surety arrangements. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on April 24, 1975 (40 FR 18005-18007), with an invitation to interested persons to submit written comments by May 23, 1975.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the new statement of policy as proposed, at § 556.8 (§ 566.7 having been assigned to a subsequent statement of policy).

Accordingly, the Board hereby adds new § 556.8 to the Rules and Regulations of the Federal Savings and Loan System, to read as set forth below, effective March 22, 1976.

New § 556.8 is added to read as follows:

§ 556.8 Suretyship.

The Board will not authorize a Federal association to be surety under § 545.-24-3(b)(3) of this chapter unless such activity would be properly incident to the exercise of other powers authorized for such association.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-4795 Filed 2-18-76;8:45 am]

[76-120]

PART 563—OPERATIONS

Insurance of Loans

FEBRUARY 12, 1976.

The following summary of the amendments adopted by this Resolution is provided for the reader's convenience and is subject to the full description in the following preamble and to the specific provisions of the regulations.

I. *Present regulations.* None.

II. *Proposed regulations.* Would have prohibited an insured institution and its service corporation affiliates from insuring loans with a mortgage insurance company (MIC) where:

A. Compensation is paid to the institution, any service corporation affiliate, or any director, officer or employee thereof in connection with the issuance or renewal of mortgage insurance with such MIC;

B. Such MIC maintains a savings account at the institution into which premiums are paid as a condition of placement or renewal of mortgage insurance by the institution or a service corporation affiliate;

C. Certain interlocks exists between the institution and the management of such MIC;

D. An officer of the institution or a service corporation affiliate is a director of such MIC; or

E. The institution or its directors, officers or controlling persons have a financial interest in such MIC which constitutes a conflict of interest.

III. *Final regulations.* A. *Compensation provision.* Same as proposed.

B. *Savings account provision.* 1. No insured institution or any service corporation affiliate may insure loans with an MIC which maintains a savings account at the institution.

2. Existing certificate accounts are grandfathered until maturity and other existing accounts grandfathered until July 1, 1976.

C. *Provision concerning interlocks with management of MICs.* Same as proposed.

D. *Provision concerning interlocks between institution officers and MIC directors.* Not adopted.

E. *Investment provision.*—Same as proposed except:

1. This provision does not apply to an MIC entirely owned, directly or indirectly, by insured institutions, no one of which owns more than 25 percent of any class of equity securities of such MIC.

2. The financial interest in an MIC which will constitute a conflict of interest has been modified with respect to MICs having assets in excess of $50 million.

3. The effective date has been changed from July 1, 1976 to January 1, 1977.

IV. *Reason for regulations.* To limit the potential for abuse and risk as a result of self-dealing business practices.

The Federal Home Loan Bank Board, by Resolution No. 75-835, dated September 8, 1975, proposed to amend Part 563 of the Regulations for Insurance of Accounts (12 CFR Part 563) by adding a new § 563.44 thereto, to be captioned "Loans involving mortgage insurance." Notice of such proposed rule making was duly published in the FEDERAL REGISTER on September 17, 1975 (40 FR 42898), with an invitation for interested persons to submit written comments by October 20, 1975. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board deems it advisable to adopt proposed § 563.44, with the modifications discussed below.

Prior to the amendments adopted by this Resolution, the Board's only regulations concerning the use of mortgage insurance (other than FHA or VA) pertained to loans by insured institutions in excess of 90 percent of the value of the security property (other than loans to facilitate the sale of real estate owned by insured institutions pursuant to § 561.15 (d)). Loans not in excess of 90 percent of value could be insured at the lending institution's option, with no restriction as to choice of an MIC. Under the amendments adopted by this Resolution, § 563.9-7 continues to require an insured institution in connection with all loans in excess of 90 percent of value, to obtain mortgage insurance (or set up a specific reserve) from an MIC which has been designated as a "qualified private insurer" by the Federal Home Loan Mortgage Corporation. In addition, all mortgage insurance used by insured institutions and their service corporation affiliates in connection with all types of loans must be obtained from MICs with which neither the institution, nor a service corporation affiliate thereof, nor any director, officer, employee, or controlling person of such institution or any such service corporation has any of four specific types of affiliations, as described below.

First, proposed § 563.44(b)(1) would have prohibited an insured institution and its service corporation affiliates from insuring a loan with an MIC if any commission, fee or other compensation was to be paid to or received by such institution, any service corporation affiliate thereof, or any director, officer or employee of such institution or any such service corporation in connection with the issuance or renewal of mortgage insurance by such MIC. This Resolution adopts § 563.44(b)(1) as proposed.

Second, proposed § 563.44(b)(2) would have prohibited an insured institution and its service corporation affiliates from insuring any loan with an MIC if a savings account into which mortgage insurance premiums were paid was maintained at such institution by such MIC as a condition of placement or renewal of mortgage insurance with such MIC. This Resolution adopts § 563.44(b)(2) as proposed, with two changes. First, the prohibition applies to an MIC maintaining any savings account at an insured institution—i.e., such an account need not be maintained as a condition to placement or renewal of mortgage insurance with the MIC in order to trigger the prohibition. The Board believes this change is desirable because of the difficulty of determining whether an MIC savings account at an insured institution is maintained as a condition to placement or renewal of insurance with that MIC. Second, this prohibition does not affect existing non-certificate accounts until July 1, 1976. Existing certificate accounts are grandfathered until maturity. The Board believes these delays in effect are desirable in connection with broadening the prohibition to include all savings accounts, regardless of the purpose for which such accounts are maintained, and in order to produce minimum disruption of existing MIC savings accounts.

Third, proposed § 563.44(b)(3) would have prohibited an insured institution and its service corporation affiliates from insuring any loan with an MIC if any officer of such MIC, or a parent company thereof, is a director, officer or controlling person of such institution or any such service corporation. This Resolution adopts § 563.44(b)(3) as proposed.

Proposed § 563.44(b)(4) would have prohibited an insured institution and its service corporation affiliates from insuring any loan with an MIC if any director of such MIC, or a parent company thereof, was an officer of such institution or a service corporation affiliate thereof. Upon further consideration, the Board has determined that there appears to be no present need for this provision and has therefore decided not to adopt it at this time. The Board plans, however, to monitor any situations involving this type of relationship between an MIC and an insured institution, and will take appropriate regulatory action if practices or conditions involving such relationships develop which give rise to harmful actual or potential conflicts of interest.

Fourth, proposed § 563.44(b)(5) would have prohibited an insured institution and its service corporation affiliates from insuring any loan with an MIC if the amount of investment in such MIC, or a parent company thereof, by the institution, its service corporation affiliates, and the directors, officers and controlling persons of such institution and its service corporation affiliates was sufficient to give rise to a conflict of interest in the placement or renewal of mortgage insurance. In the absence of a compelling justification to the contrary, proposed § 563.44(b)(5) would have presumed the existence of a conflict of interest with respect to an MIC in the event of an individual interest costing in excess of $50,000 or constituting more than 1 percent of any class of equity securities of such MIC, or in the event of a collective interest costing in excess of $100,000 or representing more than 2 percent of any class of equity securities of such MIC. This Resolution adopts said § 563.44(b)(5) as proposed, with three changes, and redesignated as § 563.44(b)(4) due to nonadoption of proposed § 563.44(b)(4). First, § 563.44(b)(4) does not apply to MICs wholly owned, directly or indirectly, by insured institutions, no one of which owns more than 25 percent of any class of equity securities of such MIC. The Board believes this exception is desirable in order to not unduly discourage the formation of MICs of this type. However, the Board plans to monitor the activities of such MICs, and will consider modifying or revoking this exception if practices or conditions develop which give rise to harmful actual or potential conflicts of interest. Second, § 563.44(b)(4) presumes a conflict of interest situation to exist between an insured institution or a service corporation affiliate thereof and an MIC having assets of $50 million or more if, absent a compelling justification to the contrary, any individual interest in such MIC of the type described in the proposal cost in excess of $50,000 or represents more than one-half percent of any class of equity securities of such MIC. Similarly, § 563.44(b)(4) presumes a conflict of interest situation to exist in connection with a collective interest in an MIC having assets of $50 million or more if the aggregate cost of such interest exceeded $100,000 or if such investment represents more than 1 percent of any class of equity securities of such MIC. The Board believes these revised presumptions will result in more even-handed applicability of the amendment to all MICs. Third, § 563.44(b)(4) is not effective until January 1, 1977, rather than July 1, 1976, as had been proposed. The Board believes this additional delay is desirable in view of the somewhat more restrictive conflict of interest presumptions which were adopted, and in light of comments received concerning the impact of § 563.44(b)(4) on insured institutions and their officers, directors, and controlling persons.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 563 by

adding a new § 563.44 thereto to read as set forth below effective April 19, 1976, except as otherwise provided therein.

§ 563.44 Loans involving mortgage insurance.

(a) *Definitions.* For purposes of this section—

(1) The terms "affiliate", "company", "control", "consolidated net worth", "consolidated net earnings", "director" and "officer" have the same meanings given to them by §§ 583.15, 583.9, 583.26, 583.19, 583.20, 583.25 and 583.24 of this chapter, respectively.

(2) Ownership of an equity security by a director, officer, or controlling person shall include beneficial ownership through:

(i) A spouse, child, or spouse of a child of such director, officer, or controlling person;

(ii) A broker or other nominee or agent; and

(iii) A company controlled by such director, officer or controlling person.

(3) A company shall be deemed a parent company of a mortgage insurance company if such mortgage insurance company represents more than 15 percent of such company's consolidated net worth at the close of its preceding fiscal year or of its consolidated net earnings for such fiscal year.

(b) *Prohibitions.* (1) *Commissions, fees and other compensation.* No insured institution or service corporation affiliate thereof shall insure any loan with a mortage insurance company if, either directly or indirectly, any commission, fee or other compensation is to be paid to or received by such institution, any such affiliate thereof, or any director, officer, or employee of such institution or affiliate in connection with the issuance or renewal of mortgage insurance by such company.

(2) *Savings accounts.* Except as provided in the next sentence of this paragraph (b)(2), no insured institution or service corporation affiliate thereof shall insure any loan with a mortgage insurance company if such company maintains any type of savings account at such institution. An insured institution and its service corporation affiliates may insure loans with a mortgage insurance company maintaining a savings account at such institution on February 19, 1976, until the maturity of such account, if a certificate account, or until July 1, 1976, if other than a certificate account.

(3) *Officers of mortgage insurance companies.* No insured institution or service corporation affiliate thereof shall insure any loan with a mortgage insurance company if any officer or employee of such company, or any parent company thereof, is a director, officer or controlling person of such institution or any service corporation affiliate thereof.

(4) *Investment in mortgage insurance companies.* Except as provided in paragraph (c) of this section, no insured institution or service corporation affiliate thereof shall insure any loan with a mortgage insurance company if the amount of investment in such mortgage insurance company, or any parent company thereof, by such institution, its service corporation affiliates and the directors, officers, and controlling persons of such institution or such affiliates is sufficient to give rise to a conflict of interest in the placement or renewal of mortgage insurance. Absent a compelling justification to the contrary, the Corporation will presume a conflict of interest situation to exist on and after January 1, 1977.

(i) If such institution, any service corporation affiliate thereof, or any director, officer, or controlling person of such institution or affiliate holds, directly or indirectly, equity securities of such mortgage insurance company or any parent company thereof having a cost in excess of $50,000, or representing more than one percent of any class of equity securities of such company if its assets are less than $50 million, or representing more than one-half percent of any class of equity securities of such company if its assets equal or exceed $50 million; or

(ii) If such institution, all service corporation affiliates thereof and all the directors, officers, and controlling persons of such institution and all such affiliates hold in the aggregate, directly or indirectly, equity securities of such mortgage insurance company or any parent company thereof having a cost in excess of $100,000, or representing more than two percent of any class of equity securities of such company whose assets are less than $50 million, or representing more than one percent of any class of equity securities of such company if its assets equal or exceed $50 million.

(c) *Exception.* Paragraph (b)(4) of this section does not apply to any mortgage insurance company which is entirely owned, directly or indirectly, by insured institutions, no one of which owns more than twenty-five percent of any class of equity securities of such mortgage insurance company.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. §§ 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] RONALD A. SNIDER, *Assistant Secretary.*

[FR Doc.76-4796 Filed 2-18-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS, DEPARTMENT OF COMMERCE

PART 581—INTERAGENCY EVALUATION, REVIEW AND COORDINATION OF PROGRAMS AND PROJECTS

Interim Regulations

Chapter V of Title 13 of the Code of Federal Regulations is proposed to be amended by adding a new Part 581, "Interagency Evaluation, Review, and Coordination of Programs and Projects."

On January 13, 1976, the Office of Management and Budget (OMB) published in the FEDERAL REGISTER, Volume 41, pages 2052–2065, revisions to OMB Circular No. A–95. Paragraph 7 of the Circular requires agencies to publish in the FEDERAL REGISTER no later than February 27, 1976, interim regulations implementing the requirements of the Circular.

Accordingly, the following Part 581 is issued as interim regulations implementing Attachment A, Part I, "Project Notification and Review System," of OMB Circular No. A–95.

Comments on or objections to these interim regulations may be made in writing to the Acting Special Assistant for Regional Economic Coordination, Room 2092, U.S. Department of Commerce, Washington, D.C. 20230, no later than March 15, 1976. Final regulations will be published as soon as possible thereafter.

Sec.

581.1 Authority and purpose.
581.2 Action by the Federal Cochairman.
581.3 Applications for commission assistance.
581.4 Consultation and review.
581.5 Action by the applicant.
581.6 Action by the regional commission.
581.7 Exemptions.

AUTHORITY: 42 U.S.C. 3181 et seq. (42 U.S.C. 3211); Executive Order 11386, dated December 28, 1967; OMB Circular A–95.

§ 581.1 Authority and purpose.

The purpose of this part is to enunciate the responsibilities of the Federal Cochairmen in implementing Attachment A, Part 1, "Project Notification and Review System," of OMB Circular A–95 in the exercise of their responsibilities in the granting of funds and the approval of projects under section 505(a)(2) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3185(a)(2)) for technical and planning assistance including administrative expense grants to substate planning and development organizations. The Technical and Planning Assistance program numbers for each regional commission published in the "Catalog of Federal Domestic Assistance" are as follows:

Name of Commission:	*Catalog No.*
Coastal Plains Regional Commission	28.002
Four Corners Regional Commission	38.002
New England Regional Commission	48.002
Ozarks Regional Commission	52.002
Upper Great Lakes Regional Commission	63.002
Old West Regional Commission	75.002
Pacific Northwest Regional Commission	76.002

§ 581.2 Action by the Federal Cochairman.

The Federal cochairman of each regional commission shall recommend that the provisions of OMB Circular A–95, as set forth in this part, be complied with in the processing of technical assistance projects and programs and administrative expense grants to substate planning and development organizations.

§ 581.3 Applications for commission assistance.

(a) Applicants to a regional commission for technical and planning assist-

ance and for administrative expense grants to substate planning and development organizations must comply with the appropriate provisions of Attachment A, Part 1, of OMB Circular A–95.

(b) If a proposed technical and planning assistance activity is statewide or multistate in nature, prior notification shall be sent to the appropriate State clearinghouses. Demonstration projects, other technical planning assistance projects, and administrative expense grants to substate planning and development organizations, which have specific local impact shall be sent for review and comment to the appropriate areawide clearinghouse of jurisdiction as well as the appropriate State clearinghouse.

§ 581.4 Consultation and review.

OMB Circular A–95 provides that State and areawide clearinghouses may have up to 30 days after receipt of a project notification in which to inform appropriate State and local agencies that may be affected by the proposed project and arrange, if necessary, to consult with the applicant. Clearinghouses may establish cooperative procedures with applicants for further review of projects if necessary. If questions still remain unresolved, the clearinghouse may have an additional 30 days for review of the completed application.

§ 581.5 Action by the applicant.

(a) Any agency of State or local government or any non-profit organization applying for assistance to a regional commission for a new project or a major modification to an existing project involving technical and planning assistance or administrative expense grants to substate planning and development organizations will be required to notify both State and areawide planning and development clearinghouses in the jurisdiction in which the project is to be located. (Applications from federally recognized Indian tribes are not subject to these requirements. However, they may voluntarily participate.)

(b) In the case of an application for an activity that is statewide or broader in nature and does not have specific applicability to nor effect on areawide or local planning and programs, the notification need be sent only to the appropriate State clearinghouses.

(c) Notification will include a summary description of the project for which assistance is being sought. The summary description will contain the following information, as appropriate and to the extent available:

(1) Identity of the applicant agency or organization.

(2) The geographic location of the project to be assisted. A map should be provided, if appropriate.

(3) A brief description of the proposed project by type, purpose, general size of scale, estimated cost, beneficiaries or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed project.

(4) A statement as to whether or not the applicant has been advised by the regional commission from which assistance is being sought that it will be required to submit environmental impact information in connection with the proposed project.

(5) The Federal program title and number of the regional commission from which assistance is being sought as indicated in Attachment D of the latest "Catalog of Federal Domestic Assistance." (The "Catalog" is issued annually in the spring and is updated during the year.)

§ 581.6 Action by the regional commission.

(a) The Federal Cochairman, through his immediate office or through the regional commission, shall insure that all applications for assistance have been submitted to appropriate clearinghouses at the earliest possible time for review prior to approval by the regional commission.

(b) Applications that do not carry evidence of clearinghouse review will be returned to the applicant with instructions to furnish such evidence. All applications must contain a State Application Identifier (SAI) number. This is mandatory for use in notifying clearinghouses of action taken on the application.

(c) The Federal Cochairman, through his immediate office or through the regional commission, shall insure that appropriate clearinghouses are notified of the final disposition of an application. Such notification should take place within 7 working days if possible but in no event more than 15 calendar days. The standard multipurpose form, SF 424, as prescribed by Federal Management Circular 74–7, will be used for this purpose.

(d) Where a clearinghouse has recommended that an application not be approved or approved only with specific and/or major substantive changes, and the regional commission subsequently approves the application without such changes, the Federal Cochairman, through his immediate office or through the regional commission, shall insure that the clearinghouse is furnished a written explanation of the action taken in addition to the completed standard multipurpose form SF424.

(e) Where a clearinghouse has recommended against approval of a project on the grounds that it conflicts with or duplicates a Federal or federally assisted project, the Federal Cochairman, through his immediate office or through the regional commission, shall insure that the agency assisting the project is consulted prior to approval of the application by the regional commission.

§ 581.7 Exemptions.

Projects exempted from these procedures include:

(a) Projects initiated by the regional commission, except for those having a significant impact on a specific local area.

(b) Administrative expense grants requested by substate planning and development organizations which are themselves areawide clearinghouses.

(c) Projects estimated to cost $5000 or less.

(d) Amendments to the grant which do not involve substantive changes in the project's scope of work.

(e) Assistance to organizations and institutions for the provision of education or training not designed to meet the needs of specific individual states or localities.

(f) Assistance to educational institutions for activities that are part of a school's regular academic program and are not related to local programs of health, welfare, employment, or other social service agencies.

JOHN W. EDEN,
Acting Special Assistant to the Secretary for Regional Economic Coordination.

[FR Doc.76–4726 Filed 2–18–76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15383; Amdt. 39–2523]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Models BAC 1–11 200 and 400 Airplanes

During the manufacturer's continuing fatigue test program for the British Aircraft Corporation Model BAC 1–11 airplane, cracks have been discovered in certain components of the horizontal stabilizer structure of the test specimen. Such cracks if undetected could result in failure of the horizontal stabilizer structure. The FAA has determined that such cracks can be expected to occur on Model BAC 1–11 200 and 400 Series airplanes presently in service. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspections and repair or replacement, as necessary, of affected horizontal stabilizer components on British Aircraft Corporation Model BAC 1–11 200 and 400 Series airplanes.

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

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

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

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1–11 200 and 400 Series airplanes certificated in all categories.
Compliance is required as indicated.

To detect cracks in the horizontal stabilizer structure and prevent possible horizontal

stabilizer failure, accomplish the following:

(a) For airplanes equipped with horizontal stabilizers that do not incorporate the modification contained in Part (d) of British Aircraft Corporation Service Bulletin 55–PM3485, comply with paragraph (c) of this AD as follows:

(1) If the horizontal stabilizer has accumulated less than 28,000 total landings on the effective date of this AD—

(i) Prior to the accumulation of 30,000 total landings, inspect in accordance with paragraph (c) of this AD;

(ii) Prior to the accumulation of 35,000 total landings, reinspect in accordance with paragraph (c) of this AD; and

(iii) Thereafter, continue to inspect in accordance with paragraph (c) of this AD at intervals not to exceed 2,500 landings since the last inspection.

(2) If the horizontal stabilizer has accumulated 28,000 or more total landings but less than 30,000 total landings on the effective date of this AD—

(i) Prior to the accumulation of an additional 1,000 landings or 30,501 total landings, whichever occurs earlier, unless already accomplished within the preceding 1,000 landings, inspect in accordance with paragraph (c) of this AD;

(ii) Prior to the accumulation of 35,000 total landings, reinspect in accordance with paragraph (c) of this AD; and

(iii) Thereafter, continue to inspect in accordance with paragraph (c) of this AD at intervals not to exceed 2,500 landings since the last inspection.

(3) If the horizontal stabilizer has accumulated 30,000 or more total landings but less than 32,000 total landings on the effective date of this AD—

(i) Prior to the accumulation of an additional 500 landings or 32,101 total landings whichever occurs earlier, unless already accomplished within the preceding 2,500 landings, inspect in accordance with paragraph (c) of this AD;

(ii) Prior to the accumulation of 35,000 total landings reinspect in accordance with paragraph (c) of this AD; and

(iii) Thereafter, continue to inspect in accordance with paragraph (c) of this AD at intervals not to exceed 2,500 landings since the last inspection.

(4) If the horizontal stabilizer has accumulated 32,000 or more total landings but less than 35,000 total landings on the effective date of this AD—

(i) Prior to the accumulation of an additional 100 landings, unless already accomplished within the preceding 5,000 landings, inspect in accordance with paragraph (c) of this AD;

(ii) Prior to the accumulation of 35,000 total landings or 2,500 landings from the last inspection, whichever occurs later, reinspect in accordance with paragraph (c) of this AD; and

(iii) Thereafter, continue to inspect in accordance with paragraph (c) of this AD at intervals not to exceed 2,500 landings since the last inspection.

(5) If the horizontal stabilizer has accumulated 35,000 or more total landings on the effective date of this AD—

(i) Prior to the accumulation of an additional 50 landings unless already accomplished within the preceding 2,500 landings, inspect in accordance with paragraph (c) of this AD; and

(ii) Thereafter, continue to inspect in accordance with paragraph (c) of this AD at intervals not to exceed 2,500 landings since the last inspection.

(b) For airplanes equipped with horizontal stabilizers that incorporate the modification contained in Part (d) of British Aircraft Corporation Service Bulletin 55–PM3485 comply with paragraph (c) of this AD as follows:

(1) If the horizontal stabilizer has accumulated less than 39,000 total landings on the effective date of this AD—

(i) Prior to the accumulation of 40,000 total landings, inspect in accordance with paragraph (c) of this AD.

(ii) Thereafter, continue to inspect in accordance with paragraph (c) at intervals not to exceed 6,000 landings since the last inspection.

(2) If the horizontal stabilizer has accumulated 39,000 or more total landings on the effective date of this AD—

(i) Prior to the accumulation of 1,000 additional landings, unless already accomplished within the last 6,000 landings, inspect in accordance with paragraph (c) of this AD.

(ii) Thereafter, continue to inspect in accordance with paragraph (c) at intervals not to exceed 6,000 landings since the last inspection.

(c) Inspect the horizontal stabilizer structure for cracks in accordance with paragraphs 2.3.1, 2.3.2, and 2.3.3 of British Aircraft Corporation Alert Service Bulletin 55–A–PM 5208, Issue No. 1, dated November 14, 1974, or an FAA-approved equivalent.

(d) If any cracks are found during an inspection required by paragraph (a) or (b) of this AD, before further flight, conduct the detailed inspection of the horizontal stabilizer structure in accordance with the applicable provisions of paragraphs 2.5 through 2.5.2. of British Aircraft Corporation Alert Service Bulletin 55–A–PM 5208, Issue No. 1, dated November 14, 1974, or an FAA-approved equivalent.

(e) If, during an inspection required by paragraphs (a), (b), (d), or (e) of this AD, cracks are found only in the outboard channel brackets, accomplish the following:

(1) Measure the cracks in accordance with the criteria specified in paragraphs 2.6.1. and 2.6.2. of British Aircraft Corporation Alert Service Bulletin 55–A–PM 5208, Issue No. 1, dated November 14, 1974.

(2) If cracks measure, in length—

(i) Less than 0.3 inches, reinspect the crack for crack propagation at intervals not to exceed 500 landings since the last inspection;

(ii) 0.3 inches or more but less than 0.4 inches, reinspect the crack for crack propagation at intervals not to exceed 200 landings since the last inspection; and

(iii) 0.4 inches or more but less than 0.5 inches, reinspect the crack for crack propagation at intervals not to exceed 100 landings since the last inspection.

(3) Continue performing the inspections required by paragraphs (a), (b), and (d) of this AD.

(f) If a crack is found in an outboard channel bracket that measures 0.5 inches or more in length or a crack of any length is found in any other component of the horizontal stabilizer during any of the inspections required by this AD, before further flight, except as provided in paragraph (g) of this AD, replace the component with a new part of the same part number or an FAA-approved equivalent.

(g) Upon the request of an operator, the Chief, Aircraft Certification Staff, Europe, Africa and Middle East Region may adjust crack length limitations, approve alternate repetitive inspection intervals, or approve rework procedures to provide for continued operations by an operator, without the replacement of parts, as required under paragraph (f) of this AD, if data substantiating such action is submitted by the operator.

(h) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's total hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This Amendment becomes effective March 4, 1976.

Issued in Washington, D.C., on February 11, 1976.

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

[FR Doc.76–4744 Filed 2–18–76;8:45 am]

[Docket No. 15375, Amdt. No. 1007]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260–3, 8260–4, or 8260–5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS–230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, effective March 25, 1976:

Tuskegee, AL—Moton Field, VOR–A, Original
Chico, CA—Chico Muni. Arpt., VOR Rwy 13L, Amdt. 4

Chico, CA—Chico Muni. Arpt., VOR Rwy 31R, Amdt. 3
Chico, CA—Chico Muni. Arpt., VOR/DME Rwy 13L, Amdt. 1
Oroville, CA—Oroville Muni. Arpt., VOR-A, Amdt. 1
Daytona Beach, FL—Daytona Beach Regional Arpt., VOR Rwy 16, Amdt. 12
New Port Rickey, FL—West Pasco Arpt., VOR-A, Original
Champaign-Urbana, IL—University of Illinois-Willard Arpt., VOR/DME Rwy 22, Amdt. 3
Freeport, IL—The Albertus Arpt., VOR Rwy 24, Original
Urbana, IL—Illini Arpt., VOR-A, Amdt. 6
Urbana, IL—Illini Arpt., VOR/DME-B, Amdt. 1
Sault Ste. Marie, MI—Sault Ste. Marie City-County Arpt., VOR Rwy 32, Amdt. 10
Smithville, NJ—Smithville Airfield, VOR-A, Original
Phillipsburg, OH—Myers Arpt., VOR Rwy 21, Original
Philip, SD—Philip Arpt., VOR-A, Amdt. 7
Laredo, TX—The Laredo Muni. Arpt., VOR/DME Rwy 14, Original
Laredo, TX—The Laredo Muni. Arpt., VOR/DME Rwy 32, Original
Paducah, TX—Dan E. Richards Muni. Arpt., VOR/DME Rwy 35, Original

* * * effective February 26, 1976:

Bastrop, LA—Morehouse Memorial Arpt., VOR/DME-A, Amdt. 4

* * * effective February 4, 1976:

Olney-Noble, IL—Olney-Noble Arpt., VOR/DME-A, Amdt. 1

* * * effective February 3, 1976:

Hawthorne, CA—Hawthorne Muni. Arpt., VOR Rwy 7, Amdt. 10
Hawthorne, CA—Hawthorne Muni. Arpt., VOR Rwy 25, Amdt. 11
Hawthorne, CA—Hawthorne Muni. Arpt., VOR-A, Amdt. 2
Lake Geneva, WI—Playboy Arpt., VOR Rwy 23, Amdt. 2

* * * effective January 30, 1976:

Aguadilla, PR—Borinquen Arpt., VOR Rwy 8, Amdt. 3

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective March 25, 1976:

Daytona Beach, FL—Daytona Beach Regional Arpt., LOC(BC) Rwy 24R, Amdt. 6
Huntington, WV—Tri-State (Walker Long Field), LOC(BC) Rwy 30, Amdt. 8

* * * effective January 28, 1976:

Louisville, Ky—Standiford Field, LOC Rwy 19, Amdt. 2

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective March 25, 1976:

Daytona, FL—Daytona Beach Regional Arpt., NDB Rwy 6L, Amdt. 16
Sault Ste. Marie, MI—Sault Ste. Marie City-County Arpt., NDB Rwy 32, Amdt. 6
Clinton, MO—Clinton Memorial Arpt., NDB Rwy 4, Amdt. 1
Clinton, MO—Clinton Memorial Arpt., NDB Rwy 22, Amdt. 2
Sedalia, MO—Sedalia Memorial Arpt., NDB Rwy 18, Amdt. 1
Sedalia, MO—Sedalia Memorial Arpt., NDB Rwy 36, Amdt. 1
Teterboro, NJ—Teterboro Arpt., NDB Rwy 6, Amdt. 14
Wichita Falls, TX—Kickapoo Downtown Airpark, NDB-A, Amdt. 2
Huntington, WV—Tri-State (Walker-Long Field), NDB Rwy 12, Amdt. 11

* * * effective February 19, 1976:

Jacksonville, NC—Albert J. Ellis Arpt., NDB Rwy 5, Original, cancelled
Jacksonville, NC—Albert J. Ellis Arpt., NDB Rwy 5, Original
Jacksonville, NC—Albert J. Ellis Arpt., NDB-A, Original, cancelled

* * * effective February 4, 1976:

Olney-Noble, IL—Olney-Noble Arpt., NDB Rwy 3, Amdt. 5

* * * effective February 2, 1976:

Newnan, GA—Newnan Coweta County Arpt., NDB Rwy 32, Original, cancelled

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective March 25, 1976:

Daytona Beach, FL—Daytona Beach Regional Arpt., ILS Rwy 6L, Amdt. 20
Jackson, MS—Allen C. Thompson Field, ILS Rwy 15L, Original
Teterboro, NJ—Teterboro Arpt., ILS Rwy 6, Amdt. 22
Huntington, WV—Tri-State (Walker-Long Field), ILS Rwy 12, Amdt. 4

* * * effective February 19, 1976:

Jacksonville, NC—Albert J. Ellis Arpt., ILS Rwy 5, Original
Dayton, OH—James M. Cox-Dayton Muni. Arpt., ILS Rwy 24L, Original

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective March 25, 1976:

Birmingham, AL—Birmingham Muni. Arpt., RADAR-1, Amdt. 13
Dallas-Fort Worth, TX—Dallas-Fort Worth Regional Arpt., RADAR-2, Original, cancelled

* * * effective January 28, 1976:

Louisville, KY—Standiford Field, RADAR-1, Amdt. 12

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective March 25, 1976:

Kissimmee, FL—Kissimmee Muni. Arpt., RNAV Rwy 15, Original.
Wichita Falls, TX—Kickapoo Downtown Airpark, RNAV Rwy 35, Original.

* * * effective February 3, 1976.

Hawthorne, CA—Hawthorne Muni. Arpt., RNAV Rwy 25, Amdt. 3.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on February 5, 1976.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.76-4746 Filed 2-18-76;8:45 am]

[Docket No. 15378; Amdt. No. 1008]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective April 8, 1976:

Ponca City, OK—Ponca City Municipal Arpt., VOR-A, Amdt. 5

* * * effective April 1, 1976:

East Hartford, CT—Rentschler Field, VOR Rwy 36, Amdt. 3, cancelled
Hartford, CT—Hartford Brainard Arpt., VOR-A, Amdt. 3
Ft. Myers, FL—Page Field, VOR Rwy 5, Amdt. 6
Ft. Myers, FL—Page Field, VOR Rwy 13, Amdt. 3
Ft. Myers, FL—Page Field, VOR Rwy 23, Amdt. 1
Lafayette, IN—Purdue University Arpt., VOR-A, Amdt. 17
Gardner, MA—Gardner Municipal Arpt., VOR-A, Amdt.2

* * * effective March 25, 1976:

Tuscaloosa, AL—Tuscaloosa Municipal Arpt., VOR Rwy 4, Amdt. 4
Tuscaloosa, AL—Tuscaloosa Municipal Arpt., VOR Rwy 22, Amdt. 6
Grand Forks, ND—Grand Forks Int'l Arpt., VOR Rwy 17 (TAC), Amdt. 6
Grand Forks, ND—Grand Forks Int'l Arpt., VOR Rwy 35 (TAC), Amdt. 6

* * * effective February 10, 1976:

Columbus, GA—Columbus Metro. Arpt., VOR–A, Amdt. 17

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPS, effective April 8, 1976:

Rapid City, SD—Rapid City Regional Arpt., LOC/DME(BC), Rwy 14, Amdt. 6

* * * effective April 1, 1976:

Pontiac, MI——Oakland-Pontiac Arpt., LOC (BC) Rwy 27L, Original

* * * effective March 25, 1976:

Grand Forks, ND—Grand Forks Int'l Arpt., LOC(BC) Rwy 17, Amdt. 2

* * * effective March 4, 1976:

Grand Rapids, MI—Kent County Arpt., LOC (BC) Rwy 8R, Amdt. 8, cancelled

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective April 1, 1976:

Hartford, CT—Hartford-Brainard Arpt., NDB–B, Amdt. 3
DeLand, FL—DeLand Muni.-Sidney H. Taylor Field, NDB Rwy 23, Amdt. 2
Seymour, IN—Freeman Municipal Arpt., NDB Rwy 22, Amdt. 3
Seymour, IN—Freeman Municipal Arpt., NDB Rwy 31, Amdt. 4
Washington, IN—Daviess County Arpt., NDB Rwy 18, Amdt. 2

* * * effective March 25, 1976:

Tuscaloosa, AL—Tuscaloosa Municipal Arpt., NDB Rwy 4, Amdt. 2

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective April 8, 1976:

Rapid City, SD—Rapid City Regional Arpt., ILS Rwy 32, Amdt. 8

* * * effective April 1, 1976:

Chattanooga, TN—Lovell Field, ILS Rwy 20, Amdt. 27

* * * effective March 25, 1976:

Tuscaloosa, AL—Tuscaloosa Municipal Arpt., ILS Rwy 4, Amdt. 3
Grand Forks, ND—Grand Forks Int'l Arpt., ILS Rwy 35, Amdt. 2

* * * effective March 4, 1976:

Grand Rapids, MI—Kent County Arpt., ILS Rwy 8R, Original

* * * effective February 26, 1976:

San Francisco, CA—San Francisco Int'l Arpt., ILS Rwy 28L, Amdt. 12
San Francisco, CA—San Francisco Int'l Arpt., ILS Rwy 28R, Original

* * * effective February 5, 1976:

New York, NY—John F. Kennedy Int'l Arpt., ILS Rwy 13L, Amdt. 7

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective April 1, 1976:

Detroit, MI—Detroit City Arpt., RADAR–1, Amdt. 3, cancelled

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective April 1, 1976:

Pontiac, MI—Oakland-Pontiac Arpt., RNAV Rwy 27L, Amdt. 2, cancelled

* * * effective March 25, 1976:

Florence, SC—Florence City-County Arpt., RNAV Rwy 27, Amdt. 2

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; (49 U.S.C. 1438, 1354, 1421, 1510), sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

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

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.76-4745 Filed 2-18-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–75–292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Housing Assistance Plans

On January 15, 1976, the Department of Housing and Urban Development published in the FEDERAL REGISTER (41 FR 2348) a notice of proposed rulemaking concerning the submission of housing assistance plans as part of applications for grants under Title I of the Housing and Community Development Act of 1974. Interested persons were given until January 30, 1976, to submit written comments. All comments with respect to the proposed revisions were given due consideration.

As a result of the comments received, the following changes are made:

1. A number of comments questioned the general availability of data with respect to HUD-insured subsidized and public housing. Accordingly, § 570.303(c)(i) is revised to delete these provisions.

2. The language of the first paragraph of § 570.303(c)(2) is clarified to indicate that information on households already residing in the community is to be provided separately for owners and renters.

3. Several public comments questioned the data requirements of § 570.303(c)(2) with respect to the provision of information on the housing assistance needs of minority groups. Such information is to be provided by applicants with respect to lower-income persons residing in the community. The term used in this subsection, "identifiable segment of the total group of lower-income persons in the community," is defined in § 570.3(n) to mean women, and members of a minority group which includes Negroes, Spanish-Americans, Orientals, American Indians and other groups normally identified by race, color, or national origin.

4. Many of the public comments addressed the portion of the proposed regulations governing estimates of households expected to reside in the community. Some comments indicated that HUD should provide a time frame for estimates of worker families expected to reside in the community as a result of planned employment. Therefore, the language of § 570.303(c)(2)(i) was modified to specify that estimates of needs be made for the numbers of lower-income families with workers expected to be employed in the community in the next three years. Also, the effect of planned governmental employment was added as a factor to be considered by the applicant.

Section 570.303(c)(2)(i)(A) has been subsumed in the first paragraph of § 570.303(c)(2)(i).

New language with respect to the assessment of the housing assistance needs of households employed in the community, but not living there, has been incorporated into what was formerly § 570.303(c)(2)(i)(B) and is now § 570.303(c)(2)(ii). Subsequent subsections have been renumbered. The new language provides direction to the applicant on the sources of information that HUD will recognize as a basis for their estimates. The specific language proposed in § 570.303(c)(ii) regarding consideration of commuting burdens in developing expected to reside needs estimates has been deleted accordingly. Language requiring that applicants' assessments reflect the metropolitan percentage of lower-income families workers living in the community in which they work has been changed to delete the limitation to communities of comparable size. Section 570.303(c)(2)(ii)(A) adds a new provision permitting applicant communities which already house a disproportionate number of lower-income families in metropolitan areas to take this fact into account in their estimate.

Several comments questioned the ability of smaller communities outside of metropolitan areas to address the expected to reside requirement. This requirement must be addressed by all applicants. However, § 570.303(c)(2)(ii)(B) permits these smaller communities to submit their best estimates based on data generally available.

Some comments indicated that the reductions in the estimates of households expected to reside in the community due to the availability of housing as proposed in § 570.303(c)(iii) should not be permitted, or if permitted, a significant amount of additional data on such housing should be required. The proposed language has been deleted.

The language on the use of assessments of housing needs by areawide or State planning agencies formerly in § 570.303(c)(2)(iv) has been incorporated in the new § 570.303(c)(2)(ii).

The qualification of an applicant's estimate of housing assistance needs of

households expected to reside, based on physical capacity, in the first proposed subparagraph numbered § 570.303(c)(v) has been deleted.

In the second subparagraph numbered § 570.303(c)(2)(v), HUD proposed the use of locational preference surveys to develop estimates of those households expected to reside. As a result of substantial public criticism of the validity and appropriateness of such surveys, the proposed language has been deleted.

Applicants not having data generally available to estimate the housing assistance needs of households expected to reside in the community were permitted in the proposed § 570.303(c)(2)(vi) to give a "best estimate" with a work program to provide information at the time of the applicant's third year submission under the community development block grant program. The Department has given consideration to the many comments on this matter and determined that postponing the submissions of this information would not be appropriate. Therefore, this language has been deleted.

The substance of proposed § 570.303(c)(3)(i) has been changed to eliminate the use of the metropolitan area or county group as the geographic basis for determining an adequate rental housing vacancy rate for the purpose of planning the mix of new construction, substandard rehabilitation or use of the existing housing stock in establishing the applicant's housing goals.

Language has been added in a new § 570.303(c)(3)(i)(C) to permit new construction to meet statutory requirements of the urban renewal program, and the following subsection has been renumbered accordingly.

Language has been added to § 570.303(c)(3)(iv) to specify the circumstances under which exceptions may be granted to the requirement that housing goals be generally in proportion to the housing needs, by household type, identified pursuant to § 570.303(c)(2).

In addition to the changes to § 570.303(c) discussed above, and due to the necessity for some communities to revise community development block grant applications that are currently being prepared, it has been determined that additional amendments to 24 CFR Part 570 are necessary in order to provide applicants with additional time to prepare and submit applications to HUD and to encourage interested parties to provide HUD with relevant data on the contents of the application.

Section 570.300(a) states the requirement that each applicant must submit an application at least 75 days prior to the beginning of the program year, with certain limited exceptions. Section 570.300(a) is amended by inserting the word "end" in lieu of the word "beginning."

Section 570.301(a) provides that a grant recipient may either shorten or lengthen its program year by as much as 30 days without prior HUD approval. Accordingly, § 570.301(a) is amended to permit an applicant to lengthen its current program year up to 60 days (instead of 30 days) without prior approval from HUD. In order to assist HUD in estimating its application review workload, applicants are requested to provide HUD written notice if they are extending their program years beyond the normal twelve month period.

Section 570.300(b) requires applicants to inform citizens that the application has been submitted to HUD and is available to interested parties upon request. HUD is adding a new paragraph (c) under § 570.300 to set forth requirements governing submission of data by any person asserting that the application is plainly inconsistent with generally available facts and data. Former paragraphs 570.300 (c) and (d) are redesignated (d) and (e), respectively.

In connection with the environmental review of these amendments to the regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19182. A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. It is hereby certified that the economic and inflation impacts of these amendments have been carefully evaluated in accordance with OMB Circular No. A-107.

In consideration of the foregoing, 24 CFR Part 570 is amended as follows:

1. Section 570.300 is amended by revising the first sentence of paragraph (a), by revising paragraph (b), by adding a new paragraph (c), and by redesignating former paragraphs (c) and (d) as (d) and (e), respectively, to read as follows:

§ 570.300 Timing and presubmission requirements.

(a) *Timing of submission of applications.* The general rule is that each applicant must submit an application at least 75 days prior to the end of the program year. * * *

* * * * *

(b) *Public availability of application.* Upon receiving advice from HUD that the application has been accepted for processing, the applicant shall make reasonable efforts to inform citizens involved in or affected by the local community development program that the application has been submitted to HUD and is available to interested parties upon request. Notice to that effect shall be published in a periodical of general circulation in the jurisdiction of the applicant.

(c) *Required submission of data by persons asserting that application is plainly inconsistent with generally available facts and data.* Any person desiring to assert, in litigation or otherwise, that any portion of an application in accordance with § 570.306(b) is plainly inconsistent with generally available facts and data, other than Federal census data, is required to submit to HUD a precise description of the identity and location of documents containing the data upon which such person relies. Such submission may be made to HUD prior to the submission of the application or any time thereafter but not later than 15 calendar days after the date of publication by the applicant of its notification that the application has been accepted by HUD for processing. The submission by such person shall specifically state with respect to each identified document which pages contain data upon which the person relies, and shall state with respect to each item of data the specific item in the application asserted to be plainly inconsistent with such item or data.

(d) *Meeting the requirements of OMB Circular No. A-95.* * * *

* * * * *

(e) *Submission of performance report.* * * *

* * * * *

2. Section 570.301 is amended by revising paragraph (a) to read as follows:

§ 570.301 Program year.

* * * * *

(a) A recipient may either shorten or lengthen its program year by as much as 60 days without prior HUD approval. Recipients are requested to provide HUD with written notice if they intend to exercise this option.

* * * * *

3. Section 570.303 is amended by revising paragraph (c) to read as follows:

§ 570.303 Application requirements.

* * * * *

(c) *Housing Assistance Plan.* The application shall contain a housing assistance plan which:

(1) Accurately surveys the condition of the housing stock in the community. The applicant shall present in summary form, by tenure type (owner and renter), a description of housing conditions by number of units in standard condition and in substandard condition, and if a housing rehabilitation program is proposed in the goals set forth in paragraph (c)(3) of this section the number of units in standard and substandard condition which are suitable for rehabilitation, and in each case distinguishing the numbers which are occupied and which are vacant.

(2) Estimates the housing assistance needs of lower-income persons, by household type (lower-income households which are elderly and/or handicapped, families, and large families), including households displaced or to be displaced during the program year, either residing in the community or expected to reside in the community as a result of existing or planned employment facilities. Such estimates of lower-income persons residing in the community shall also be provided by tenure type, and shall take into consideration and summarize any special needs found to exist in any identifiable segment of the total group of lower-income households in the community.

(i) In assessing the needs of lower-the community the applicant shall provide estimates of the number of lower-income families with workers expected to be employed in the community in the next three years as a result of known commercial, industrial, governmental, or service employment to be generated by new or expanded development. Such estimates shall be derived from generally available data. Sources of information may include approved development plans, building permits, and awards of significant contracts.

(ii) The assessment by the applicant of the needs of households expected to reside in the community also shall include estimates of the number of lower-income families with workers already employed in the community, but living elsewhere, who could reasonably be expected to reside in the community if housing they could afford were available. Such estimates shall be derived from Federal census data, except that the applicant shall consider a more recent housing needs assessment prepared by an areawide, regional or State planning agency. The applicant may also utilize other more recent data generally available from public or private sources, provided, that the deviations from estimates derived from the Federal census data or from areawide, regional, or state planning agency assessments are explained. The estimate of households requiring assistance shall, at a minimum, equal the metropolitan percentage of lower-income families with workers who live in the community in which they work, since not all families with workers employed in the community, who could live in the community if affordable housing were available, would reasonably be expected to do so.

(A) An applicant community in a metropolitan area for which the ratio of lower-income families to the total number of families in the community exceeds the ratio in the metropolitan area of lower-income families to total families may be considered, only for the purpose of preparing an estimate pursuant to this subsection, to have an undue concentration of lower-income persons. Notwithstanding other provisions of § 570.303(c)(2)(ii), such a community may take this factor into account when providing its estimate of the number of nonresident lower-income families with workers who could be expected to reside in the community.

(B) An applicant in a non-metropolitan area, for which relevant Federal census data are not available, shall submit its best estimate of the number of lower-income families with workers already employed in the community but living elsewhere, who could reasonably be expected to reside in the community, based on data generally available from Federal, State, areawide, or local sources.

(3) Specifies, by household type, a realistic annual goal and also a three year goal for the number of dwelling units or persons to be assisted, including the relative proportion of new, rehabilitated and existing dwelling units, and the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community. These statements of the annual goal and three year goal for assisted dwelling units also shall take into consideration the housing conditions summarized pursuant to paragraph (c)(1) of this section with respect to the availability of existing units of standard quality and units suitable for rehabilitation.

(i) Applicant communities with an adequate rental housing vacancy rate in which plan to use the Section 8 Housing Assistance Payments programs authorized under the U.S. Housing Act of 1937, as amended (24 CFR Parts 880–883), shall be expected to establish housing assistance goals which, through use of the existing housing stock, exclude new construction and which emphasize the preservation and rehabilitation. A rental vacancy rate of six percent for nonseasonal and available rental units will be considered adequate except in localities experiencing very little growth, in which case a vacancy rate lower than six percent may be deemed adequate. Communities which have a less than adequate rental vacancy rate should plan a mix of new, rehabilitated and existing housing which utilizes existing housing to the extent it is feasible. Rehabilitation programs which are integral parts of neighborhood renewal strategies are appropriate in communities with a housing stock suitable for rehabilitation regardless of the rental vacancy rate.

(ii) Plans for use of Section 8 new construction may be approved in communities with adequate vacancy rates to the extent that the community can demonstrate that the available housing assistance resources cannot be used in programs emphasizing use of the existing housing stock or that the housing assistance needs of one or more household types cannot be met by such programs. Such a demonstration shall include data indicating the extent to which conditions such as the following prevail:

(A) A substantial portion of the total number of lower-income households which could be assisted with the Section 8 funds available are living in units which do not meet the housing quality requirements of the Section 8 Existing Housing program and there are not sufficient vacant units within the price limitations and quality requirements of the program to accommodate them.

(B) Vacancies are unduly concentrated in unit sizes or structure types which are not appropriate to the housing needs of one or more types of lower-income households (such as elderly or large families), necessitating construction of appropriate units.

(C) New construction programs are necessary to meet the requirements of sections 105 (f) and (h) of the U.S. Housing Act of 1949, as amended.

(D) Current household growth is absorbing available vacant units at a sufficiently rapid rate to indicate that a currently adequate vacancy rate will decrease rapidly in the near future.

(iii) HUD field offices will advise applicants, upon request, of housing assistance resources available to field office jurisdictions pursuant to section 213(d) of the Housing and Community Development Act of 1974 prior to submission of the housing assistance plan by the locality.

(iv) The three year total housing assistance goal shall address the needs of the three household types (elderly and/or handicapped, families, and large families) generally in proportion to the percentage of the total lower-income housing needs identified pursuant to paragraph (c)(2) of this section, represented by that household type. The percent represented by any household type may be adjusted downward by as much as ten percentage points, but in no event by more than one-fourth of the category's total percent. HUD may grant an exception from this requirement when an applicant community documents special needs arising from displacement of significant numbers of households of a particular size; natural disasters, accommodating proposals for projects of feasible size which could not otherwise be developed if the proportionality test were strictly applied; meeting the housing requirements of sections 105 (f) and (h) of the U.S. Housing Act of 1949, as amended; or implementing the goals of area wide fair share plans.

(v) Where substantial housing needs are identified pursuant to paragraph (c)(2) of this section, and housing assistance resources are available, the Secretary may determine that Housing Assistance Plans with only minimal housing goals are plainly inappropriate to meeting the needs pursuant to the standards of review in § 570.306(b).

(4) Indicates the general locations, by census tract (or enumeration districts in those jurisdictions where a census tract includes a substantial area, such as an entire community) of proposed new housing construction units or projects and substantial rehabilitation units or projects for lower-income persons on maps as called for in paragraph (b)(2) of this section, consistent with the following objectives:

(i) Furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible.

(ii) Promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons.

(iii) Assuring the availability of public facilities and services adequate to serve proposed housing projects.

General locations for projects proposed for Section 8 assistance shall conform to the site and neighborhood standards established for the new construction program (24 CFR Part 880.112) or

for the substantial rehabilitation program (24 CFR Part 881.112); and general locations for housing proposed for Section 235 assistance shall meet at least the adequate level on Items 2, 3, 4, and 5 of the Project Selection Criteria (24 CFR Part 200).

* * * * *

(Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Effective date. This amendment shall be effective on February 2, 1976.

WARREN H. BUTLER,
Deputy Assistant Secretary for Community Planning and Development.

[FR Doc.76-4808 Filed 2-17-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-193]

PART 1—GENERAL PROVISIONS

Hearings

• Purpose. These amendments revise the Coast Guard rule making procedures for hearings on proposed rules or regulations in 33 CFR, Subpart 1.05 by adding a new § 1.05-3, revising § 1.05-15, revoking § 1.05-20, and making an editorial change in § 1.05-30(a). •

A new § 1.05-3, "Advance notice of proposed rulemaking," is being added to describe the Coast Guard's use of advance notices for early public participation in the rulemaking process.

Section 1.05-15 describes hearings before the Merchant Marine Council. Section 1.05-20 describes hearings before Coast Guard Headquarters Office Chiefs. Section 1.05-15 is revised and § 1.05-20 is revoked to reflect that all hearings on proposed rules and regulations, except hearings under § 1.05-25 on regulations having only local applicability, are conducted by a Hearing Officer or panel of officers appointed by the Marine Safety Council. The Merchant Marine Council is now the Marine Safety Council and § 1.05-30(a) is amended accordingly.

Since these amendments revise a description of Coast Guard procedure and make an editorial change, the notice of proposed rule making and public procedure requirements in 5 U.S.C. 553 do not apply and they may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 33, Code of Federal Regulations, is amended as follows:

1. A new section 1.05-3 is added to read as follows:

§ 1.05-3 Advance notice of proposed rulemaking.

An Advance Notice of Proposed Rulemaking may be issued under the Coast Guard policy for the early institution of public rulemaking proceedings. An advance notice is issued if the resources of the Coast Guard and a reasonable inquiry outside the Coast Guard do not yield a sufficient basis for identifying and selecting tentative or alternate courses of action upon which a rulemaking proceeding might be undertaken. An advance notice is also issued if it is helpful to invite early public participation in the identification and selection of tentative or alternate courses of action upon which a rulemaking proceeding might be undertaken.

2. Section 1.05-15 is revised to read as follows:

§ 1.05-15 Hearing officer or panel of officers.

(a) Except as provided under § 1.05-25, each hearing under § 1.05-10 is conducted by a Hearing Officer or a panel of officers appointed by the Marine Safety Council.

(b) Each Hearing Officer or panel of officers described in paragraph (a) hears the comments on proposed rules and regulations that are presented at each hearing.

§ 1.05-20 [Reserved]

3. Section 1.05-20 is revoked and reserved.

§ 1.05-30 [Amended]

4. Paragraph (a) of § 1.05-30 is amended by deleting the words "Merchant Marine" and substituting the words "Marine Safety."

(5 U.S.C. 552, 14 U.S.C. 633, and 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. These amendments become effective on February 20, 1976.

Dated: February 10, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.76-4753 Filed 2-18-76;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 500-2-2]

PART 214—EMERGENCY SUPPLIES OF DRINKING WATER

Emergency Employment of Army and Other Resources

On December 22, 1975 a proposed regulation was published in the FEDERAL REGISTER, VOL. 40-NO. 246, page 59212. The proposal prescribes U.S. Army Corps of Engineers policies and guidance implementing an amendment to Pub. L. 84-99, and requested comments by February 5, 1976. The amendment authorizes the Chief of Engineers to furnish emergency supplies of clean drinking water.

Two comments were received. As a result, §§ 214.3 and 214.5 were revised to include reference to the Safe Drinking Water Act, and § 214.6 (d) and (e) were revised to consolidate similar wording from paragraph (e) into paragraph (d). Accordingly, 33 CFR Part 214 is revised as set forth below. This regulation shall become effective on February 20, 1976.

Dated: February 9, 1976.

RUSSELL J. LAMP,
Colonel, Corps of Engineers Executive.

Title 33 of the Code of Federal Regulations is amended by adding Part 214 as follows:

Sec.
214.1 Purpose.
214.2 Applicability.
214.3 Reference.
214.4 Additional authority.
214.5 Policy.
214.6 Discussion.
214.7 Exclusions.
214.9 Requirements.
214.10 Types of assistance.
214.11 Costs.

AUTHORITY: Pub. L. 84-99, as amended, Emergency Flood Control Work 33 U.S.C. 701n; (69 Statute 186), dated June 28, 1955.

§ 214.1 Purpose.

This provides information, guidance, and policy for execution of the Chief of Engineers' authority to furnish supplies of clean drinking water pursuant to Pub. L. 84-99, as amended by section 82(2), Pub. L. 93-251 (88 Stat. 34).

§ 214.2 Applicability.

This regulation is applicable to Corps of Engineers field operating agencies assigned Civil Works activities, including the USAED Alaska, and the Pacific Ocean Division. Its provisions are applicable within the 50 states, and the District of Columbia, Puerto Rico, Virgin Islands, American Samoa, and Guam.

§ 214.3 Reference.

(a) Pub. L. 84-99, as amended (33 U.S.C. 701n).
(b) Pub. L. 93-251, Section 82(2).
(c) Pub. L. 93-523.
(d) ER 500-1-1.

§ 214.4 Additional authority.

Section 82(2), Pub. L. 93-251, dated 7 March 1974, revised Pub. L. 84-99, as amended, by adding the following new sentence. "The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean drinking water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality." This authority expands the measures the Chief of Engineers may employ in providing emergency relief pursuant to Pub. L. 84-99.

§ 214.5 Policy.

Emergency work under this authority will be applied to situations in which the source of water has become contaminated. The contamination may be accidental, deliberate, or caused by natural events. The maximum contaminent levels in drinking water are set forth by the Environmental Protection Agency pursu-

ant to Pub. L. 93–523. However, loss of the water source or supply due to any cause is not included in the language of Section 82(2), Pub. L. 93–251, and furnishing emergency supplies by the Corps of Engineers under those situations was not intended by this legislation. Approval of measures to furnish clean drinking water will be pursuant to this regulation, and in accordance with procedures outlined in ER 500–1–1 by HQDA (DAEN–CWO–E) WASH DC 20314. DAEN–CWO–E will be notified by telephone when the emergency water situation becomes known.

§ 214.6 Discussion.

(a) The amendment provides for furnishing emergency supplies of drinking water. The method of furnishing those supplies is not provided for in the amendment, and is left to the discretion of the Chief of Engineers. Any feasible method, including restoration of service from an alternate source when the main source has been contaminated, is authorized where most feasible (however, see paragraphs (d) and (e) of this section).

(b) The scope of work is limited solely to providing emergency supplies of clean drinking water. Sewage treatment and disposal, and other sanitary requirements, are not included. In addition, the Corps of Engineers role in providing emergency supplies is a temporary measure until the locality is able to assume their responsibility. The locality is ultimately responsible for providing supplies of drinking water.

(c) The cause of the contamination may be due to any situation, not necessarily flood related. It encompasses all situations involving a contaminated source of drinking water, whether caused by flooding or otherwise.

(d) To be eligible, a locality must be confronted with a source of water that is contaminated. The loss of clean drinking water must not be solely the result of a failure in the distribution system. For example, the emergency could be due to a failure of a reservoir purification system, and the locality might thus be faced with a contaminated source. Furnishing of emergency supplies of clean drinking water may not be undertaken in these cases since the distribution system is not considered to be a source. A loss of supply is not in itself a justification for furnishing supplies of water by the Corps of Engineers under this authority.

(e) Employment of the authority under the amendment requires a finding by the Chief of Engineers, or his delegate, that there is, in fact, a contaminated source of drinking water.

(f) The contamination must cause or be likely to cause a substantial threat to the public health and welfare. An identifiable and defined threat of impairment to the public health and welfare is considered necessary. There is no requirement, however, that actual sickness exist from contaminated water to invoke the authority. But a clear threat must be established. Lack of palatability, in itself, may not constitute a serious health threat (see § 214.9(d)).

(g) Inhabitants of the locality, rather than commercial enterprises, are identified as the group threatened. A business firm faced with contamination of water used in its process is not eligible. The drinking water used by the people in the area must be affected.

§ 214.7 Delegation of Authority.

The authority to approve measures for furnishing emergency supplies of clean drinking water pursuant to the Section 82(2), Pub. L. 93–251 amendment of Pub. L. 84–99, is delegated to division engineers, up to a $50,000 expenditure for the incident. Additional obligational authority of Code 400 funds will be obtained from DAEN–CWO–E prior to authorizing the proposed added work.

§ 214.8 Exclusions.

The authority does not require correcting the contamination, or repair of water systems so that clean drinking water supplies become available again. Reestablishing community water supplies remains the responsibility of local government and other Federal programs. These methods may be employed under the authority, if they are the most feasible ways to provide emergency supplies of clean drinking water, but there is no mandate to do so. To the extent state or local governments can provide water with their own resources, the locality will be excluded from the provision of emergency supplies under Pub. L. 84–99. In general, the following situations are not considered to be appropriate for Corps action under this authority:

(a) Contamination which causes a loss of palatability, but poses no material threat to public health and welfare.

(b) Contamination, such as by bacteria, which can be reduced to a safe level by the users boiling the water.

(c) Confrontation with normal levels of impurities or contaminants in a drinking water source that does not pose substantial threat to the public health.

(d) Contamination by natural intrusions over a period of time, which are known to be occurring and which may accumulate in sufficient concentrations to pose a future health threat, but which have not yet reached the level of a present hazard.

(e) Loss or diminishing of a water source, due to such things as an earthquake or drought.

(f) Contamination of a drinking water source as a regular occurrence due to recurring events such as drought or flooding, when no corrective community action has yet been initiated.

(g) Contamination which, while posing a substantial threat to health and welfare, can be corrected by local authorities, other Federal authorities, or other appropriate means before emergency supplies are deemed necessary.

§ 214.9 Requirements.

Providing emergency supplies of clean drinking water pursuant to the emergency functions of the Corps of Engineers is supplemental to the efforts of the community. Such actions must be in accordance with both Federal and municipal authorities. Corps response must be restricted to requests for assistance received from an appropriate state official. Each request must be considered on its own merits. The factors in each case may vary, but the following should be included in the evaluation.

(a) Whether the criteria required by the law and outlined in § 214.6 have been met.

(b) The extent of state and local efforts to provide clean drinking water and their capability to do so. Corps efforts to provide temporary supplies of drinking water must be limited to measures clearly beyond the resources reasonably available to the state and locality.

(c) The adequacy of the state or local community agreement to mutually participate with the Federal government, on terms determined advisable by the Chief of Engineers, or his delegate, which must include the following:

(1) To provide, without cost to the United States, all lands, easements, and rights-of-way necessary for the authorized work.

(2) To hold and save the United States free from damages in connection with the authorized work other than negligence attributable to the United States or its contractor.

(3) To maintain and operate in a manner satisfactory to the Chief of Engineers all installed work during the emergency.

(4) To remove when determined feasible by the district engineer, at no cost to the Federal government, the installed equipment at the end of the emergency and return it to the Corps of Engineers.

(5) As soon as possible to actively initiate measures required to resolve the emergency situation.

(d) The provision of water quality statements with the request, and the identification of the threat to public health and welfare as determined by recognized authorities such as the State Health Department, Environmental Protection Agency, or recognized commercial laboratory.

(e) The identification of the affected area as a legally recognized governmental body or public entity that exercises a measure of control in the common interest of the inhabitants.

§ 214.10 Types of Assistance.

The temporary emergency supplies of clean drinking water may be provided through such actions as:

(a) The use of water tank trucks to haul clean drinking water from a nearby known safe source to water points established for local distribution.

(b) Procurement and distribution of bottled water.

(c) Laying of temporary above ground water lines from a nearby safe source of water to the affected community where water points for local distribution can be established.

(d) Installation of temporary filtration.

§ 214.11 Costs.

Costs incurred by the Corps of Engineers in furnishing emergency supplies of clean drinking water are chargeable to PL 84–99 funds, 96X3125, Code 910–400 and repayment by the community generally will not be required. Costs of necessary measures for the decontamination of the water supply source are the responsibility of local governments and are not authorized under Pub. L. 84–99.

[FR Doc.76–4741 Filed 2–18–76;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 482–1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of New Sources and Modifications

On August 14, 1971 (36 FR 15486), the Administrator promulgated as 40 CFR Part 420, regulations for the preparation, adoption and submittal of State Implementation Plans (SIPs) under Section 110 of the Clean Air Act, as amended. These were subsequently republished on November 25, 1971 (36 FR 22398) as 40 CFR Part 51.

Among the requirements of 40 CFR Part 51 was a provision, (§ 51.18—*Review of new sources and modifications*), which required States to adopt procedures for the review of new or modified stationary sources. This section was revised on June 18, 1973 (38 FR 15834) to include new and modified indirect sources as well and required the State or local agency to provide the opportunity for public comment on the effects on ambient air quality prior to the approval or disapproval of the construction of new sources or the modification of existing sources.

The public comment provision in § 51.18 requires that information provided by the owner or operator and the State's or local agency's analysis of the effect of the proposal on air quality be made available for inspection by the public in the affected area. A notice by prominent advertisement in the affected area is required after which the interested public has a 30-day period in which to comment. The notice is also to be furnished to the Administrator through the appropriate regional office as well as to all State and local agencies having jurisdiction in the region where the new or modified source is to be located.

The Administrator has promulgated on October 29, 1975 (40 FR 50267), regulations providing for a 30-day public comment period for those States which have had new source review regulations promulgated for them. The States affected were: Arizona, California, Indiana, Michigan, and Nevada. The Administrator is taking this opportunity to correct the regulations in the implementation plan for the Wasatch Front Intrastate Region of Utah by amending the plan to be consistent with the actions taken in the October 29, 1975, FEDERAL REGISTER which inadvertently omitted Utah.

Additionally, a new paragraph is added with provisions for delegating to State or local agencies the review requirements under Part 51. Another paragraph is added to emphasize that persons failing to comply with new source review requirements will be subject to enforcement action. These provisions are similar to those contained in the Agency's regulations for preventing significant deterioration (§ 52.21 of this chapter).

The administrator hereby finds good cause for not subjecting these amendments to public comment and for making them effective immediately. Since the amendments (1) merely make the new source review regulations consistent with the requirements of 40 CFR 51.18, which has already been subject to public comment and (2) merely add administrative, procedural and clarifying language which does not change the substance of the regulation as it may affect air pollution sources, providing for public comments and delaying the effectiveness of the amendments would be unnecessary and impracticable.

This rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

[42 U.S.C. 1857c–5]

Dated: February 12, 1976.

ALVIN L. ALAN,
Acting Administrator.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is to be amended as follows:

Subpart TT—Utah

Section 52.2334 is amended by revising paragraph (a)(4) and adding paragraphs (a)(10) and (b) as follows:

§ 52.2334 **Review of new sources and modifications.**

(a) * * *

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (a)(4)(ii) of this section, shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(*b*) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and the State and local air pollution control agencies, having cognizance over the location where the source will be situated.

(iv) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (a)(4)(ii), (iv) or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

* * * * *

(10) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(b) *Delegation of authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to this section in accordance with paragraphs (g)(2), (3), and (4) of this section.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a Regional Office of the Environmental Protection Agency, a copy of the notice pursuant to paragraph (a)(4)(iii) of this section shall be sent to the Administrator through the appropriate Regional Office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified source located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations require the lessee or permittee to be subject to new source review requirements which have been delegated to a State or local agency pursuant to this paragraph.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a Regional Office of the Environmental Protection Agency, for new or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with paragraphs (g) (2), (3) and (4) of this section.

[FR Doc.76-4814 Filed 2-18-76;8:45 am]

[FRL 491-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Texas: Public Availability of Emission Data; Correction

FEDERAL REGISTER Document 75-31685, published on November 28, 1975, should have included in the regulatory section on page 55333 a revocation of EPA's disapproval of the Texas' legal authority for public availability of emission data. Therefore, Subpart SS, Texas is added preceding Subpart UU—Vermont which appears on page 55333 of the FEDERAL REGISTER noted above as follows:

Subpart SS—Texas

§ 52.2300 [Revoked]

Section 52.2300 is revoked.

Dated: February 12, 1976.

ROGER STRELOW,
Assistant Administrator
for Air and Waste Management.

[FR Doc.76-4816 Filed 2-18-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

CFR Correction

In the November 1, 1975 edition of Title 41, Code of Federal Regulations, Chapter 9, in the Appendix—Temporary Regulations, the first two pages do not appear in proper sequence. In correct sequence, the text material on page 340 should immediately precede the text material on page 339.

Title 49—Transportation

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-127; Amdt. No. 107-2]

PART 107—PROCEDURES

Domestic Agents for Non-Residents of the United States

The primary purpose of these amendments to the Materials Transportation Bureau's procedural regulations is to require non-residents of the United States who apply for exemptions from the hazardous materials transportation regulations to designate resident agents in the United States upon whom service of process may be made. Applications filed by non-residents after the effective date of these amendments will have to include a designation of the applicant's agent in the United States.

In addition, the standard conditions applicable to all exemptions are being amended to make it clear that the exemption number notation required to be on shipping papers need not be followed immediately by the entries required by 49 CFR 173.427. It is sufficient that the exemption number notation is made in such a manner as to be clearly identified with the other required entries for the item concerned.

Since these amendments relate solely to Bureau procedures and practices, notice and public procedure thereon is unnecessary.

In consideration of the foregoing, 49 CFR Part 107 is amended as follows:

1. Subpart A is amended by adding a new § 107.7 immediately following § 107.5 to read as follows:

§ 107.7 Service of process on non-residents of the United States.

(a) *Designation of agent for service.* When a person who is not a resident of the United States is required by this subchapter or Subchapter C of this chapter to designate a permanent resident of the United States as his agent upon whom service of process may be made for him and on his behalf, the agent may be an individual, a firm, or a domestic corporation. Any number of principals may designate the same person as agent. A designation is binding on a principal even if the designation is not in compliance with all the requirements of this section, until rejected by the OHMO. A designated agent may not assign performance of his functions under the designation to another person.

(b) *Form and contents of designation.* The designation shall—

(1) Be in writing and dated;

(2) Be made in the legal form required to make it valid and binding on the principal under the laws, corporate bylaws, or other requirements governing the making of the designation by the principal at the place and time where it is made and the person or persons signing the designation shall certify that it is so made;

(3) State the full legal name, principal name of business and mailing address of the principal;

(4) Provide that it remains in effect until withdrawn or replaced by the principal;

(5) State the legal name and mailing address of the agent; and

(6) Bear a declaration of acceptance duly signed by the designated agent.

(c) *Method of service.* Service of any process, notice, order, decision, or requirement of the OHMO or MTB may be made by registered or certified mail addressed to the agent with return receipt requested or in any other manner authorized by law. If service cannot be effected because the agent has died (or, if a firm or a corporation ceases to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by publication in the FEDERAL REGISTER.

2. At the end of § 107.103(b)(10), the period is deleted and "; and" is inserted in place thereof; a new paragraph (b)(11) is added to read as follows:

§ 107.103 Application for exemption.

* * * * *

(b) * * *

(11) If the applicant is not a resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7.

* * * * *

3. In § 107.111(b), the word "and" at the end of paragraph (b)(2) is deleted; the period at the end of paragraph (b)(3) is deleted and "; and" is inserted in place thereof; a new paragraph (b)(4) is added to read as follows:

§ 107.111 Party to an exemption.

* * * * *

(b) * * *

(4) If the applicant is not a resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7.

* * * * *

§ 107.113 [Amended]

4. In § 107.113(a), the reference to "§ 107.103(b) (2) through (10)" is amended to read "§ 107.103(b) (2) through (11)".

Appendix B [Amended]

5. Appendix B to Subpart B is amended by revising clause (2) in the paragraph entitled "PACKAGES, CONTAINERS, SHIPMENTS" to read as follows:

PACKAGES, CONTAINERS, SHIPMENTS

* * * * *

(2) Each shipping paper issued in connection with a shipment made under an exemption must, in association with the

entries required by 49 CFR 173.427, bear the notation "DOT-E" followed by the number assigned.

* * * * *

(18 U.S.C. 831–835; 46 U.S.C. 170(11); 49 U.S.C. 1421(c); 49 U.S.C. 1806; 49 C[illegible] 1.53 (e)–(h).)

Effective date: These amendments take effect March 15, 1976.

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

JAMES T. CURTIS, Jr.,
Director, Materials Transportation Bureau.

[FR Doc.78-4720 Filed 2-18-76;8:45 am]

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

[Docket 74-20; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Rearview Mirrors; Response to Petitions for Reconsideration

This notice responds to four petitions for reconsideration of the notice published August 12, 1975 (40 FR 33825) which amended Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors* (49 CFR 571.111), to allow installation of truck-type mirror systems in multi-purpose passenger vehicles and to extend coverage of the standard to trucks and buses.

Petitions for reconsideration were received from American Motors, Ford, General Motors, and the Motor Vehicle Manufacturers Association. They all asked the NHTSA to amend the standard to include a statement that the eye reference points to be used to determine compliance with the field of view requirements set forth in S4.1.1 and S4.2.1. may also be "at a nominal location appropriate for any 95th percentile driver." The NHTSA had determined by a previously published interpretation (32 FR 5498) that the standard in effect in April of 1967 permitted location of the driver's eye reference point in this manner. The recent amendments did not change this aspect of the standard. However, in order to resolve any doubt concerning the applicability of the prior interpretation, the agency proposed in a notice published August 12, 1975, to formally reaffirm this interpretation by amending the standard. Petitioners seek immediate adoption of this proposal. The NHTSA agrees that the standard may be amended at this time to incorporate the previous interpretation. Therefore, Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors* (49 CFR 571.111), is amended as follows.

1. The last sentence of S4.1.1 is amended to read "The location of the driver's eye reference point shall be that established in Federal Motor Vehicle Safety Standard No. 104 (49 CFR 571.-104) or a nominal location appropriate for any 95th percentile adult male driver."

2. The last sentence in S4.2.1 is amended to read "The location of the driver's eye reference point shall be that established in Federal Motor Vehicle Safety Standard No. 104 (49 CFR 571.-104) or a nominal location appropriate for any 95th percentile adult male driver."

Effective date: February 19, 1976.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued February 12, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76-4721 Filed 2-18-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER C—MARINE MAMMALS

PART 216—REGULATIONS GOVERNING TAKING AND IMPORTING MARINE MAMMALS

Special Exceptions

On July 7, 1975, a document was published in the FEDERAL REGISTER, 40 FR 28469, proposing to amend Part 216, Subchapter C of Chapter II, Title 50 of the Code of Federal Regulations by adding regulations which would implement a proposed waiver of the moratorium on the importation of marine mammal and marine mammal products which was published in the same document. More specifically, the proposals were to waive the moratorium on importation of marine mammals imposed by the Marine Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (the Act) subject to certain conditions, to allow the importation of skins from Cape fur seals (*Arctocephalus pusillus pusillus*) which are harvested by or harvested under the auspices of the Republic of South Africa and to promulgate regulations setting forth the conditions, limitations and procedures for importing these skins.

The proposals were pursuant to section 101(a)(3)(A) of the Act which provides that the Secretary (of Commerce or of the Interior as appropriate) on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed to determine when, to what extent, if at all, and by what means it is compatible with the Act to waive the moratorium on the taking and/or importation of marine mammals. The authority of the Secretary of Commerce has been delegated to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

The proposals were the subject of a public hearing on the record held in Washington, D.C., on September 18, 19, 20, 22, 23 and 24, 1975. For information concerning the participants to this hearing and a further history of the hearing and proposals see the Director's decision on the proposed waiver which is published elsewhere in this issue of the FEDERAL REGISTER,[1] and which is herewith incorporated into this preamble by reference.

Section 216.32(a) of the regulations sets out the waiver, its limits and conditions. The moratorium is waived to the extent that 19,180 skins of Cape fur seals (*Arctocephalus pusillus pusillus*) harvested from each annual harvest commencing with the harvest in 1975 and occurring within the Republic of South Africa may be imported. The waiver is then qualified in basically four ways: it is conditioned upon a maximum number of Cape fur seals which may be harvested throughout their range, i.e., within the Republic of South Africa and within Namibia; its upper limit is conditioned upon a recent (1969–1973) percentage breakdown between harvests which occurred in South Africa and Namibia, and, its continuation is conditioned upon evidence of the existence of conditions which were deemed adequate to grant the waiver in the first instance. In addition, the waiver excludes those skins from animals which would not meet the importation requirements under the Act; that is, animals which at the time of taking were pregnant, less than eight months old or nursing, and animals taken in a manner determined not to be humane.

The first condition recognizes that the Director's action is predicated upon sound management of the entire Cape fur seal population and, therefore, the total annual harvest must remain within an acceptable range in order for the waiver to continue. Further, it is recognized that with changing circumstances, this range may fluctuate.

With respect to the second condition, the purpose of predicating the number of skins that may be imported on a percentage of the total harvest which has occurred in the Republic of South Africa is to reflect the fact that the Director, at this time, has decided to waive the moratorium on importation only as it pertains to the skins of Cape fur seals harvested in South Africa. The Director has reserved decision on whether to waive the moratorium with respect to skins of Cape fur seals harvested in Namibia.

As set forth in the Director's Decision, his conclusion to reserve decision on the question of waiving the moratorium with respect to skins of Cape fur seals taken from Namibia is not based upon scientific considerations. To the contrary, the management practices of South Africa and the status of the Cape fur seal population in Namibia supports a waiver. Reserving decision on this matter at this time is predicated upon the need to further analyze international issues raised at the hearing with respect to a waiver of the moratorium for skins of Cape fur seals taken in Namibia. These issues were not disposed of at the hearing for the Administrative Law Judge concluded that he did not have jurisdiction to decide them. Consequently, the waiver and

[1] See FR Doc. 76-4657, Department of Commerce, NOAA, in the Notices section, *infra*.

the regulations insure, at this time, the exclusion of Cape fur seal skins harvested in Namibia. Upon resolution of the remaining issues, the Director will supplement his decision, and the waiver and regulations, if necessary, will be amended.

The condition relating to an annual review is a recognition that the ecosystem is dynamic and conditions change. The continual monitoring of conditions which now support the waiver will insure that as these conditions change the extent of the waiver will be adjusted accordingly.

Section 216.32(b) sets forth the purpose of the regulations which is to implement the waiver.

Section 216.32(c) limits the application of the regulations to this particular waiver.

Section 216.32(d) defines various terms significant to these regulations. It is important to note that the definition of eight months old uses a concept of a mean birth date for the Cape fur seal of December 1 for any one pupping season.

Section 216.32(e) sets forth the prohibitions with respect to the importation of skins subject to the waiver. Skins are generally broken down into categories: (a) skins imported for processing or finished skins not previously imported for processing (those processed elsewhere); and (b) the importation of finished skins which have been previously processed domestically.

Among the requirements for the lawful importation of skins are: the importation must be pursuant to a permit and accompanied by a certification from the Ministry of Fisheries, Republic of South Africa which, in essence, sets forth certain factual assessments regarding the animals from which the skins were taken; asserts that the skins were taken from an annual harvest which did not exceed 70,000 Cape fur seals; and further indicates that the skins were not taken from within the territory of Namibia.

One of the matters to be certified is that the Cape fur seals, the skins of which are to be imported, were taken on or after August 1 and were not of black pelage. As indicated in the Director's decision harvesting on or after August 1, insures that the Cape fur seals taken were neither obligatorily nursing nor less than eight months of age at the time of taking.

Section 216.32(f) sets forth the procedures for obtaining a permit to import Cape fur seal skins. The procedures set forth here parallel to a certain extent the procedures to be followed when applying for a research or display permit pursuant to the Act. However, there are two significant additions.

First, there must be evidence of a commitment from the Republic of South Africa or a concessionaire that the applicant will obtain the number of skins stated in the application. Second, a copy of the certificate from the Ministry of Fisheries required by subsection 216.32 (e)(1)(ii) must be enclosed with the application.

Section 216.32(f)(5) provides that whenever the total number of skins permitted to be imported from a particular annual harvest have been committed to permittees, no further permits will be issued for the importation of skins from that particular harvest.

On February 12, 1976, a Final Environmental Impact Statement was filed with the Council on Environmental Quality.

In accordance with Executive Order No. 11821 dated November 27, 1974, it is hereby certified that the inflationary impact of this action on the Nation has been carefully evaluated. Any additional expenditures required are so minimal that no substantial impact on the Nation is anticipated.

The waiver and these regulations become effective on March 14, 1976.

Signed in Washington, D.C., on February 12, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

Accordingly, § 216.32 of Chapter II, 50 CFR is added to read as follows:

§ 216.32 Waivers of the moratorium.

(a) *Waiver.* The moratorium on importation is waived to permit the importation of up to 19,180 skins of Cape fur seals (*Arctocephalus pusillus pusillus*) harvested within the Republic of South Africa and harvested by or under the auspices of the Republic of South Africa and under the following conditions:

(1) No more than 70,000 Cape fur seals are harvested in any one annual harvest conducted by or under the auspices of the Republic of South Africa commencing with the 1975 harvest. This level of harvest will be adjusted to reflect the results of an annual review conducted pursuant to paragraph (5) of this subsection which may indicate that a different harvest level is appropriate to allow the population to remain within the range of optimum sustainable population, in which case the aforementioned figures of 70,000 seals and 19,180 seal skins will be adjusted accordingly, commencing with the 1976 harvest.

(2) The upper limit to the number of skins which may be imported is predicated upon the percent of the total harvest which recently has occurred in South Africa. The results of an annual review conducted pursuant to paragraph (5) of this subsection may suggest a change in this percentage, due to a change in harvesting practices, in which case the upper limit will be adjusted accordingly; provided, however, that such a shift in harvesting practices is consistent with the purposes and policies set forth in the Act.

(3) The skins were taken from Cape fur seals which at the time of taking were not:

(i) nursing;

(ii) pregnant; or

(iii) less than eight months old.

(4) The skins are from Cape fur seals taken in a manner not deemed inhumane by the Director.

(5) Skins from Cape fur seals harvested subsequent to 1975 may be imported, provided the Director upon annual review determines that conditions so warrant continuation of the waiver. This review will include, among other things, an assessment of whether efforts have been made, in good faith, to:

(i) develop a program which will provide additional information regarding age, sex, mortality rate, and fecundity rate of Cape fur seals;

(ii) expand the program of tagging, aerial photographs and other methods of collecting data, in order to provide an accurate and systematic monitoring of the Cape fur seal population;

(iii) develop a program which will provide additional information on the interrelationship of the Cape fur seal and its ecosystem; and

(iv) expand upon programs to insure the continuation of acceptable standards of humane taking.

(b) *Purpose.* The Director waived the moratorium on importation in order to allow the importation of up to 19,180 skins from Cape fur seals (*Arctocephalus pusillus pusillus*), harvested by or harvested under the auspices of the Republic of South Africa, within the Republic of South Africa (excluding Namibia) subject to certain conditions and limitations. The purpose of these regulations is to establish the criteria, conditions and procedures for importing these skins.

(c) *Scope.* This section applies to the importation of skins from Cape fur seals which are subject to the waiver by the Director.

(d) *Definitions.* In addition to the definitions contained in the Act, these regulations, and unless the context otherwise requires, in this section:

(1) "Cape fur seals" means fur seals scientifically designated as *Arctocephalus pusillus pusillus.*

(2) "Eight months old" means eight months old as determined by using a mean birthdate for the Cape fur seal of December 1 for any one pupping season.

(3) "Namibia" means that territory formerly known as South West Africa.

(4) "Nursing" means nursing which is obligatory for the physical health and survival of the nursing animal.

(e) *Prohibitions.* It is unlawful to import skins from Cape fur seals except under the following circumstances:

(1) For skins imported for processing or finished skins not previously imported for processing:

(i) Such importation is pursuant to a permit issued by the Director in accordance with these regulations;

(ii) Any skins imported are accompanied by a Certification by the Minister of Fisheries, Republic of South Africa, in such form as the Director shall approve, to the effect that such skins are from Cape fur seals which:

(A) Were taken in a manner determined by the Director to be humane;

(B) Were taken from an annual harvest which did not exceed 70,000 Cape fur seals;

(C) Were taken on or after August 1, for any given annual harvest and were not of black pelage;

(D) Were not taken in violation of the law of the Republic of South Africa; and

(E) Were not taken from within the territory known as Namibia.

(2) For finished skins previously imported under a permit. No permit is required for skins previously imported under permit. However, markings on the skins consistent with the requirements of the permit under which the skins were previously imported, are required for importation.

(f) *Importation permits.* (1) The Director may issue permits authorizing the importation of skins of Cape fur seals. Any person desiring to obtain such a permit may make application to the Director. The sufficiency of the application shall be determined by the Director and, in that connection, he may waive any requirement for information deemed necessary. Any application for a permit, where applicable, will include:

(i) Name and address of applicant;

(ii) Month and year of taking;

(iii) Purpose of importation;

(iv) Quantity to be imported;

(v) Proposed date of importation;

(vi) Proposed place of importation;

(vii) Method of shipment;

(viii) Evidence of a commitment from the Republic of South Africa or a concessionaire that the applicant will obtain the number of skins stated in the application;

(ix) A copy of the certification required by subsection (e) (1) (ii);

(x) The following certification:

I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of a permit under the Marine Mammal Protection Act of 1972 (18 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972; and

(xi) Signature of the applicant.

(2) Permits applied for under this section shall be issued, suspended, modified, or revoked pursuant to § 216.33.

(3) Permits applied for under this section shall contain terms and conditions as the Director may deem appropriate, including:

(i) The number of skins which are authorized to be imported;

(ii) The location from which they may be imported;

(iii) The period during which the permit is valid;

(iv) Any requirements for reports or rights of inspection with respect to activities carried out pursuant to the permit;

(v) The transferability or assignability of the permit;

(vi) The sale or other disposition of the skins;

(vii) A reasonable fee covering the costs of issuance of such permit, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce; and

(viii) A method for identifying and tracing skins that have been imported pursuant to a permit.

(4) Applications for permits must include payment of a fee of $100. The Director may change the amount of this fee at any time he determines a different payment to be reasonable, and said change may be accomplished by publication in the FEDERAL REGISTER of the new payment required, without the necessity of amending these regulations.

(5) When the total number of skins authorized to be imported from a particular yearly harvest reaches 19,180 skins, no more permits will be issued for the importation of skins from that harvest.

[FR Doc.76–4656 Filed 2–18–76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 1]

INTERFERENCE PRACTICE

Proposed Rulemaking

Notice is hereby given that, pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6) as amended on October 5, 1971 (Public Law 92–132, 85 Stat. 364), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending Sections 1.228, 1.243, 1.244, 1.254 and 1.256.

All persons are invited to present their views, objections, recommendations or suggestions relating to the proposed rule changes to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 on or before March 26, 1976. All comments received will be available for public inspection in Room 11E10 of Building 3, at 2021 Jefferson Davis Highway, Arlington, Virginia. No oral hearing will be held.

This proposal has been reviewed pursuant to E.O. 11821 and OMB Circular A–107 and determined to have no major inflationary impact.

These rule changes are intended to clarify the current practice before the Board of Patent Interferences and to correct several inconsistencies in rule language. The rule changes: (1) provide for time for oral arguments with respect to oral hearing under § 1.228, (2) shift matter relating to motions before the Board of Patent Interferences from § 1.244 to § 1.243, (3) establish § 1.244 under a separate heading dealing with petitions to the Commissioner and (4) amplify requirements relating to briefs at final hearing as well as oral arguments presented at final hearings.

It is proposed to amend 37 CFR, Chapter 1, as follows:

1. By revising § 1.228 to read as follows:

§ 1.228 Summary judgment.

When an interference is declared on the basis of a showing under § 1.204(c), such showing will be examined by an examiner of interferences. If the examiner considers that the facts set out in the showing provide sufficient basis for the interference to proceed, the interference will proceed in the normal manner as provided by the regulations in this part; otherwise an order shall be entered concurrently with the notice of interference pointing out wherein the showing is insufficient and notifying the applicant making such showing that summary judgment will be rendered against him because of such insufficiency at the expiration of a period specified in the notice, not less than 30 days, unless cause be shown why such action should not be taken. In the absence of a showing of good and sufficient cause, judgment shall be so rendered. Any response made during the specified period will be considered by a Board of Patent Interferences without an oral hearing unless such hearing is requested by the applicant, but additional affidavits, declarations, or exhibits will not be considered unless accompanied by a showing in excuse of their omission from the original showing. If the applicant files a response to the order to show cause, the patentee will be furnished with one copy of the showing under § 1.204(c) and will be allowed not less than 30 days from its mailing date within which to present his views with respect thereto. He shall also be entitled to be represented at any oral hearing on the matter. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than 30 minutes for each party. The Board will determine, on the basis of the original showng and the response made, whether the interference should be allowed to proceed or summary judgment should be entered against the junior applicant.

2. By revising § 1.243 to read as follows:

§ 1.243 Motions before the Board of Patent Interferences.

(a) Motions relating to matters other than those specified in § 1.231 will be determined by a patent interference examiner or the Board of Patent Interferences, as may be deemed appropriate. Such motions shall be made in writing and shall contain a full statement of the action sought and the grounds therefor, and satisfactory proof of any facts required must accompany the motion. Oral hearings will not be held except on order of a patent interference examiner or Board of Patent Interferences. Briefs or memoranda in support of such motions shall accompany the motion. Any opposition to the motion, together with any brief or memorandum in support thereof, shall be filed within 20 days from the date of service of the motion unless some other date is set by the patent interference examiner.

(b) Typewritten briefs may be used in connection with all motions. By stipulation of the parties subject to approval or by order of the tribunal before whom the motion is pending, briefs may be received if filed otherwise than as prescribed.

(c) In oral hearings on motions, the moving parties shall have the right to make the opening and closing arguments. Unless otherwise ordered before the hearing begins, oral arguments will be limited to 30 minutes for each party.

(d) Any request for reconsideration or modification of a decision or other action by the Board of Patent Interferences or patent interference examiner must be filed within 20 days after the date of the decision or other action and any reply thereto must be filed within 20 days from the date of service of the request. With regard to requests for reconsideration of a decision after final hearing, see § 1.256(b).

3. By revising § 1.244 to read as follows:

§ 1.244 Petitions to the Commissioner from decisions on motions.

There is no appeal from decisions rendered on motions, but the Commissioner may consider on petition any matter involving abuse of discretion or the exercise of his supervisory authority, or such other matters as he may deem proper to consider. Any such petition must comply with § 1.181 and, if not filed within 20 days from the decision complained of, may be dismissed as untimely. Any opposition thereto must be filed within 20 days from the date of service of the petition.

4. By revising § 1.254 to read as follows:

§ 1.254 Briefs at final hearing.

Briefs at final hearing before the Board of Patent Interferences shall be submitted in printed form, except that when not in excess of 50 legal-size double-spaced typewritten pages, or the equivalent thereof, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal-size paper may be used and the binding and covers specified are not required. Every brief of more than 15 pages shall contain a subject index with page references, supplemented by a list of all authorities referred to, together with references to pages thereof. Three copies of each brief must be filed. The times for filing briefs will be set at an appropriate stage in the proceeding prior to final hearing. The brief for the junior party shall present a full, fair statement of the questions involved, including his position with respect to the case presented on behalf of other parties, and a clear statement of the points of law or fact on which he relies. The main brief for each party shall

contain a copy of the counts in interference.

5. By revising § 1.256 to read as follows:

§ 1.256 Final hearing.

(a) Final hearings will be held by the Board of Patent Interferences on the day appointed at the designated time. If either party appears at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Patent Interferences be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one hour for each party. A junior party may reserve a portion of his time for rebuttal purposes, but a full, fair opening of his case must be made, including his position with respect to the case presented on behalf of other parties. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Patent Interferences.

(b) Any request for rehearing or reconsideration, or modification of the decision after final hearing, must be filed within 30 days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Patent Interferences so states. Any reply thereto must be filed within 15 days from the filing of the request. The times specified herein may be extended by the Board of Patent Interferences upon a showing of sufficient cause. (See § 1.304.)

Dated: February 10, 1976.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved:

DAVID B. CHANG,
Deputy Assistant Secretary for Science and Technology.

[FR Doc.76-4773 Filed 2-18-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 1, 201, 701]

[Docket No. 75N-0204]

AREA OF PRINCIPAL DISPLAY PANEL

Proposed Requirements

Section 4(a)(3)(C) of the Fair Packaging and Labeling Act (FLPA) (15 U.S.C. 1453(a)(3)(C)) states that the label statement of net quantity of contents appearing upon or affixed to any package "shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size." The Food and Drug Administration is responsible for the provisions of the FPLA applicable to foods, drugs, cosmetics, and devices.

The Commissioner of Food and Drugs proposes to amend §§ 1.7, 201.60, and 701.10 to ensure that the quantity of contents declaration will be in a type size uniform for all packages of substantially the same size. Interested persons may submit comments on the proposal by April 19, 1976.

21 CFR 1.7 (foods), 201.60 (over-the-counter drugs and devices), and 701.10 (cosmetics) define the principal display panel and the area of the principal display panel for the purpose of obtaining uniform type size in declaring the quantity of contents for all packages of substantially the same size. The definitions for the area of the principal display panel in these sections have, in the majority of cases because of the voluntary effort of labelers, resulted in quantity of contents declarations of uniform type size for packages of substantially the same size. However, as these regulations are now written, the required quantity of contents declarations on packages of substantially the same size need not be of uniform type size. For example, pursuant to existing § 1.7(a), when the principal display panel of a rectangular package is placed on one of the smaller package surfaces, type size is based on the area of that smaller surface. The result is that two rectangular packages of identical size and shape can have different type size requirements depending on the location of the principal display panel.

This proposal provides that the type size of the net quantity of contents is to be determined by the surface area of the largest package surface, whether or not the principal display panel actually appear on such surface.

The Commissioner proposes that all labeling ordered 30 days after date of publication of the final regulation in the FEDERAL REGISTER and all product packages labeled on or after January 1, 1978, shall comply with the regulation.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation as required by Executive Order 11821, OMB Circular A-107, and interim guidelines issued April 1, 1975 by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Fair Packaging and Labeling Act (secs. 4, 6, 80 Stat. 1297, 1299 (15 U.S.C. 1453, 1455)) and the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 70 Stat. 919 (21 U.S.C. 371(e))) and under authority delegated to him (21 CFR 2.120), the Commissioner on his own initiative proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. By revising § 1.7 to read as follows:

§ 1.7 Food in package form; principal display panel; area of principal display panel.

(a) The term "principal display panel" as it applies to food in package form and as used in this part, means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by this part with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel.

(b) (1) For the purpose of determining the type size for the quantity of contents statement required by § 1.8b(i), the term "area of the principal display panel" shall be:

(i) In the case of a rectangular package, the product of the height and the width of the largest plane surface, regardless of whether that surface actually bears the principal display panel.

(ii) In the case of a cylindrical or nearly cylindrical container, the larger of (*a*) 40 percent of the product of the height of the container times the circumference or (*b*) the area of the lid.

(iii) In the case of any otherwise shaped container, the larger of (*a*) 40 percent of the total surface area of the container (in the event the area cannot be measured practically, the area shall be 40 percent of the total surface area of the smallest cylinder which will enclose the container) or (*b*) the area of the lid, if present.

(2) In determining the "total surface area" exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

(3) In the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

PART 201—LABELING

2. By revising § 201.60 to read as follows:

§ 201.60 Over-the-counter drugs and devices in package form; principal display panel; area of principal display panel.

(a) The term "principal display panel" as it applies to over-the-counter drugs and devices in package form and as used in this part, means the part of a label that is most likely to be displayed, pre-

sented, shown, or examined under customary conditions of display for retail sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by this part with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel.

(b) (1) For the purpose of determining the type size for the quantity of contents statement required by § 201.62, the term "area of the principal display panel" shall be:

(i) In the case of a rectangular package, the product of the height and the width of the largest plane surface, regardless of whether that surface actually bears the principal display panel.

(ii) In the case of a cylindrical or nearly cylindrical container, the larger of (*a*) 40 percent of the product of the height of the container times the circumreference or (*b*) the area of the lid.

(iii) In the case of any otherwise shaped container, the larger of (*a*) 40 percent of the total surface area of the container (in the event the area cannot be measured practically, the area shall be 40 percent of the total surface area of the smallest cylinder which will enclose the container) or (*b*) the area of the lid, if present.

(2) In determining the "total surface area" exclude tops, bottoms, flanges at tops and bottoms and cans, and shoulders and necks of bottles or jars.

(3) In the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

PART 701—COSMETIC LABELING

3. By revising § 701.10 to read as follows:

§ 701.10 Cosmetics in package form; principal display panel; area of principal display panel.

(a) The term "principal display panel" as it applies to cosmetics in package form and as used in this part, means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by this part with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel.

(b) (1) For the purpose of determining the type size for the quantity of contents statement required by § 701.13(i), the term "area of the principal display panel" shall be:

(i) In the case of a rectangular package, the product of the height and the width of the largest plane surface, regardless of whether that surface actually bears the principal display panel.

(ii) In the case of a cylindrical or nearly cylindrical container, the larger of (*a*) 40 percent of the product of the height of the container times the circumference or (*b*) the area of the lid.

(iii) In the case of any otherwise shaped container, the larger of (*a*) 40 percent of the total surface area of the container (in the event the area cannot be measured practically, the area shall be 40 percent of the total surface area of the smallest cylinder which will enclose the container) or (*b*) the area of the lid, if present.

(2) In determining the "total surface area" exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

(3) In the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

Interested persons may, on or before April 19, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: February 11, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76–4667 Filed 2–18–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket Nos. FI–864–FI–878]

PROPOSED FLOOD ELEVATIONS

Correction

FR Docs 76–4270—76–4284 appearing at pages 6740–6749 of the issue for Friday, February 13, 1976 inadvertently appeared in the Rules section of the FEDERAL REGISTER, and were subsequently corrected to appear in the proposed rules section of the FEDERAL REGISTER in the issue for February 17, 1976, and inadvertently appeared in the notices section of that issue. These documents should appear in the proposed rules section.

[24 CFR Part 1917]

[Docket Nos. FI–881—FI–883]

PROPOSED FLOOD ELEVATION DETERMINATIONS

Correction

FR Docs. 76–4630—76–4632 appearing at pages 7406–7408 of the issue for Wednesday, February 18, 1976 were inadvertently published in the Rules and Regulations section of the FEDERAL REGISTER. They should have appeared in the Proposed Rules section.

Office of the Secretary

[24 CFR Part 58]

[Docket No. R–76–297]

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Proposed Environmental Review Procedures

On January 7, 1975 (40 FR 1392), the Department of Housing and Urban Development amended Title 24 of the Code of Federal Regulations by adding a new Part 58 to Subtitle A. On July 16, 1975 (40 FR 29992), Part 58 was republished to reflect various clarifications and corrections, and to provide a complete text of the amended Part. The Department now proposes to amend § 58.2, the purpose of which is to provide uniform guidance for computing time periods governing Environmental Review Procedures under Title I of the Housing and Community Development Act of 1974. It has been determined that existing provisions which extend certain time periods by excluding non-business days are unnecessary, except when the time period relates to the giving of notice. In the latter case the continual exclusion of non-business days is deemed necessary to allow adequate time for response. Because the time computation procedure as published on January 7, 1975, has caused unreasonable and unnecessary delays, the Department is proposing to include non-business days except with respect to notice periods. The Department is also proposing to make this change effective July 16, 1975, in order to accommodate processing of various applications already filed which utilized a time computation procedure that includes non-business days.

Interested persons are invited to submit written comments or suggestions regarding this proposed rule. All submittals should refer to Docket No. R–76–297 and should be addressed to the Rules Docket Clerk, Room 10245, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., 20410, on or before March 19, 1976. All relevant materials will be considered before adoption of a final rule. Copies of all submittals will be available for public inspection during business hours at the above location.

Section 104(h) of the Act requires that regulations concerning environmental review be issued only after consultation with the Council on Environmental Quality. These consultations have been conducted with respect to this amendment. Also, a finding of inapplicability with regard to environmental impact has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding is available for public inspection in the office of the Rules Docket Clerk, at the above location.

Accordingly, Title 24, Part 58 is proposed to be amended as follows:

In § 58.2 paragraph (c) is deleted and paragraph (b) is revised to read as follows:

§ 58.2 Time periods.

* * * * *

(b) Each calendar day occurring in such time period shall be counted, except that no Saturday or Sunday and no legal holiday under Federal or State law on which applicant does not maintain normal business hours shall be included in the five (5) day time period required pursuant to § 58.30(a). This computation shall apply to any application filed after July 15, 1975.

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

NOTE.—It is hereby certified that the economic and inflationary impact of these proposed regulations have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C.

Dated: February 12, 1976.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.76–4713 Filed 2–18–76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 1]

[CGD 75–123]

CIVIL PENALTY PROCEDURES

Withdrawal of Proposed Rulemaking

The purpose of this Notice is to withdraw CGD 75–123 (40 FR 42210) in which the Coast Guard requested comments on a proposed amendment of 33 CFR Part 1 which would revise the civil penalty procedures by vesting authority for final agency action in the local District Commander instead of the Commandant.

A number of comments were received, most of which were opposed to the proposed amendment. The principal objection was that a primary method of supervisory control over the administration of civil penalties would be eliminated and thus reduce uniformity of administration. Many commenters also suggested that reduction in paperwork, time, and administrative expense because of the amendment would be offset by the increased administrative burden from an increase in cases referred to the courts.

The Coast Guard believes these objections have merit and that other means for reduction of the civil penalty administrative expenses should be explored. Therefore, the Coast Guard has decided to withdraw the proposed amendment. The withdrawal of this proposal, however, does not preclude the Coast Guard from issuing similar notices in the future or commit it to any course of action.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (40 FR 42210) on September 11, 1975, as Coast Guard Notice CGD 75–123 entitled "Final Agency Action" is withdrawn.

Dated: February 13, 1976.

C. R. HALLBERG,
Captain, U.S. Coast Guard, Chief Counsel (Acting).

[FR Doc.76–4755 Filed 2–18–76;8:45 am]

[33 CFR Part 117]

[CGD 76 014]

DRAWBRIDGE OPERATION REGULATIONS

Mitchell River, Mass.

At the request of the Town of Chatham, the Coast Guard is considering revising the regulations for the drawbridge across the Mitchell River in Chatham, Massachusetts, to permit the draw to remain closed to the passage of vessels. The draw is presently required to open on signal. This change is being considered because of limited openings over the last few years.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District, will forward any comments received before April 5, 1976, with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.79 immediately after § 117.78 to read as follows:

§ 117.79 Mitchell River, Chatham, Mass.

The draw need not open for the passage of vessels.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.45(c)(5), 33 CFR 1.05–1(c)(4))

Dated: February 10, 1976.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76–4754 Filed 2–18–76;8:45 am]

Federal Aviation Administration

[14 CFR Part 73]

[Docket No. 15379, Notice No. 76–2]

RESTRICTED AREA UTILIZATION

Proposed Rule Making

The Federal Aviation Administration (FAA) is considering amending Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to reduce the scope and amount of information included in the report of utilization required annually from the using agency of each restricted area designated in that part.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments on the overall environmental impacts of the proposed rule are specifically invited. All communications received on or before April 19, 1976 will be considered the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 73.19 of Part 73 requires each using agency to report to the FAA once a year, in duplicate, information on the utilization of each restricted area for which it is the using agency. The data required in these annual reports assists the FAA in determining whether the type and amount of hazardous activity contained therein justifies the continued designation of the restricted areas. The data currently required in the reports is detailed and very extensive. The report must contain information relevant to 15 different categories, often with numerous subcategories, including the time of normally scheduled daily operations, the total number of aircraft hours of actual use, the number and type of aircraft involved, the altitudes used, the number of hours at each altitude, a chart of the area to be submitted annually, showing the areas of firing, location of each weapon, impact areas, the beginning of bombing runs, release points, pullup points, perimeter of firing fan, and the daily number of hours or minutes the maximum altitudes are used in surface to surface firing.

If the report indicates that there is a question whether the restricted area is being used for its designated purpose or whether there is sufficient justification for its continued designation, a further request, made to the using agency for all additional information needed to make

a determination whether to alter the designation of the restricted area, would be adequate. It, therefore, appears that the annual report required under § 73.19 can be reduced in size and scope and still provide sufficient information for the FAA to determine initially whether a question of sufficient justification to continue the designation of the restricted area exists.

Detailed information that would be eliminated from the annual report would include the annual submission of a chart showing all of the details of firing patterns, bomb runs and impact areas if there is no change of activities, locations or altitudes; detailed data on the hours and altitudes used, type of equipment, and time schedules. All of this information would be obtained in a further inquiry if a question arises after examining the annual report required under § 73.19.

Additionally, under § 73.19(a) a four month period is allowed for preparation of the report between the end of the period covered by the report and the final date of receipt of the report by the Director, Air Traffic Service. Considering the additional time needed for sending the report back to the region for review and recommendation, the data may be out of date when a final judgment is made whether to continue or alter the designation. Accordingly it appears desirable to have the report submitted, simultaneously, to the Director, Air Traffic Service, and to the appropriate regional office. Therefore, it is proposed to require the report to be sent to the appropriate regional office, with a copy sent to the Director, Air Traffic Service.

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

In consideration of the foregoing, it is proposed to amend § 73.19 of Part 73 of the Federal Aviation Regulations to read as follows:

§ 73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year, to the Chief, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Director, Air Traffic Service, Federal Aviation Administration, Washington, D.C. 20591.

(b) In its report under this section the using agency shall:

(1) State the name and number of the restricted area as published in this part, and the period covered by the report.

(2) State the activities (including average daily number of operations if appropriate) conducted in the area, and any other pertinent information concerning current and future requirements for the area, including use of radar or other electronic monitoring devices.

(3) State the number of hours daily, days of the week, and weeks each year that the area was used.

(4) For restricted areas having a joint-use designation state the number of hours daily, days of the week and weeks each year that the restricted area was released to the controlling agency for public use.

(5) State the mean sea level altitudes or flight levels (whichever is appropriate) used in aircraft operations and the maximum and average ordinate of surface firing (expressed in feet, mean sea level altitude) used on a daily, weekly and yearly basis.

(6) Include a chart of the area (of optional scale and design) depicting aircraft operating areas, flight patterns, ordnance delivery areas and target and surface firing points, fans and impact areas if used. After submission of an initial chart, subsequent annual charts are not required if there is no change in the area, activity or altitude (or flight levels) used which alter the activities originally approved, and a statement of that fact is included.

(7) Include any other information not required in this part which is considered pertinent to activities carried on in the restricted area.

Issued in Washington, D.C., on February 2, 1976.

GLEN D. TIGNER,
Acting Director,
Air Traffic Service, AT-1.

[FR Doc.76-4743 Filed 2-18-76;8:45 a.m.]

[14 CFR Parts 91, 133]

[Docket No. 15176; Notice No. 75-38A]

OPERATIONS REVIEW PROGRAM; ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Public Hearings and Extension of Comment Period

The Federal Aviation Administration will hold a series of three public hearings to receive the views of all interested persons regarding notice of proposed rule making (NPRM) No. 75-38 (published in the FEDERAL REGISTER on November 20, 1975; 40 FR 54188), which concerns rotorcraft external-load operations. The hearings will be conducted on the following dates, each beginning at 9:00 a.m., at the following locations:

MARCH 18, 1976

Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591, Auditorium, 3rd Floor, Phone: (202) 426-8146.

MARCH 22, 1976

Federal Aviation Administration, Federal Office Building, 601 E 12th Street, Kansas City, Missouri 64106, Room 140, Auditorium, Phone: (816) 374-3526.

MARCH 25, 1976

Federal Aviation Administration, 9010 East Marginal Way South, Seattle, Washington 98108, Main Conference Room, 2nd Floor, Phone: (206) 767-2590.

In the event that the response to this notice of public hearing exceeds the time that has been allocated to any one hearing (each has been planned for one day only), the hearing will be continued on the following day at each location.

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator under 14 CFR 11.33. At each hearing an FAA spokesman will make a brief opening statement regarding Notice 75-38. Since the hearings will not be of the evidentiary or judicial type, there will be no cross-examination of those persons making presentations. However, interested persons wishing to make rebuttal statements will be given an opportunity to do so in the same order in which initial statements were made.

All interested persons are invited to attend the hearings and each such person is invited to make oral or written presentations concerning Notice 75-38 at one of the hearings. Such presentations will be made a part of the record of the hearings. Any person wishing to make a presentation at one of the hearings must notify the FAA 7 days before the date of the hearing at which he wishes to have his presentation considered, stating the hearing location at which he wishes to be heard, and the amount of time requested for his initial presentation. In addition, any person may submit relevant written comments concerning matters presented at the hearings. Written comments must be received by the FAA by April 8, 1976, so that they may be made a part of the record of the hearings. Requests for presentations and written comments and all other communications concerning these hearings should be addressed to the Office of the Chief Counsel, Rules Docket No. 15176, AGC-24, Federal Aviation Administration, Department of Transportation, 800 Independence Ave., SW., Washington, D.C. 20591, marked "Attention: Presiding Officer, Public Hearing on Notice 75-38."

The FAA will take appropriate action after carefully considering all presentations made at the hearing and relevant written comments received and made a part of the record.

A transcript of the hearings will be made and anyone may purchase a copy of them from the reporter.

Comments relating to environmental or economic impact that might result from adoption of the proposed amendments may also be submitted.

The FAA proposed in Notice 75-38 to amend Parts 91 and 133 of the Federal Aviation Regulations to: (1) Require that external-load operations conducted in restricted category rotorcraft, currently conducted under Part 91, be conducted under Part 133 regardless of whether they are conducted for compensation or hire; (2) prescribe appropriate operating limitations for restricted category rotorcraft external-load operations under that part; (3) provide that Operator Certificates issued under Part 133 be effective for 24 months; and, (4) except rotorcraft external-load operations from the requirement § 91.39 which prohibits the operation of restricted category civil aircraft carrying persons or property for compensation or hire.

Comments on Notice 75–38 received to date indicate a divergence of opinion concerning the proposals made therein. In view of the impact of the proposals on rotorcraft external-load operations as noted in the comments, the FAA has determined that it would be in the public interest to hold public hearings in order to provide the commentator and other interested persons an opportunity to present such additional information and views as they may desire for consideration by the FAA in connection with this proposed rulemaking. In light of these public hearings, the comment period for Notice 75–38 should also be extended to permit the receipt of new or revised comments based upon matters presented at the hearings.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.45), I find that good cause exists for an extension of the comment period until April 8, 1976, and that the extension is consistent with the public interest.

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

Issued in Washington, D.C. on February 13, 1976.

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

[FR Doc.76–4749 Filed 2–18–76;8:45 am]

[14 CFR Part 93]

[Docket No. 15384; Notice No. 76–3]

NAVY JACKSONVILLE TERMINAL AREA

Proposed Rulemaking

The Federal Aviation Administration (FAA) is considering establishing a new Subpart O to Part 93 of the Federal Aviation Regulations (14 CFR Part 93) to establish the Navy Jacksonville, Florida, airport traffic area and to prescribe special air traffic rules for operating aircraft, in flight, within that area. If this proposal is adopted, an airspace action would be issued concurrently, revoking Restricted Area R–2903A, Jacksonville, Florida.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments on the overall environmental impacts of the proposed rule, if any, are specifically invited. All communications received on or before April 19, 1976, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

For many years, a restricted area has been designated for the Jacksonville, and Cecil Naval Air Stations, to accommodate the heavy concentration of Naval aircraft operating in the area. The nature and volume of this traffic frequently creates an operational environment within which aircraft whose presence is unknown to ATC, or transient aircraft unfamiliar with the area or the nature of the military operations in progress, could not operate without creating an unacceptable risk to air safety. Naval aircraft participating in formation flying, fleet carrier landing practice, and similar maneuvers that are unique to military flight operations, may present a significant hazard to nonparticipating aircraft which unexpectedly encounter such operations. Originally, an inadequate radar advisory capability prevented ATC from providing an air traffic advisory and aircraft separation service sufficient to have alleviated the problem.

Subsequently, the FAA has established a terminal radar approach control facility (TRACON) capable of providing a traffic advisory and control service that is adequate to assure a safe level of flight operations in the area. However, to provide an effective advisory and separation service during periods of high density air traffic, the FAA believes that each pilot should be required to (1) notify the TRACON that he intends to operate in the area before taking off within, or otherwise entering, that airspace; and (2) maintain two-way radio communications with the TRACON (instead of the tower as required by § 91.87(b)) while operating within the area. Since a high proportion of the military air traffic is composed of flight training and fleet air logistics operations, which generally occur at scheduled times but in unpredictable patterns during any 24-hour period, authorization to operate within the airport traffic area without providing prior notice may be obtained from the TRACON on an individual basis for a specific operation, or for continued operations, by a written agreement between airport users and the TRACON.

Under the proposed rule, there would be no requirement for aircraft to obtain a clearance before entering the airport traffic area, or any restriction upon altitude or courses to be flown; however, ATC may give traffic advisories on operations in progress, and suggest alternative routes that would assure adequate separation for safety. The usual requirements of §§ 91.85 and 91.87, applicable to all airport traffic areas would be applicable to this area, except that two-way radio communications would be maintained with the TRACON, instead of the tower. It is believed that the public benefit derived from eliminating the restricted area would exceed the burden imposed by this proposed rule of increasing the size of this area over that of a normal airport traffic area, and of requiring notice prior to operating in the airport traffic area.

Accordingly, it is proposed that, concurrently with the revocation of Restricted Area R–2903A, Jacksonville, Florida, the FAA prescribe a special airport traffic area for the Navy Jacksonville terminal area, and adopt special operating rules for the area providing that (unless otherwise authorized by ATC, as provided under § 93.1(b)), no person may operate an aircraft, in flight, within the area, unless—(1) before operating within the area, that person establishes radio communications with the Jacksonville TRACON; and (2) while operating within the area that person maintains two-way radio communications with the Jacksonville TRACON.

Authority:

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

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations (14 CFR Part 93) by adding a new Subpart O to read as follows:

Subpart O—Navy Jacksonville, Florida, Terminal Area

Sec.
93.171 Applicability.
93.173 Description of area.
93.175 Aircraft operations.

Subpart O—Navy Jacksonville, Florida, Terminal Area

§ 93.171 Applicability.

This subpart prescribes the Navy Jacksonville airport traffic area, and prescribes special air traffic rules applicable to the operation of aircraft within that area.

§ 93.173 Description of area.

The Navy Jacksonville airport traffic area is designated as that airspace extending upward from the surface to, but not including, 3,000 feet MSL, bounded by a line beginning at Lat. 30°25'30" N., Long. 81°52'30" W.; thence clockwise along connecting arcs of 5 statute mile radius circles centered on OLF Whitehouse (Lat. 30°21'01" N., Long. 81°52'39" W.) and NAS Cecil (Lat. 30°13'15" N., Long. 81°52'50" W.) to Lat. 30°16'00" N., Long. 81°48'30" W.; to Lat. 30°16'00" N., Long. 81°45'00" W.; thence clockwise along the arc of a 5 statute mile radius circle centered on NAS Jacksonville (Lat. 30°14'00" N., Long. 81°40'32" W.) to Lat. 30°14'00" N., Long. 81°35'20" W.; to Lat. 30°06'45" N., Long. 81°35'20" W.; thence clockwise along the connecting arcs of 10 statute mile radius circles centered on NAS Jacksonville and NAS Cecil to Lat. 30°09'00" N., Long. 82°02'00" W.; to Lat. 30°25'30" N., Long. 82°02'00" W.; thence to the point of beginning.

§ 93.175 Aircraft operations.

No person may operate an aircraft, in flight, within the airport traffic area described in § 93.173 unless—

(a) Before operating within that area, that person establishes two-way radio communications with the FAA Jackson-

ville terminal radar approach control (TRACON) facility; and

(b) While operating within that area, that person maintains two-way radio communications with the FAA Jacksonville TRACON facility.

Issued in Washington, D.C., on February 11, 1976.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.76-4748 Filed 2-18-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-NE-3]

PRATT & WHITNEY R-2800 B AIRCRAFT ENGINES

Proposed Airworthiness Directives

Airworthiness Directive 50-22-1 requires operators of Military R-2800-B series engines installed in certificated Curtis-Wright C-46 aircraft to incorporate a modified thrust bearing plate and the "outside-in" lubrication system in their engines.

It has come to our attention that the engine modification is not associated with a particular installation. Therefore, the compliance paragraph has been changed to delete the reference to the Curtiss-Wright C-46 aircraft. In addition, Pratt & Whitney Special Instruction No. 5F-50 referenced in Paragraph B has been changed to No. 5F-50A. This is a correction to the AD. Paragraph B has also been changed to include Air Force Technical Order O2A-10GA-27, dated March 1951, which is considered equivalent to Pratt & Whitney Service Bulletin A-441, dated July 9, 1945, presently referenced in this paragraph.

Interested persons are invited to participate in the making of the prosed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket numbers and be submitted in duplicate to the Federal Aviation Administration, New England Region Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before February 25, 1976, will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Office of the Regional Counsel for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, AD 50-22-1, as follows:

(1) Applicability paragraph is amended by deleting the words "installed in certificated Curtiss-Wright C-46 aircraft".

(2) Compliance paragraph is amended by deleting the words "August 1, 1950" and inserting the words "July 1, 1976".

(3) Delete "5F-50" from Paragraph B and insert "5F-50A".

(4) Add the following sentence at the end of Paragraph B: "Air Force Technical Order 02A-10CA-27, dated March 1951, is an equivalent means of compliance."

Issued in Burlington, Massachusetts, on February 3, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc. 76-4747 Filed 2-18-76; 8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

[41 CFR Part 51]

AGENCY MATERIALS

Public Availability

Notice is hereby given of a proposal to adopt a new Part 7 of 41 CFR Part 51, consisting of regulations to implement the Freedom of Information Act, 5 U.S.C. 552. The regulations establish procedures under which the public may inspect Committee records, obtain copies of material, and appeal denials of requests for such inspection or copies.

Comments and views regarding this proposed change may be filed with the Committee on or before March 22, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

It is proposed to revise Chapter 51 as follows:

1. The Table of Parts is revised to read as follows:

Part
51-1 General.
51-2 Committee for Purchase from the Blind and Other Severely Handicapped.
51-3 Central nonprofit agencies.
51-4 Workshops.
51-5 Procurement requirements and procedures.
51-6 Preparation of Environmental Statements.
51-7 Public Availability of Agency Materials.
51-8 Privacy Act Rules.

PART 51-7—PUBLIC AVAILABILITY OF AGENCY MATERIALS

2. Part 51-7 is proposed to be added as follows:

Sec.
51-7.1 Purpose.
51-7.2 Scope.
51-7.3 Definitions.
51-7.4 Availability of materials.
51-7.5 Administrative appeal.
51-7.6 Extension of time.
51-7.7 Fees.

AUTHORITY: 5 U.S.C. 552.

§ 51-7.1 Purpose.

These regulations implement the provisions of the "Freedom of Information Act," 5 U.S.C. 552. They establish procedures under which the public may inspect and obtain copies of nonexempt material maintained by the Committee, provide for administrative appeal of initial determinations to deny requests for material, and prescribe uniform fees to be charged by the Committee to recover direct search and duplication costs.

§ 51-7.2 Scope.

(a) These regulations shall apply to all final determinations made by the Committee including all objections; and to any other Committee records reasonably described and requested by a person in accordance with these regulations—except to the extent that such material is exempt in accordance with paragraph (b) of this section.

(b) Requests for inspection and copies shall not be granted with respect to materials that are:

(1) (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) Are in fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Committee;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Committee;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 51–7.3 Definitions.

As used in these regulations:

(a) The term "Committee" means the Committee for Purchase from the Blind and Other Severely Handicapped.

(b) The term "Chairman" means the Chairman of the Committee for Purchase from the Blind and Other Severely Handicapped.

(c) The term "exempt materials" means those materials described in § 51–7.2(b).

(d) The term "non-exempt materials" refers to all materials described in § 51–7.2(a) but not included in § 51–7.2(b).

§ 51–7.4 Availability of materials.

(a) All non-exempt materials shall be available for inspection during normal business hours at the Committee's offices, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201. Space shall be made available at that location for the use of any person who is granted permission to inspect such materials. An individual who intends to visit the Committee offices in person to inspect non-exempt materials should make an appointment with the Executive Director at least one week in advance.

(b) Requests to inspect, and obtain copies of any material maintained by the Committee may be made in person at the Committee offices, or submitted in writing to the Executive Director, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201. Each request should include a reasonable description of the material being sought, and should contain sufficient detail to facilitate retrieval of the material without undue delay. The Committee staff shall assist to the extent practicable in identifying material that is imprecisely described by the person requesting such material.

(c) An initial determination whether, and to what extent, to grant each request shall be made by the Executive Director or his delegate within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified immediately of the determination made. In making such determinations, it shall first be considered whether the material requested is of a type described in § 51–7.2(a); if it is, the request shall be granted unless the material is exempted by § 51–7.2(b). If the materials requested is not a type described in [51–7.2(a), or is the subject of one or more exemptions, the request shall be denied.

(d) If a determination is made to grant a request, the relevant material shall promptly be made available for inspection at the Committee offices. Copies of the material disclosed shall be furnished within a reasonable time after payment of the fee specified in § 51–7.7. Copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request and payment of the fee. Larger numbers of copies may be furnished at the earliest convenience of the Committee staff, but must be furnished within a reasonable time following payment of the fee.

(e) Whenever required to prevent a clearly unwarranted invasion of personal privacy, the Executive Director or his delegate shall determine that identifying details shall be deleted from an interpretation to which access is granted or of which copies are furnished. Where portions of the requested material are exempt under § 51–7.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the materials disclosed. Whenever details are deleted or portions are excised and not disclosed, the notification shall include the information specified in § 51–7.4(f).

(f) If a determination is made to deny a request, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required under § 51–7.5 to appeal the denial to the Chairman.

§ 51–7.5 Administrative appeal.

(a) An appeal to the Chairman of any denial, in whole or part, of a reqeust for access to and copies of material may be made by submission of a written request for reconsideration. Such requests must state specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests should be addressed to the Chairman at the Committee offices.

(b) The Chairman shall make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Chairman, any material with which the reversal is concerned shall be made available for inspection, and copies shall be furnished, in accordance with § 51–7.4(d).

(d) If the denial is upheld, in whole or in part, the Chairman shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the names and positions of the persons responsible for the denial.

§ 51–7.6 Extensions of time.

(a) Whenever unusual circumstances exist, as set forth in § 51–7.6(b), the times within which determinations must be made by the Executive Director on requests for access (10 working days), and by the Chairman on requests for reconsideration (20 working days), may be extended by written notice to the requester. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made. The maximum extension of time allowed under this section shall be 10 working days, but shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" shall mean:

(1) The need to search for and collect the requested records from other establishments that are separate from the Committee offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 51–7.7 Fees.

The following standard charges for document search and duplication, based on the direct costs of such services, must be paid before access to, or copies of material will be granted under these regulations:

(1) Search: $4:00 per person-hour for clerical time; $8.00 per person-hour for professional or supervisory time;

(2) Duplication: $0.10 per page of photocopied material.

(3) Other: When no specific fee has been established for a service, the Executive Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act.

(4) The Committee shall furnish without charge, or at a reduced charge, copies of any material disclosed pursuant to these regulations, whenever the Executive Director determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76–4727 Filed 2–18–76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 76–116]

INSURANCE OF ACCOUNTS

Withdrawal of Proposed Amendments Relating to Guarantee of Borrowings

FEBRUARY 12, 1976.

The Federal Home Loan Bank Board, by Resolution No. 75–300, dated April 2, 1975, proposed in part to amend paragraphs (a)(2) and (3) of § 563.8 of the Rules and Regulations for Insurance of Accounts (12 CFR § 563.8) and add a new § 563.8 (e) thereto for the purpose of applying borrowing limitations to guarantees of certain borrowings, and to amend § 563.13(b)(4) of the Rules and Regulations for Insurance of Accounts (12 CFR § 563.13(b)(4)) for the purpose of applying net-worth requirements to guarantees of certain borrowings. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on April 24, 1975 (40 FR 18005–18007), with

an invitation to interested persons to submit written comments by May 23, 1975.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to withdraw the proposed amendments for further study.

Accordingly, the Board hereby withdraws from consideration the proposed amendments to Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) contained in said Resolution No. 75–300.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76–4794 Filed 2–18–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1124]

[Ex Parte No. 277 (Sub-No. 1)]

ADEQUACY OF INTERCITY RAIL PASSENGER SERVICE [1]

Proposed Rulemaking

Order. At a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 27th day of March 1975.

It appearing, that by order of the Commission, dated April 26, 1971, this rulemaking proceeding was instituted for the purpose of implementing section 801 of the Rail Passenger Service Act of 1970 (Pub. L. 91–518) (RPSA) relating to the Commission's authority to prescribe regulations for the quality of intercity rail passenger service;

It further appearing, that pursuant to the prior report and order of the Commission, 344 I.C.C. 758, as modified, the Commission promulgated certain regulations, which regulations now appear as Part 1124, Regulations for the Adequacy of Intercity Rail Passenger Service, of Chapter X of Title 49 of the Code of Federal Regulations, and that § 1124.4(c) provides, in part, that "the terms and conditions under which reservations will be held must be just and reasonable", and further sets forth those terms and conditions which shall be deemed just and reasonable, and that § 1124.5 sets forth regulations pertaining to "confirming a reservation";

It further appearing, that under § 801 of the RPSA the Commission has a duty to, from time to time, revise such regulations promulgated pursuant to that section as it considers necessary; that the petition filed January 28, 1975, the National Railroad Passenger Corporation, seeks amendment of the aforementioned regulations appearing at 49 CFR 1124.4(c) and 1124.5; that said petition generally requests that the regulations be amended to allow Amtrak to cancel and resell unpaid reservations further in advance of time of train departure and to allow Amtrak to retain a more substantial service charge for refund of ticket prices when reservations are not timely cancelled;

It further appearing, that Amtrak claims in its petition, among other things: (1) The regulations as presently published do not allow it adequate latitude to formulate reservation policies; (2) that the revenues lost due to resultant "no-shows" are substantial; (3) that numerous persons are deprived of the privilege of utilizing intercity rail transportation due to the blocking of reserved seats by "no-shows" until 30 minutes prior to train departure; and

It further appearing, that, in consideration of Amtrak's petition, the Commission has concluded that these proceedings, with respect to §§ 1124.4(c) and 1124.5, should be reopened for receipt of additional evidence:

It is ordered, that the proceedings in Ex Parte No. 277 (Sub-No. 1) are hereby reopened for reconsideration of the regulations which now appear as §§ 1125.4 (c) and 1124.5 of Regulations for Adequacy of Intercity Rail Passenger Service of Chapter X of Title 49 of the Code of Federal Regulations;

It is further ordered, that no oral hearing be scheduled for receiving of testimony in this proceeding unless a need therefor should later appear, but that all interested parties are invited to file an original and one copy of a verified statement of fact, briefs, and statements of position respecting amendment of the regulations described above with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, within 20 days after the date of service hereof, with appropriate reference to this proceeding;

It is further ordered, that all carriers subject to the above-mentioned regulations shall cause to be conspicuously posted in every open station, depot, or other passenger facility served by that carrier, on or before March 1, 1976, a copy of the notice set forth in the Appendix below; and

It is further ordered, that a copy of this order be served upon Amtrak, all other parties of record, each public utility commission or board or similar regulatory body of each State, the Secretary of the Department of Transportation, the Association of American Railroads, and all Class I railroads; that a copy be posted in the Office of the Secretary of this Commission and in each field office; and that a copy of this order be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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

APPENDIX

Notice is hereby given that the Interstate Commerce Commission has reopened the proceeding in Ex Parte No. 277 (Sub-No. 1), Adequacy of Intercity Rail Passenger Service, for further consideration of rules 4(c) and 5, 49 CFR 1124.5, which relate, generally, to the requirement intercity rail passenger carriers hold unpaid reservations until 30 minutes prior to train departure, and to the authority of those carriers to withhold a specified service charge for handling paid reservations which have not been timely cancelled. Consideration in this proceeding will be given to the possible amendment of rule 4(c) to provide carriers with the authority to cancel unpaid reservations one hour before train departure for reservations made 0–2 days before departure and 48 hours before departure for reservations made 3 to 7 days before departure. Consideration will also be given to a possible change in rule 5 which would permit the carriers to retain no service charge for reservation cancellation more than 48 hours before train departure, a maximum charge of $20 for cancellation between 24–48 hours before departure, a maximum charge of $30 for cancellation within 24 hours of departure and a maximum charge of $50 for failure to cancel or use paid reservations.

The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. However, all interested parties are invited to file verified statements of fact, briefs, and statements of position respecting amendment of the regulations described above. Any member of the general public, or any other person, desiring to participate may do so by filing the original and one copy of his statement with the Secretary, Interstate Commerce Commission, Washington, D.C., on or before

(Signature of carrier and authorizing officer therein)

POST LIST

Alton and Southern Railway Company
Chicago Union Station Company
Georgia Railroad and Banking Company
Kansas Oklahoma and Gulf Railway Company
Lakefront Dock and Railroad Terminal Company
Monon Railroad
Portland Terminal Railroad Company
Saint Paul Union Depot Company
Southern Pacific Company

[FR Doc.76–4757 Filed 2–18–76;8:45 am]

[1] This proceeding was initially assigned Finance Docket No. 27840, upon receipt by the Commission of the petition described herein.

notices

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

FEDERAL POWER COMMISSION

[Docket No. CI76-204]

ATLANTIC RICHFIELD CO.

Notice of Withdrawal

FEBRUARY 10, 1976.

On December 19, 1975, Atlantic Richfield Company filed a motion to withdraw its application for Certificate of Public Convenience and Necessity filed on Septmeber 24, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application became effective on January 19, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4679 Filed 2-18-76;8:45 am]

[Docket No. ER76-495]

CAROLINA POWER & LIGHT CO.

Filing

FEBRUARY 11, 1976.

Take notice that Carolina Power & Light Company (CP&L) on January 30, 1976, tendered for filing Revised Sheet Nos. 5-8, Original Sheet No. 8a and Revised Sheet Nos. 21-24 to its FPC Electric Tariff, Original Volume No. 1, containing revised rates and charges applicable to CP&L's 24 municipal, two private distribution utility, and 18 rural electric cooperative sales-for-resale customers. The revised tariff sheets consist of proposed Resale Service Schedule RS-11 accompanying Resale Fuel Adjustment Clause Rider No. 2 and Resale Temporary Rider No. 3, and a revised Index of Purchasers. No other changes have been proposed to the tariff. The revised rates and charges, which CP&L proposes to put into effect as of March 1, 1976, would increase revenues from jurisdictional sales by $37,093,728 based on the 12-month period ending February 29, 1976.

CP&L states that it expects to realize a rate of return from service to its sales-for-resale customers of 4.5% during the calendar year 1976, due in part to the addition of its Brunswick nuclear plant to plant in service in November 1975 representing an investment of over $400,000,000 which it states is not being compensated for by the sales-for-resale customers. The proposed rates and charges are designed to enable CP&L to improve the rate of return realized from resale services, which return is estimated to be 9.88% if the proposed rates and charges had been in effect for the 12-month period ending December 31, 1976.

A copy of the appropriate portions of the filing has been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4672 Filed 2-18-76;8:45 am]

[Docket No. ER76-484]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Filing of Purchase Power Contract

FEBRUARY 11, 1976.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on January 26, 1976, tendered for filing a rate schedule with a Purchase Power Contract between Central Vermont Public Service Corporation and the Lyndonville Electric Department (Customer) dated January 15, 1976.

According to Central Vermont, the service to be furnished under this rate schedule consists of a continuing 5-year sale by Central Vermont to the Customer of unreserved system capacity in amounts as specified by the Customer. The transmission of such power is the subject of a concurrent agreement submitted with the instant filing. Central Vermont states that the rate under which service is to be rendered is the average cost of the Company's capacity and energy, excluding system power purchases from the Power Authority of the State of New York from the St. Lawrence and Niagara projects.

Central Vermont requests an effective date of April 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4673 Filed 2-18-76;8:45 am]

[Docket Nos. RP72-122 (PGA 76-1 and RP75-86)]

COLORADO INTERSTATE GAS CO.

Motion of Small Producer Respondents for Dismissal as Respondents in These Proceedings

FEBRUARY 11, 1976.

On January 5, 1976, Howard Drew and Weldon Littel filed an application for an order dismissing them as respondents in these proceedings. In support therof, the applicants state that

(1) They are "probably the smallest of the Small Producers", in that they each hold a working interest in one well which is depleting very rapidly and is approaching the point of abandonment;

(2) That said well could continue producing for a period, depending on the cost and income ratio which would improve at the new contract price, but that the applicants' interests are so small that it is not feasible for them to send counsel or experts to a hearing at the Commission to represent them;

(3) That the Commission in Order No. 428 assured the small producer that it could contract for the interstate sale of gas without having the contract price altered or having to bear the expenses and burdens relating to regulated matters, but that now they are again confronting regulation by the Commission with the attendant expenses;

(4) That these respondents are very small producers, financially limited, without personnel, and have no experience in preparing the evidence and testimony which the Commission may be contemplating;

(5) That these respondents are uncertain as to what is meant by cost evidence; and

(6) That other sale contracts for gas produced from wells in the same area have been negotiated for 40 cents per Mcf and much

higher, and for gas produced in Morton County, Kansas, for 51 cents and 52 cents per Mcf, whereas the applicants' attached contract reflects a base price per Mcf of 37.5¢.

In the event the order making them respondents is not dismissed, the applicants request additional time to file evidence after the meaning of cost evidence has been determined.

Any person desiring to respond to the instant motion should file such response with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 27, 1976. Copies of this motion are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4674 Filed 2-18-76;8:45 am]

[Docket No. ER76-493]

DUKE POWER CO.

Filing of Contract Supplement

FEBRUARY 11, 1976.

Take notice that on January 30, 1976, Duke Power Company (Company) tendered for filing a supplement to the Company's Electric Power Contract with Clemson University. The proposed effective date of the supplement is December 20, 1975, and waiver of the 30-day notice requirement of Section 35.15 of the Commission's regulations is requested.

Company states that the supplement represents a change in service requested by the customer which terminates service at Delivery Point No. 1 and increases capacity at Delivery Point No. 2.

Company further states that a copy of the filing has been mailed to the customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the porceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4675 Filed 2-18-76;8:45 am]

[Docket No. RI74-261]

EXCELSIOR OIL CORP.

Settlement Agreement

FEBRUARY 11, 1976.

The Federal Power Commission hereby issues Notice of a Settlement Agreement submitted in this proceeding by Excelsior Oil Corporation (Excelsior) on February 4, 1976. This proceeding involves an increase in rate for gas sold to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) pursuant to Excelsiors' FPC Gas Rate Schedule Nos. 8 and 10. This gas is produced in the Buffalo Wallow Field, Hemphill County, Texas.

On June 12, 1974, Excelsior filed a petition for special relief in this proceeding seeking an increase in its rate to Kansas-Nebraska. Excelsior seeks an increase to a base rate of 50¢ per Mcf at 14.65 psia, including 1¢ per Mcf annual escalations, adjusted for BTU content and tax reimbursement. Pursuant to Commission order issued August 5, 1975, Excelsior submitted testimony any exhibits, and Staff submitted testimony and exhibits.

As a result of the conferences between Staff and Excelsior, the parties have arrived at a Settlement Agreement which provides that Excelsior's increased contract rate of 26.58¢ per Mcf at 14.73 psia, designated as Supplement Nos. 7 and 3 to its FPC Gas Rate Schedule Nos. 8 and 10, respectively, should become effective as of the date of the Commission's order approving the settlement. The Settlement Agreement is supported by cost of service studies submitted by Excelsior and by the Commission Staff.

The Commission Staff has filed a separate statement in support of the Settlement Agreement and Kansas-Nebraska has also filed a letter supporting the Settlement Agreement.

Any person desiring to comment on said Settlement Agreement should file comments thereon with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before February 24, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make commentors parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4676 Filed 2-18-76;8:45 am]

[Docket No. E-9039]

NORTHERN STATES POWER CO.

Settlement Agreement

FEBRUARY 11, 1976.

Take notice that on January 26, 1976, the Northern States Power Company (NSP) tendered for filing a revised capacity exchange agreement or power banking arrangement between itself and Dairyland Power Cooperative (DPC). The agreement accompanies a Stipulation and Settlement Agreement submitted in Docket No. E-9039.

The agreement sets forth capacity exchanges extending through October 1982. NSP will deliver capacity to DPC through April 1979 until such time as the Alma No. 6 Generating Unit becomes operational. After Alma No. 6 Unit is operational, DPC will redeliver an equivalent number of megawatts to NSP.

An effective date of November 1, 1974 is requested in accordance with the terms of the original tendered agreement.

Any person wishing to do so may file comments concerning the proposed settlement agreement. All such comments should be submitted in writing to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 27, 1976. The Commission will consider all comments in determining the proper action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4677 Filed 2-18-76;8:45 am]

[Docket No. RP72-115 (PGA 76-2)]

OKLAHOMA NATURAL GAS GATHERING CORP.

Filing of Purchased Gas Cost Adjustment Filing

FEBRUARY 11, 1976.

Take notice that on January 29, 1976, Oklahoma Natural Gas Gathering Corporation (Oklahoma) tendered for filing with the Commission Ninth Revised Sheet PGA-1 to Oklahoma's FPC Gas Tariff, Original Volume No. 1. Oklahoma states that this tariff sheet is being tendered pursuant to ordering paragraph (C) of Commission Opinion No. 749 and that the tariff sheet will track increases in producer rates authorized by 18 CFR § 2.56B.

According to Oklahoma this sheet will revise its Base Tariff Rate to recover the balance accumulated in the unrecovered purchase gas cost account and will flow through the increase in the system cost of purchased gas. The proposed effective date for the tendered tariff sheet is January 30, 1976.

Oklahoma states that copies of this filing are being mailed to all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4678 Filed 2-18-76;8:45 am]

[Docket No. CI76-128]

AZTEC OIL AND GAS CO.

Withdrawal

FEBRUARY 10, 1976.

On November 12, 1975, Aztec Oil and Gas Company filed a motion to withdraw its application for Certificate of Public Convenience and Necessity filed on September 2, 1975, in the above-designated proceeding.

Notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application became effective on December 12, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4680 Filed 2-18-76;8:45 am]

[Docket No. RP76-61]

BACA GAS GATHERING SYSTEM, INC.

Rate Increase

FEBRUARY 10, 1976.

Take notice that Baca Gas Gathering System, Inc. ("Baca"), on February 2, 1976, tendered for filing the Third Revised Sheet No. 3-A, Volume I, the Second Revised Sheet No. 3-A, Volume II, and the Second Revised Sheet No. 3-A, Volume III.

Baca requests waiver of the Commission's notice requirements to permit the proposed tariffs to become effective on January 1, 1976.

Baca states that the proposed changes will result in increased purchased gas costs of $190,000 and increased gas sales revenues of $219,000, resulting in increased net revenue of $29,000. Baca further states that projected increases in operating expenses, almost totally caused by increased compressor fuel costs, and decreased gathering fees due to decreased volume of total gas gathered, exactly offset projected net revenue increase.

Baca states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this publication are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4681 Filed 2-18-76;8:45 am]

[Docket No. ER76-500]

BOSTON EDISON CO.

Filing of Notice of Termination

FEBRUARY 10, 1976.

Take notice that on February 2, 1976, Boston Edison Company (Edison) tendered for filing a notice of termination of Rate Schedule FPC No. 44 with Braintree Electric Light Department (Braintree). Edison states that the rate schedule is being terminated effective April 1, 1976, pursuant to the terms of the contract.

Edison states that a copy of said notice of termination has been served upon Braintree.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4682 Filed 2-18-76;8:45 am]

[Docket No. CI75-601]

BRIGHT AND SCHIFF

Proposed Settlement Agreement

FEBRUARY 11, 1976.

Take notice that on December 3, 1975, Presiding Administrative Law Judge Howe certified to the Commission a proposed settlement of the issues raised in the proceedings in Docket No. CI75-601 supported by all parties including the Commission Staff. The record of the proceeding was also certified for the Commission's use in reviewing the proposed settlement.

The proposed settlement sought to resolve the issues surrounding the April 9, 1975 application filed by Bright and Schiff (Applicants) pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon the sale of natural gas in interstate commerce to South Texas Natural Gas Gathering Company (So-Tex) from the Reynolds No. 1 Well, Whitted Field, Hidalgo County Texas (R.R. District No. 4 Gulf Coast Area) pursuant to contract dated November 1, 1958. The sale to So-Tex was authorized in Docket No. G-18608, at a rate of 15.5 cents per Mcf. So-Tex resells the gas to Transcontinental Gas Pipe Line Corporation (Transco) pursuant to a contract dated February 17, 1959.

Applicant originally proposed to abandon the Whitted Field sale in view of the fact that the reservoir pressure had allegedly declined to the extent that Applicant believed it was no longer economically feasible to continue production by agreement dated March 5, 1975, by letter dated July 30, 1975, in reply to a staff inquiry of June 20, 1975, Applicant estimated total remaining reserves of 60,000 Mcf and a productive life of one to two years, with an average daily flow of 90 Mcf per day if sufficient compression were installed on the Reynolds well. Applicant further alleged that to produce the remaining reserves under the 1958 contract with So-Tex would require the installation of two stages of compression at an estimated cost of $20,000 per stage plus fuel and other operating costs.

The proposed settlement agreement provides that Applicant has agreed to withdraw its abandonment application and apply for the requisite rate relief necessary to install compression in order to deliver the low pressure gas pursuant to Section 2.76 (18 CFR 2.76) of the Commission's Statement of Policy and Interpretation with respect to rates where reduced pressures, need for reconditioning, deeper drilling, or other factors make further production uneconomical at existing rates pursuant to the Settlement. Applicant further agreed to promptly file a new contract under Section 2.76 for the sale of the subject gas at 78.6[1] cents per Mcf, and will provide for the necessary compression of the gas and resume deliveries upon approval of this statement. Notice should also be taken of the fact that Applicant has in fact filed for the requested special relief pursuant to Section 2.76 as indicated by this Commission's Notice of January 5, 1976 in Docket No. RI76-82.

Any person desiring to be heard or to protest the proposed settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 28, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4703 Filed 2-18-76;8:45 am]

[Docket No. E-8884 (Phase II)]

CAROLINA POWER & LIGHT CO.

Further Extension of Procedural Dates

FEBRUARY 9, 1976.

On January 30, 1976, ElectriCities of North Carolina and the Cities of Camden and Bennettsville, South Carolina filed a motion to extend the procedural dates fixed by order issued August 26, 1974, as most recently modified by notice issued January 13, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, March 15, 1976.
Service of Staff's Testimony, May 13, 1976.
Service of Company Rebuttal, May 27, 1976.
Service of Intervenor's Rebuttal, June 10, 1976.
Hearing, July 1, 1976 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4683 Filed 2-18-76;8:45 am]

[Docket No. ER76-489]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Filing of Power Transmission Contract

FEBRUARY 11, 1976.

Take notice that on January 26, 1976, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a rate schedule together with a Power Transmission Contract between Central Vermont and the Lyndonville Electric Department (Customer), dated January 15, 1976. Central Vermont requests waiver of the 30 day notice requirement and an effective date of January 1, 1976. The request for waiver, Central Vermont states, is in order to provide a rate for the transmission of power over the Company's facilities, which have been purchased by the Customer from the Burlington Electric Light Department, which purchase has an effective date of January 1, 1976.

According to Central Vermont, the service to be furnished under this rate schedule consists of the transmission capacity and associated energy contracted for by the Customer on or after the effective date of the agreement whether such power and associated energy is being purchased or sold by the Customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4704 Filed 2-18-76;8:45 am]

[Docket No. ER76-329]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Filing of Supplemental Data

FEBRUARY 10, 1976.

Take notice that on February 2, 1976, the Central Vermont Public Service Corporation tendered for filing additional data in response to the Commission's letter of December 30, 1975, informing the company that its filing of December 2, 1975 in this proceeding was assessed as deficient. The company submitted a substitute Sheet No. 16 reflecting an adjusted Loss Adjustment Factor and substitute Sheets 1, 3, and 4 and Fuel Adjustment Factor comparisons which also reflect revisions to the company's Loss Factor. The company requests that these revised sheets be used to substitute those previously submitted so as to conform with Order 517.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commisssion and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4688 Filed 2-18-76;8:45 am]

[Docket No. ER76-487]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Filing of Purchase Power Contract

FEBRUARY 10, 1976.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on January 26, 1976, tendered for filing a rate schedule with a Purchase Power Contract between Central Vermont Public Service Corporation and the Lyndonville Electric Department (Customer) dated January 15, 1976.

According to Central Vermont, the service to be furnished under this rate schedule consists of a continuing 5-year sale by Central Vermont to the Customer of unreserved system capacity in amounts as specified by the Customer. The transmission of such power is the subject of a concurrent agreement submitted with the instant filing. Central Vermont states that the rate under which service is to be rendered is the average cost of the Company's capacity and energy, excluding system poyer purchases from the Power Authority of the State of New York from the St. Lawrence and Niagara projects.

Central Vermont requests an effective date of April 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4689 Filed 2-18-76;8:45 am]

[Docket No. CI76-199]

CITIES SERVICE OIL

Notice of Withdrawal

FEBRUARY 10, 1976.

On December 31, 1975, Cities Service Oil Company filed a motion to withdraw its application for Certificate of Public Convenience and Necessity filed on October 2, 1975, in the above-designated proceeding.

Notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules and Regulations, the withdrawal of the above application became effective on January 30, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4690 Filed 2-18-76;8:45 am]

[Docket No. CP76-239]

COLUMBIA GAS TRANSMISSION CORP.

Application

FEBRUARY 9, 1976.

Take notice that on January 21, 1976, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP76-239 an application pursuant to Section 7 (b) and (c) of the Natural Gas Act for permission and approval to abandon the Addison compressor station, Somerset County, Pennsylvania, and two sections of 20-inch pipeline in Rockbridge and Augusta Counties, Virginia, and for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities to replace those proposed to be abandoned, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon the Addison compressor station, which was installed in 1970 to meet anticipated peak day requirements in eastern Pennsylvania. Applicant states that due to supply deficiencies, Applicant has not been able to permit market growth since 1972. Applicant further states that due to the development of the Artemas-A Storage field, which is said to be located downstream of the Addison compressor station, the need for the Addison compressor station has been obviated for the foreseeable future. The Addison compressor station is said to be comprised of one 2,710 horsepower compressor unit, an auxiliary

building and related equipment. The proposed abandonment of the Addison compressor station would result in an estimated decrease of $60,000 in the annual operating and maintenance expense, Applicant states. Applicant states further that the proposed abandonment would not result in any termination of service. Applicant further proposes to abandon approximately 3.7 miles of 20-inch pipeline in two sections in Rockbridge and Augusta Counties, Virginia, and construct and operate replacement facilities. One section proposed to be abandoned consists of approximately 3.1 miles of pipeline near Lexington in Rockbridge County, and the other section consists of approximately 0.6 mile of pipeline near Stuarts Draft in Augusta County. Applicant alleges that the two sections of pipeline proposed to be abandoned were constructed in 1931 of bare coupled pipe without protection against corrosion. These sections are said to require replacement in order to insure continued reliable service because of age and deterioration. The proposed construction by Applicant would be of a like length and size of cathodically protected pipeline to replace that proposed to be abandoned. The cost of the proposed construction is estimated by Applicant to be approximately $1,039,000, which costs would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4684 Filed 2-18-76;8:45 am]

[Docket No. ER76-494]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES

Tariff Change

FEBRUARY 9, 1976.

Take notice that Delmarva Power & Light Company, Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia, on January 30, 1976, tendered for filing FPC Electric Tariff Volume Nos. 6 and 7 of Delmarva Power & Light Company, FPC Electric Tariff Volume Nos. 6 and 7 of Delmarva Power & Light Company of Maryland, and FPC Electric Tariff Volume No. 3 of Delmarva Power & Light Company of Virginia. The proposed changes would increase revenues from jurisdictional sales and service by $4,145,000 based on the 12-month period ending December 31, 1976, and would make uniform, without substantive change, the terms and conditions of service for all jurisdictional customers.

The Company states that increased revenue is necessary to offset increased operating expenses and to provide sufficient earnings to permit Delmarva to earn a just and reasonable return on its electric business, so that Delmarva may meet its obligation to provide its customers with adequate and dependable electric service, and assure its ability to finance future construction at reasonable cost. The Company has cited immediate need for revenue, and has urged the Commission to suspend its proposed rates no more than one day.

Copies of the filing were served upon all jurisdictional customers of Delmarva Power & Light Company and its subsidiaries.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4685 Filed 2-18-76;8:45 am]

[Docket No. RP76-59]

EL PASO NATURAL GAS CO.

Proposed Change in Rates

FEBRUARY 10, 1976.

Take notice that on January 30, 1976, El Paso Natural Gas Company (El Paso) tendered for filing a notice of a change in rates for its interstate pipeline system containing the following revised tariff sheets: [1]

ORIGINAL VOLUME NO. 1

Seventeenth Revised Sheet No. 3-B
Fourth Revised Sheet No. 63-C.5

THIRD REVISED VOLUME NO. 2

Seventh Revised Sheet No. 1-D
Fourth Revised Sheet No. 1-M.5

ORIGINAL VOLUME NO. 2A

Ninth Revised Sheet No. 1-C
Third Revised Sheet No. 7-MM.5

The tendered revised tariff sheets provide for a change in rates to apply to El Paso's interstate natural gas operations. The proposed effective date is March 1, 1976. El Paso states that its current jurisdictional rates are deficient by some $50,325,166 annually, based upon sales volumes set forth in the statements accompanying its instant notice. The filing proposes that the rate differentials which currently exist between the rate schedules within individual zones for service rendered from the transmission portion of the interstate system to East-of-California customers be eliminated. After such realignment, El Paso states, the increase in rates necessary to recover the deficiency is an overall increase of 5.38¢ per Mcf, except for rates under Rate Schedule X-1, and the rates "keyed" thereto, wherein the proposed increase is 2.96¢ per Mcf. Lastly, the instant notice includes an increase in the storage surcharge applicable to service rendered to protect Priority 1 and 2 requirements of East-of-California customers.

El Paso states that the principal reasons for the proposed change in rates for which notice is given are declining gas supply and increases in virtually all items of cost, including labor, capital, materials and supplies, royalties and taxes. In addition, El Paso further states that principally due to the declining availability of natural gas supply to El Paso's System, it proposes to increase the existing composite depreciation rate for its facilities from 4.3% to 4.7%. El Paso indicates that the increased rates proposed provided for an overall rate of return on invested capital of 10.11%.

El Paso requests waiver of Section 154.63(e)(2)(i) of the Commission's Regulations in order to include within its rates the effect of an increase in regular royalty and tax expense which will occur on July 1, 1976, one (1) day beyond the end of the test period upon which

[1] Alternative revised tariff sheets were also filed, as more fully discussed, *infra*.

the instant notice is based. Such increase will be incurred by El Paso as the result of the issuance on December 31, 1975, by the Commission of Opinion No. 749 at Docket No. R–478. If waiver is not granted as requested by El Paso, El Paso requests that alternative tariff sheets, filed therewith, which exclude the effect of the July 1, 1976, increase in regular royalty and tax expense, be made effective on March 1, 1976, in lieu of their respective tendered counterparts.

El Paso states that consistent with its approach in its applications for increased rates filed May 2, 1973, in Docket No. RP 73–104, January 10, 1974, in Docket No. RP74–57 and December 16, 1974, in Docket No. RP75–39, it has, in its instant notice, treated its production from wells commenced on and after January 1, 1973, on leases acquired prior to October 8, 1969, on a cost of service basis.

El Paso states further that copies of the filing have been served upon all of El Paso's affected customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4691 Filed 2–18–76;8:45 am]

[Project No. 176, etc.]

ESCONDIDO MUTUAL WATER CO.

Application for Amendment of Application for New License for Project No. 176

FEBRUARY 11, 1976.

In the matter of Secretary of the Interior acting in his capacity as trustee For the Rincon, La Jolla, and San Pasqual bands of Mission Indians v. Escondido Hutual Water Company and the City of Escondido, California, Docket No. E–7562; Vista Irrigation District, Docket No. E. 7655; San Diego Gas and Electric Company, Project No. 559.

Public Notice is hereby given that the Escondido Mutual Water Company and the City of Escondido, California, joint applicants for a new 50-year license for Project No. 176, filed with the Federal Power Commission on January 12, 1976, an amendment to their outstanding application for a new 50-year license for Project No. 176 (Correspondence to: Richard S. Harper, Secretary, Escondido Mutual Water Company, 620 North Ash, Escondido, California 92025; and Lorraine H. Boyce, Mayor, City of Escondido, California). The project is located near the City of Escondido, California in Northern San Diego County, California, partly on lands of the United States and partly on lands within the La Jolla, Rincon, and San Pasqual Indian Reservations.

hTe original 50-year license has expired and the present Licensee, Escondido Mutual Water Company, is operating the project under an annual license until a decision is reached in the instant proceeding. The joint applicants, Escondido Mutual and the City of Escondido, are seeking a new 50-year license. The United States Department of the Interior recommends a new non-power license be issued to the Lat Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians who filed an application for a non-power license in their own right. The Department and the Bands seek, as an alternative solution, Federal Government takeover of the project.

The amendment states that upon receipt of a new license, the Joint Applicants plan to construct a 48 inch pipeline some 8550 feet long across the San Pasqual Indian Reservation and adjoining private land. In addition, they would fence the 825 feet of open canal which would remain on the Reservation. The planned construction would enable the applicants to abandon approximately 12,000 lineal feet of open canal and 2000 lineal feet of road right-of-way, and restore the rights-of-way to grade. The amendment further states that the proposed construction and restoration would reduce potential hazards from the open canal and protect the water supply from possible contamination.

The Project No. 176 proceedings have been the subject of extensive hearings. No new hearings have been scheduled.

Any person desiring to be heard or to make protests with reference the City of Escondido's and the Escondido Mutual Water Company's amendment to their application, should on or before April 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Persons wishing to become parties to the proceedings or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. This amendment to the joint application is on file with this Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4699 Filed 2–18–76;8:45 am]

[Docket No. ER76–502]

FLORIDA POWER & LIGHT CO.

Change in Delivery Point

FEBRUARY 9, 1976.

Take notice that on January 30, 1976, Florida Power & Light Company (FP&L) tendered for filing a Second Amendment to the Contract for Interchange Service between Jacksonville Electric Authority (JEA) and FP&L which provides for a change in delivery point. The change results from the acquisition of transmission facilities by FP&L from JEA for which authority has been sought in Docket No. E–9543.

The proposed effective date is the date on which the facilities are transferred after Commission authorization of the acquisition by FP&L.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4686 Filed 2–18–76;8:45 am]

[Docket No. RP75–97]

HAMPSHIRE GAS CO.

Order Granting Late Petition to Intervene; Correction

On October 14, 1975, we granted the petition to intervene of the Maryland Public Service Commission. The petitioner therein should correctly be designated as the People's Counsel to the Maryland Public Service Commission. Published in the FEDERAL REGISTER on October 21, 1975, 40 FR 49134.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–4700 Filed 2–18–76;8:45 am]

[Docket No. ER76–209]

METROPOLITAN EDISON CO.

Order Granting Intervention Out of Time

FEBRUARY 12, 1976.

On October 31, 1975, the Metropolitan Edison Company (Company) tendered for filing proposed changes in its rates. Notice of the Company's filing was issued by the Commission on November 14, 1975, with protests and petitions to inter-

vene due on or before November 28, 1975.

An untimely petition to intervene was filed by the Pennsylvania Public Utility Commission. Having reviewed the above petition to intervene, we believe that the petitioner has sufficient interest in the proceedings to warrant intervention.

The Commission finds: It is desirable and in the public interest to allow the above-named petitioner to intervene.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4708 Filed 2-18-76;8:45 am]

[Docket No. E-9473]

MISSOURI UTILITIES CO.

Motion to Terminate

FEBRUARY 10, 1976.

Take notice that on February 4, 1976, Staff Counsel filed a motion to terminate proceedings in the above captioned docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 24, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4692 Filed 2-18-76;8:45 am]

[Project No. 632]

MONROE, CITY, UTAH

Issuance of Annual License

FEBRUARY 10, 1976.

Monroe City, Utah, Licensee for Lower Monroe Hydroelectric Project No. 632, located on Monroe Creek, in Fish Lake National Forest, Sevier County, Utah, has informed the Commission of its intention to file an application for a license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 632 was issued effective February 16, 1926, for a period ending February 15, 1976. In order to authorize the continued operation and maintenance of the project, it is appropriate and in the public interest to issue an annual license to Monroe City, Utah, for the continued operation and maintenance of Project No. 632.

Take notice that an annual license is issued to Monroe City, Utah, for the period February 16, 1976, to February 15, 1976, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Lower Monroe Hydroelectric Project No. 632, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4693 Filed 2-18-76;8:45 am]

[Project No. 1869]

MONTANA POWER CO.

Issuance of Annual License

FEBRUARY 10, 1976.

On January 20, 1972, The Montana Power Company, Licensee for Thompson Falls Project No. 1869, located on Clark Fork River in Sanders County, Montana, near the Cities and Towns of Missoula, Polson, Superior, and Thompson Falls, Montana, filed an application for a new major license under the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 1869 was issued effective January 1, 1938, for a period ending December 31, 1975. In order to authorize the continued operation and maintenance of the project, pending completion of Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to The Montana Power Company for continued operation and maintenance of Project No. 1869.

Take notice that an annual license has been issued to The Montana Power Company for the period January 1, 1976, to December 31, 1976, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Thompson Falls Project No. 1869, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4697 Filed 2-18-76;8:45 am]

[Docket No. RP-76-4]

NATIONAL FUEL GAS SUPPLY CORP.

Filing of Motion to Place Rates Into Effect After Suspension Period

FEBRUARY 10, 1976.

Take notice that on January 30, 1976, National Fuel Gas Supply Corporation ("National") submitted a motion to place into effect on March 1, 1976 substitute tariff sheet [1] to those suspended by the Commission's order issued on October 21, 1975 in the above docket, and its agreement and undertaking to comply with the terms and conditions of Section 154.67 of the Commission's Regulations. National states that the substitute tariff sheets are identical to those suspended until March 1, 1976 by the Commission's order of October 21, 1975 in the above docket except in the following respects:

A. Adjustment of National's rates pursuant to the purchased gas adjustment provisions in Section 17 of the General Terms and Conditions of its tariff to reflect approved supplier rate changes from April 30, 1975 through January 15, 1976;

B. Addition of a surcharge adjustment of 1.41¢ per Mcf which became effective October 1, 1975; and

C. Adjustments in the computation of the "base cost of gas" for PGA purposes to conform the computation to Order No. 452 and to eliminate minor errors.

It is stated that copies of the filing have been mailed to all of National's jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4694 Filed 2-18-76;8:45 am]

NATIONAL GAS SURVEY

Agenda of Meeting

Agenda of meeting of Transmission, Distribution & Storage—Technical Advisory Task Force—Rate Design, Hearing Room F, Federal Power Commission, Union Plaza Building, 825 North Capitol Street, NE, Washington, D.C. 20426, March 4, 1976, 10:00 a.m.

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[1] Original Volume No. 1: Substitute Sixth Revised Sheet No. 4, Substitute Second Revised Sheet No. 35, Substitute Second Revised Sheet No. 36.

Presiding: Mr. John F. Craig, Coordinating Representative and Secretary, Federal Power Commission.

1 Call to Order and Introductor Remarks—Mr. John F. Craig.
2 Discussion of selected rate structures by Mr. Louis Zanoff.
3 Discussion of rate structures used by Pennsylvania utilities by Mrs. Louis J. Carter.
4 Establishment of uniform definitions and terms to be used.
5 Discussion of other matters.
6 Adjournment—Mr. John F. Craig.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4669 Filed 2-18-76;8:45 am]

[Docket No. RP71-125 (PGA76-3)]

NATURAL GAS PIPELINE CO. OF AMERICA

Order Amending Prior Order

FEBRUARY 12, 1976.

On November 28, 1975, the Commission issued an order accepting for filing and suspending for one day a proposed PGA rate increase submitted by Natural Gas Pipeline Company of America (Natural) in the above-referenced docket. Natural's PGA rate was suspended and set for hearing because it included certain small producer and emergency purchases at rates in excess of the levels prescribed in Opinion Nos. 742 and 699-H respectively.

Ordering paragraph (B) of the order of November 28 stated that following receipt of a list to be submitted by Natural listing all of the small producer and emergency sellers party respondents to the proceeding.

The order was in error in stating that producers making 60-day emergency sales would be made party respondents. Producers making 60-day emergency sales have no refund liability thereunder, and since the sales are temporary there is no need for proceedings to determine prospective rate levels. It follows there is no need to make the 60-day emergency sellers party respondents. Any refund liability as to the emergency sales in question rests with the purchasing pipeline, in this case Natural.

We shall accordingly amend ordering paragraph (B) of the order of November 28, 1975, to delete the Commission's statement of intention to make the 60-day emergency sellers party respondents. Ordering paragraph (D) will also be amended so as to eliminate any requirement that 60-day emergency sellers file evidence in the proceeding.[1]

The Commission orders: (A) Ordering paragraph (B) of the Commission's order issued on November 28, 1975, in this proceeding is hereby amended to read as follows:

(B) Within 15 days of the date of this order, Natural shall file with the Commission a list, including addresses, of the parties from whom Natural is purchasing gas involved in the small producer and 60-day emergency sales set for hearing above. Following receipt of this list, we shall make the small producer sellers party respondents to this investigation for the purposes discussed in the body of this order.

(B) Ordering paragraph (D) of the subject order is hereby amended to read as follows:

(D) Natural shall file its direct testimony and evidence on or before January 6, 1976. The parties from whom Natural makes the subject small producer purchases, shall file their direct testimony on or before January 6, 1976. Any evidence by the Commission Staff or any intervenor shall be filed on or before February 12, 1976. Any rebuttal evidence shall be filed on or before March 9, 1976.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4709 Filed 2-18-76;8:45 am]

[Docket No. RP70-42]

NATURAL GAS PIPELINE OF AMERICA

Filing

FEBRUARY 9, 1976.

Take notice that on February 3, 1976, Natural Gas Pipeline Company of America (Natural) submitted for filing Original Sheet No. 139-A to its FPC Gas Tariff, Third Revised Volume No. 1.

Natural states the purpose of the filing was to exempt from curtailment under Section 23, its currently effective temporary curtailment provision, all Buyers under Rate Schedule G-1 for a two month period: February 1 through March 31, 1976. Natural informed the Commission of its intention to file this tariff provision in its Supplement to Petion to Amend filed January 30, 1976, in Docket No. CP74-254 (see p. 3, footnote 2). Natural requests cancellation of this Sheet No. 139-A at the end of the two month period.

Natural requests waiver of the regulations to the extent necessary to permit the filing to become effective on February 1, 1976 and cancellation effective April 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 27, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4687 Filed 2-18-76;8:45 am]

[1] The procedural dates specified in Paragraph (D) have since been extended by notice of the Secretary issued on January 2, 1976.

[Docket No. ER76-104]

NEW ENGLAND POWER CO.

Correction

NOVEMBER 11, 1975.

On November 5, 1975, a Notice of Completion of Filing was issued in the above-referenced docket. That notice incorrectly stated that the effective date of the initial sales agreement is December 20, 1975. NEPCO requested an effective date of December 20, 1974. The notice issued should be corrected accordingly.

(Published in the FEDERAL REGISTER on November 14, 1975, 40 FR 53082)

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4702 Filed 2-18-76;8:45 am]

[Docket No. ER76-499]

OHIO EDISON CO.

Filing of Initial Rate Schedule

FEBRUARY 10, 1976.

Take notice that Ohio Edison Company on the 2nd day of February, 1976, tendered for filing a contract dated January 19, 1976, with the City of Newton Falls, Ohio, as a proposed initial rate schedule for wholesale service to Newton Falls.

According to Ohio Edison, service under the schedule is expected to commence upon completion of construction by Newton Falls of a 69 KV line to connect to an existing 9 KV line of Ohio Edison Company, and of a substation and facilities for installation of metering equipment. This is now expected to be about July 1, 1976, the proposed effective date.

Ohio Edison states that the rate is the Company's standard rate for the municipal resale class of customers as proposed to be amended in the case now pending in Docket No. E-9497, and revenue from the rate is made subject to refund in the same manner as the rates involved in that case. According to Ohio Edison, cost of service studies were prepared for that case and estimates made for Period II in that case had optimistically assumed Newton Falls would be served within the test period ending July 1, 1976.

A copy of the filing was served upon the Mayor of Newton Falls.

Any person desiring to be heard or to protest said proposal should file a petition to intervene or protest with The Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C.

20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4695 Filed 2-18-76;8:45 am]

[Docket No. ER76-301]

PENNSYLVANIA ELECTRIC CO.

Order Granting Intervention Out of Time

FEBRUARY 12, 1976.

On January 14, 1976, the Pennsylvania Public Utility Commission (Pennsylvania) tendered for filing with the Commission a petition to intervene in the instant proceeding. Pennsylvania states that because of the holidays and the press of other business the filing by Penelec was not brought to Pennsylvania's attention in time to permit the filing of a timely petition to intervene.[1] Pennsylvania states further that if permitted to intervene out of time, it will comply with the procedural schedule already established in this proceeding.

We conclude that Pennsylvania should be allowed to intervene in this proceeding.

The Commission further finds: Participation in this proceeding by Pennsylvania may be in the public interest.

The Commission orders: (A) Pennsylvania is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* that participation of Pennsylvania shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; and *Provided, further,* that the admission of Pennsylvania shall not be construed as recognition by the Commission that Pennsylvania might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4710 Filed 2-10-76;8:45 am]

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[1] By public notice issued December 10, 1975, we established December 22, 1975 as the deadline for filing petitions to intervene in the instant proceeding.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY; INVESTIGATION OF COMPLIANCE WITH COMMISSION ORDERS

Notice and Order of Investigation

FEBRUARY 12, 1976.

On March 13, 1975, the Commission issued an Order to Cease Construction Activities and Consolidating Proceedings in Project No. 199 and Docket No. E-9110. The Order provided, *inter alia,* that South Carolina Public Service Authority, Licensee for Project No. 199,

shall forthwith cease or cause to have ceased all construction activities involving the use and alteration of project works, lands or waters which have not been specifically approved by this Commission * * *

The Commission has concluded that it should conduct an investigation of South Carolina Public Service Authority's compliance with the above-described order.[1] The investigation shall be conducted by staff personnel appointed by the Commission to act as designated officers of the Commission pursuant to Section 307(b) of the Federal Power Act, 16 U.S.C. § 825f(b). The designated officers shall prepare a report to the Commission upon the findings of the investigation.

The Commission's concern with South Carolina Public Service Authority's compliance with our Order to Cease Construction is prompted by reports from other governmental agencies, notably the Department of Interior, Fish and Wildlife Service, and Department of the Army, Corps of Engineers. This investigation shall encompass all facts material to the Authority's compliance with our order of March 13, 1975 and the terms and conditions of the Project No. 199 license.

The Commission finds: It is appropriate for the purposes of the Federal Power Act and in the public interest to institute the investigation and procedures hereinafter authorized.

The Commission orders: (A) Pursuant to the authority contained in the Federal Power Act, particularly Sections 4, 6, 9, 10, 23, and 26, 16 U.S.C. §§ 797, 799, 802, 803, 817, and 820, an investigation is hereby instituted for the purpose of determining South Carolina Public Service Authority's compliance with our Order to Cease Construction Activities and Consolidating Proceedings of March 13 1975, and its license for Project No. 199.

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[1] On October 28, 1975, the Authority filed with the Commission's motion in the form of a letter, requesting that the Commission modify its Order to Cease Construction Activities so as to authorize certain construction at Project No. 199 without prior Commission approval. Letter from William J. Madden, Jr., Attorney for South Carolina Public Service Authority, to Kenneth F. Plumb, Secretary, Federal Power Commission, dated October 28, 1975. The letter was served on all parties to the Project No. 199, Docket No. E-9110 proceeding by Commission letter dated November 13, 1975. The Authority's motion remains before the Commission for consideration, and we do not by this order act on it or intimate any view of its merits.

(B) Pursuant to Section 307(b) of the Federal Power Act, 16 U.S.C. § 825f(b), Richard A. Azzaro and McNeill Watkins, Staff members of the Federal Power Commission, are each hereby designated officers of this Commission and are empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which Mr. Azzaro or Mr. Watkins, as officials of this Commission, find material to this investigation or reasonably calculated to lead to the discovery of such items material to this investigation. Subpoenas shall be issued in accordance with Part I of the Commission's Rules of Practice and Procedure.

(C) The members of Commission Staff designated as investigating officers are directed to conduct a full and complete investigation as provided in this order as expeditiously as circumstances permit to obtain facts and information relating to this investigation. Staff members so designated are directed to request the assistance of other governmental agencies, as may be appropriate.

(D) Upon completion of this investigation the above named designated officers are directed to file with the Commission a report setting forth the results of the investigation as well as any recommendations they may wish to make to the Commission for further action.

(E) The Secretary of the Federal Power Commission is hereby directed to serve a copy of this notice by registered mail upon the South Carolina Public Service Authority.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4707 Filed 2-18-76;8:45 am]

[Docket Nos. RP72-74 and RP74-6]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

FEBRUARY 11, 1976.

Take notice that Southern Natural Gas Company, on December 23, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, in purported compliance with the Commission's Opinion No. 747, Opinion and Order Prescribing Interim Curtailment Plan, issued November 20, 1975 in Southern Natural Gas Company, Docket Nos. RP72-74 and RP74-6.

Southern states that the filed tariff sheets contain the provisions of an interim curtailment plan fully reflecting the mandate of the Commission's Opinion No. 747. Such sheets continue the demand charge adjustment waiver provision contained in Section 9.6 of the General Terms and Conditions of Southern's FPC Gas Tariff, on an interim basis pending Southern's amending its rate increase filing in Docket No. RP75-84 so as to track the fixed costs which it would not otherwise recover due to curtailment through the commodity charge.

Souhern requests that any special permission or waiver pursuant to Section 154.51 and 154.66 necessary in order to permit the enclosed tariff sheets to become effective on November 27, 1975 be granted in compliance with the Commission's order.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard on the issue of whether such filing complies with Opinion No. 747 should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 154.27, 1.8, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 154.27, 1.8, 1.10). All such comments should be filed on or before February 28, 1976. All comments will be considered by the Commission in determining the appropriate action to be taken on the subject filing. Copies of this are filed with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4705 Filed 2-18-76;8:45 am]

[Docket No. RP76-53]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Order Accepting for Filing and Suspending Proposed Increased Rates and Establishing Initial Conference

FEBRUARY 10, 1976.

On January 12, 1976, South Texas Natural Gas Gathering Company (South Texas) tendered for filing proposed changes in rates for the sale of gas to Natural Gas Pipeline Company of America (Natural) under FPC Rate Schedule No. 1 and Transcontinental Gas Pipeline Company (Transco) under FPC Rate Schedule No. 2. South Texas proposes to increase its rate from 21.55 cents to 22.58[1] cents per Mcf under Rate Schedule No. 1 and from 36.03 cents to 49.37[2] cents per Mcf under Rate Schedule No. 2, resulting in an annual revenue increase of $4,589,051 computed on the basis of the 12 month period ended September 30, 1975, as adjusted. This represents an increast of approximately 36 percent above annual revenues at present rates. In addition, South Texas proposes a modification of the Purchased Gas Adjustment (PGA) clause contained in Rate Schedule No. 2 to provide for 30 days' notice of PGA changes in lieu of the present 45 day notice period. South Texas requests an effective date of February 12, 1976.

South Texas, a wholly owned subsidiary of Coastal States Gas Producing Company (Coastal), purchases, gathers and transports gas from fields located in a small area in South Texas for sale and delivery to Transco and Natural for interstate transportation and resale. These sales are made under producer-type contracts which are filed as special rate schedules under Section 154.52 of the Regulations rather than under a tariff normally required of pipeline companies. South Texas' presently effective rates were authorized in Docket No. RP 73-7.

South Texas proposes to increase its rate under Rate Schedule No. 1 for sales to Natural from 21.55 cents to 22.58 cents per Mcf. The Company states that the increased rate is limited to this level by contract and does not permit it to recover its allocated cost of service with respect to this sale. For service to Transco under Rate Schedule No. 2, South Texas proposes a new base tariff purchased gas rate of 33.55 cents and an increase in the gathering and transportation component of the total rate from 6.22 cents to 15.82 cents per Mcf. The Company states that this is consistent with an amendment to said Rate Schedule dated September 12, 1972, authorizing it to recover its cost of service. Further, the filing is consistent with a settlement in Docket No. RI72-240, *et al.*, approved by Commission order dated January 10, 1973, which provides that South Texas shall not file a rate increase under Rate Schedule No. 2 sooner than three years from that date.

South Texas claims an overall rate of return of 10.0%. This equates to a return on equity of 13.6% based on its own capitalization and 12.6% based on the capitalization of its parent, Coastal. The Company's previously authorized rate of return was 8.0% overall.

Notice of South Texas' filing was issued on January 20, 1976, with comments, protests or petitions to intervene due on or before February 2, 1976. We shall act on any petitions to intervene by separate order.

The proposed rate levels have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend the use thereof until July 12, 1976, when the rates will be permitted to become effective, subject to refund, as hereinafter provided. In addition, we shall provide for the establishment of hearing procedures to determine the justness and reasonableness of the Company's filing.

We believe that the proposed reduction of the PGA notice period from 45 to 30 days under Rate Schedule No. 2 is in accord with Commission Order No. 535. Accordingly, within 15 days of the date of this order, South Texas may file substitute rate schedule supplements to Rate Schedule No. 2 to become effective February 12, 1976, reflecting the reduction of the PGA notice period from 45 to 30 days.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates, charges and conditions of service as proposed by the Company in Docket No. RP76-53 and that such increase be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pending a hearing and final decision thereon, South Texas' proposed rates, charges and conditions of service as filed on January 12, 1976, are accepted for filing and suspended for five months and the use deferred until July 12, 1976, and until such further time as they are made effective in the manner prescribed in the Natural Gas Act.

(B) Within 15 days of the date of issuance of this order, South Texas may file substitute rate schedule supplements to Rate Schedule No. 2 to become effective February 12, 1976, reflecting the reduction of the PGA notice period from 45 to 30 days.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge (*See* Delegation of Authority, 18 CFR 3.5(d)) shall preside at an initial conference in this proceeding at 10:00 a.m., March 17, 1976, at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4696 Filed 12-18-76;8:45 am]

[Rate Schedule Nos. 88, et al.]

TEXAS OIL & GAS CORP., ET AL.

Rate Change Filings Pursuant to Commission's Opinion No. 699-H; Correction

OCTOBER 16, 1975.

Apendix FPC Gas Rate Nos. 124 and 125 *Atlantic Richfield Company*

Under column "Buyer" change "Texas Gas Pipeline Company" to "Tennessee Gas Pipeline Company"

(Published in the FEDERAL REGISTER on October 28, 1975, 40 FR 50142.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4701 Filed 2-18-76;8:45 am]

[Docket No. CP76-3]

TRANSCO GAS SUPPLY CO.

Order Granting Rehearing, Denying Motion for Oral Argument, Etc.

FEBRUARY 11, 1976.

By order issued October 14, 1975, we denied without hearing the application for a certificate of public convenience and necessity filed by Transco Gas Supply Corporation (Gasco). On November 7, 1975, Gasco filed an application for rehearing of that order requesting, al-

[1] Includes tax reimbursement of 0.08¢/Mcf.
[2] Includes purchased gas component of 33.55¢/Mcf and transportation and gathering component of 15.82¢/Mcf.

ternatively, the issuance of the certificate requested or a formal hearing. By order issued December 3, 1975, we granted rehearing for the purpose of further consideration.

In its application for rehearing, Gasco alleges, *inter alia*, that, since its application for a certificate was filed under Section 7 of the Natural Gas Act, a statutory or formal hearing is required. We agree and will hereinafter provide for that hearing.

On January 6, 1976, Gasco filed a motion requesting oral argument on our order of October 14, 1975, in this proceeding. Our action on Gasco's rehearing application moots its request for oral argument and, therefore, we will deny its motion.

The Commission finds: (1) Good cause exists to grant rehearing, provide for a formal hearing, and establish the procedures for such hearing all as hereinafter ordered.

(2) Good cause exists to deny Gasco's motion for oral argument.

The Commission orders: (A) The application for rehearing filed herein by Gasco on November 7, 1975, is hereby granted.

(B) Pursuant to the authority of the Natural Gas Act, particularly Section 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing March 8, 1976, at 10:00 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity to Gasco.

(C) On or before February 25, 1976, Gasco and any other party in support of issuing a certificate of public convenience and necessity to Gasco shall file with the Secretary of this Commission and serve upon all parties to this proceeding, including Commission Staff, its testimony and exhibits comprising its case-in-chief in support of its position.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5 (d)) shall preside at the hearing in this proceeding with authority to establish and change all procedural dates and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(E) Gasco's motion for oral argument filed herein on January 6, 1976 is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4706 Filed 2-18-76;8:45 am]

[Docket No. E-9504]

UNION ELECTRIC CO.

Filing of Concurrences

FEBRUARY 10, 1976.

Take notice that on February 4, 1976, the Union Electric Company (Union) tendered for filing Certificates of Concurrence of the Central Illinois Public Service Company and the Illinois Power Company. Union requests that its originally-requested effective date of June 20, 1975 be allowed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4698 Filed 2-18-76;8:45 am]

[Docket No. CI76-360]

UNION OIL CO. OF CALIFORNIA

Petition for Declaratory Order

FEBRUARY 12, 1976.

Take notice that on January 26, 1976, Union Oil Company of California (Petitioner), P.O. Box 7600, Los Angeles, California 90051, filed in Docket No. CI76-360 a petition for a declaratory order answering the following question:

Is the direct sale of natural gas for consumption as fuel pursuant to the Fuel Gas Sale and Purchase Agreement between Union [Petitioner] and Pacific Alaska LNG Company (Pacific Alaska), whereby the fuel gas is produced, transported, sold and consumed wholly within the State of Alaska, a non-jurisdictional sale of natural gas?

Petitioner states that it believes and requests the Commission to confirm that the proposed sale of natural gas pursuant to the Fuel Gas Sale and Purchase Agreement dated November 8, 1974, is not a sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission under the Natural Gas Act. Details of the proposed sale and Petitioner's request for a declaratory order are more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that Pacific Alaska has filed in Docket No. CP75-140[1] an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of facilities for the transportation, liquefaction, and sale of natural gas produced from the Cook Inlet area of Alaska. It is stated that Pacific Alaska proposes to purchase natural gas from Petitioner and other independent producers and to construct certain pipeline facilities for the transportation of the volumes so purchased to a point near Nikiski, Alaska, on the eastern shore of Cook Inlet.[2] It is further stated that at this location Pacific Alaska would build a liquefaction plant in which the gas would be liquefied and stored for delivery to Pacific Lighting Marine Company which would transport the liquefied natural gas by sea to the facilities of Western LNG Terminal Company at Los Angeles, California, from which the gas would be delivered to Southern California Gas Company.

Petitioner states further that Pacific Alaska proposes the construction and operation of the Alaskan transportation and liquefaction facilities in two phases. In Phase I, it is said, Pacific Alaska will construct transportation and liquefaction facilities sufficient to transport and liquefy approximately 200,000 Mcf of natural gas per day and in Phase II Pacific Alaska will double its liquefaction capacity and construct additional transmission facilities to accommodate approximately 400,000 Mcf of vaporous gas per day. Petitioner notes that to support its Phase I proposal Pacific Alaska has entered into gas sale and purchase agreements with Petitioner and other independent producers and that Petitioner and the other independent producers have filed applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale of natural gas to Pacific Alaska.

The petition states that in addition to the agreement for the sale and purchase of the gas to be resold by Pacific Alaska, Petitioner and Pacific Alaska have entered into the Fuel Gas Sale and Purchase Agreement of November 8, 1974, pursuant to which Petitioner will sell to Pacific Alaska gas to be used solely as fuel and consumed in the Pacific Alaska liquefaction facilities. It is further stated that to ensure that the fuel gas will not be injected into the interstate stream Pacific Alaska will construct an independent fuel system engineered to preclude the flow of the fuel gas delivered by Petitioner into the stream of gas being liquefied for transportation and sale to Southern California Gas Company. Petitioner submits that since the fuel gas will be produced, sold, transported, and consumed wholly within the State of Alaska and will not be commingled with the gas proposed to be sold for resale, the sale of the fuel gas is not subject to the jurisdiction of the Commission under the

[1] 39 FR 41582.

[2] Petitioner notes that the gas to be purchased by Pacific Alaska from Petitioner on the east side of Cook Inlet is not the gas to which the instant petition pertains and states that Petitioner agrees that the gas produced from east side of Cook Inlet will be sold in interstate commerce for resale as evidenced by Petitioner's application for a certificate of public convenience and necessity filed in Docket No. CI75-598 (40 FR 19035). It is stated that the gas to which the instant petition pertains will be produced from the west side of Cook Inlet, sold under a different contract than that involved in Docket No. CI75-598, and transported in existing non-jurisdictional facilities.

Natural Gas Act and requests the Commission to so find.

Any person desiring to be heard or to make any protest with reference to said petition for declaratory order should on or before March 3, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4711 Filed 2-18-76;8:45 am]

[Docket No. RP76-41]

VALLEY GAS TRANSMISSION, INC.

Order Granting Intervention Out of Time

FEBRUARY 12, 1976.

On December 23, 1975, Tennessee Gas Pipeline Company (Tennessee) tendered for filing with the Commission a petition to intervene out of time.[1] In its petition Tennessee states that it is one of the customers of Valley Gas Transmission, Inc. (Valley), and that its rates will be increased by the proposed change in rates filed by Valley in this docket. Tennessee states further that if allowed to intervene it will abide by the procedural schedule already established and that its intervention therefore will not delay the proceeding. We conclude that Tennessee should be permitted to intervene in these proceedings.

The Commission further finds: Participation in this proceeding by Tennessee may be in the public interest.

The Commission orders: (A) Tennessee is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; Provided, *however*, that participation of Tennessee shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; and *Provided, further*, that the admission of Tennessee shall not be construed as recognition by the Commission that Tennessee might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.76-4712 Filed 2-18-76;8:45 am]

[1] By notice issued in this docket on December 4, 1975, the Commission established December 17, 1975 as the deadline for filing comments, protests and petitions to intervene.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 75-26]

KENNETH I. HUNT

Hearing

Notice is hereby given that on September 9, 1975, the Drug Enforcement Administration, Department of Justice, issued to Kenneth I. Hunt, M.D., Yankton, South Dakota, an Order to Show Cause as to why the Drug Enforcement Administration Registration No. AH5157462 issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since said Order to Show Cause was received by Dr. Hunt, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on February 24, 1976, in the Fifth Floor Courtroom No. 514, Federal Building, 915 Second Avenue, Seattle, Washington.

Dated: February 11, 1976.

PETER B. BENSINGER,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.76-4716 Filed 2-18-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

AGUA CALIENTE INDIAN RESERVATION

Proposed Revocation of Adoption and Application of State and Local Laws Over Certain Land

FEBRUARY 9, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On June 25, 1965, there was published in the FEDERAL REGISTER (30 FR 8172) a notice whereby the Secretary of the Interior, pursuant to § 1.4(b), Title 25, Code of Federal Regulations, did adopt and make applicable, subject to those exceptions and reservations provided in said notice, all of the laws, ordinances, codes resolutions, rules, or other regulations of the State of California, and the city of Palm Springs, California, now existing or as they may be amended or enacted in the future, limiting, zoning, or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to restriction against alienation imposed by the United States and located on those portions of the Agua Caliente Indian Reservation situated within the exterior boundaries of the city of Palm Springs, California.

Said notice reserved to the Secretary of the Interior the privilege of expressly revoking, by appropriate notice, the adoption and application of any such laws, ordinances, codes, resolutions, rules or other regulations if it is determined to be in the best interest of the Indian owner in achieving the highest and best use of the property. This authority was redelegated to the Commissioner of Indian Affairs in 230 DM 1.

Notice is hereby given that it is proposed to expressly revoke so much of such laws, ordinances, codes, resolutions, rules, or other regulations as may conflict with the development of a residential board and care facility to be utilized in conjunction with an existing convalescent hospital, on that portion of the Agua Caliente (Palm Springs) reservation described as follows:

N½E½SE¼NE¼SE¼ section 14, T. 4 S., R. 4 E., S.B.M., California;

Provided, That before commencing development, complete plans and specifications for the project shall be submitted for review by the Secretary of the Interior or his authorized representative. Prior to approval of any plans for development pursuant to this notice, the Secretary shall first satisfy himself that adequate consideration has been given to the relationship between the use of the subject property and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; and the effect on the environment of the uses to which the property will be subject.

Interested persons are invited to submit written comments or objections regarding this proposed revocation to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, on or before March 22, 1976.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-4740 Filed 2-18-76;8:45 am]

AGUA CALIENTE INDIAN RESERVATION

Proposed Revocation of Adoption and Application of State and Local Laws Over Certain Land

FEBRUARY 9, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On June 25, 1965, there was published in the FEDERAL REGISTER (30 FR 8172) a notice whereby the Secretary of the Interior, pursuant to § 1.4(b), Title 25, Code of Federal Regulations, did adopt and make applicable, subject to those exceptions and reservations provided in said notice, all of the laws, ordinances,

codes, resolutions, rules, or other regulations of the State of California, and the city of Palm Springs, California, now existing or as they may be amended or enacted in the future, limiting, zoning, or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to restriction against alienation imposed by the United States and located on those portions of the Agua Caliente Indian Reservation situated within the exterior boundaries of the city of Palm Springs, California.

Said notice reserved to the Secretary of the Interior the privilege of expressly revoking, by appropriate notice, the adoption and application of any such laws, ordinances, codes, resolutions, rules or other regulations if it is determined to be in the best interest of the Indian owner in achieving the highest and best use of the property. This authority was redelegated to the Commissioner of Indian Affairs in 230 DM 1.

Notice is hereby given that it is proposed to expressly revoke so much of such laws, ordinances, codes, resolutions, rules, or other regulations as may conflict with plans approved by the Secretary of the Interior for development of that land of the Agua Caliente (Palm Springs) Indian Reservation described as follows:

That portion of the SE¼NW¼ and that portion of the SW¼NW¼ of section 30, T. 4 S., R. 5 E., S.B.M., California, which lies north of Highway 111 and which is now undeveloped;

Provided, That prior to approval of any plans pursuant to this notice, the Secretary of the Interior shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availabilty of police and fire protection and other services; and the effect on the environment of the uses to which the property will be subject.

Interested persons are invited to submit written comments or objections with respect to the proposed revocation to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, on or before March 22, 1976.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76-4739 Filed 2-18-76;8:45 am]

Bureau of Land Management

ALBUQUERQUE DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Multiple Use Advisory Board for the Albuquerque District, Bureau of Land Management, will meet on March 26, 1976. The meeting will begin at 9:00 A.M. at the Albuquerque District Office, 3550 Pan American Freeway, N.E., Albuquerque, New Mexico.

The agenda for the meeting will include a discussion of the Rio Grande Planning effort, the Grazing Environmental Impact program, Land Exchanges, Recreation and Public Purposes, and the Bisti area south of Farmington, New Mexico. The Board will also elect officers for calendar year 1976.

The meeting is open to the public with seating provided for approximately forty (40) people. Time will be made available for a number of brief statements by members of the public. Those wishing to make an oral statement should so inform the District Manager prior to the meeting. Written statements may be filed for the Board's consideration by submitting them at the meeting or mailing in advance to the Bureau of Land Management at the address listed below.

Further information concerning the meeting may be obtained from Mr. R. Keith Miller, District Manager, Albuquerque District, 3550 Pan American Freeway, NE., Albuquerque, New Mexico 87107 (Telephone 505 766-2455).

Minutes of the meeting will be available at the Albuquerque District Office for public inspection and copying thirty (30) days after the meeting.

R. KEITH MILLER,
District Manager.

FEBRUARY 9, 1976.

[FR Doc.76-4658 Filed 2-18-76;8:45 am]

Office of the Secretary

[INT DES 76-6]

ARIZONA

Availability of Draft Environmental Statement

The draft environmental statement for the proposed construction of two (2) 345 KV transmission lines from El Paso, Texas to Greenlee County, Arizona, will be available to the public during the month of February.

The Bureau of Land Management invites your written comments within 45 days of this notice.

A limited number of copies are available upon request to New Mexico State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Public reading copies will be available for review at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

New Mexico State Office, Bureau of Land Management, U.S. Post Office Building, North Federal Place, Santa Fe, New Mexico 87501.

Las Cruces District Office, Bureau of Land Management, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

Written comments should be submitted to the State Director, Bureau of Land Management, New Mexico State Office, U.S. Post Office Building, North Federal Place, Santa Fe, New Mexico 87501.

Dated: February 17, 1976.

STANLEY D. DOREMUS,
Acting Assistant Secretary of the Interior.

[FR Doc.76-4967 Filed 2-18-76;9:12 am]

[Serial Number A 9339]

ARIZONA

Proposed Withdrawal and Reservation of Land

The Forest Service, United States Department of Agriculture, has filed application A 9339 for inclusion of the lands described below within the National Forest System and, subject to valid existing rights, withdrawal of the lands from all forms of appropriation except under those laws and regulations applicable to National Forest lands.

The subject lands, which lie within the boundaries of the Sitgreaves National Forest, were reconveyed to the United States pursuant to an exchange under section 8 of the Taylor Grazing Act of June 28, 1934, as amended, 43 U.S.C. 315g (1970), and are currently under the jurisdiction of the Bureau of Land Management. Lands acquired under section 315g which are within the exterior boundaries of a national forest and which are determined by the Secretary of Agriculture to be suitable for administration as a part of the National Forest may be set apart and reserved by the Secretary of the Interior by public land order as a part of such National Forest pursuant to the Act of July 9, 1962, 43 U.S. 315g-1.

On or before March 22, 1976, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Department of Interior regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources and will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record. If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

SITGREAVES NATIONAL FOREST

T. 13 N., R. 12 E.,
Sec. 25, S½SW¼, NW¼SW¼;
Sec. 33, E½, SE¼SW¼.

The areas described aggregate 480 acres in Coconino County, Arizona.

Dated: February 11, 1976.

GLEVDON E. COLLINS,
Acting State Director.

[FR Doc.76-4742 Filed 2-18-76;8:45 am]

RIVERSIDE DISTRICT MULTIPLE-USE ADVISORY BOARD

Meeting

FEBRUARY 10, 1976.

Notice is hereby given that committee meetings and a full board meeting of the Riverside, California, District Multiple-Use Advisory Board of the Bureau of Land Management will be held at the Riverside District Office at 1695 Spruce Street, Riverside, California, 92507, as set out below:

A meeting of the Red Mountain Draft Management Framework Plan committee will be held from 7:00 p.m. to 8:30 p.m. on March 18, 1976. This committee will consider recommendations to be made to the full board concerning the Red Mountain Draft Management Framework Plan.

Following the meeting of the Red Mountain committee on March 18, 1976, there will be a meeting of the Recreation committee, beginning at 8:30 p.m. This committee will consider publication of an informational document concerning recreation on the National Resource Lands of the District.

The committee will receive a briefing on the recently adopted Recreation Use Permit System, to be presented by District personnel and the committee will formulate its report to the full board.

The full Riverside District Multiple-Use Advisory Board will meet at 9:00 a.m. on March 19, 1976. Items on the agenda will be: Report by the Red Mountain Draft Management Framework Plan committee; report by the Recreation committee; discussion on the role of the advisory board in advising the District Manager on formulating draft management framework plans, allowing major rights-of-way across National Resource Lands and like action; and cooperation with the State of California in expenditure of off-highway vehicle registration funds.

BLM personnel will make presentations to the board on practices and policy in administration of the Recreation and Public Purposes Act and on rechartering the board. All the meetings noted above will be held in the conference room of the BLM office building at 1695 Spruce Street, Riverside, California 92507.

These committee meetings and the full board meeting are open to the public. Any interested person may file a written statement for consideration by any of the board's committees or by the full board. Written statements may be submitted at the meeting or by mailing to the Riverside District Manager at the above address.

At the discretion of the committee chairman of the Red Mountain MFP committee and the Recreation committee, time may be allotted at their meetings for a limited number of brief oral statements. Oral statements must deal only with items on the agenda.

Time will be made available for a limited number of brief oral statements at two different points during the full board meeting: the first following committee reports and the second following discussions and formal presentations. These oral statements must be brief and must confine themselves to items on the agenda. Written statements of any length and on any subject may be submitted at the meeting or by mail to the District Manager at the above address.

Further information on either of the committee meetings or the full board meeting may be had from Gordon W. Flint, Public Affairs Officer, Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, or by telephone at (714) 787-1462. Minutes of the meetings will be available for public inspection 30 days after the meeting at the Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

DELMAR D. VAIL,
District Manager.

[FR Doc.76-4738 Filed 2-18-76;8:45 am]

Office of the Secretary

OIL SHALE LEASE; DETAILED DEVELOPMENT PLAN

Public Hearing

Pursuant to section 10(a) of the U.S. Department of the Interior Oil Shale Lease, the Department announces the availability of the "Detailed Development Plan" for Oil Shale Tract C-b, Serial No. Colorado 20341. Detailed Development Plans required by section 10(a) of the lease are to include:

1. A schedule of the planning, exploratory, development, production, processing and reclamation operations and all other activities to be conducted under the lease;

2. A detailed description pursuant to 30 CFR Part 231 and 43 CFR Part 23 of the procedures to be followed to assure that the development plan, and lease operations thereunder, will meet and conform to the environmental criteria and controls incorporated in the lease; and

3. A requirement that the lessee use all due diligence in the orderly development of the lease deposits, and, in particular, to attain, at as early a time as is consistent with compliance with all the provisions of the lease, production at a rate at least equal to the rate on which minimum royalty is computed.

Prior to commencing any operations under a Detailed Development Plan on the leased lands, the lessees must obtain the approval of the Area Oil Shale Supervisor. Once the Detailed Development Plan is approved, the lessees shall proceed to develop the leased deposits in accordance with that plan.

Notice is hereby given that public hearings will be held for the purpose of receiving comments relating to the Tract C-b Detailed Development Plan on the following dates and at the following locations:

APRIL 20, 1976

Freeman Fairfield Square, 200 Block Main Street, Meeker, Colorado 81641.

APRIL 22, 1976

U.S. Post Office, Room 269, Auditorium, 2823 Stout Street, Denver, Colorado 80225.

Hearings at both locations will be held 1-5 p.m. and 7-10 p.m. Interested individuals, representatives of organizations and public officials wishing to appear at the hearings should contact the Office of the Area Oil Shale Supervisor, U.S. Geological Survey, 131 North 6th St., Grand Junction, Colorado, no later than April 6, 1976. Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearings should be received by the Office of the Area Oil Shale Supervisor, 131 N. 6th St., Grand Junction, Colorado on or before May 7, 1976.

All written statements received pursuant to this notice will be included in the hearing record. Oral statements at the hearings will be limited to a period of ten minutes. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearings officer will give others present an opportunity to be heard. Because of time limitations, those presenting oral statements at one of the above identified locations will not be permitted to present such statements at other locations.

Notice is also given that copies of the Tract C-b Detailed Development Plan and related quarterly progress reports are available for public inspection during regular business hours at the following locations:

Area Oil Shale Office, Mesa Federal Savings & Loan Bldg., Grand Junction, Colorado.
U.S. Geological Survey, Conservation Division, Central Region, Villa Italia, Denver, Colorado.
U.S. Geological Survey, Conservation Division, Reston, Virginia.
Oil Shale Environmental Advisory Panel, Bldg. 67, Denver Federal Center, Denver, Colorado.
Mesa College Library, Grand Junction, Colorado.
Mesa County Public Library, Grand Junction, Colorado.
Montrose Regional Library, Montrose, Colorado.
Delta Library, Delta, Colorado.
Library, Department of the Interior, Main Interior Bldg., Washington, D.C.
Rangely Public Library, Rangely, Colorado.
Colorado Northwestern Community Library, Rangely, Colorado.
Meeker Public Library, Meeker, Colorado.
Moffat County Library, Craig, Colorado.
Garfield County Library, New Castle, Colorado.
Colorado Mountain College Library, Glenwood Springs, Colorado.
Glenwood Springs Public Library, Glenwood Springs, Colorado.
Uintah County Public Library, Vernal, Utah.
Rifle Public Library, Rifle, Colorado.

Denver Public Library, Conservation Library, Denver, Colorado.
Bureau of Land Management, 455 Emerson Dr., Craig, Colorado.
Bureau of Land Management, Colorado State Office, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado.
Bureau of Land Management, Wyoming State Office, Federal Center, 2120 Capitol Ave., Cheyenne, Wyoming.
Bureau of Land Management, Utah State Office, 125 S. State SLC, Utah.
Salt Lake City Public Library, Salt Lake City, Utah.
Colorado State Library, 1362 Lincoln, Denver, Colorado.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

FEBRUARY 13, 1976.

[FR Doc.76-4719 Filed 2-18-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[File No. 22(73), Case 464CP-44]

ARTHUR D. LITTLE, INC.

Order Imposing a Civil Penalty and Period of Probation

In the matter of Arthur D. Little, Inc., Acorn Park, Cambridge, Massachusetts 02140, Respondent, File No. 22(73)-2, Case #464 CP-44.

In accordance with the provisions of the Export Administration Regulations, 15 CFR 388.3 a letter was issued on February 7, 1974, charging Arthur D. Little, Inc., with violating the provisions of the export regulations prohibiting negotiations or sales with denied persons without prior disclosure or specific authorization from the Office of Export Administration.

The record discloses that respondent exported a strategically-rated A.D.L. Model H. P. Crystal Growing Furnace of United States manufacture to France, without disclosure or specific authorization from the Office of Export Administration. Negotiations for the sale of the exported commodity were initiated with Albert Rolland and Seurolec S.A., denied persons whose names have appeared on the Table of Denial and Probation Orders since August 19, 1971 (15 CFR Part 388 Supp. I and II). Although this was known or should have been known to all exporters, respondent does not appear to have become aware of their denied status until after they apparently faded from the scene and direct negotiations were in progress with the purchaser-consignee. Respondent was duped by the machinations of the denied persons, both of whom gained an interest in and benefited from the exportation.

Pursuant to 15 CFR 338.10, a consent agreement was offered by respondent and consented in by the Director, Compliance Division. It was submitted to the Hearing Commissioner. By its terms the respondent neither admits nor denied the charges. However, it tacitly recognizes error occasioned by respondent's negotiations with denied persons. Respondent has agreed to the imposition of a $1,000 civil penalty and a two-year probation period. A certified check in the sum of $1,000 has been tendered.

The Hearing Commissioner reports that respondent's trafficking with the denied persons was due to negligence and not because of any willful or deliberate intent to avoid the export regulations. He reports that there is no record of prior or subsequent violations and, due to precautionary methods instituted by respondent, it is anticipated that Little will continue in full compliance. He recommends that the terms of the consent agreement, which imposes a fair and reasonable penalty and will serve as a deterrent against future aberrations, be accepted.

I find the respondent is in violation of Section 388.10 of the Export Administration Regulations in that it negotiated for the export and sale of a controlled item with persons on the Denial and Probation List. I also find that the consent proposal for the imposition of a $1,000 civil penalty and a period of probation for a period of two years is fair and reasonable. *Now, therefore, it is ordered.*

(1) Pursuant to the Export Administration Act of 1969 as amended and supplemented, 50 U.S.C. App. 2405(c), and the regulations, 15 CFR 388.1(a)(4), a civil penalty in the sum of $1,000 is imposed on the respondent.

(2) Respondent, Arthur D. Little, Inc., is placed on probation for a period of two years. During that time respondent will be permitted all U.S. privileges on condition that respondent does not violate any provision of the Export Administration Act or regulations issued thereunder. However,

(3) Upon a finding by the Director, Office of Export Administration, or other authorized officer, that respondent has failed to comply with the requirements and conditions of this order or with any of the conditions of probation, when national security or foreign policy considerations as involved and without notice, or with notice if such considerations are not involved, such officer may revoke the probation of the respondent and he may revoke all outstanding validated export licenses to which respondent may be a party and deny all respondent's export privileges for the remaining period of this order. If a supplemental order should be issued because of breach of the terms and conditions herein it will contain the proscriptions of 15 CFR 387.10 and 388.1. A supplemental order will not preclude the Bureau of East-West Trade from taking further action in connection with any violation. Respondent will be permitted to file objection to a supplemental order, petition that the order be set aside, and may request an oral hearing in accordance with the pertinent Export Administration Regulations, 15 CFR 388.16; but proceedings under Section 388.16 will not stay the order of revocation which order will remain in effect until otherwise modified or canceled.

Dated: February 10, 1976.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.76-4660 Filed 2-18-76;8:45 am]

Domestic and International Business Administration

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting; Determination; Correction

In FR Doc. 75-33682 beginning on page 57817 in the FEDERAL REGISTER of December 12, 1975, the last signature and title in the Notice of Determination on page 57818 should have read, "Alfred Meisner, Assistant General Counsel for Administration."

Dated: February 12, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-4653 Filed 2-18-76;8:45 am]

Economic Development Administration

LOSITO MUSHROOM CORP.

Petition for a Determination

A petition by Losito Mushroom Corporation and Affiliates, Toughkenamon, Pennsylvania 19374, a producer and processor of mushrooms, was accepted for filing on February 11, 1976, under section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 1, 1976.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-4662 Filed 2-18-76;8:45 am]

National Oceanic and Atmospheric Administration

IMPORTATION OF CAPE FUR SEALSKINS

Decision to Waive Moratorium

Pursuant to 50 CFR 216.90(c) the decision of the Director, National Marine Fisheries Service, on the proceeding to waive the moratorium imposed by the Marine Mammal Protection Act of 1972 on the importation of skins of Cape fur seals (*Arctocephalus pusillus pusillus*) is published.

The Director reserved decision on that aspect of the proceeding which pertains to the importation of skins of Cape fur seals harvested in Namibia, pending further analysis of certain complex international issues. Upon resolution of these issues, the Director's decision will be supplemented to reflect his conclusions on these matters.

Simultaneously published are final regulations (published as proposed regulations on July 7, 1975, 40 FR 28469),[1] as revised in accordance with the Director's decision and those portions of the Administrative Law Judge's recommendations accepted by the Director. Those regulations implement the waiver. They will be amended, if necessary, to reflect the Director's later decision with respect to skins of Cape fur seals harvested in Namibia.

The Director's decision to waive the moratorium to the extent that it applies to skins from Cape fur seals harvested in the Republic of South Africa is final. A Final Environmental Impact Statement was filed with the Council on Environmental Quality on Feb. 12, 1976.

Dated: February 12, 1976.

ROBERT W. SCHONING,
National Marine Fisheries Service.

DECISION IN THE MATTER OF THE FOUKE COMPANY APPLICATION TO WAIVE THE MORATORIUM ON THE IMPORTATION OF CAPE FUR SEALSKINS—DOCKET NO. MMPAH NO. 1, 1975

The Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407 (the Act), among other things, imposed a moratorium on the importation of marine mammals and marine mammal products. Section 101(a)(3)(A) of the Act provides that the Secretary (of Commerce or of the Interior as appropriate) on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed to determine when, to what extent, if at all, and by what means it is compatible with the Act to waive the moratorium on the taking and/or importation of marine mammals. The authority of the Secretary of Commerce has been delegated to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration (38 FR 4793, February 22, 1973).

Pursuant to this authority and upon application by the Fouke Company, Greenville, South Carolina, proposals to waive the moratorium, subject to certain conditions, to allow the importation of skins from Cape fur seals (*Arctocephalus pusillus pusillus*) which are harvested by or harvested under the auspices of the Republic of South Africa and to promulgate regulations setting forth the conditions, limitations and procedures for importing these skins were set forth in 40 FR 28469, July 7, 1975.

In connection with the proposals, a Draft Environmental Impact Statement was made available to Federal Agencies and the general public for comment (40 FR 31256). Comments on the Draft Environmental Impact Statement were received from the Department of State, Department of the Interior, Environmental Protection Agency, Friends of the Animals, Inc., Columbia Zoological Park, Department of Labor, Isidore Bergner, British-American Brokers and Francis H. Fay.

In accordance with the Act, the proposals were the subject of a hearing[1] on the record. The hearing was presided over by an Administrative Law Judge (the Judge) and was conducted pursuant to the requirements of the Act, the regulations promulgated thereunder, 50 CFR 216.70–90, and the Administrative Procedure Act, 5 USC 551 et seq.

The following parties participated at the hearing: The Committee for Humane Legislation, Inc.; Friends of the Animals, Inc.; Society for Animal Rights, Inc.; Monitor, Inc. (including Endangered Species Productions, Chesapeake Chapter American Littoral Society, American Littoral Society, Animal Protection Institute, Defenders of Wildlife, Environmental Policy Center, Friends of the Earth, Fund for Animals, International Fund for Animal Welfare—USA, National Parks and Conservation Association, Society for Animal Protection Legislation, Wild Canid Survival and Research Center, Wilderness Society, Committee for the Preservation of Tule Elk, The Humane Society of the U.S., and the National Audubon Society); The Humane Society of the U.S.;[2] The Marine Mammal Commission (herein the Commission);[3] Diggs et al. (including Charles C. Diggs, Cardiss R. Collins, Johnson J. Conyers, Jr., Ronald V. Dellums, Walter E. Fauntroy, Yvonne B. Burke, Shirley Chisholm, Harold E. Ford, Augustus Hawkins, Ralph H. Metcalfe, Parren J. Mitchell, Charles B. Rangel, Louis Stokes, Andrew Young), The American Committee of Africa; The Washington Office of Africa; the Episcopal Churchmen for South Africa; Theo-Ben Gurirab, the Representative Plenipotentiary of South West Africa Peoples Organization to the United Nations and to the Americas; and the Center for National Security Studies;[4] Michael I. Davis, David I. Kasume, Elizabeth S. Landis;[5] the Republic of South Africa;[6] and the National Marine Fisheries Service.

The hearing focused on the following issues:

1. The Motion to amend sections 1, 3(a), and 4(b) of the Proposed Regulations and to Exclude from the Hearings Thereon Certain Testimony.
2. The estimated existing levels of the species and population stocks of the Cape fur seal.
3. The optimum sustainable population of the Cape fur seal.
4. The anticipated effect of the proposed waiver on the optimum sustainable population of the Cape fur seal.
5. A harvesting date to ensure seals are not pregnant, nursing, or less than 8 months of age at time of taking, or biological data and physical characteristics acceptable in lieu of said date.
6. The adequacy of the South African government's management program to insure the harvesting is in accord with sound principles of resource protection and conservation as provided for by the purposes and policies of the Marine Mammal Protection Act.
7. The humaneness of the 1975 harvest including the standard for humaneness and supervision to insure humaneness.
8. The impact of the proposed waiver on the marine ecosystem and related environmental considerations, such as distribution, abundance, feeding habits, and migratory movements within the ecosystem.
9. Whether there is a conflict of interest in consideration of the waiver of the moratorium, and in any waiver which may be granted, because of certain specifications in existing contracts between the Administration and the Applicant.

The Judge, based upon the evidence of record, recommended to me in accordance with 50 CFR 216.89, on December 16, 1975 (his recommendation was received by me on December 22, 1975) that the proposals of July 7th be implemented with certain suggested modifications. On December 31, 1975, I informed the public of receipt of the Judge's recommended decision, afforded the public opportunity to review the recommended decision and invited the public to comment on it (40 FR 60105). As a result of this notice comments from the following were received within the 20 days prescribed for receipt of comments: Parties to the proceeding; Committee for Humane Legislation, Inc.; Friends of Animals, Inc.; Monitor Inc.; Diggs, et al; and the Marine Mammal Commission; numerous letters were received from the general public. In addition, the Council on Environmental Quality submitted comments. The Council on Environmental Quality was not a party to the proceeding.

Following a review of the record, the Judge's recommended decision and comments from the public, I hereby adopt and incorporate by reference the Judge's decision except insofar as it is inconistent with what is hereinafter set forth. In some instances, although accepting the Judge's conclusions on various issues, I have, in the interest of clarity, addressed the issues in more detail.

In deciding whether to waive the moratorium, it is my duty, as I understand the Act, to be assured that the taking in the country of concern is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of the Act. My decision must be supported by the evidence of record. That

[1] See FR Doc. 76-4656, Title 50, Chapter II, Part 216, *supra*.

[1] The hearing was conducted in Washington, D.C. and lasted six days (September 18, 19, 20, 22, 23 and 24). A pre-hearing conference was held on September 8, 1975, in Washington, D.C.

[2] The Humane Society of the U.S. withdrew as a party in the hearing after the hearing had commenced.

[3] The Commission's Counsel at the hearing indicated that the Commission's participation at the hearing was in satisfaction of the Act's mandate for consultation.

[4] Diggs et al participated in the proceedings only to the extent of arguing the merits of the Motion to amend sections 1, 3(2), and 4(b) of the proposed regulations; to exclude from the hearings thereon certain testimony, and to prohibit dealings by the Department of Commerce with South Africa in regard to or in Namibia.

[5] Michael J. Davis, David J. Kasume, and Elizabeth S. Landis, pursuant to the Proposed Waiver, submitted testimony going to the merits of Motion noted above in footnote 3, but otherwise did not participate in the proceedings.

[6] The Republic of South Africa, submitted testimony, but withdrew from the proceedings prior to the pre-hearing conference.

evidence, according to the Act, is to be the best scientific evidence available. The Public, including those government agencies with special expertise and responsibilities with respect to marine mammals, was afforded an opportunity to participate and, consistent with the rules applicable to the introduction of evidence at a formal hearing on the record, to introduce scientific evidence at the hearing. In view of this and after having reviewed the record, it is my conclusion that the record contains the best scientific evidence available and further that this evidence forms a sufficient basis for the action I have taken.

In reaching this conclusion, I recognize that there are those who have argued that the evidence is not sufficient to form a basis upon which to waive the moratorium. They have argued that a decision should await the amassing of more data. However, in wildlife management, because of its dynamic character, the call for more data can always be heard. The Act, in my opinion, by using the phrase "best scientific evidence available" rather than "best scientific evidence possible" rejected such an approach, provided, there is sufficient evidence of record upon which to act. This is not to say that additional data are not welcome. Indeed, it is urged elsewhere in my decision that such data be obtained.

As the Judge properly noted, the concept of optimum sustainable population (OSP) established by the Act does not represent a statutory application of generally accepted scientific terminology. It is rather a relatively new concept; one which, among other things, does not focus on yield or harvest but focuses on the health and stability of the ecosystem. Consequently, the reference by the Judge to the concept maximum sustainable yield, a term generally associated with harvest, is inappropriate.

I have concluded from studying the Act and the record that OSP is not a fixed population level, but a population range. The lower point of this range is that level of abundance which results in maximum productivity, the greatest annual increase in numbers of animals. The upper point of this range is that level of abundance at the carrying capacity of the habitat. Within this range the population level to be maintained will depend upon the emphasis given certain factors which may be considered under the Act such as the international significance of marine mammals as well as their esthetic, economic and recreational significance.

The Act recognizes that the level of maximum productivity is not a permanently fixed level in a natural population, but will vary over time with fundamental changes in environmental conditions and other factors independent of man as indicated in the Act's definition of OSP which states "* * * the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element".

Determination of exact population levels of marine mammals in the wild, or other important statistics of these populations, is difficult as evidenced by the record now before me. The degree of uncertainty surrounding such estimates will vary with the depth and precision of scientific knowledge available about any population, the stability of the population and the environment and other factors. Consequently, in determining the lower point of the range for OSP, a reasonable margin of safety commensurate with the degree of existing scientific knowledge and other factors will be added to the population level which results in maximum productivity.

Applying this to the facts developed in the record, I conclude that the population of Cape fur seals, at this time, is within the range of OSP and that a harvest of up to 70,000 Cape fur seals will not depress the population below this level under present conditions. This is the same conclusion reached by the Judge. In arriving at his conclusion, the Judge observed that the OSP is within the same general range as the level of population which produces maximum sustainable yield (MSY)[7].

As noted by me, the use of the phrase MSY is not appropriate in view of the primary objective of the Act and the definition of OSP which relates OSP to maximum productivity and optimum carrying capacity of the habitat. However, the use of the phrase MSY in this instance raises more a question of phraseology rather than of substance and does not affect the Judge's conclusion for, as the record clearly indicates, the level of population which results in maximum productivity is within the same general range as the level of population which results in MSY. Therefore, the use of either concept in this particular case will result in the same conclusion, although there is objection to the use of MSY for the reasons I noted.

I am aware that the argument has been advanced that the South African Government's management program is based upon the concept of MSY and therefore cannot be found to be consistent with the purposes and policies of the Act. However, from my review of the record, it is clear that the South African management program, among other things, has as one of its objectives a healthy and stable ecosystem and therefore, in my opinion, is consistent with the purposes and policies of the Act.

On page 6 of the decision, the Judge states, "While recognizing the social value of a balanced ecosystem the statute equally recognized the economic and commercial value of marine mammals and marine mammal products." Although it is clear that this language, when read in the context of the entire decision, has relevance only within a framework of a healthy and stable ecosystem, I reject that portion of it which may imply that economic and comercial values are on a par with maintaining a healthy and stable ecosystem when deciding whether to waive the moratorium. The primary objective of the Act is to maintain a healthy and stable ecosystem, and it is this objective, as well as others provided in the Act, that I considered, when reviewing the record.

On page 32 of his decision the Judge states, "But in these areas it would be unfair to both the Republic of South Africa and to the Applicant to impose more restrictive standards on South African seal skins which are imported than are presently imposed on the United States Government's own harvest in the Pribilof Islands." I reject this language. The standards to be applied in determining to waive the moratorium, and the standards which I applied in this case, are those set forth in the Act. The harvest of the fur seal herds on the Pribilof Islands is excluded from the Act's coverage. The standards used there, even if coincidentally the same as those required by the Act, are not to be used in lieu of the Act's requirements.

[7] The Judge in his opinion equated the level of OSP with MSY rather than, as it should have been equated, with the level of population which produces MSY. It is apparent, however, that he intended the latter for in a footnote to this discussion he references the views of this agency's staff which in its written brief makes the correct distinction.

I have accepted without modification the Judge's views with respect to the issue of humaneness. In doing so, I am mindful of the arguments made to the Judge and to me that, among other things:

(a) Not all harvests were observed by the veterinarians under contract with the National Marine Fisheries Service and therefore, the skins from unobserved harvests cannot be imported for I cannot make a determation that the seals, from which these skins were taken, were harvested in a humane manner; and

(b) Based upon the testimony presented concerning the frequency of second blows administered to seals, I can not determine the harvests to be humane.

With respect to the first point, the record indicates that approximately 72 percent of the total seals harvested annually (1969–1973) are harvested at two locations. It was at these two locations that the veterinarians under contract with the National Marine Fisheries Service made the sample observations which formed the basis for their conclusions that the harvests were conducted in a humane manner within the meaning of the Act. Under the circumstances, in my opinion, the observations of these veterinarians represent a fair sample upon which to base a professional judgment. I accept their judgment. Moreover, in view of the veterinarians' conclusions and the assertions on the record by responsible officials from the Republic of South Africa concerning harvesting methods I have concluded that it is reasonable to accept a certification from South African officials with respect to humaneness, as set forth in the regulations associated with the waiver.

With respect to the second point, the record indicates that when there is any doubt, well founded or not, about the adequacy of the first blow to a seal, it is prudent to administer a second blow. Therefore, the administering of a second blow, in and of itself, is not necessarily significant. The record further indicates that an important factor is the length of time between the first and second blows, for, if the animal is conscious after the first blow, it could be in pain until rendered unconscious by a second blow. The shorter this interval, the shorter the period of time in which the animal may be in pain. With these principles in mind, based upon the evidence of record, it is my conclusion that the number of occasions when second blows were administered was not sufficient to warrant a finding of inhumaneness, especially in view of the fact that second blows are encouraged as a safety measure when there is any doubt whatsoever about the adequacy of the first blow. Further, the time interval from first blow to second was sufficiently short, and thus to the extent practicable minimized the pain to those animals not rendered unconscious by a first blow, so as not to warrant a finding of inhumaneness.

After having reviewed the record, the Act and the Judge's decision, I conclude that in determining the age of the Cape fur seal for purposes of the Act's requirements a mean birthdate is to be used. As the record shows, it is impossible to determine the exact birth date of seals born in the wild. This difficulty is present with other animals born in the wild. As a consequence, the use of a mean birthdate is an accepted method of determining age in wildlife management. The Act is primarily a wildlife management Act dedicated to attaining a healthy and stable ecosystem. In this connection, the Act speaks in terms of managing populations and population stocks, not in terms of managing one animal within a population or population stock. Under the circumstances, it is reason-

able to determine age by using a mean birthdate when implementing the Act. From the evidence of record that date for the Cape fur seal is December 1, for any given pupping season.

The issue of when obligate nursing [3] ceases was not only an issue which consumed the attention of many at the hearing but was also the focus of attention in many of the comments I received. It justifies further comment by me.

The only witnesses at the hearing who qualified as experts on nursing testified that obligate nursing ceased, at least, prior to the beginning of the eighth month after birth. There is nothing in the record, which, in my opinion, is cause to reject the testimony of these experts. If those who argue that obligate nursing had not ceased prior to eight months after birth had, at the hearing, chosen to present a qualified expert to offer testimony on their position, I would have had to weigh such testimony in reaching my conclusion; but they did not. In reaching my decision in this matter, I am to consider the evidence of record, and that evidence is that qualified experts conclude that obligate nursing for the Cape fur seal ceases, at least, prior to the beginning of the eighth month after birth. There is little reason for me to doubt the witnesses' truthfulness or the soundness of their scientific judgment.

The Judge recommended certain conditions to the waiver. These conditions focused on the desirability of additional information. This recommendation is consistent both with the Act's recognition of the need for additional data on marine mammals, and its recognition that conservation measures should be international in scope. However, I have concluded that the application of systematic scientific programs which will provide the additional information requested by the Judge, in the long run, is the best way to approach wildlife management. It is for this reason that I have modified the conditions of the waiver to focus clearly on such programs. The data developed as a result of implementing these programs are the data the Judge recommended obtaining, and to this extent my modifications do not change what he recommended.

It should be noted that my decision to waive the moratorium is not predicated on data that may be obtained in the future through the implementation of such programs but on the evidence developed in the record. Continuation of the waiver will, however, require data which will indicate that conditions warrant its continuation. These programs will facilitate obtaining this data in a more systematic manner.

The Judge's recommended conditions are modified as follows:

(1) Develop a program which will provide additional information regarding age, sex, mortality rate, and fecundity rate of Cape fur seals;

(2) Expand the program of tagging, aerial photographs and other methods of collecting data, in order to provide systematic monitoring of the level of the Cape fur seal population;

(3) Develop a program which will provide additional information on the interrelationship of the Cape fur seal and its ecosystem;

(4) Expand upon programs to ensure the continuation of acceptable standards of humane taking;

(5) And annually provide data sufficient to assess whether conditions warrant continuation of the waiver.

Pursuant to section 101(a)(3)(A) of the Act, I certify that, based on the record, the program of the Republic of South Africa for taking Cape fur seals is consistent with the provisions and policies of the Act.

In view of the foregoing, I conclude that the evidence of record supports a waiver of the moratorium to allow the importation of up to 70,000 skins from Cape fur seals from each annual harvest, commencing with the 1975 harvest, conducted by or under the auspices of the Republic of South Africa, subject to the conditions previously mentioned. This conclusion is based upon the scientific evidence of record.

At the initial stages of this proceeding a motion was filed (by Diggs et al. and joined in by others) raising certain foreign policy issues. The Judge concluded that he did not have jurisdiction to address the merits of the matters raised in this motion (and its reassertion) in view of section 553(a) of the Administrative Procedure Act, 5 U.S.C. 553(a). I accept the Judge's ruling in this regard. However, the jurisdictional limitations which apply to the Judge do not apply to me. I have studied the issues raised in the Motion. They are complex and require further analysis. Therefore, I have reserved judgement, at this time, on these matters.

The net effect, should I rule favorably on the Motion, would be to exclude from a waiver the importation o fskins of Cape fur seals harvested in Namibia. Should I deny the Motion, skins of Cape fur seals harvested in Namibia would be subject to a waiver. Skins from Cape fur seals harvested in South Africa would not be affected by a ruling either way on the Motion. Consequently, I have decided, at this time, to waive the moratorium as it pertains to the importation of skins of Cape fur seals harvested in South Africa and to reserve judgment on skins of Cape fur seals harvested in Namibia. Upon resolution of the issues raised by the Motion, I will decide whether skins from Cape fur seals harvested in Namibia should be subject to a waiver and this decision will be supplemented accordingly. In this connection, I wish to reemphasize that the scientific evidence of record at this time supports waiving the moratorium with respect to skins of Cape fur seals harvested in Namibia.

Since South Africa is, in fact, managing the Cape fur seal herds in Namibia, that management will be considered and reviewed by me in deciding whether to continue the moratorium regardless of my decision with respect to skins of Cape fur seals taken in Namibia. The Cape fur seal herd is one population and will be considered as such in the exercise of my responsibilities under the Act although, at this time, only skins from Cape fur seals harvested in South Africa may be imported.

From a review of the record, recent harvesting data (1969–1973) indicate that 27.4 percent of the Cape fur seals harvested by or under the auspices of South Africa are harvested on rookeries within South Africa. Therefore, 27.4 percent of the 70,000 animals which may be harvested from the total population under the conditions of the waiver, or 19,180, represents the upper limit of the number of skins which may be imported from South Africa.

Based on the foregoing, I waive the moratorium as follows.

WAIVER

The moratorium on importation is waived to permit the importation of up to 19,180 skins of Cape fur seals (*Arctocephalus pusillus pusillus*) harvested within the Republic of South Africa and harvested by or under the auspices of the Republic of South Africa and under the following conditions:

(a) No more than 70,000 Cape fur seals are harvested in any one annual harvest conducted by or under the auspices of the Republic of South Africa commencing with the 1975 harvest. This level of harvest will be adjusted to reflect the results of an annual review conducted pursuant to subsection (e) which may indicate that a different harvest level is appropriate to allow the population to remain within the range of optimum sustainable population, in which case the aforementioned figures of 70,000 seals and 19,180 seal skins will be adjusted accordingly, commencing with the 1976 harvest.

(b) The upper limit to the number of skins which may be imported is predicated upon the percent of the total harvest which recently has occurred in South Africa. The results of an annual review conducted pursuant to subsection (e) may suggest a change in this percentage, due to a change in harvesting practices, in which case the upper limit will be adjusted accordingly: *Provided, however*, That such a shift in harvesting practices is consistent with the purposes and policies set forth in the Act.

(c) The skins were taken from Cape fur seals which at the time of taking were not:

(1) Nursing
(2) Pregnant, or
(3) Less than eight months old.

(d) The skins are from Cape fur seals not taken in a manner deemed inhumane by the Director:

(e) Skins from Cape fur seals harvested subsequent to 1975 may be imported: *Provided*, The Director upon annual review determines that conditions so warrant continuation of the waiver. This review will include, among other things, an assessment of whether efforts have been made, in good faith, to:

(1) Develop a program which will provide additional information regarding age, sex, mortality rate, and fecundity rate of Cape fur seals;

(2) Expand the program of tagging, aerial photographs and other methods of collecting data, in order to provide an accurate and systematic monitoring of the Cape fur seal population;

(3) Develop a program which will provide additional information on the interrelationship of the Cape fur seal and its ecosystem; and

(4) Expand upon programs to insure the continuation of acceptable standards of humane taking.

In order to implement this waiver, the appropriate regulations will be amended to include the following:

SECTION 1 *Purpose*. The Director, waived the moratorium on importation in order to allow the importation of up to 19,180 skins from Cape fur seals (*Arctocephalus pusillus pusillus*), harvested by or harvested under the auspices of the Republic of South Africa, within the Republic of South Africa (excluding Namibia) subject to certain conditions and limitations. The purpose of these regulations is to establish the criteria, conditions and procedures for importing these skins.

SEC. 2 *Scope*. This section applies to the importation of skins from Cape fur seals

[3] The Act contemplated the issuance of interpretative rules. The rule on nursing as including only obligatory nursing was proposed under rule making procedures on January 28, 1975, 40 FR 4660 (January 31, 1975). After consideration of the proposed rule and comments received, the rule was promulgated on April 18, 1975, 40 FR 17845 (April 23, 1975. The Judge concluded that the interpretative ruling was controlling in this proceeding. The interpretative ruling provides that, nursing means nursing which is obligatory for the physical health and survival of the nursing animal.

which are subject to the waiver by the Director.

SEC. 3 *Definitions.* In addition to the definitions contained in the Act, these regulations, and unless the context otherwise requires, in this section:

a. "Cape fur seals" means fur seals scientifically designated as *Arctocephalus pusillus pusillus.*

b. "Eight months old" means eight months old as determined by using a mean birthdate for the Cape fur seal of December 1 for any one pupping season.

c. "Namibia" means that territory formerly known as South West Africa.

d. "Nursing" means nursing which is obligatory for the physical health and survival of the nursing animal.

SEC. 4. *Prohibitions.* It is unlawful to import skins from Cape fur seals except under the following circumstances:

a. For skins imported for processing or finished skins not previously imported for processing:

1. Such importation is pursuant to a permit issued by the Director in accordance with these regulations;

2. Any skins imported are accompanied by a Certification by the Minister of Fisheries, Republic of South Africa, in such form as the Director shall approve, to the effect that such skins are from Cape fur seals which:

A. Were taken in a manner as determined by the Director to be humane;

B. Were taken from an annual harvest which did not exceed 70,000 Cape fur seals;

C. Were taken on or after August 1, for any given annual harvest and were not of black pelage;

D. Were not taken in violation of the law of the Republic of South Africa; and

E. Were not taken from within the territory known as Namibia.

b. For finished skins previously imported under a permit. No permit is required for skins previously imported under permit. However, markings on the skins consistent with the requirements of the permit under which they were previously imported, are required for importation.

SEC. 5 *Importation permits.* a. The Director may issue permits authorizing the importation of Cape fur seal skins. Any person desiring to obtain such a permit may make application to the Director. The sufficiency of the application shall be determined by the Director and, in that connection, he may waive any requirement for information contained therein, or require any elaboration or further information deemed necessary. An application for a permit, where applicable, will include:

1. Name and address of applicant;
2. Month and year of taking;
3. Purpose of importation;
4. Quantity to be imported;
5. Proposed date of importation;
6. Proposed place of importation;
7. Method of shipment;
8. Evidence of a commitment from the Republic of South Africa or a concessionaire that the applicant will obtain the number of skins stated in the application;
9. A copy of the Certification required by section 4a(2).
10. The following certification:

I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972; and

11. Signature of the applicant.

b. Permits applied for under this section shall be issued, suspended, modified, or revoked pursuant to § 216.33.

c. Permits applied for under this section shall contain terms and conditions as the Director may deem appropriate, including:

1. The number of skins which are authorized to be imported;
2. The location from which they may be imported;
3. The period during which the permit is valid;
4. Any requirements for reports or rights of inspection with respect to any activities carried out pursuant to the permit;
5. The transferability or assignability of the permit;
6. The sale or other disposition of the skins;
7. A reasonable fee covering the costs of issuance of such permit, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce; and
8. A method for identifying and tracing skins that have been imported pursuant to a permit.

d. Applications for permits must include payment of a fee of $100,000. The Director may change the amount of this fee at any time he determines a different payment to be reasonable, and said change may be accomplished by publication in the FEDERAL REGISTER of the new payment required, without the necessity of amending these regulations.

e. When the total number of skins authorized to be imported from a particular yearly harvest reaches 19,180 skins, no more permits will be issued for the importation of skins from the harvest.

[FR Doc.76-4657 Filed 2-18-76;8:45 am]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Sea Grant Advisory Panel

NOTICE OF PUBLIC MEETING

In the matter of continuation of February 10, 1976 meeting.

Pursuant to Section 10(a)(2) of the federal Advisory Committee Act, 5 U.S.C., Appendix I (Supp. III, 1973), notice is hereby given of a continuation of the February 10, 1976 special meeting of the Sea Grant Advisory Panel on Tuesday, February 24, 1976. As announced when the meeting was recessed, the meeting will resume at 9:00 a.m. in the Penthouse Conference Room (5th floor), Page Bldg. No. 1, 2001 Wisconsin Avenue, N.W., Washington, D.C. and will be open to the public. Approximately 30 seats will be available to the public on a first-come, first-served basis.

The agenda for the meeting will be as follows:

9:00 a.m.—Sea Grant Legislation.
2:00 p.m.—Review of New Criteria for Sea Grant College Designation.
5:00 p.m.—Adjourn.

Interested persons may submit written statements relevant to the Panel's areas of interest before or after the meeting or by mailing such statements to the Executive Secretary at the address below.

Inquiries regarding the Panel or the meeting may be directed to the Executive Secretary, A.G. Alexiou, National Oceanic and Atmospheric Administration (SG), Page Bldg. #1, 3300 Whitehaven Street, NW., Washington, D.C. 20235. (Telephone: 202/634–4019).

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

FEBRUARY 12, 1976.

[FR Doc.76-4737 Filed 2-18-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL COMMISSION ON ARTHRITIS AND RELATED MUSCULOSKELETAL DISEASES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Commission on Arthritis and Related Musculoskeletal Diseases, March 9, 1976 (times below), at the National Institutes of Health, Wilson Hall, Building 1, Bethesda, Maryland.

The entire meeting, which will be open to the public from 8:30 a.m. to 5:30 p.m. on March 9 at the above address, is being held to discuss the administrative structure that is called for in the Commission's Plan.

Messr. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014 (301) 496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: February 17, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-4911 Filed 2-18-76;8:45 am]

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to Pub. L. 92–463, that the meeting of the Advisory Council on Education Statistics will be held on March 1, 1976, from 8:30 a.m., to 4:00 p.m., in the Education Division Conference Center, Room 3000 of the Federal Office Building Number 6 at 400 Maryland Avenue, SW., Washington, D.C. 20202.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93–380 (20 U.S.C. 1221e–1(c)) to advise the Sec-

retary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include a discussion of the Center's "mandated studies" and a review of the Council's draft annual report to the Secretary, DHEW and the Congress.

This meeting was scheduled on an emergency basis in order to meet the reporting deadline imposed by the Charter creating the Council. While the full 15-day FEDERAL REGISTER Notice cannot be met, paid notices have been published in appropriate news journals and all individuals who have previously expressed an interest in the Council's deliberations have been notified by mail.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics located at 400 Maryland Avenue, SW., Washington, D.C. 20202.

Signed at Washington, D.C. on February 12, 1976.

MARIE D. ELDRIDGE,
Administrator, National Center for Educational Statistics.

[FR Doc.76-4724 Filed 2-18-76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: March 8, 1976 (10:00 a.m. to 5:00 p.m.); March 9, 1976 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), DHEW North Building, 330 Independence Avenue, S.W., Washington, D.C.

Purpose of Meeting. The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to William D. Coughlan, Staff Director, National Professional Standards Review Council, Office of Quality Standards, Room 16A-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Dated: February 6, 1976.

WILLIAM B. MUNIER,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.76-4664 Filed 2-18-76;8:45 am]

OFFICE OF REGULATORY REVIEW

Establishment

Under the authority of section 6 of Reorganization Plan No. 1 of 1953 and pursuant to the authorities vested in me as Secretary of Health, Education, and Welfare, I hereby establish the Office of Regulatory Review in the Office of the Secretary.

SECTION 1. *Organization.* The Office of Regulatory Review shall be located in the Office of the Secretary. The Director of the Office shall report directly to the Secretary and will be the Department's Chief Regulations Officer.

SEC. 2. *Continuation of regulations.* Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy, or interpretations regarding Department regulations that emanated from the Executive Secretariat heretofore issued and in effect prior to the date of this Reorganization Order or to become effective subsequent to said date, are continued in full force and effect.

SEC. 3. *Prior statement of organization, functions, and delegations of authority.* To the extent inconsistent with this Reorganization Order all previous statements of organization, functions, and delegations of authority, as well as applicable present chapters of the Department's Organization Manual are hereby superseded by this Reorganization Order, except that, pending further redelegation, all delegations in effect immediately prior to the effective date of this Reorganization Order shall continue in effect.

SEC. 4. *Funds, personnel, and equipment.* Transfer of organizations and functions effected by this Reorganization Order shall be accompanied in each instance by direct and supporting funds, positions, records, equipment, supplies, and other resources.

Effective date. This Reorganization Order shall be effective January 25, 1976.

Dated: February 3, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-4668 Filed 2-18-76;8:45 am]

OFFICE OF REGULATORY REVIEW

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to establish the Office of Regulatory Review in the Immediate Office of the Secretary. The functional statement of the Office of Regulatory Review is as follows:

SEC. 1A02.00 *Objectives.* The objectives of the Office of Regulatory Review are to: (1) Assure that new regulations are fully developed, effectively reviewed, and properly drafted before being presented to the Secretary for approval. (2) Provide the leading role in the Department's efforts to make continuing reviews of existing regulations, including the formulation of recommendations to the Secretary to withdraw, cancel or otherwise modify regulations consistent with current statutes, programmatic emphases, executive guidance, court decisions, and for other reasons. (3) Provide impetus to Department elements to assess the "cross-cutting" impacts of new and proposed regulations. (4) Develop guidelines for greater public participation in the Department's regulatory activity. (5) Monitor the development of new regulations in order to assure that legal mandates for their publication are met in a timely fashion. (6) Carry out all necessary research to provide a single source of information and data about the Department's regulatory activity.

SEC. 1A02.10 *Organization.* The Office of Regulatory Review is located in the Immediate Office of the Secretary. The Director reports directly to the Secretary and serves as the Department's Chief Regulations Officer.

SEC. 1A02.20 *Functions.* (1) Assures that new regulations are properly prepared from a technical point of view, that they are reviewed to assure that their content is proper and adequate, that they are coordinated with all concerned, including consultation with States and local governments through the Advisory Committee on Intergovernmental Relations, and that they are presented to the Secretary for approval when staff work is completed. (2) Plans and oversees a comprehensive review of existing regulations, including the development of criteria for selecting regulations to be reviewed, the prescription of procedures to assure effective, expeditious, and in-depth analyses, and the identification of the elements of review, such as the goals of the given regulations, impacts on States and local governments, elements of cross-program operations, and implications for budgetary, programmatic, and legislative considerations.

Dated: February 3, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-4663 Filed 2-16-76;8:45 am]

Social Security Administration

HEALTH INSURANCE PROGRAM

Schedule of Guidelines for Physical Therapy Services

Notice is hereby given that the updated schedule of guidelines for evaluating the costs of physical therapy services furnished under arrangements in the Medicare program has been established by the Commissioner of Social Security, as authorized in Part 405, Chapter III of Title 20 of the Code of Federal Regulations, § 405.432(b)(6), and previously published in the FEDERAL REGISTER on February 7, 1975 (40 FR 5810).

The initial schedule of guidelines was issued to evaluate the cost of physical therapy services inasmuch as physical therapy is the most common therapy service obtained under arrangements. The initial guidelines were based on data from the August 1972 Bureau of Labor Statistics Triennial Hospital Wage Survey. These data were updated from the BLS Employment and Earnings Bulletin, Line SIC–806, for hospitals, to produce the original schedule of guidelines. That schedule of guidelines was published in the FEDERAL REGISTER on February 7, 1975 (40 FR 5810), and was effective for provider cost reporting periods beginning on or after April 1, 1975. A new schedule of guidelines has been prepared using the same methodology but reflecting an additional 12 months' wage increase of approximately 10 percent based on the latest available BLS Employment and Earnings Bulletin. The updated schedule of physical therapy guidelines will be effective for provider cost reporting periods beginning on or after April 1, 1976, and will remain in effect until the effective date of any revised schedule that may be published.

Schedule of guidelines for physical therapy services furnished under arrangements

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR QUALIFIED PHYSICAL THERAPISTS (FULL TIME, REGULAR PART TIME, OR HOME VISITS)

(This schedule is not to be used for physical therapy assistants or aides)

	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	$9.90	$4.95
Alaska [1]	13.20	6.60
Arizona	10.50	5.25
Arkansas	8.40	4.20
California	10.50	5.25
Colorado	8.40	4.20
Connecticut	9.20	4.60
Delaware	10.70	5.35
District of Columbia	9.80	4.90
Florida	10.10	5.05
Georgia	9.80	4.90
Hawaii [2]	11.90	5.95
Idaho	9.00	4.50
Illinois	9.80	4.90
Indiana	10.10	5.05
Iowa	9.30	4.65
Kansas	9.30	4.65
Kentucky	10.40	5.20
Louisiana	8.40	4.20
Maine	9.20	4.60
Maryland	10.80	5.40
Massachusetts	9.20	4.60
Michigan	10.40	5.20
Minnesota	9.30	4.65
Mississippi	9.90	4.95
Missouri	9.30	4.65
Montana	8.40	4.20
Nebraska	9.30	4.65
Nevada	10.50	5.25
New Hampshire	9.20	4.60
New Jersey	10.70	5.35
New Mexico	8.40	4.20
New York	10.80	5.40
North Carolina	10.40	5.20
North Dakota	8.40	4.20
Ohio	10.10	5.05
Oklahoma	8.40	4.20
Oregon	9.30	4.65
Pennsylvania	10.20	5.10
Rhode Island	9.20	4.60
South Carolina	9.90	4.95
South Dakota	8.40	4.20
Tennessee	10.40	5.20
Texas	8.40	4.20
Utah	8.40	4.20
Vermont	9.20	4.60
Virginia	10.40	5.20
Washington	8.70	4.35
West Virginia	10.40	5.20
Wisconsin	9.80	4.90
Wyoming	8.40	4.20

[1] Adjusted for 25 percent salary differential.
[2] Adjusted for 15 percent salary differential.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 313, as amended, 79 Stat. 331; (42 U.S.C. 1302, 1375f(b), 13951 (a), 1395x(v)(5), 1395hh), sec. 17(a), Pub. L. 93–233, 87 Stat. 967)

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged-Hospital Insurance, and 13.801, Health Insurance for the Aged-Supplementary Medical Insurance)

Dated: February 12, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

[FR Doc.76–4665 Filed 2–18–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–490]

FOREST MEADOWS

Hearing

In the matter of Forest Meadows, OILSR No. 0–2831–04–550 Doc. No. 75–289–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d). Notice is hereby given that:

1. Forest Meadows Development Company, Lou A. Papais, General Partner, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.), received a notice of Proceedings and Opportunity for Hearing issued December 10, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Forest Meadows, located in Calavaras County, California, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received January 2, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on March 12, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All Affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before February 27, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 16, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–4714 Filed 2–18–76;8:45 am]

[Docket No. N–76–491]

SADDLEBACK RIDGE ESTATES

Hearing

In the matter of Saddleback Ridge Estates, OILSR No. 0–1759–05–137/A Docket No. 75–294–IS

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Saddleback Ridge Estates, Inc., Robert Sanders, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a notice of Proceedings and Opportunity for Hearing issued December 15, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Saddleback Ridge Estates, located in Clear Creek County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 30, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.-160(d), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C. on March 16, 1976 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before March 2, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 16, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-4715 Filed 2-18-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given that the Federal Aviation Administration Air Traffic Procedures Advisory Committee will hold its second meeting at 9 a.m. e.s.t., March 16 through 4 p.m. March 18, 1976, at Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Washington, D.C.

The meeting will be in conference rooms 6A and B. The following agenda items are scheduled for this meeting:

1. Explore alternative methods for disseminating information on the ATC system.

2. Review the Air Traffic Control Handbook.

3. Review present air traffic control procedures and practices to ensure standardization, clarification and upgrading.

The meeting will be open to the public. Interested persons are invited to attend the meeting and participate by making oral or written statements concerning those topics on the agenda. Written statements should be submitted in duplicate to Mr. Edward C. Krupinski, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Avenue, SW., Washington, D.C. 20591. Persons wishing to make oral statements at the meeting must notify Mr. Krupinski by March 1, 1976. Presentations will be scheduled on a first come, first served basis as time permits. Requests for further information should be made to the Executive Director, Air Traffic Procedures Advisory Committee.

Issued in Washington, D.C., on February 9, 1976.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.76-4641 Filed 2-18-76;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition Docket Number RST-75-8]

BELFAST AND MOOSEHEAD LAKE RAILROAD CO.

Petition for Waiver of Track Safety Standards

Notice is hereby given that the Belfast and Moosehead Lake Railroad Company (B&ML) has petitioned the Federal Railroad Administration (FRA) for a three year waiver of compliance from certain Track Safety Standards prescribed in 49 CFR Part 213.

In order to achieve compliance with Class II requirements the petitioner requests exemption from the following sections: § 213.55 Alinement, § 213.63 Track surface, and § 213.109 Crossties. In all other respects, the trackage is in compliance.

The track involved consists of 33.07 miles of main track, and 4.38 miles of sidings, between Burnham Junction and Belfast, in Waldo County, Maine. The main track consists of 2 miles of 90 pound rail, 7 miles of 85 pound rail, and 24 miles of 80 pound rail. Petitioner asserts that approximately 37,000 ties on the line are treated hardwood and less than 5 years old. The standard tie plate is 6" x 9" single shoulder, with 7" x 10" single shoulder tie plates in areas of stress. The ballast is primarily composed of cinders, with some gravel. Crushed stone is currently being applied to the slack areas. The 13 bridges on the line are of steel construction with open treated timber decks, and the bridge ties have tie pads and plates with head free toeless joints.

In support of the proposed exemption, petitioner asserts, that: no dangerous commodities or hazardous materials have been transported since April, 1973; no employee, officer, or other person has been injured in a derailment; only one reportable derailment has occurred in 16 months of operation; over 75% of the tonnage handled is feed grains; no adjacent property has ever been damaged as a result of a derailment; 75-80% of adjacent lands to right-of-way is either heavily forested or open field; the tracks do not pass through any major population centers; no passengers are carried; and a speed limit of 10 m.p.h. has been imposed.

Petitioner states that it instituted a track improvement program in July of 1973, but, the program has been temporarily restrained due to limited funds and substantial increases in the costs of materials and supplies. Pursuant to this program, 19,000 hardwood ties were installed and some limited surfacing and lining was completed. B&ML feels that since it is primarily owned by a government body (City of Belfast, Maine), that it has a possibility of obtaining Federal funds to support its restoration program.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comments on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to March 1, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST-75-8) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 31, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practical. All comments received

will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on February 11, 1976.

DONALD W. BENNETT,
Chief Counsel
Federal Railroad Administration.

[FR Doc.76-4804 Filed 2-18-76;8:45 am]

[FRA Waiver Petition Docket Number RST-75-6]

DELAWARE OTSEGO CORP.

Petition for Waiver of Track Safety Standards

Notice is hereby given that the Delaware Otsego Corporation of Cooperstown, New York, has petitioned the Federal Railroad Administration for temporary waivers of compliance from certain Track Safety Standards prescribed in 49 CFR Part 213, on behalf of three railroads owned by the Corporation. The three railroads are: the Central New York Railroad Corporation (CNY), the Cooperstown and Charlotte Valley Railway Corporation (CACV), and the Fonda, Johnstown and Gloversville Railroad Company, Inc. (FJ&G). All three railroads are operated jointly on an "as needed" basis which results in service approximately three times a week.

The CNY, which consists of twenty-two miles of track, operates between Richfield Springs and Richfield Junction, New York, which is a point of interchange with the Erie Lackawanna Railway. In 1974, 639 cars were handled on this line, approximately one car per week contained liquefied propane gas. The railroad notes that the maximum speed allowed on this track is 10 m.p.h. Operations over this line are currently conducted pursuant to 49 CFR 213.11; which provides for operations under the constant supervision of trained track supervisors while the track is being rehabilitated. Petitioner asserts that the line is a viable entity and expects to enjoy increased freight traffic in the future. The petition requests an 18 month period within to achieve compliance with Class II standards. Petitioner states that top priority will be given to this line because of the movement of hazardous materials.

The CACV, which consists of 16 miles of trackage, links Cooperstown, New York with the Delaware and Hudson mainline at Cooperstown Junction. This railroad ordinarily operates both a freight and a passenger service. In 1973, approximately 4,010 freight cars were handled, none of which contained hazardous materials. The passenger train ran 16 times per week during the summer months, hauling approximately 40 persons per trip. However, the CACV Board of Directors passed a resolution to terminate passenger service on July 2, 1975, due to track conditions. The petitioner expects increased traffic in the future.

The railroad notes that the maximum allowable speed on this track is 10 m.p.h. Operations on this line are currently conducted pursuant to 49 CFR § 213.11; which provides for operation under the constant supervision of trained track supervisors while the track is being rehabilitated. The petition requests 10 months within to achieve compliance with Class I track standards.

The FJ&G, which consists of 20 miles of trackage, links Broadalbin with Fonda, New York, which is the southern terminus of the FJ&G and the point of interchange with the Penn Central. In 1974, 939 car loads and Piggyback units were handled on this line. There is no passenger service on this line, however, freight service is expected to increase by 250 car loads in the next two years.

The railroad states that the maximum allowable speed on this track is 8 m.p.h. and, that it will require 24 months to reach Class I standards.

Relief is sought from the following sections in 49 CFR Part 213: § 213.53 Gage, § 213.57 Elevation, § 213.63 Track surface, § 213.109 Crossties, § 213.113 Defective rails, § 213.115 Rail end mismatch, § 213.121 Rail joints, and § 213.127 Track spikes, for the trackage on all three railroads.

No restoration plans were submitted with the petition, however, each railroad asserts that it has applied to the New York Department of Transportation for funds to supplement their resources, which are presently inadequate to complete the restoration.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comments on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to March 1, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST-75-6) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 31, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practical. All comments received will be available, both before and after the closing date for communications, for examination by intersted persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on February 11, 1976.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.76-4802 Filed 2-18-76;8:45 am]

[FRA Waiver Petition Docket No. RST-75-7]

LEHIGH VALLEY RAILROAD CO.

Petition for Waiver of Track Safety Standards

Notice is hereby given that the Lehigh Valley Railroad Company (LV) has petitioned the Federal Railroad Administration for a temporary waiver of compliance from certain Track Safety Standards prescribed in 49 CFR Part 213. The petition does not indicate when the proposed exemption would expire.

The requested waiver would apply to 12.2 miles of single track, on the Cortland Secondary Track between Freeville and Cortland, New York. Petitioner states that the traffic on this track consists of one local movement, or less, per day. In the first eight months of 1975, 103 cars were handled, none of which contained hazardous materials. Due to track conditions, operating speed has been reduced to 10 m.p.h. or less.

Petitioner requests exemption from compliance with the following sections in Part 213: § 213.33 Drainage, § 213.37 Vegetation, § 213.53 Gage, § 213.55 Alinement, § 213.63 Track surface, § 213.109 Crossties, § 213.113 Defective rails, § 213.114 Rail end mismatch, § 213.125 Rail anchoring, and § 213.135 Switches.

Petitioner is currently under reorganization pursuant to the Rail Reorganization Act of 1973 and states that the upgrading of track to comply with Track Safety Standards is dependent upon the availability of State and/or Federal funds. No plans for the restoration of this track were submitted.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comments on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to March 1, 1976. All communications concerning this petition should identify the appropriate Docket Number FRA Waiver Petition Docket Number RST-75-7) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 31, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practical. All comments received will be available, both before and after the closing date for communications, for examination by intersted persons during regular business hours in Room 5101, Nassif Building, 400

Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on February 11, 1976.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.76-4803 Filed 2-18-76;8:45 am]

[FRA Waiver Petition RST-75-5]

LEHIGH VALLEY RAILROAD CO.

Petition for Waiver of Track Safety Standards

Notice is hereby given that the Lehigh Valley Railroad Company has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of compliance from certain Track Safety Standards prescribed by 49 CFR Part 213, at nine separate locations in the State of New York. Petitioner requests exemption from compliance with particular provisions at each location.

The first location is Tifft Yard, in Buffalo, New York, which consists of 760,000 feet of trackage. Approximately 250 cars per day are handled at this location; an average of 3 cars per day contain hazardous materials. The petitioner requests exemption from the following provisions: § 213.53 Gage, § 213.63 Track surface, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.135 Switches.

The second location is the Beach Track, from Furham Boulevard to the end, in Buffalo, New York, which consists of 1,000 feet of trackage. Approximately 10 cars per month are handled at this location, none of which contain hazardous materials. The petitioner requests exemption from the provisions of § 213.109 Crossties, at this location.

The third location is the Suspension Bridge Yard in Niagara Falls, New York, which consists of 13,700 feet of trackage. An average of 125 cars per day are handled at this location; an average of 8 cars per day contain hazardous materials. The petitioner requests exemption from the following provisions: § 213.53 Gage, § 213.55 Alinement, § 213.63 Track surface, and § 213.103 Ballast.

The fourth location is the P&L Yard in Caledonia, New York, which consists of 2,400 feet of trackage. An average of 70 cars per day are handled at this location; 4 cars per month contain hazardous materials. The petitioner requests exemption from the following provisions: § 213.-63 Track surface, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.-135 Switches.

The fifth location is the Rochester Branch, in Livingston and Monroe Counties, New York, which consists of 6 miles of trackage (M.P. 379.5 to M.P. 385.5). An average of 5 cars per day are handled at this location, none of which contain hazardous materials. The petitioner requests exemption from the following provisions: § 215.53 Gage, § 213.63 Track surface, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.135 Switches.

The sixth location is Geneva Yard, in Geneva, New York, which consists of 11,-500 feet of trackage. Approximately 65 cars per day are handled at this location, none of which contain hazardous materials. Petitioner requests exemption from the following provisions: § 213.53 Gage, § 213.63 Track surface, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.135 Switches.

The seventh location is the Elmira Branch, in Chemung County, New York, between Elmira and Horseheads, which consists of 5.3 miles of trackage. Four cars per day are handled at this location, none of which contain hazardous materials. The petitioner requests exemption from the following provisions: § 213.37 Vegetation, § 213.53 Gage, § 213.63 Track surface, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.135 Switches.

The eighth location is the A&I Branch, Ithaca to Milliken, in Tompkins County, New York, which consists of 14.3 miles of trackage. Eighty cars per day are handled at this location, none of which contain hazardous materials. Petitioner requests exemption from the following provisions: § 213.53 Gage, § 213.55 Alinement, § 213.63 Track surface, § 213.103 Ballast, § 213.109 Crossties, § 213.115 Rail end mismatch, and § 213.135 Switches.

The ninth location is the Ithaca to Morse Chain Co. yard track, in Ithaca, New York, which consists of 2.5 miles of trackage. An average of 2 cars per week are handled at this location, none of which contain hazardous materials. Petitioner requests exemption from the following provisions: § 213.53 Gage, § 213.63 Track surface, § 213.109 Crossties, and § 213.115 Rail end mismatch.

Petitioner notes that due to poor track conditions, the operating speeds at these locations has been reduced to a maximum of 10 m.p.h.; however, no program for restoration of the track was submitted in the petition.

Petitioner is currently under reorganization pursuant to the Rail Reorganization Act of 1973 and states that the upgrading of track to comply with safety standards is dependent upon the availability of State and/or Federal funds. The petition does not provide information with respect to the probable affect of the Final System Plan or the future use of these facilities.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comments on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to March 1, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST-75-5) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 31, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practical. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and section 1.49 (n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on February 11, 1976.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.76-4801 Filed 2-18-76;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX76-1; Notice 2]

JET INDUSTRIES LTD.

Petition for Temporary Exemption From Motor Vehicle Safety Sandards

This notice grants the petition by Jet Industries Ltd. of New York City, New York, for a temporary exemption from certain safety standards on the basis that exemption would facilitate the development and field evaluation of a low-emission motor vehicle.

Notice of the petition was published on December 1, 1975, (40 FR 55965) and an opportunity afforded for comment.

Jet intends to import the Subaru 360 van, manufactured by Fuji Heavy Industries of Japan. The vehicle is not marketed in the United States and therefore is not certified as conforming to the Federal motor vehicle safety standards. Upon arrival in the United States these vehicles will have their gasoline-powered engines removed and electric motors substituted. It will be marketed as a truck under the name "Electro Van." The officers of the company have been engaged in experiments with and development of electric vehicles since the early 1960's. It asked for a 2-year exemption and will not import more than 2,500 vehicles during any 12-month period that the exemption is in effect. The following is a list of Federal standards or portions thereof for which exemption was requested:

No. 101 Control Location, Identification and Illumination. § 4.3—control identification for headlamps, hazard warning, and windshield wiper switcher will not be illuminated.

No. 103 Windshield Defrosting and Defogging Systems. Vehicle is furnished with systems but petitioner is unsure if performance requirements are met.

No. 104 Windshield Wiping and Washing Systems. Wiping system has one

speed only, with a frequency of 50 cycles per minute.

No. 108 Lamps, Reflective Devices, and Associated Equipment. Petitioner believes the stop, turn signal, and side marker lamps are not of a size required by the standard.

No. 119 New Pneumatic Tires for Vehicles Other Than Passenger Cars. Vehicle is equipped with 5.00 x 10 tires, a size which, to petitioner's knowledge, is unavailable domestically.

No. 205 Glazing Materials. Side and rear windows are marked AS1; "windshield of shatter-proof glass, but may not meet necessary standards."

No. 206 Door Locks and Door Retention Components. "Only limited tests as prescribed have been made at this time."

No. 207 Seating Systems. "Only limited tests as prescribed have been made at this time."

The company argued that the exemptions will not unreasonably degrade the safety of the vehicle because of its low operating speeds and intended urban use. It also argued that an exemption would facilitate the development and study of electric vehicles "under different conditions of terrain and climate."

Only one comment was received in response to the petition, from Consumers Union, which neither supported nor opposed it, but expressed its general views on electric vehicle exemption. CU is concerned that exemptions may be given "entrepreneurs selling crudely-converted, unsafe vehicles". It believes that a petitioning electrical vehicle manufacturer "should be required to state what attempts will be made to utilize advanced electrical storage systems, energy efficient electric controllers and motors, and light-weight low-friction mechanisms." NHTSA will for the present reserve judgment on these questions, as these factors are currently not required by Part 555.

In granting temporary exemptions on the basis that petitioner requested, it must be found that the exemption would facilitate the development and field evaluation of a low emission motor vehicle, and that the exemption will not unduly degrade the safety of the vehicle. In this instance the petitioner hopes both to sell and lease electric trucks in the United States for operation under varied conditions of climate and terrain, utilizing the data for future product improvement. Thus it appears that an exemption will facilitate the development of a low emission motor vehicle within the intent of Congress. With respect to the individual standards, the agency has concluded that the requested exemption from Motor Vehicle Safety Standard No. 205 would unduly degrade the safety of the vehicle, as it is especially critical that windshields offer passengers the impact resistance the standard requires. Substitution of a conforming windshield should be a simple matter. Upon request by NHTSA Jet supplied further information on its request for exemption from Standard No. 108. It now apears that conformance is questionable with respect to photometric output of tailamps, stop lamps, and turn signal lamps, and turn signal flasher rate, but by such a small margin that an exemption should have no discernible effect upon traffic safety.

In consideration of the foregoing, Jet Industries is hereby granted NHTSA Exemption No. 76-1, expiring January 1, 1978, from the following standards: 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, *Control location, identification and illumination;* 49 CFR 571.103, Motor Vehicle Safety Standard No. 103, *Windshield defrosting and defogging systems;* 49 CFR 571.104, Motor Vehicle Safety Standard No. 104, *Windshield wiping and washing systems;* 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps reflective devices, and associated equipment;* 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New pneumatic tires for vehicles other than passengers cars;* 49 CFR 571.206, Motor Vehicle Safety Standard No. 206, *Door locks and door retention components;* and 49 CFR 571.207, Motor Vehicle Safety Standard No. 207, *Seating systems.*

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on February 12, 1976.

JAMES B. GREGORY,
Administrator.

[FR Doc.76-4640 Filed 2-18-76;8:45 am]

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Public Meeting

On March 9, 10 and 11, 1976 the National Motor Vehicle Safety Advisory Council will hold open meetings in the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C. The Advisory Council is composed of 25 members, a majority of whom are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Advisory Council makes recommendations to the Secretary of Transportation on motor vehicle safety and property loss reduction programs carried out by the National Highway Traffic Safety Administration.

The following meetings are subject to the approval of the National Highway Traffic Safety Administrator.

On March 9 there will be simultaneous meetings of the Safety Defects and Recall Task Groups, to discuss information presented at the December and January Council meetings, as follows:

Starting at 9:00 a.m. in room 4436 Task Group 1, "Discovery of the Problem"; in room 4438 Task Group 2, "Analysis of the Problem"; and in room 4440 Task Group 3, "Resolution or Litigation of the Problem".

On March 10 in room 434 starting at 9:00 a.m. the full Council will meet with the following agenda:

Review of NHTSA's Motor Vehicle Safety Research Program—Non-Federal Presentations.

On March 11 at 9:00 a.m. in room 4234 the full Council will meet with the following agenda:

Approval of January Minutes.
Safety Defects Task Groups—Interim Reports.
Status of Council's Review of Research Program.
New Business/Old Business.

Also on March 11 at 11:00 a.m. in room 4234 the Executive Committee will meet with the following agenda:

Plans for Future Council Meetings and Activities.

For further information contact the NHTSA Executive Secretary, room 5215, 400 Seventh Street, S.W., Washington, D.C., telephone 202-426-2873.

This notice is given pursuant to section 10(a)(2) of Public Law 92-463, Federal Advisory Committee Act (FACA), effective January 5, 1973.

Issued: February 11, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-4611 Filed 2-18-76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 3, 1976, at 7:30 p.m., a public information meeting will be held at the Memorial Building, Room 14, 1351 Maple Avenue, Santa Rosa, California. The purpose of this meeting is to provide an opportunity for representatives of national, State and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views on the effects a proposed undertaking of the U.S. Army Corps of Engineers will have on cultural resources. The proposed undertaking is the construction of the Warm Springs Dam-Lake Sonoma Project. The cultural resources to be affected are included within the Dry Creek-Warm Springs Valley Archeological District, which has been determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An explanation of the surveys conducted by the Corps of Engineers to determine the significance and extent of cultural resources in the Dry Creek-Warm Springs Valley and a report on the actions proposed by the Corps of Engineers to avoid and/or mitigate adverse

effects of its undertaking on cultural resources.

III. A statement by the California State Historic Preservation Officer on the Corps of Engineers proposed program to avoid and/or mitigate adverse effects of its undertaking on cultural resources.

IV. Statements from other units of government and the public on the Corps of Engineers proposal to avoid and/or mitigate adverse effects on cultural resources.

Speakers will be permitted to present their views in statements of approximately five minutes. Statements should be limited to consideration of the effects on cultural resources, the Corps of Engineers proposal to avoid and/or mitigate those effects, and alternate courses of action. Written statements in furthehrance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, c/o P.O. Box 25085, Denver, Colorado, 80225 (303–234–4946).

JOHN D. MCDERMOTT,
Acting Executive Director.

[FR Doc.76–4725 Filed 2–18–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets No. 27907, 27908]

HUGHES AIRWEST

Hearing Regarding Suspension and Deletion of Service at Cedar City, Utah, and Page, Ariz.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 16, 1976, at 10:00 a.m. (local time), in the Courtroom, City and County Building, Lincoln Avenue, Cedar City, Utah, before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on November 24, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 12, 1976.

[SEAL] WILLIAM A. KANE JR.,
Administrative Law Judge.

[FR Doc.76–4780 Filed 2–18–76;8:45 am]

[Docket No. 25659; Order 76–2–39]

INVESTIGATION OF THE LOCAL SERVICE CLASS SUBSIDY RATE; CLASS RATE VII

Order Denying Petitions for Reconsideration of Order 75–9–112 and Issuing Amendment Five to Order 74–1–123

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of February 1976.

By this order, the Board is (1) denying the relief sought by the November 20, 1975 joint petition for reconsideration of Order 75–9–112 filed by the seven local service carriers (Locals) operating under Class Rate VII, (2) denying the petition for reconsideration filed by Texas International Airlines, Inc. (TXI), and (3) issuing the fifth review of Class Rate VII which establishes an annual subsidy rate of $68.1 million for the period January 1, 1976 through June 30, 1976—a $2.5 million increase from the $65.6 million rate in effect from July 1, 1975 through December 31, 1975.

Following the fourth review, which established the rate for the period July 1, 1975 through December 31, 1975, the Locals petitioned for an amendment to release the ceiling provisions of the rate. By Order 75–9–112, September 30, 1975, the Board denied the Locals' petition. On November 20, 1975, the Locals filed a petition asking the Board to reconsider its action effective with the fifth semiannual review.

Although it joined in the industry petition, Texas International filed a separate petition for reconsideration which restated issues raised in its earlier petition also denied by Order 75–9–112. The ultimate request of TXI is for a complete reopening and the establishment of a new rate.

The Locals seek an amendment of Class Rate VII to allow sharing of deficiencies in eligible need without the present restriction limiting the subsidy rate for each carrier to its adjusted base ceiling. According to the petition, the operating and financial results for the year ended September 30, 1975, show that Class Rate VII with the existing ceiling limitation will provide only 75 percent of the industry subsidy requirements, falling nearly $23 million short of eligible need. Only one carrier, Frontier, would receive subsidy adequate to meet its need. The carrier proposal would produce an annual subsidy rate of approximately $80 million.

The Locals contend, among other things, that, though not perfect, the principle of sharing eligible need changes with the government without a ceiling is the best mechanism available to establish subsidy rates until an entirely new-class rate can be developed. The carriers indicate that the mechanism does not require forecasting of operating results; will automatically reduce subsidy if conditions improve; protects the government against overpayment since only half of the need deficiencies are recognized; and maintains incentives for carriers to operate efficiently and thereby reduces the margin by which current needs exceed base-period needs.

The Locals maintain further that the ceiling provision presents a serious and unnecessary threat to their financial soundness and its elimination is required to mitigate the debilitating impact of past losses on their balance sheets. They state that, unless relief is granted, rates of return for most carriers in the class will be well below those the Board established as reasonable. Furthermore, they indicate that even the increased subsidy requested will not make up the full needs of most carriers based on results for the year ended September 30, 1975.

As we emphasized in Order 75–9–112, such positions do not square with the purposes of and policies applied to subsidy as the Board interprets its responsibilities. As stated then, it has long been held that subsidy is not intended to assure that each carrier attains a certain rate of return in any particular period. The carriers' petition presents nothing that warrants reversal of our earlier decision.

There is no question that the class rate carriers have experienced disappointing operating results during the year ended September 30, 1975—as have most other businesses during the recent economic recession. Therefore, there is no dispute over the essence of the numbers presented by the carriers. What must be addressed, however, are the carriers' interpretation of the mechanics and the philosophy underlying class rates in general and Class Rate VII in particular.

The carriers' statement that subsidy rates under the Class Rate VII mechanism are determined on the basis of experienced results without reliance on future expectations is not an accurate portrayal of the application of the class rate. Experienced results are used as a basis for a future subsidy rate, but if there are indications that future operations will differ materially from those in the base period, the Board would be derelict if it did not attempt to reflect this in the future rate. In fact, the Board adopted the sharing of changes in eligible need on the basis of informed judgment that future operating results would not be as good as the results experienced in the year ended September 30, 1974 on which the third review was based.

The current situation is the opposite extreme from that prevailing a year ago. During the year ended September 30, 1974, the Locals experienced unprecedented prosperity, due mainly to the shift of short-haul passenger traffic from autos to airlines because of the uncertain availability of gasoline. It was apparent at the time that the operating results for the year ended September 30, 1974 were not representative of what could be expected during 1975. It was clear then that the recession was worsening and that inflation would drive carrier operating costs up.

Now, one year later, the Locals argue that the Board should not look at the prospects for the future in determining the subsidy rate but rather should look only at the results from the recent past. We believe, however, that we should again make a judgment as to whether the past results provide a reasonable basis for determining a future rate.

The disappointing local service operating results experienced during the year ended September 30, 1975 were a product of the worst business recession in post World War II America coupled with extremely high cost increases particularly in the area of fuel costs. When compared to year-earlier results, the Locals (excluding the strike-affected results of TXI) experienced a growth in scheduled revenue passenger-miles of only 0.4 percent. At the same time, the carriers in-

creased available capacity by 7.1 percent causing the average load factor to drop to 50.0 percent for the year ended September 30, 1975 from the 53.3 percent achieved one year earlier.

There is every reason to believe that the Locals will do better in the future. The economy has begun a modest recovery and the growth in air travel appears to be quite strong in response to this modest improvement. Fourth quarter traffic is running ahead of year-ago levels by 12.9 percent for the Locals excluding the strike-affected results of TXI. And the carriers, in general, appear to be holding capacity growth down, showing an average 2.8 percent increase in available seat-miles. Load factors for the fourth quarter of 1975 averaged 53.3 percent, an increase of 4.8 percentage points over a year ago.

In the area of costs, it appears that inflation is slowing and fuel costs in particular should show some tendency to stabilize or decrease when a legislated rollback in fuel prices takes effect.[1] Revenues for the Locals will be boosted, on the other hand, by the three-percent fare increase which became effective in November of 1975 and by the continuing effects of the DPFI Phases 4 and 9 rate restructuring. In short, the combined effects of traffic growth, modest capacity growth, slower cost increases, and revenue increases, should go far in producing better operating results for the Locals in 1976. The Board believes that even a modest improvement over experienced results will place the Locals in a reasonably good financial posture and the $12 million increase in subsidy requested by the Locals is not necessary to the maintenance of adequate returns in the immediate future.

The ceiling provision contained in Class Rate VII represents the only remaining control on the level of subsidy. That the carriers would now prefer release of the ceiling bears little weight. When the sharing of eligible need was introduced in Show Cause Order 74–12–120, it was clearly stated that the ceiling would remain intact. The carriers raised no objections. Further, it is doubtful that the carriers would have implemented measures to control capacity and costs during the recession period if limitations on subsidy had not existed. In addition, the class rate is not designed to compensate the carriers for past losses, and it would therefore not be appropriate to release the ceiling provision for this purpose.

Since the Board's staff is working to develop a new class rate as soon as possible, the ultimate relief sought by TXI is, in effect, being granted. However, we will deny its petition for reconsideration since it seeks an immediate reopening of the rate. As the joint petition recognizes, it is not in the interest of the carriers or the Board to endure the uncertainties of an open rate while a new rate is being perfected. However, other issues raised by TXI will be given full consideration in the development of a new rate.

Based on all of the foregoing, we find and conclude that the joint petition of the seven local service carriers and the separate petition of TXI should be denied.

As indicated at the outset of this order, the Board is amending Order 74–1–123 to adjust the subsidy level to reflect the results of the fifth semi-annual review of operating data submitted by the carriers for the annual period ended September 30, 1975. Order 74–1–123, which established Class Rate VII as the fair and reasonable final subsidy rate for the local service industry on and after July 1, 1973, was adopted by the Board on January 24, 1974.[2] Section IV. C. of the Rate Formula, set forth in Order 74–1–123, provides for review and updating of the provisions for offset of excess earnings from ineligible services on a recurrent six-month basis for annual periods ending in September and March of each year. Effective January 1, 1975, the Board amended Class Rate VII to provide for downward or upward adjustment of the subsidy level for eligible services.[3] Such adjustment is to be based upon a review, as provided in be based upon a review, as provided in Section VIII. B. of the Rate Formula set forth in Order 74–12–120, which is similar to and concurrent with the review of ineligible operations.[4]

The carriers have now submitted the data required for the review of both eligible and ineligible services covering the year ended September 30, 1975, in the form and detail specified in Section IV. C. 7 and Section VIII. B. 10. Such data have been reviewed in detail and adjustments have been made in accordance with established subsidy ratemaking principles.

Adjusted operating results, adjusted investment, plus calculations of ineligible profits and eligible need changes to be shared are contained in the attached appendices.

Frontier was the only local service carrier to achieve excess profits on ineligible services. However, Frontier's level of excess profits was nearly $2 million lower than in the previous review. The remaining carriers continued to exhibit deteriorations in excess profits from ineligible services. All of the carriers, except Southern, experienced increasing deficiencies in eligible need relative to adjusted base ceilings. The net effect of the lower profits from ineligible services in conjunction with the increases in eligible need is that the subsidy rates for six of the seven carriers will be set at the maximum levels, effective January 1, 1976.

Based on adjusted operating results and investment for the year ended September 30, 1975, we find that the fair and reasonable annual subsidy due and payable to the seven carriers in Class Rate VII, on and after January 1, 1976, is $68.1 million. This is $2.5 million greater than the rate established in the fourth review by Orders 75–7–64 and 75–8–41 and reflects the effects of the recession on airline operations, especially in the fourth quarter of 1974 and the first half of 1975.

In addition, it is necessary to provide that the subsidy due and payable to each carrier on and after January 1, 1976, shall be computed on the basis of the daily subsidy rate set forth for each carrier in amended Appendix L (Third Revised) attached to this order.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302:

It is ordered, That: [5]

1. The petition of the local service carriers in Docket 25659 for reconsideration of Order 75–9–112 be and it hereby is denied;

2. The petition of Texas International Airlines, Inc., in Docket 25659 for reconsideration of Order 75–9–112, insofar as it dismissed the petition of Texas International Airlines, Inc., for an investigation of the class rate, also is denied;

3. Effective on and after January 1, 1976, attached Appendices A, I, B, I–B, C, I–C, F–1, L, and M–1 [6] supersede the corresponding appendices attached to Order 75–7–64, dated July 14, 1975, as corrected by Order 75–8–41, dated August 8, 1975;

4. The subsidy due and payable to each carrier on and after January 1, 1976,[6a] shall be computed on the basis of the daily subsidy rate set forth for each carrier in Appendix L (Third Revised), Amendment 1, to this order;

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[1] Moreover, there is no reason to believe that increases in costs will not be reflected in fare and rate adjustments on a reasonably timely basis.

[2] In Order 73–10–1, October 1, 1973, the Board determined an adjusted subsidy level for each carrier, and proposed a formula for equitable distribution of the subsidy payments among the local service carriers. Except as modified therein, Order 74–1–123 reaffirmed and made final all of the findings and conclusions set forth in Order 73–10–1.

[3] Orders 74–12–120, December 30, 1974, and 75–3–22, March 7, 1975.

[4] The initial review, based on the year ended September 30, 1973, Order 74–2–59, February 14, 1974, established the fair and reasonable subsidy rates for each carrier from January 1, 1974 through June 30, 1974. The second review period, covering the 12 months ended March 31, 1974, Order 74–7–76, July 18, 1974, established the fair and reasonable subsidy rate for each carrier from July 1, 1974 through December 31, 1974. The third review period, covering the 12 months ended September 30, 1974, Orders 74–12–119, December 30, 1974, 74–12–120, December 30, 1974, and 75–3–22, March 7, 1975, established the fair and reasonable subsidy rates for each carrier from January 1, 1975 through June 30, 1975. The fourth review period, covering the 12 months ended March 31, 1975, Orders 75–7–64, July 14, 1975, and 75–8–41, August 8, 1975, established the fair and reasonable subsidy rates for each carrier from July 1, 1975 through December 31, 1975.

[5] This order is not intended to disturb the service mail rates established pursuant to other orders of the Board.

[6] Filed as part of the original document.

[6a] The profit offset from ineligible services and the eligible improvement or deficiency as determined herein are effective from January 1, 1976, through June 30, 1976.

5. Ordering paragraphs 1 and 2, above, shall become effective on the date of service of this order. Ordering paragraphs 3 and 4, above, shall become effective on the seventh day after service thereof, unless prior to that date exceptions, together with supporting reasons, shall have been filed with the Board by any party to this proceeding. If exceptions and supporting reasons are filed by any party within the prescribed time, the effective date of this order shall be stayed only for the party or parties filing exceptions pending further action by the Board; and

6. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWARD Z. HOLLAND,
Secretary.

[FR Doc.76-4781 Filed 2-18-76;8:45 am]

[Docket No. 28115]

MIDWEST-ATLANTA COMPETITIVE SERVICE CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in this proceeding will be held on March 16, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Ave., NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details, interested persons are referred to the prehearing conference report served October 2, 1975, and other documents in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 13, 1976.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.76-4779 Filed 2-18-76;8:45 am]

[Docket No. 27970; Order 76-2-40]

NIGERIA AIRWAYS, LTD.

Order to Show Cause Regarding Renewal of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of February 1976.

On December 15, 1975, Nigeria Airways, Ltd. (Nigeria filed a petition for an order to show cause why its foreign air carrier permit should not be renewed without a hearing for a period of three years [1] and a motion to suspend procedural dates.[2]

Insofar as there is no bilateral air transport agreement between the Federal Republic of Nigeria and the United States, Nigeria requests that its permit be renewed on the basis of reciprocity.[3] In addition, the applicant states that since the outset of its Nigeria-United States operations, all of its flights have been operated by Pan Am under a block-seat arrangement which was entered into in April 1964 and has been effective ever since (CAB Agreement 17735).[4] Finally, the applicant represents that the material facts and circumstances with respect to its operations which were present when the Board was last issued its permit remain substantially unchanged.

Based upon the above and the Board's findings in Order 72-6-124 [5] with respect to the public interest and the carrier's fitness, it is tentatively found and concluded that:

(a) Nigeria is fit, willing and able properly to perform the foreign air transportation authorized by the specimen permit attached hereto and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder;

(b) Nigeria is substantially owned and effectively controlled by the Government of the Federal Republic of Nigeria;

(c) It is in the public interest to renew the foreign air carrier permit of Nigeria for a period of three (3) years;

(d) The public interest requires that the exercise of the privileges granted by said permit be subject to the terms, conditions and limitations contained in the specimen permit attached hereto [6] and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board;

(e) A hearing on the application of Nigeria is not required by the public interest; and

(f) The renewal of Nigeria's foreign air carrier permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Quality Act of 1969.[7]

All interested persons will be given 20 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analyses. If an evidentiary hearing is requested, each objector should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, issuing a renewed foreign air carrier permit to Nigeria Airways, Ltd. in the specimen form attached hereto;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein or to the issuance of the proposed renewed foreign air carrier permit shall, within 20 days of the adoption of this order, file with the Board and serve on the persons named in paragraph 5, below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions stated herein if it deter-

[1] Nigeria currently holds a foreign air carrier permit issued pursuant to Order 72-6-124, approved June 27, 1972, authorizing it to engage in scheduled foreign air transportation between a point or points in Nigeria, intermediate points in West Africa and Morocco, and the terminal point New York.

[2] Nigeria originally filed an application on June 1, 1975, to extend its present authority for five years and requested its authority to serve West Africa be amended to include any point(s) in Africa. On July 22, 1975, Pan American World Airways filed a petition to intervene which was subsequently granted. By filing the subsequent petition for an order to show cause, Nigeria amended its June 1, 1975, application to request that its permit be renewed without modification.

[3] In support of its claim of reciprocity, Nigeria states that its soverign has granted Pan Am authority to perform air services between the United States and Nigeria.

[4] The agreement provides that Nigeria leases from Pan Am two first-class and ten economy-class seats, one day per week on a round trip basis. The current Pan Am-Nigeria operation is conducted over a New York-Dakar-Roberts Field-Accra-Lagos routing. Moreover, as noted in the applicant's petition, negotiations are currently underway to extend the extant agreement.

[5] Nigeria's current permit expired, by its own terms, on June 26, 1975. In its first application of June 1, 1975, the applicant stated that it intended to invoke the automatic extension provisions of the Administrative Procedure Act, 5 U.S.C. 558(c).

[6] We have added an initial tariff condition which the Board has recently included in permits of foreign carriers. The condition permits the Board to deal with such initial tariffs as to which Board suspension power is more limited under the recent amendments to the Federal Aviation Act authorizing the Board generally to suspend fares in foreign air transportation. (Pub. L. 92-259, March 22, 1972.) Otherwise, the specimen permit is identical in all substantive aspects to the permit issued previously.

[7] Our tentative finding herein is based upon the fact that the renewal of Nigeria's permit will not result in an increase in operations in the near future. The applicant has stated that it intends to continue conducting its U.S.-Nigeria services under the current block-seat arrangement with Pan Am.

mines that there are no factual issues presented that warrant the holding of an evidentiary hearing; [5]

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. This order shall be served upon Nigeria Airways, Ltd.; Pan American World Airways, Inc.; the Ambassador of the Federal Republic of Nigeria; and the United States Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

SPECIMEN

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Nigeria Airways, Ltd. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

Between a point or points in Nigeria, intermediate points in West Africa and Morocco, and the terminal point New York, New York.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall not commence service authorized herein except pursuant to an initial tariff setting forth rates, fares and charges no lower than rates, fares or charges that are then in effect for any U.S. air carrier engaged in the same foreign air transportation.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Federal Republic of Nigeria for Nigerian international air service.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation as a direct air carrier under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation as a direct air carrier with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The holder shall not engage in foreign air transportation authorized herein, and provided by Pan American World Airways, Inc., under CAB Agreement 17735, unless it files with the Docket Section of the Board, within 30 days of the effective date of this permit, certificates which (1) state that the holder is named as an additional insured on all Pan American World Airways liability insurance policies applicable to operations under that Agreement and (2) state that those policies provide passenger liability insurance coverage sufficient to cover the obligations assumed in CAB Agreement 18900 and third-party liability insurance equal to or exceeding $1,000,000. The insurance certificates shall be subject to Board approval and any amendments to the certificates shall also be filed with the Board for approval.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Nigeria shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ _____and, subject to the terms hereinafter set forth, shall continue in effect for a period of three years thereafter, except that the authority to operate off-route charter trips shall be effective at such time as the holder independently inaugurates scheduled air services as a direct air carrier pursuant to this permit. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating a route substantially comparable to the route described herein, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Federal Republic of Nigeria in lieu of the holder hereof: *Provided, however,* That if the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and the Federal Republic of Nigeria are or shall become parties, then and in that event this permit is continued in effect during the period provided in such treaty, convention, or agreement: *Provided, further,* That this permit shall be subject to termination at any time upon the failure of the Federal Republic of Nigeria to grant reciprocal rights to a United States air carrier, or upon the subsequent withdrawal or restriction of such rights, in whole or in part, granted to a United States air carrier.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the

[SEAL] _____, _____,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on _____ in Order _____.

[FR Doc.76-4782 Filed 2-18-76;8:45 am]

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[Docket No. 28575]

STERLING AIRWAYS A/S

Hearing Regarding Foreign Charter Permit Renewal (Danish)

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 24, 1976, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard V. Backley.

Dated at Washington, D.C., February 13, 1976.

[SEAL] RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.76-4778 Filed 2-18-76;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be dangerous to the public interest.

Andrews, Ginger Lee, 3159 Bonway Drive, Decatur, Georgia, convicted on May 7, 1971, in the United States District Court, Southern District of Indiana.

Brister, B. W., 4928 Wabash Street, Metairie, Louisiana, convicted on May 6, 1957, in the Criminal District Court of Orleans Parish, Louisiana.

Bryant, Jesse A., 1809 Avenue B, Muleshoe, Texas, convicted on or about November 20, 1972, in the United States District Court, Northern District of Texas.

Budrick, John Charles, Jr., 105 Plymouth, N.E., Grand Rapids, Michigan, convicted on August 7, 1970, in the Kent County Circuit Court, Grand Rapids, Michigan.

Chambers, Robert H., Route 8, Lakeview Drive, Greenville, South Carolina, convicted on May 14, 1962, and on April 8, 1963, in the Court of General Sessions, County of Greenville, South Carolina.

Corcoran, Patrick L., 11484 Highway 410, Naches, Washington, convicted on February 20, 1948, in the Yakima County Superior Court, Washington.

Cross, Kenneth D., 3919 Ingalls Street, Wheat Ridge, Colorado, convicted on May 12, 1970, in the Daviess Circuit Court, Owensboro, Kentucky.

Dal Porto, Sam, 55 Holiday Drive, Montgomery, Alabama, convicted on November 16, 1964, in the United States District Court for the Middle District of Alabama.

Duncan, Conwell S., Route 2, Box 273, Prince George, Virginia, convicted on October 3, 1973, in the United States District Court, Eastern District of Virginia.

Ellis, William H., Route 2, Box 19–A, Vale, Oregon, convicted on February 18, 1963, in the District Court of Carbon County, Wyoming; and on October 22, 1963, in the Circuit Court of Marion County, Oregon.

Estep, William Earl, Route 1, Moravian Falls, North Carolina, convicted on April 14, 1971, in the Superior Court for Alexander County, North Carolina.

Evert, Carl Henry, 215 Brookside Road, Norristown, Pennsylvania, convicted on January 13, 1961, in the Court of Quarter Sessions of theh Peace of Carbon County, Pennsylvania.

Fairless, Aubrey E., 7614 Woodson Road, Raytown, Missouri, convicted on June 30, 1961, in the United States District Court for the Western District of Arkansas.

Fiscus, Carl Roy, Route 6, Box 236, Kittanning, Pennsylvania, convicted on March 10, 1967, Court of Quarter Session of Peace for the County of Armstrong, Pennsylvania; and on or about June 26, 1967, in the Court of Quarter Session for the County of Indiana, Pennsylvania; and on or about May 14, 1968, in the Court of Oyer and Terminer of Clarion County, Pennsylvania.

Gibson, Roger L., Route 1, Box 1437A, Selah, Washington, convicted on April 15, 1965, in the Yakima County Superior Court, Yakima, Washington.

Gladding, Linwood Windsor, Box 12, Greenbush, Virginia, convicted on October 15, 1959, in the Circuit Court of Accomac County, Accomac, Virginia.

Hall, John L., Route 2, Drakes Creek Road, Hendersonville, Tennessee, convicted on April 25, 1975, in the United States District Court, Nashville, Tennessee.

Haney, Arnold J., 500 State Street, Bay City, Michigan, convicted on June 28, 1962, in the Circuit Court, Ogemaw County, Michigan.

Jarvis, Milton Elmore, Jr., 2209 Cromwell Drive, Norfolk, Virginia, convicted on November 6, 1964, in the Corporation Court, Norfolk, Virginia.

LaBrosse, Dennis Carroll, 58 Hollywood Drive, Madison, Wisconsin, convicted on December 18, 1959, and on August 14, 1961, in the Superior Court of Dane County, Madison, Wisconsin; and on November 6, 1964, in the Circuit Court, Branch II of Dane County, Madison, Wisconsin.

Leair, John E., 308 Eagle Street, Eagle, Wisconsin, convicted on November 26, 1965, in the Colorado District Court for the District of El Paso County, Colorado.

Lowrey, Dennis W., 310 S. Ellen Street, Cedar Falls, Iowa, convicted on March 18, 1968, in the Webster County District Court, Fort Dodge, Iowa.

Masoletti, Ronald Wayne, Route 1, Box 522, Kingsland, Texas, convicted on February 5, 1971, and on July 21, 1972, in the Criminal District Court, Dallas County, Texas.

Maynor, Henry H., Thomas Mobile Home Park, Route 2, Box 5, Fayetteville, North Carolina, convicted on January 24, 1967, in the Harnett County Recorder's Court, Lillington, North Carolina; and on April 17, 1967, in the Bladen County Superior Court, North Carolina.

Mellado, Arnaldo, 1295 NW 35 Avenue, Miami, Florida, convicted on September 23, 1971, in the United States District Court, Southern District of Florida.

Mitchell, William Essel, Rural Route 1, Clay, Kentucky, convicted on July 14, 1975, in the United States District Court, Owensboro, Kentucky.

Morris, David Lee, Box 141, Fork-Union, Virginia, convicted on June 12, 1974, in the Circuit Court, Buckingham County, Virginia.

Moyer, J. Hudson, 6021 Gainsborough, Amarillo,Texas, convicted on July 13, 1973, in the 147th District Court, Travis County, Texas.

Muldoon, Elwood J., Jr., 410 W. Hopkins, Pontiac, Michigan, convicted on September 16, 1971, in the Circuit Court for the County of Oakland, Pontiac, Michigan.

Olinde, Zack A., 3524 Harrison Street, Baker, Louisiana, convicted on March 26, 1962, in the Eighteenth Judicial District Court, Parish of Pointe Coupee, Louisiana.

Oliver, James G., 528 N. 27th Street, West Memphis, Arizona, convicted on March 19, 1956, in the Circuit Court of Mississippi County, Oceola Division, Arkansas.

Orth, Daniel D. M., 3411 West Galena Street, Milwaukee, Wisconsin, convicted on or about May 15, 1963, in the Circuit Court, County of Milwaukee, Wisconsin.

Ory, Gaston L., Jr., Route 1, Box 567, Pass Christian, Mississippi, convicted on April 11, 1968, in the United States District Court, Southern District of Mississippi.

Perkins, Jack C., Route 2, Mercersburg, Pennsylvania, convicted on May 30, 1974, in the Court of Common Pleas, Chambersburg, Pennsylvania.

Pruitt, Andrew E., Route 5, Florence, Alabama, convicted on May 5, 1970, in the United States District Court, Florence Alabama.

Rand, Jerome C., 180 Jacqueline Avenue, Sparks, Nevada, convicted on July 23, 1973, in the District Court, First Judicial District, Cass County, North Dakota.

Reinzo, John E., Greenfield Road, Greenfield, Maine, convicted on or about July 15, 1974, in the United States District Court for the District of Maine, Northern Division, Bangor, Maine.

Shur, Allan H., 2955 South Willow Street, Denver, Colorado, convicted on September 13, 1973, in the District Court, City and County of Denver, Colorado.

Sokol, Raymond H., N52 W35002 Lake Drive, Okauchee, Wisconsin, convicted on August 2, 1972, in the Circuit Court, Milwaukee, Wisconsin.

Stultz, Robert L. C., Route 1, Box 344, Parma, Missouri, convicted on July 28, 1969, and on September 22, 1969, in the Dunklin County Circuit Court, Missouri.

Trivette, William Frank, 917 20th Street, NE., Hickory, North Carolina, convicted on or about November 17, 1965, in the Superior Court for Granville County, North Carolina.

Voshell, Wayne C., Box 141, Wadena, Iowa, convicted on April 27, 1973, in the Fayette County District Court, West Union, Iowa.

Wagner, Patrick D., Sr., Route 6, Marietta, Ohio, convicted on February 1, 1952, and on September 17, 1973, in the Common Pleas Court, Washington County, Ohio.

Whipple, Charles R., 119 13th Street, SE., Cedar Rapids, Iowa, convicted on January 22, 1973, in the District Court of Dickinson County, Iowa.

Williams, Richard L., 1057 Wallace Drive, San Jose, California, convicted on May 14, 1959, in the Superior Court, Los Angeles County, California.

Williams, Salvion E., 7942 Citation Trail, Evergreen, Colorado, convicted on September 13, 1974, in the United States District Court, Southern District of Indiana.

Wohlfeil, Fred R., 1460 North Richardson Road, Barton City, Michigan, convicted on August 25, 1975, in the United States District Court, Eastern District of Michigan.

Signed at Washington, D.C., this 9th day of February 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.76–4718 Filed 2–18–76;8:45 am]

Customs Service

[T.D. 76–47; Customs Delegation Order No. 53]

REGIONAL COMMISSIONERS OF CUSTOMS

Order Delegating Certain Authority

FEBRUARY 11, 1976.

By virtue of the authority vested in me by Treasury Department Order No. 145, Revision 3 (32 FR 3066), I hereby delegate to the Regional Commissioners of Customs the authority to consider, ascertain, adjust, determine, deny or settle and pay claims not in excess of $2,500 arising under 28 U.S.C. 2672 by reason of the negligent or wronfgul act or omission of any employee of the Customs Service.

This order supersedes Customs Delegation Order No. 47, dated October 16, 1973 (T.D. 73–298, 38 FR 29238).

VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.76–4729 Filed 2–18–76;8:45 am]

Office of the Secretary

[Public Debt Series—No. 6–76]

TREASURY NOTES OF SERIES Q–1977

Dated and Bearing Interest from March 3, 1976, Due November 30, 1977

FEBRUARY 13, 1976.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,500,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series Q–1977. The interest rate of the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Friday, February 20, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated March 3, 1976, and will bear interest from that date, payable on a semiannual basis on

November 30, 1976, May 31, 1977, and November 30, 1977. They will mature November 30, 1977, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Friday, February 20, 1976. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of one percent necessary to make the average accepted price approximately 100.000. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,500,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before March 3, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by March 3, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Thursday, February 26, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District, in the case of the Treasury, or (2) Tuesday, February 24, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,
Acting Secretary of the Treasury.

[FR Doc.76-4814 Filed 2-17-76;10:41 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 492-1]

VELSICOL CHEMICAL CO. ET AL.

Consolidated Heptachlor/Chlordane Hearing

On July 29, 1975, I issued my Notice of Intent to Suspend the registrations of certain pesticide products containing Heptachlor and Chlordane. After an adjudicatory hearing, the Chief Administrative Law Judge of this Agency on December 12, 1975, issued a recommended decision concerning the allegations contained in that Notice of Intent to Suspend. On December 24, 1975, I issued my Decision and Order. I issued a clarification of my order on January 19, 1976. The four documents are published herewith.

Dated: February 12, 1976.

RUSSELL E. TRAIN,
Administrator.

NOTICE OF INTENT TO SUSPEND AND FINDINGS OF THE IMMINENT HAZARD POSED BY REGISTRATIONS OF PESTICIDES CONTAINING HEPTACHLOR OR CHLORDANE

On November 18, 1974, I determined that the continued registration and use of pesticides containing heptachlor or chlordane posed a substantial question of safety and accordingly I issued "Notice of Intent to Cancel" such registrations pursuant to Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"). New evidence has recently come to my attention which confirms and heightens the human cancer hazard posed by these

pesticides. In addition it is now apparent that the ongoing cancellation proceedings would not be concluded in time to avert substantial additions of these persistent and ubiquitous compounds to already serious human and environmental burdens. In view of these recent developments which are discussed in greater detail below, I find that continued use of these pesticides during the time required for completion of the cancellation proceedings would be likely to result in unreasonable adverse effects on the environment. Accordingly, pursuant to FIFRA Section 6(c), I hereby issue notice of intent to suspend the registrations and prohibit the production for use of all pesticides containing heptachlor or chlordane other than those registrations exempted from the heptachlor/chlordane cancellation order. This suspension order shall become effective within five days of the receipt by affected registrants unless the registrants request an expedited hearing pursuant to FIFRA Section 6(c)(2) and in accordance with the provisions of 40 C.F.R. Section 164.21. The suspension hearing, if requested, shall take no longer than 40 hearing days from the commencement of the hearing, unless for good cause shown and upon recommendation of the presiding officer I extend the hearing time for not more than 10 additional hearing days.

The Cancellation Notice. The Notice of Intent To Cancel Registrations Of Certain Pesticide Products Containing Heptachlor Or Chlordane[1] was based upon the following:

Data from human monitoring studies showing that more than 90% of the American people have residues of heptachlor epoxide and oxychlordane in their tissues;

Data from human stillborn infant monitoring studies showing that heptachlor epoxide is transferred from mother to child across the placenta;

Data from human milk monitoring studies showing that heptachlor epoxide is present in a substantial percentage of mothers' milk at levels ranging from trace amounts to 0.49 ppm;

Data from human food monitoring studies showing that heptachlor epoxide is commonly found in the dairy, meat, fish and poultry components of the human diet at levels ranging from 0.001 to 0.03 ppm;

Data from two test animal feeding studies showing that heptachlor and heptachlor epoxide caused cancer and the conclusion of the Carcinogenicity Panel of the HEW Secretary's Commission on Pesticides and their Relationship to Environmental Health that heptachlor epoxide was "positive for tumor induction"; and

Data from nationwide residue monitoring studies indicating that heptachlor and chlordane are highly persistent, lipid soluble and ubiquitous.

Additional Cancer Evidence

Since the issuance of the cancellation notice in November, 1974, I have received additional evidence which confirms the cancer hazard posed by these chemicals.

First, additional expert pathologists have reviewed both of the 1959 and the 1965 test animal feeding studies referred to in the cancellation notice. Their reviews support and strengthen the finding that these two studies demonstrate the carcinogenicity of heptachlor and heptachlor epoxide.

Second, new evidence of the results of additional 1973 test animal feeding studies conducted for Velsicol Chemical Corporation with heptachlor and chlordane have been submitted to EPA.[2] The heptachlor study reported a statistically significant increase of hyperplastic nodules in exposed animals with relatively few carcinoma. This result is itself indicative of carcinogenic action. In recent months, independent review of selected heptachlor and heptachlor epoxide tissue slides from this study by EPA consultant pathologists found substantial numbers of carcinomas. The analysis of the EPA consultant pathologist who reviewed all of the more than 650 heptachlor and heptachlor epoxide tissue slides found statistically significant increases in carcinomas of exposed animals over controls. In addition, a review of the animal tissues by pathologists consulted by Velsicol which has recently been brought to my attention found that substantial numbers of lesions originally reported as hyperplastic nodules were carcinomas.

The chlordane study reported a statistically significant increase in hyperplastic nodules and a substantial increase in carcinomas. Independent statistical analysis by EPA consultants demonstrates that at one feeding level (25 ppm) male mice exhibited statistically significant increases in carcinomas. Independent review of selected slides by the EPA consultant pathologists also found substantial numbers of carcinomas. A review of virtually all of the chlordane test slides by an EPA consultant pathologist demonstrated statistically significant increases in carcinomas of exposed animals over controls in both sexes at two feeding levels (25 ppm and 50 ppm). Selected tissue review by the Velsicol consultants also found substantial numbers of carcinomas in animals exposed to chlordane.[3]

Third, human adipose tissue studies for FY 1973 have now been completed and confirm the residues discovered in prior years samplings, finding heptachlor epoxide in 97.71% and oxychlordane in 98.35% of the people sampled. Similarly, whereas the cancellation notice referred to a 1972 human milk study which found heptachlor epoxide residues in mothers' milk, new evidence from an EPA survey shows heptachlor epoxide residues in 35.09% and oxychlordane residues in 45.61% of human milk samples taken.

Fourth, it is now anticipated that the cancellation hearing could require as much as 18 months of additional litigation before a final decision could be reached. During that period more than 38 million pounds of technical heptachlor and chlordane are likely to be released into the environment through uses contested in the cancellation proceeding.

In view of the mounting evidence that these compounds cause cancer and in view of the large quantity which will be added to human and environmental burdens in the interim, I find that the continued registration of the contested uses of heptachlor and chlordane pending completion of the cancellation proceeding poses an unreasonable risk to the American people and thus constitutes an "imminent hazard" under Sections 6(c) and 2(e) of FIFRA.

Legal Authority

Section 6(b) of FIFRA authorizes the Administrator to issue notice of intent to cancel if it appears to him "that a pesticide or its labeling . . . does not comply with the provisions of this Act, or when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment . . ." The phrase "unreasonable adverse effects on the environment" is defined by FIFRA Section 2(bb) to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

In accordance with FIFRA section 6(c), where the Administrator finds that "action is necessary to prevent an imminent hazard during the time required for cancellation . . ." he may by order suspend the registration after providing an opportunity for an expedited hearing on the question of "whether an imminent hazard exists." The term "imminent hazard" is defined by FIFRA section 2(*l*) to mean a "situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of Interior under Public Law 91-135."

The courts have repeatedly "cautioned that the term 'imminent hazard' is not limited to a concept of crisis: 'It is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative (cancellation) process.'" *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 510 F. 2d 1292, 1297 (D.C. Cir. 1975) (emphasis in original), quoting from *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 465 F. 2d 528, 540 (D.C. Cir. 1972). Of course, as in the cancellation proceeding, the Administrator does not have the burden of proving that a pesticide is unsafe since the statute and case law place "[t]he burden of establishing the safety of a product requisite for compliance with the labeling requirements . . . at all times on the applicant and registrant." *EDF* v. *EPA*, 510 F. 2d at 1297; *EDF* v. *EPA*, 465 F. 2d at 540.

The courts have consistently held that "the function of the suspension decision is to make a preliminary assessment of evidence and probabilities, not an ultimate resolution of difficult issues. We cannot accept the proposition . . . that the Administrator's findings [are] insufficient because controverted by respectable scientific authority. It [is] enough that the administrative record contain respectable scientific authority supporting the Administrator." *LDF* v. *EPA*, 510 F. 2d at 1298; *EDF* v. *EPA*, 465 F. 2d at 537.

As I have repeatedly stated,[4] after exten-

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[1] 39 Fed. Reg. 41298 (November 26, 1974). For purposes of clarification, the result of a final order of suspension will be to prohibit the manufacture of heptachlor/chlordane pending completion of the cancellation proceedings for any registered use except for subsurface ground insertion for termite control and the dipping of roots and tops of non-food plants. The permitted termite use was clarified by notice published on July 21, 1975 (40 Fed. Reg. 30522).

[2] Technical chlordane contains approximately 7% heptachlor and technical heptachlor contains approximately 20% of the gamma isomer of chlordane.

[3] A preliminary report of the analysis of test animal feeding studies conducted for the National Cancer Institute further indicates the carcinogenicity of heptachlor and chlordane. Since the final report of the analysis of this study has not been issued, however, my decision to suspend heptachlor and chlordane registrations does not rely on this study.

[4] *See* Opinion of the Administrator, Environmental Protection Agency, on the Suspension of Aldrin-Dieldrin, 39 Fed. Reg. 37265 (October 18, 1974); State of Louisiana Request for Emergency Use of DDT on Cotton, Statement of Reasons for Denial and Supplemental Statement of Reasons for Denial, 40 Fed. Reg. 1934, 15949 (April 8, 1975); Preamble to Subpart A—Registration, Reregistration and Classification Procedures, 40 Fed. Reg. 28242, 28253 (July 3, 1975).

sive EPA experience in evaluating the cancer hazard of pesticides, we do not begin our evaluation of the cancer threat of heptachlor/chlordane in a vacuum. In my prior orders relating to DDT and Aldrin/Dieldrin, and in the Preamble to the FIFRA registration regulations. I have set forth the basis for evaluating the carcinogenicity of pesticides which I am applying in evaluating the cancer hazard posed by the use of heptachlor and chlordane for purposes of this suspension notice and which shall be applied to evaluate that hazard in an expedited suspension hearing, if a hearing is requested. This basis for evaluation can be summarized as follows:

The use of animal test data to evaluate human cancer risks has been widely accepted by the scientific community and by public policy-making agencies. Such data are particularly appropriate because the relatively short life span of test animals allows for testing for the entire latency period for tumor development and because of our relatively well-developed understanding of the pathological development of tumors in mice and rats. When compared to the millions of people who may be exposed to a pesticide, the number of animals used in tests to evaluate oncogenicity is extremely small. The variability of human response to carcinogens is generally greater than that of the test animals. Epidemiological cancer data are desirable, but because of the long latency period of tumor induction in humans, because of frequently encountered widespread contamination which makes it impossible to establish an uncontaminated control group and because of the obvious ethical and legal problems associated with conducting cancer research on humans, reliable epidemiological data are rarely available. Accordingly a positive oncogenic effect in test animals is sufficient to characterize a pesticide as posing a cancer risk to man. By the same reasoning, negative results from oncogenic animal tests have only limited significance. The number and sensitivity of the test animals as compared to the general human population are the principal reasons for this limited utility. Because of these inherent limitations of animal testing a pesticide that induces tumors in experimental animals at any dose level must be considered to be a carcinogen. As noted above, negative results are of limited value since they do not rule out the possibility that the chemical will induce tumors in test animals if, for example, the number of exposed animals or the length of exposure were increased. Although a no-effect level may theoretically exist for carcinogens, as yet there is no scientific basis for establishing such a level. Thus, human exposure to a carcinogen at levels below those which induced positive effects must be considered to present a cancer risk. Finally, although the distinction between "benign" and "malignant" tumors is of primary importance to the individual, it is not a meaningful distinction in determining the cancer hazard to man on the basis of tests conducted on laboratory animals. Given the increasing evidence that many "benign" tumors can develop into cancers, for purposes of determining whether a pesticide poses a cancer hazard to man on the basis of laboratory experiments, the terms "benign" and "malignant" should be considered synonymous.

With respect to the benefits of continued use of a pesticide subject to a notice of intent to suspend, the courts have ruled that because of the expedited and provisional nature of the suspension process it is not necessary to explore all of the available information on alternative pest control methods to the same degree as in a cancellation proceeding. Although consideration of such alternative methods will be undertaken in the suspension process, the responsibility to demonstrate that the benefits of continued registration during the cancellation proceeding outweigh the risks is upon the proponents of continued registration.

Some uncertainty has arisen concerning the Agency's burden of going forward with evidence of alternative means of pest control in its affirmative case. In the Opinion of the Administrator with respect to *Stevens Industries, Inc.* (37 F.R. 13369) reference was made to the burden of the respondent to show "the availability of a registered chemical or other means of control which this Agency's Pesticides Office is prepared to recommend as a substitute. . . ." 37 F.R. 13372. It was not intended by that statement, nor does the applicable law require, that the Agency staff—as part of its affirmative case—offer such an Agency "recommendation" or that it provide evidence that alternatives which are registered for the uses in question are actually obtainable, efficacious or available at reasonable prices. It is sufficient for purposes of its presentation that the Agency staff present evidence that alternatives are registered for the uses in question. This may be accomplished by an affidavit by the appropriate official certifying that the substances listed therein are registered for the uses indicated. The burden of demonstrating that any alternatives established by respondent in this fashion are not actually obtainable, are not efficacious or are not available at reasonable prices remains on the proponents of continued registration of the pesticides under review in a cancellation or suspension proceeding.

Finally, the Court of Appeals has held that the Agency is under a heavy burden to justify any decision that the benefits outweigh the risks with respect to a chemical known to produce cancer in experimental animals.

Findings of Imminent Hazard. On the basis of the data before me at the time of my November, 1974 cancellation notice and the additional data which has been brought to my attention in the intervening nine months, pursuant to FIFRA Section 6(c)(1) I make the following findings as to imminent hazard which shall constitute the issues to be adjudicated at a suspension hearing, if such a hearing is requested:

1. Virtually every person in the United States has residues of heptachlor epoxide and oxychlordane—the principal metabolites of heptachlor and chlordane—in his body tissues. Analysis of human tissue samples by the EPA National Human Monitoring Program shows that during FY 1970, 1971, 1972 and 1973 heptachlor epoxide was present in human adipose tissue at quantifiable levels in 90.29% to 97.71% of all the people tested. During each of these years the arithmetic mean of the concentration of heptachlor epoxide in human tissues ranged from 0.12 to 0.17 ppm and the highest concentration was 10.62 ppm. Oxychlordane, which was first included in the EPA Human Monitoring Program in FY 71, was present in FY 1972 and 1973 human adipose tissue samples at quantifiable levels in 92.33% to 98.35% of all the people tested. During each of these years the arithmetic mean of the concentration of oxychlordane in human tissues was 0.15 ppm and the highest concentration was 1.87 ppm.

2. Data from human stillborn monitoring studies show that heptachlor epoxide crosses the placental barrier and enters the human fetus. The stillborn study found that heptachlor epoxide residues were present in 4 out of 10 adipose tissue samples in amounts ranging from 0.07 to 0.51 ppm. In addition, heptachlor epoxide residues were detected in the brain, adrenals, heart, lungs, liver, kidney and spleen. The concentrations ranged as high as 1.56 ppm in the heart and 1.67 ppm in the liver. Of 30 live term babies examined, 90% had heptachlor epoxide residues in their cord blood in amounts ranging from 0.0002 to 0.0043 ppm.

3. Recently obtained data demonstrates that 35.09% of human mothers' milk sampled contains quantifiable residues of heptachlor epoxide and that 45.61% of mothers' milk sampled contains quantifiable residues of oxychlordane.

4. For the most recent reporting period of FY 1974, the Food and Drug Administration, in its market basket survey, reports that measurable amounts of heptachlor, heptachlor epoxide or chlordane were found in composite samples of 73 percent of all dairy products and 77 percent of all meat, fish, and poultry samples. Residues of these chemicals have consistently been detected throughout the preceding ten years in dairy products and meat, fish and poultry. During the ten fiscal years from 1965 to 1974, residues of these three chemicals have been detected in all of the twelve food composite categories.

5. Approximately 50% of the heptachlor/chlordane used under contested registrations is applied for home, lawn and garden purposes as well as commercial turf. These uses accounted for more than 7,500,000 pounds of technical chlordane in 1974. Use of this chemical under these conditions presents special problems of human exposure. These applications are in and around the home and thus are generally in much closer proximity to the general population than agricultural uses. Similarly, many of these applications are carried out by individual homeowners who may expose themselves, their family members and their neighbors by direct contact with the skin, by inhalation, by contamination of clothing as well as by ingestion. In addition, many of these uses around the home appear to result in residues in urban and suburban soils. Soil monitoring studies of urban and suburban areas show that residues of chlordane were detected in the soils of all 37 cities sampled between fiscal years 1939 and 1974. For many cities chlordane was detected in approximately 20% to 40% of the samples. Residues of heptachlor epoxide were detected in the soils of 28 of the cities sampled and heptachlor residues were detected in the soils of 13 of the cities sampled. In several cities heptachlor epoxide residues were present in 10% to 20% of the soil samples. Common experience demonstrates that contaminated soil and turf around the home may present special hazards to family members through transport by pets and direct contact—this hazard would appear to be particularly alarming in the case of young children.

6. Heptachlor epoxide has been found to produce significant increases in tumors in a 1965 mouse experiment conducted by FDA. Based upon data from this experiment the Carcinogenicity Panel of HEW Secretary's Commission on Pesticides and Their Relationship to Environment Health found heptachlor epoxide to be "positive for tumor induction." Independent review of this experiment by EPA consultants has shown that there was a statistically significant increase in carcinomas in animals fed both heptachlor and heptachlor epoxide. Statistical review of a 1959 experiment testing heptachlor epoxide in rats has shown that this compound also produced significant increases in tumors. Histological review by EPA consultants has shown that the treated animals in this experiment had substantial increases in carcinomas.

As noted above, recent data from mouse experiments conducted for Velsicol Chemical Corporation have shown that heptachlor and heptachlor epoxide significantly increased the incidence of hyperplastic nodules in treated mice. Although this finding itself is indicative of carcinogenesis, review of these data by pathology consultants for both Velsicol and EPA has shown that substantial numbers of these lesions were carcinomas. These same experiments have shown a significant increase in tumors and hyperplastic nodules for animals fed chlordane. Review of the chlordane data by consultants for Velsicol and EPA has revealed that substantial numbers of lesions originally diagnosed as nodules were carcinomas.

7. Based upon estimated production figures supplied by Velsicol Chemical Corporation for the last 6 months of 1975, a total of more than 38 million pounds of heptachlor and chlordane intended for domestic use under contested registrations are likely to be produced during the 18 months required to conclude the cancellation hearings. The 18 month production of heptachlor for contested uses is estimated to be almost 10 million pounds while chlordane production for contested uses is estimated to exceed 28 million pounds.

8. Finally, although heptachlor/chlordane are widely used as insecticides, the major agricultural use of heptachlor and chlordane is on corn, with over 70% of the agricultural use being devoted to use on corn. According to statistics of the United States Department of Agriculture, the maximum estimated loss to corn production from cancellation of heptachlor/chlordane and aldrin/dieldrin in taking into account numerous registered alternative pesticides would be approximately 0.4% of the nation's 1973 total corn production. The USDA forecast of a bumper corn harvest for 1975 demonstrates that even for the current crop year total losses would not exceed approximately 0.4%. Although a few individual corn growers may experience some losses in production if heptachlor/chlordane are not available, these potential losses should not be widespread and in view of the serious risks certainly do not justify continued use.

Additional agricultural uses of heptachlor/chlordane are small and varied. Alternative pesticides are registered for almost all of these uses and in the few instances where no alternative is presently registered, there has been no indication that serious crop losses would occur pending completion of the cancellation process. Similarly, although we are also sensitive to the needs of homeowners who use chlordane, there is a wide selection of registered alternative pesticides to replace the numerous uses of chlordane in and around the home.

Although we cannot determine precisely the magnitude of the human cancer risk as a result of the past and continuing exposure to heptachlor and chlordane, I have found that these compounds cause cancer in laboratory animals and that laboratory tests are reliable indications of the human cancer hazard. In addition, although any single component of human exposure—such as intake through poultry—may not appear to be significant, it alone poses a cancer hazard to certain of the more susceptible individuals and together with the several other components of human exposure presents a serious human cancer threat. This threat is made even more alarming by evidence that human exposure begins in the mother's womb and continues without interruption throughout life. In addition, because these chemicals are ubiquitous, the major sources of human exposure are largely unavoidable by individual action.

I have invoked the "Special Rule" provision of section 15(b)(2) permitting continued use of those existing stocks of EPA registered pesticides containing heptachlor or chlordane which have been formulated as of the date of this notice. It seems clear considering the use patterns of heptachlor and chlordane that there would be no stocks realistically retreivable following a suspension notice. The major use, home, lawn and garden, which constitutes more than 40% of the uses covered by this notice, is a nationwide use made available to the homeowner through a complex distribution network. It would not be feasible to monitor such a network and to retrieve such stocks. Any such stocks are probably already in the hands of homeowners and other users or local retail stores and their immediate distributors. In addition, use under corn, which constitutes more than 35% of the contested uses, has already occurred and thus there should not be substantial existing stocks for that purpose.

Dated: July 29, 1975.

RUSSELL E. TRAIN,
Administrator.

[FIFRA Docket No. 384]

VELSICOL CHEMICAL CORPORATION ET AL., REGISTRANTS

PRELIMINARY STATEMENT; RECOMMENDED DECISION

This is a proceeding under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*, 1973 Supp.). Pursuant to section 6(c) of the act (7 U.S.C. 136d(c)), the Administrator, on July 29, 1975, issued a notice of intention "to suspend the registrations and prohibit the production for use of all pesticides containing heptachlor or chlordane other than those registrations exempted from the heptachlor/chlordane cancellation order" (See 40 F.R. 34456).[1] The notice of suspension also contained detailed findings pertaining to the question of "imminent hazard" as required by the act.[2] On August 6, 1975, a document entitled "Clarification of Evidence Which May Be Introduced in the Hearing On Suspension of Registrations of Pesticides Containing Heptachlor or Chlordane" was issued (See 40 F.R. 34455).

[1] As explained in the July 29, 1975 notice, a final order of suspension in this proceeding would not include the suspension of registrations pending the completion of cancellation proceedings for use of heptachlor or chlordane in subsurface ground insertion for termite control and the dipping of roots and tops of nonfood plants. See 39 FR 41298 as clarified (40 FR 30522). Also, the July 29, 1975 notice of suspension permitted, pursuant to section 15(b)(2) of the act (7 U.S.C. 136m(b)(2)) "continued use of those existing stocks of EPA registered pesticides containing heptachlor or chlordane which have been formulated as of the date of this notice."

[2] Section 6(c)(1) of the act provides that "If the Administrator determines that action is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings, he may, by order, suspend the registration of the pesticide immediately." The term "imminent hazard" is defined to mean, in part, "a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment . . ." (7 U.S.C. 136(l)). "Unreasonable adverse effects on the environment" is defined in the act to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of any use of any pesticide." (7 U.S.C. 136(bb)).

Velsicol Chemical Corporation, the sole manufacturer of the pesticides involved, filed timely objections to the notice of intention to suspend and prior and subsequent thereto many other registrants also filed objections. In addition, the Secretary of Agriculture of the United States, Environmental Defense Fund, Louisiana State Pest Control Association, Mississippi State Pest Control Association, Florida Nurserymen and Growers Association, Inc., New England Pest Control Association, Georgia State Pest Control Association, Long Island Pest Control Association, North Carolina Pest Control Association, Alabama State Pest Control Association, National Pest Control Association, Inc., United Pesticide Formulators and Distributors Association, Tennessee Pest Control Association, Pest Control Operators of California, New Jersey Pest Control Association, Maryland Pest Control Association, the State of Hawaii and the Pineapple Growers Asssociation of Hawaii, were granted leave to intervene herein pursuant to section 164.121(e) of the rules of practice (40 CFR 164.121(e)).

Section 6(c)(1) of the statute further provides that "No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of his intention to cancel the registration or change the classification of the pesticide." By order dated November 18, 1974 (39 F.R. 41298), the Administrator stated his notice of intent "to cancel all registered use of heptachlor and chlordane . . . with the exception of the use of heptachlor or chlordane through subsurface ground insertion for termite control and the dipping of roots or tops of nonfood plants." Objections to such notice were filed by Velsicol Chemical Corporation and many additional registrants in 56 separate proceedings which were consolidated for hearing.

Also on November 18, 1974, the Administrator implemented his authority to register and control intrastate pesticide products with regard to intrastate products containing heptachlor and chlordane, except those registered for use in subsurface ground application for termite control or for dipping of roots or tops of nonfood plants. (39 F.R. 41256). Subsequently, 17 additional proceedings instituted, in effect, by the filing of objections and requests for hearing by applicants contesting the denial of applications for registration under the act of pesticide products containing heptachlor or chlordane and intended for shipment in intrastate or interstate commerce (see 40 F.R. 22587) were consolidated in the heptachlor/chlordane cancellation proceedings (*In re Velsicol Chemical Corporation et al.*, FIFRA Dockets No. 336 et al.)

On August 4, 1975, Herbert L. Perlman, Chief Administrative Law Judge, Environmental Protection Agency, was appointed the Presiding Officer in the suspension proceeding. Prehearing conferences were held August 6, 7 and 11, 1975, and the hearing herein commenced August 12, 1975. All the registrants filing objections to the notice of intention to suspend were consolidated into this proceeding pursuant to section 164.121(f) of the rules of practice. The Administrator ordered that the hearing herein take no longer than 40 hearing days unless for good cause shown and upon recommendation of the presiding officer he extends the hearing for not more than 10 additional hearing days. The hearing

lasted 43 hearing days and the hearing closed December 4, 1975. The active participants at the hearing were represented by the following:

Robert L. Ackerly, Charles A. O'Connor III, Joe G. Hollingsworth and John D. Conner, Jr., Attorneys at Law, Washington, D.C., representing Velsicol Chemical Corporation and many intervenors and other registrants.

Robert L. Weinberg, David Povich, John G. Kester, Robert B. Barnett and Kendra Heymann, Attorneys at Law, Washington, D.C., representing Velsicol Chemical Corporation and several other registrants,

Bernard Lorant, Attorney at Law, Highland Park, Illinois, and Neil R. Mitchell, Attorney at Law, Chicago, Illinois, representing Velsicol Chemical Corporation,

Raymond W. Fullerton, Alfred R. Nolting, Margaret M. Breinholt and Margaret Carlson, Office of the General Counsel, United States Department of Agriculture, representing intervenor Secretary of Agriculture of the United States,

Jacqueline M. Warren and William A. Butler, Attorneys at Law, Washington, D.C., representing intervenor Environmental Defense Fund, Inc.,

Clause Ely, Jr., Attorney at Law, Washington, D.C., representing intervenors the State of Hawaii and the Pineapple Growers Association of Hawaii, and

William E. Reukauf, Jeffrey H. Howard, Frank J. Sizemore, Lee Schroer, Kevin Lee and Thomas O. McGarity, Office of the General Counsel, Environmental Protection Agency, representing respondent Assistant Administrator, Environmental Protection Agency.

Subsequent to the close of hearing the parties filed briefs and I hereby submit my recommended decision within the exceedingly short period of time provided by the rules of practice.

FINDINGS OF FACT

1. Velsicol Chemical Corporation is a corporation whose address is 341 East Ohio Street, Chicago, Illinois. Velsicol Chemical Corporation is the sole manufacturer of heptachlor and chlordane. Velsicol Chemical Corporation and over approximately 400 other registrants filed objections and are parties in this proceeding although Velsicol is the only fully active registrant herein.

2. The intervenors in this suspension proceeding are the Secretary of Agriculture of the United States, Environmental Defense Fund, Inc., Louisiana State Pest Control Association, Mississippi State Pest Control Association, Florida Nurserymen and Growers Association, Inc., New England Pest Control Association, Georgia State Pest Control Association, Long Island Pest Control Association, North Carolina Pest Control Association, Alabama State Pest Control Association, National Pest Control Association, Inc., United Pesticide Formulators and Distributors Association, Tennessee Pest Control Association, Pest Control Operators of California, New Jersey Pest Control Association, Maryland Pest Control Association, the State of Hawaii and the Pineapple Growers Association of Hawaii. The respondent herein is the Assistant Administrator, Environmental Protection Agency.

3. Technical chlordane has been manufactured and sold commercially since about 1947. Technical chlordane is a complicated insecticidal mixture of chlorinated hydrocarbons. Technical chlordane was arbitrarily named by a joint meeting of representatives of the United States Department of Agriculture, the Food and Drug Administration, and the 2 manufacturers at that time. The name was chosen on the basis of the belief that this material was composed principally of two compounds, alpha and gamma-chlordane ($C_{10}H_6Cl_8$), because these two compounds were initially isolated in pure form from it. At present (and since about 1950), Velsicol Chemical Corporation is the only commercial producer of technical chlordane. To assure consistency of performance and biological potential, technical chlordane has been standardized by Velsicol and, since about 1950, varies only within narrow limits in its composition. The content of each of the chlordane isomers is 13–15 percent and the heptachlor ($C_{10}H_5CL_7$) content is 5–8 percent. The commercial technical product contains no heptachlor epoxide. In addition, technical chlordane contains several isomers of chlordene ($C_{10}H_6Cl_4$), and nonachlor ($C_{10}H_5Cl_9$). Technical chlordane, a viscous liquid, is a mixture of chlorinated hydrocarbons consisting of isomers of chlordane (1,2,4,5,6,7,8,8-octachloro - 4,7 - methano - 3a,4,7,7a - tetrahydroindane) and closely related compounds in the presence of minute concentrations of stabilizer (propylene oxide) and by-products. About one-half of the composition consists of two major constituents, isomers of chlordane; no other individual component exceeds about one-tenth of the total product. Its structure corresponds to the empirical formula $C_{10}H_6Cl_8$ having a molecular weight of 409.8. Some of the physical and chemical properties of chlordane are as follows:

Appearance: Amber, viscous liquid.

Solubility: Miscible in aliphatic and aromatic solvents; insoluble in water: low solubility in glycols.

Combustability: Will not burn.

Chemical Stability: Stable to 160 degrees Fahrenheit in stainless steel, nickel, passive iron, glass and many other materials. Decomposes at very high temperature. Sensitive to decomposition at elevated temperatures in the presence of iron and iron oxide dust.

Stability to U.V. light: Stable to U.V. light under normal conditions. Some components will isomerize under the influence of high intensity U.V. light in the presence of U.V. sensitizers such as ketones.

Odor: Mildly pungent.

Boiling Point: 118° at 0.66 mmHg.

4. Heptachlor has been manufactured since about 1950. Technical heptachlor is essentially a ternary mixture consisting of heptachlor (73 percent), gamma-chlordane (about 21 percent) and delta-trichlorochlordene (nonachlor-5 percent); other manufacturing impurities may occasionally be present in concentrations of up to about 2 percent. Heptachlor can be converted to heptachlor epoxide on plants and by the metabolism of animals. Heptachlor is the common name which has been assigned to 1,4,5,6,7,8,8 - heptachloro - 3a,4,7,7a - tetrehydro-4,7-methanoindene. It has the empirical formula $C_{10}H_5Cl_7$, corresponding to a molecular weight of 373.5. In pure form, heptachlor is a white crystalline substance having a melting point of 95° to 96° C.

5. Heptachlor epoxide was found in over 90 percent of the human adipose tissues analyzed in the National Human Monitoring Program[3] at levels ranging from trace to 10.62 ppm with the geometric and arithmetic means ranging for the 5 year period from 0.08 ppm to 0.09 ppm and from 0.10 ppm to 0.17ppm, respectively, with trace values listed as zero. The arithmetic means for each year from and including 1970 are, respectively, 0.17, 0.12, 0.12, 0.12 and 0.10 ppm and the geometric means for each year from and including 1970 are, respectively, 0.09, 0.09, 0.08, 0.09 and 0.08 ppm. Specifically the percent positive samples, and percent trace samples are as follows:[4]

Fiscal year	Percent positive	Percent trace [1]
1970	94.76	3.64
1971	96.23	3.47
1972	90.26	2.86
1973	97.71	1.92
1974	96.33	3.45

[1] Percent trace means the percentage of the total number of samples in which residues of the chemical were found but cannot be quantified.

The maximums for each of the five years shows a progressive decrease from 1970–1974 as follows: 10.62, 1.53, 1.21, 0.84 and 0.77 ppm. The mean residue concentrations of heptachlor epoxide increased with the age of those sampled and the frequency of detecting residues of heptachlor epoxide also increased with age in every year with the exception of the data collected during the fiscal year 1974 survey. There is little difference in the frequency of detection or in residue concentration between males and females and between Caucasians and Negroes.

6. Oxychlordane was found in over 90 percent of the adipose tissues analyzed in the National Human Moritoring Program at levels ranging from trace to 1.87 ppm, with the geometric mean ranging from 0.10 to 0.12 ppm for the 4 year period and the arithmetic mean at 0.15 ppm, with trace values listed as zero. The percent positive samples and percent trace samples are as follows:

Fiscal year	Percent positive	Percent trace
[1] 1971	93.27	0.95
1972	92.29	2.71
1973	98.35	1.01
1974	98.55	1.22

[1] The capability to detect oxychlordane residues in human adipose tissue was initially introduced into the multiresidue analytical technique during the fiscal year 1971 survey. The sample size of 1971 oxychlordane analysis is less than for those other chemicals detectable during the entire year and the results of this survey year (fiscal year 1971) should not be construed as representative of national level. The master file has results similar to those set forth above.

The concentration of oxychlordane in human adipose tissue increased with age. The variable nature of the residue data when stratified on a racial basis made trend detection difficult, although oxychlordane residues were found in high frequency in tissues taken from both Caucasians and Negroes. Both males and females displayed high frequency of oxychlordane.

7. A total of 57 human breast milk samples taken in fiscal year 1974 from 49 women residing in Arkansas and 8 women residing in Mississippi, upon analysis, showed that quantifiable levels of heptachlor epoxide were found in 35.09 percent of the samples, with arithmetic and geometric means, with trace values listed as zero, of 0.004 and 0.0017 ppm, respectively, and a range of trace to 0.03 ppm. Quantifiable levels of oxychlordane were found in 45.6 percent of all samples and the residue levels thereof ranged from trace to 0.02 ppm with geometric and arithmetic means, with trace values listed as zero, of 0.0054 ppm. One hundred percent of the milk analyzed contained at least trace amounts of

[3] It must be cautioned that 80 percent of the samples in this program are not subjected to confirmation and use of standard EPA methods may lead to the failure to characterize coextractives which could increase reported results. We do not now so conclude, however.

[4] The master file of the National Human Monitoring Program or survey, containing samples in addition to the design file reflected above, has similar results.

both heptachlor epoxide and oxychlordane, that is, a trace of heptachlor epoxide was found in 64.91 percent of the samples and a trace of oxychlordane was found in 54.39 percent of the samples. A trace represents a positive finding of residue which cannot be quantified. The presence of heptachlor epoxide was not confirmed by analytical techniques although attempts to do so were performed.

8. Heptachlor epoxide crosses the placental barrier and enters the human fetus. A study of residues of various chlorinated hydrocarbons in different tissues from stillborn infants found measurable concentrations of heptachlor epoxide in parts per million (ppm) in adipose tissue (range, 0.07 to 0.51; mean, 0.32), spinal cord (0.13), adrenals (range, 0.46 to 1.00; mean, 0.73), lungs (range, 0.08 to 0.31; mean, 0.17), heart (range, 0.30 to 1.56; mean, 0.80), liver (range, 0.03 to 1.67; mean, 0.68), kidney (range, 0.19 to 1.14; mean, 0.70), and spleen (range, 0.10 to 0.52; mean, 0.35). Heptachlor epoxide was identified in the cord blood of 27 of the 30 newborn infants or normal neonates studied at levels from 0.2 to 4.3 ppb with a mean of 1.1 ppb.

9. The Urban Soils Monitoring Program indicates, in connection with urban and suburban areas, that residues of chlordane were detected in the soils of all 37 cities sampled between fiscal years 1970 and 1974, heptachlor epoxide was detected in 28 cities and heptachlor in 13 cities. For many cities chlordane was detected in approximately 20 to 40 percent of the samples and in several cities heptachlor epoxide residues were present in 10 to 20 percent of the soil samples. The arithmetic and geometric means of residue values and the frequency of positive detections of these chemicals in most of the cities exceed those observed in the surrounding cropland areas. The majority of occurrences of residues of these chemicals are on lawn sites as distinguished from waste sites of the cities sampled.[5] The residues are most likely the result of chlordane applications for control of lawn and garden pests, although some may result from chlordane use in structural pest control. The heptachlor epoxide and heptachlor. The data from the Urban Monicontamination of technical chlordane with heptachlor. The data from te Urban Monitoring Program indicate that residues of chlordane, heptachlor and heptachlor epoxide are rather widspread in urban areas, indicating the common use of chlordane in and around human dwellings due to their prevalence in samples from sites classified as lawn.

10. A study of the Chester River in Maryland, designed to ascertain the presence of chlorinated hydrocarbons in the physical environment and biota of the Chester River, and with particular attention to chlordane, established that the alpha and gamma isomers of chlordane were present in shellfish, finfish, crabs and sediments of the Chester River. The average chlordane concentrations found (in parts per million net weight—ppm) were oysters .036, clams .014, fish .074, crabs .014, and bottom sediments .0052 (dry weight). As part of the Chester River Study, laboratory experiments were performed exposing soft-shelled clams and oysters in a flow-through Baywater system. These experiments demonstrated the shellfish readily accumulated chlordane to high levels from very low concentrations in the water. When exposed to a level of about 1 part per trillion in the water, the oysters concentrated the chlordane 160,000 times. Under similar circumstances, the soft-shelled clams concentrated the chlordane 35,000 times. The chlorinated hydrocarbons were transported adsorbed to the suspended particulate fraction in the water. The chlorinated hydrocarbons appeared to be entering the Chester River from the Bay rather than coming from sources within the Chester River watershed.

11. The findings in the Chester River Study which suggested that the chlorinated hydrocarbons were entering the River from the Bay led to the Upper Bay Survey (1973 to 1975), a study of the rates, routes, sources, sinks and reservoirs of chlorinated hydrocarbons in the Upper Chesapeake Bay. Residues of alpha and gamma chlordane were found in all of the types of samples analyzed (air, rainwater, storm-sewer water, zooplankton, suspended sediments, bottom sediments, and benthic organisms). The sum of the alpha and gamma isomers of chlordane in the air samples ranged approximately from 0.5 to 2.0 nanograms per cubic meters of air.[6] The chlordane in rainwater ranged from undetectable (less than 1 part per trillion) to 660 parts per trillion. The chlordane levels in the storm-sewer water samples from a Baltimore residential area ranged from undetectable to 97 parts per trillion. The average chlordane levels found in the other sample types were as follows: shellfish .030 ppm (wet weight); zooplankton .10 ppm (wet weight); suspended sediments .17 ppm (dry weight); and bottom sediments .016 ppm (dry weight).

12. Relatively high levels of the chlorinated hydrocarbons (CHC's) PCB, chlordane, and DDTR were found in the samples from the Upper Chesapeake Bay; CHC's in bottom sediments from the Bay were two-to-four times higher than found in the Chester River. The bottom sediments from Baltimore Harbor were found to contain the greatest amount of the CHC contaminants with values as high as 3.7 ppm for PCB, .23 ppm for chlordane, and .19 for DDTR. The average concentrations of PCB, chlordane and DDTR were highest in suspended sediments filtered from the water in Baltimore Harbor, with high individual values of 3.8 ppm for PCB, 1.7 ppm for chlordane, and .30 ppm for DDTR being found. When these data are presented as the amount of CHC present in the watercolumn on suspended sediment, the average PCB and DDTR values show a decreasing trend going down the Bay with the Harbor Station not as high (in the case of PCB) or, in the case of DDTR, about the same as the upper stations. The chlordane is higher in the Harbor than elsewhere in the Bay. The highest chlordane value in zooplankton was found in Baltimore Harbor (.57 ppm), but no one station had consistently high value of chlordane. A positive correlation was found between the concentration of suspended sediments in the water and the concentration of CHC's in the watercolumn on suspended sediments. A positive correlation was also found between the zooplankton biomass in the water and the CHC concentration in the watercolumn on zooplankton. Apparently, the CHC' enter the Bay attached to suspended sediments via the Susquehanna River during periods of high river-flow. These suspended sediments appear to function as a reservior for CHC's in the Upper Bay. The principle movement from this reservoir probably is into bottom sediments which could be considered sinks or traps for sediment-adsorbed chlorinated hydrocarbons. Resuspension probably represented the greatest pathway for movement of sediment adsorbed CHC's from the sink, although re-working of sediments by deposit-feeding organisms is a possible route which needs further study. The amount of chlorinated hydrocarbons passing into the zooplankton community appears limited only by the zooplankton population density rather than by fluctuations in the reservoir because the amount of CHC present in the zooplankton standing crop never represents more than a small fraction of that present in the suspended sediment reservoir. Another major pathway from the reservoir into the biological system is into the shellfish populations of the Upper Bay. The chlordane levels in the brackish-water clam often approach the .30 ppm FDA alert level for edible shellfish. Baltimore Harbor receives major inputs of chlorinated hydrocarbons from the inflow of Chesapeake Bay water and suspended sediment. Baltimore Harbor receives localized inputs of CHC's but probably does not serve as a major source of CHC's to the Bay although the chlordane level in the suspended sediment reservoir in the Harbor appears "enriched" compared to that in the Bay.

13. The primary monitoring programs for pesticide residues in the nation's food supply are conducted by the United States Food and Drug Administration and the United States Department of Agriculture. There are three major programs. The Food and Drug Administration has two of these. One program, described as the surveillance program, examines large numbers of samples of different foods obtained when lots are shipped in interstate commerce. The other, known as the Total Diet Program, examines food prepared to be eaten. As a part of the surveillance program, the U.S. Department of Agriculture analyzes samples of meats and poultry obtained from processing plants throughout the United States. These three programs comprise the National Pesticide Monitoring Program on Foods. The primary objective of the surveillance program on raw agricultural products by the Food and Drug Administration and the surveillance program on raw meats and poultry by the Department of Agriculture is to determine compliance with tolerances. The primary objective of the Total Diet Program is to estimate the dietary intake of pesticide chemicals.

14. Heptachlor-heptachlor epoxide residues appear most frequently in foods of animal origin, that is, dairy products, meat, fish and poultry. Based on the total diet program, the percent incidence of heptachlor-heptachlor epoxide in all food classes has remained relatively unchanged for the 1965–1974 period, but the calculated daily intake in mg/kg body weight has gradually but steadily declined during the same period. The food residue levels of heptachlor, heptachlor epoxide and chlordane are low. Heptachlor-heptachlor expoxide residues represent 0.8 to 2.0 percent of the ADI for 1970–1974. Chlordane residues comprise less than 1/100 of 1 per-

[5] The criteria for defining sites as lawn include mowed grass in close proximity to a house, factory or other structure, mowed grass in municipal parks or other town owned or operated land, garden or cultivated areas and a yard that is in obvious proximity to a home. Waste areas are vacant lots where grass is apparently uncared for, small wooded lots, brush or overgrown fields, areas such as power lines, gas lines, etc., and exposed soil around construction sites, eroded areas, etc.

[6] The following values are reported as technical chlordane in order to be comparable to the Chester River Study values. The chlordane values reported as technical chlordane in the Upper Bay Survey Report are not directly comparable to those reported in the Chester River Study Report due to a difference in the method in comparing the environmental residue peaks to the technical chlordane standard. In order to compare the technical chlordane values from the Upper Bay Survey Report to the chlordane values presented in the Chester River Study Report, the technical chlordane values from the Upper Bay Survey must be divided by a factor of 2.2.

cent of the ADI. However, chlordane findings in the surveillance program, although still low, have increased recently due perhaps to improved analytical techniques but more likely due to the recent increase in the use of chlordane in agriculture.

15. Chlordane is a commonly used insecticide in agriculture, industry, and the home, lawn and garden. About 21 million pounds were used in the United States during 1974. Data provided by Velsicol Chemical Corporation indicate the following approximate breakdown for chlordane use in 1973 and 1974:

Use	Million pounds		Percent	
	1973	1974	1973	1974
Corn	1.94	4.32	10.8	20.4
Potatoes	.98	1.11	5.5	5.2
Other vegetables	.06	.07	.3	.3
Home, lawn, and garden	5.77	6.33	32.1	29.9
Turf	1.14	1.25	6.3	5.9
Strawberries	.15	.17	.8	.8
Tomatoes	.30	.33	1.7	1.6
Ornamentals	.23	.25	1.3	1.2
PCO	7.41	7.34	41.2	34.7
Total	17.98	21.18	100.0	100.0

The proposed suspension covers about two-thirds of total chlordane use (65.3 percent in 1974); not counting some PCO use which might also be covered.

16. Chlordane is a leading insecticide in the United States, although it accounts for less than six percent of total U.S. insecticide use. It is widely used in the home and garden and industrial/commercial use areas, where in 1972 it ranked number 1 in each use with about 23 and 30 percent of U.S. use in those respective categories as indicated below:

Use	Amount used		
	All insecticides	Chlordane	Chlordane
	Million pounds	Million pounds	Percent
Agriculture	218.9	3.0	1.4
Home and garden	21.8	5.0	22.9
Governmental	7.0	.5	7.1
Industrial/commercial	21.5	6.5	30.2
Overall	269.2	15.0	5.5

17. According to USDA surveys, crop uses of chlordane account for 70 to 85 percent of agricultural use of chlordane in the United States and protection of corn from attack by soil insects accounts for more than one half of agricultural use. There is no trend shown in the USDA surveys as to changes in percentage breakdown among general types of agricultural uses. However, there appears to be a trend toward increased use of chlordane in agriculture generally, inasmuch as the 1971 use level of nearly 1.9 million pounds was more than three times that for 1964 and 1966, and more recent estimates by Velsicol indicate that approximately 6 million pounds were used in agriculture during 1974. The suspension of aldrin/dieldrin will increase demand for chlordane, along with other substitutes, leading to increased production and use of chlordane beginning in 1975 or 1976. Government agencies use significant amounts of chlordane. Annual use of chlordane has been estimated at 0.5 million pounds for federal, state and municipal agencies.

18. Heptachlor is used in a much smaller volume than chlordane (about 2 million pounds in 1974 compared with 21 million for chlordane) and is used in fewer types of applications. Data provided by Velsicol Chemical Corporation indicate the following approximate breakdown for use in 1973 and 1974: [7]

Use	Million pounds		Percent	
	1973	1974	1973	1974
Corn	1.13	1.19	57.4	58.0
Seed dressing	.19	.27	9.6	13.2
PCO	.61	.55	31.0	26.8
Fire ants, miscellaneous	.032	.04	1.6	2.0
Total	1.97	2.05	100.0	100.0

About three-fourths of heptochlor is devoted to agricultural use, and that is largely for corn soil treatments. Corn accounted for 91 percent of agricultural heptachlor use in 1971, according to USDA's survey. The remainder was divided among several other crop uses (e.g., alfalfa, other hay and pasture and vegetables). Heptachlor is not used in connection with livestock production as is chlordane. Agricultural use of heptachlor is largely in the Corn Belt states, with some use in the Lake States and the Northern Plains. Heptachlor, with agricultural use of about 1.2 million pounds in the early 1970's, equals about 0.5 percent of U.S. agricultural use of insecticides (more than 200 million pounds as of 1972). The PCO use estimate for 1974 of more than 550,000 pounds equals less than 3 percent of U.S. industrial/commercial use (approximately 21.5 million lbs. in 1972).

19. Corn is subject to attack by a wide variety of insects including corn rootworms, wireworms, and cutworms for which chlordane/heptachlor has often been recommended in the past. Chlordane and/or heptachlor have registrations under the act for use against these pests and a number of other lesser economic corn pests. Chlordane and heptachlor are not generally recommended for use against rootworms because resistance has developed. These chemicals are generally recommended by entomologists in the states for use against wireworms and cutworms. The States of Illinois and Iowa do not recommend pre-plant treatment of insecticides against the cutworm and do not recommend heptachlor or chlordane for this purpose. Chlordane and heptachlor together are used on about 2.6 million acres of corn in the United States as of 1975 (3:5 percent of total corn acreage). They are used on about 27,000 farms equalling about 3 percent of commercial corn farms in the United States.

20. Chlordane is used on about 1.2 million acres of corn equalling 1.6 percent of U.S. corn acreage and on about about 12,000 farms equalling 1.3 percent of U.S. commercial corn farms as of 1975. Heptachlor is used on about 1.4 million acres of corn equalling 1.9 percent of U.S. corn acreage and on about 15,500 farms equalling 1.7 percent of U.S. commercial corn farms. With suspension of aldrin, the use of aldrin declined from 9.6 percent of U.S. commercial corn acreage in 1973/74 (average of 2 years) to 3.3 percent in 1975. Chlordane use increased to some extent (from 1.3 percent to 1.6 percent of U.S. corn acreage in 1975) while heptachlor use increased somewhat more sharply, from 1.2 percent to 1.9 percent of U.S. corn acreage. Aldrin will no longer be available. Total acreage of corn treated with inspecticides in the United States declined from 27.9 million in 1973/74 (average of 2 years) to 26.2 million in 1975 even though commercial corn acreage in the U.S. increased nearly 3 million acres. This decline in insecticide use may be associated with the aldrin suspension as aldrin use has declined from near 7 million acres in 1973/74 to near 2.5 million acres in 1975. Two-thirds of the corn grown in the United States is not treated with any insecticide including both soil and foliar applications. Most corn farms do not use insecticides of any type in the production of corn (more than 75 percent in 1975).

21. Several organophosphate and carbamate alternatives to chlordane/heptachlor for control of corn soil insects are in widespread use in the United States as of 1975. Alternatives for rootworms and wireworms are used much more frequently than for cutworms. Diazinon, the only recommended preemergence alternative for cutworms, is used on only 0.4 percent of corn acreage and rescue baits are used on limited acreage. The leading states in use of chlordane/heptachlor as of 1975 based on percentage of corn acreage treated with these chemicals were: Missouri, 12.1; Illinois, 6.6; Indiana, 6.2; Iowa, 4.2; Ohio, 3.4; and Minnesota, 0.8 percent. Aldrin was used quite heavily in several of the corn states in 1975 (in terms of the percentage of corn acreage treated): Missouri, 17.9 percent; Indiana, 7.9 percent; Ohio, 7.2 percent; Illinois, 5.0 percent; and Iowa, 3.3 percent. Missouri is by far the heaviest user of organochlorines with 30 percent of commercial corn acreage so treated in 1975. The next ranking state was far below (Indiana with 14.1 percent). The number of commercial corn farms in the United States dropped from near 970,000 in 1973/74 to slightly under 900,000 in 1975, even though total corn acreage increased by more than 2 million acres. Farms using insecticides are larger acreage corn farms than nonusers. This is true of organochlorines as well as other insecticides. Corn insecticide expenditures totalled nearly $105.7 million in 1975, up considerably from $78.7 million in 1973/74. Average expenditure per treatment acre was $4.04 in 1975 compared with $2.82 per acre in 1973/74. Organochlorine treatments are less expensive than organophosphate and carbamate insecticides.

22. Cutworms are the primary corn soil insect pest for which chlordane and heptachlor are recommended to maintain yields. They are seldom recommended for rootworms. For wireworms many alternatives are recommended. Cutworm infestations in corn are highly variable from year to year. Since 1969 the number of farms reporting cutworms as a major problem has varied from 19,000 to 71,000 in the United States with an overall average of about 53,000. This equals about 2 to 8 percent of U.S. corn farms. The percentage of these farms treating for cutworms during that period ranged from 52 to 71 percent with an overall average of 61 percent. The number of farms treating during 1969 to 1975 averaged about 32,000 and ranged from 13,000 to 48,000. The extreme variability in cutworm infestations frustrates attempts to project economic thresholds for treatment. It is extremely difficult to determine in the spring whether pre-plant treatment would be justified except in high risk fields which have a history of cutworm problems. Rescue bait and spray treatments must be depended upon when there has been no pre-plant treatment or pre-plant treatment has failed in the face of an outbreak. The use of rescue bait and spray treatment requires scouting techniques during the critical time when corn is subject to cutworm damage after emergence from the soil. Scouting is useful even with pre-plant treatment because such treatments at times fail. Rescue treatments for cutworms such as sevin (carbaryl) and dylox (trichlorfon) are in the same cost range as chlordane/heptachlor. These rescue treat-

[7] The "Fire ant, misc." category of use in the above table includes use on pineapple, which is estimated at about 10,000 pounds annually. Velsicol Chemical Corporation also indicates that there may be several thousand pounds of heptachlor used on citrus to replace suspended aldrin use in Florida.

ments can be less expensive than broadcast aldrin or chlordane/heptachlor treatment. They are not applied unless needed, which lowers costs to the farmer. However, equipment costs may be a factor. Scouting can, in many cases, be accomplished in connection with other field operations, such as cultivation and routine observation of growing crops. Trained scouts working under a pest management project in Illinois in 1974 cost $0.55 per scouted acre for the season plus an additional $0.44 for computer and other support, bringing total costs to $0.99 per acre.

23. The existence and responsibilities of the Plant Protection and Quarantine Programs (PPQ) of the United States Department of Agriculture are provided for by congressional acts and by delegations made by the Secretary of Agriculture. The Plant Protection and Quarantine Programs operate under the following acts: (1) The Plant Quarantine Act, (2) The Federal Plant Pest Act, (3) Organic Act of September 21, 1944, (4) Mexican Border Act, (5) Terminal Inspection Act, (6) Mexican Pink Bollworm Act, (7) Incipient or Emergency Control of Pests, (8) The Golden Nematode Act, and (9) Cooperation with States Act. The acts provide the Secretary of Agriculture with authority to: (1) establish restrictive and prohibitory quarantines and regulations against imports likely to be the means of introducing plant pests not known to be present or widely distributed in the United States; (2) establish quarantines and regulations to carry out cooperative Federal-State-Mexican programs for suppression, control, or eradication measures against designated plant pests which become established in the United States or Mexico; and (3) provide export certification of domestic plants and plant products when requested by interested shippers and parties.

24. A quarantine is a restriction imposed by duly-constituted authorities whereby the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material or the normal activity of persons are brought under regulation, to prevent or limit the introduction or spread of a pest, or to control or eradicate a pest already introduced, thereby reducing or avoiding losses that would otherwise occur through damage done by the pest or through costs of continuing control measures.

25. The most significant uses by USDA for chlordane are those involving soil insects under Federal-domestic quarantines. The Plant Protection and Quarantine Programs staff of the Department has quarantine regulations which require treatments, including soil treatments, with chlordane for the Japanese beetle and the imported fire ant.

26. A nationwide survey is carried on each year for the Japanese beetle in the noninfested portions of the infested States and in all other noninfested States, with the exception of Alaska and Hawaii. Typically, those infestations found outside of the area of natural spread of the pest are delimited and control measures applied. The most effective adulticide is carbaryl and the only effective and available larvacide is chlordane. Each infestation is evaluated and, if warranted, the Federal quarantine is extended to cover the area of infestation where control measures are not taken or a suppressive area is designated in those cases where suppression or eradication treatments are being applied. If Federal and/or State regulations are imposed on a geographic area, regulated industry is notified and appropriate certification treatments must be applied.

27. For the Japanese beetle, the movement of nursery stock is considered one of the most hazardous articles moving in interstate commerce. Treatments are available to allow movement of plant material not previously treated to meet certification requirements. The most commonly used treatment is either a dip or injection treatment using ethylene dibromide or ethylene dibromide chlordane. This type treatment is an individual plant treatment which is time-consuming, laborious, and costly. The normal sequence of events in applying certification treatments to field-grown nursery stock is to apply a granular formulation of a residual pesticide to ground that had been plowed and disked. After application, the material is disked into the top 3 inches of soil. Three-year certification is obtained by such a treatment. In the case of plant species which are not harvested during a 3-year period, growers often wait until the second or third year after planting and apply chlordane to planted nursery stock free of weeds and follow this application by normal cultivation. In the case of pot or container grown nursery stock, the potting soil is normally fumigated or heat-treated to kill all existing insect life forms as well as weed seeds and other organisms, and the chlordane is added in prescribed amounts to act as a residual insecticide until such container grown stock is sold and moved from the regulated area.

28. Another important method of long distance artificial spread of the Japanese beetle is by aircraft and railroad cars. For some unknown reason, Japanese beetle adults are attracted to aircraft, especially jet-powered aircraft. The large sodded areas of airports are ideal sites for Japanese beetles to deposit their eggs and build up to tremendous populations. Two methods are available to reduce this hazard of artificial spread. If the beetles occur in hazardous numbers and are, in fact, present in airplanes destined for points outside the regulated area, a treatment is available using micronized DDT-carbaryl dust on the interior of the airplane and baggage compartments. This has not been necessary at many airports in the infested area because residual treatments with chlordane and other chlorinated hydrocarbon pesticides have been applied to the turf areas on and around the airport. Retreatment with chlordane may again be necessary. During the early 1970's, milky spore disease was distributed on areas either not previously treated with a chlorinated hydrocarbon or where such treatments were no longer effective. The milky spore treatments have not yet proved effective in reducing populations to nonhazardous levels.

29. The only material currently authorized by the U.S. Department of Agriculture for certification treatments of nursery stock and the regulated items involving soil is chlordane under the Japanese beetle quarantine. The major substitute materials cited by the Environmental Protection Agency may not be suitable substitutes for soil application for Japanese beetle quarantine purposes.

30. The transporting of nursery stock and certain other soil associated products is also a method of artificial spread of the imported fire ant. The Plant Protection and Quarantine Programs Regulatory Manual currently lists only chlordane or chlordane in association with mirex as a regulatory treatment for sod, nursery stock with soil, and similar items. At this time, there are no alternative treatments available for residual protection against imported fire ants. Treatments of potting soil, nursery stock, or grass sod areas for imported fire ant regulatory purposes are applied in the same manner as the Japanese beetle treatments. After an exposure period of 30 to 60 days, the soil or plants growing therein are certifiable for 1 to 3 years.

31. The black vine weevil is a serious pest of the Japanese yew. The larvae are of particular concern since they destroy the root system of the host resulting in death of the plant. Severe damage to the root system may occur before an infestation is evidenced to the untrained eye. When nursery stock inspected under the State of Michigan's inspection and quarantine authority is found to be infested, movement or sale is not permitted. The Japanese yew, due to its many varieties, persistent green foliage, hardiness, and soil and light intensity adaptability, is the most popular ornamental evergreen planted in the Lake States and the Northeast. Millions are planted around homes, in parks and in industrial landscapes.

32. The black vine weevil is the most destructive and difficult to control of Japanese yew pests. The weevil spreads primarily through the movement of infested nursery stock; therefore, adequate inspection of nurseries to detect incipient infestations and restrictions on movement of infested plants are highly important. It is also important that a means of eliminating infestations in nurseries and ornamental plantings be available. Currently, chlordane is the only means of control recommended by the Michigan Agricultural Experiment Station. The recommendation is for the application of one pound of actual chlordane in 100 gallons of water as a drenching spray to plants and the soil surface beneath. On the average, such an application would require 200 gallons of the dilute spray or two pounds of chlordane per acre. Granular formulations are not recommended because they have not proven effective. Without chlordane, nurserymen in Michigan having infested and restricted fields of Japanese yews will have no alternative but to absorb a total loss. Presently, an acre of the Japanese yews, 18-inch to 24-inch grade, has a conservative wholesale market value of $20,000. During the last nine years, the Michigan Department of Agriculture has restricted more than 389 acres of yews from sale or movement until weevil infestations were eliminated and certification was possible.

33. The nursery industry includes wholesale growing operations, landscape firms and retail garden centers. Retail sales of the nursery industry for 1971 were $2.1 billion and the wholesale value of these sales was $700 million. In that year expenditures for chemical pesticides used by the industry including insecticides, herbicides and fungicides was $14.8 million. Additional pesticides were purchased, but these were for resale at garden centers. Most pesticide use is at the grower or wholesale level. Pesticide expenditure as a percent of sales to growers was 2.1 percent in 1971. A summary of state recommendations for 15 states indicates that chlordane is recommended for relatively few ornamental insect pest combinations. In several states, it is recommended for only one pest of ornamentals. However, there are some problems with ornamental pests like the black vine wevil for which chlordane is recommended and for which alternatives are limited.

34. A native of Argentina, Chile, and Uruguay, the whitefringed beetle was first detected in Okaloosa County, Florida, in 1936, in a peanut field. The following year damaging populations were found around Florala, Alabama. Whitefringed beetle larvae so ravaged crops in the limited areas of its distribution in the mid- to late 1930's, that a federal domestic plant quarantine was en-

acted in 1939 and continued through June 1975 in hopes of stopping the spread of this insect. Despite these efforts, the insect has continued, and will continue to expand its geographic distribution.

35. Three species of whitefringed beetles, *Graphognathus peregrinus* Buch., *G. minor* Buch., and *G. leucoloma* Buch. and 5 subspecies have been identified in the United States. Based on limited data, the species appear to be biologically and ecologically similar. All insects examined have been females; thus parthenogenesis (development of the egg without male fertilization) is the mode of reproduction. The insects are univoltine (1 generation/year). Larvae overwinter in the soil, moving closer to the soil surface in spring as they become more active and require more food when temperatures rise. It is during this period that damage to crops planted in the spring, begins to occur. Larvae feed on germinating seeds, on roots, and on underground stems of young plants. Pupation begins at the end of April, reaching a peak during the first 2 weeks of July, depending on geographical location. Eggs are deposited primarily at the point of contact between the soil and objects such as sticks, gravel, and plant stems. The incubation period for eggs oviposition in mid-July to late August averages 14.7 days. Emerging first instar larvae enter the soil and repeat the above described cycle.

36. During the fall, larvae are quite small, and for this reason, damage to the root systems of small grains planted in fall for pasture or seed has been considered insignificant. This belief was shown to be erroneous. Wet weight yields of Elbon rye harvested in spring were reduced about 50 percent by whitefringed beetle larvae. It is because of their relatively small size during the fall that larvae go undetected even as land is disked after harvest. The larvae continue to develop unheeded until spring when their increased size may give away their presence during soil preparation for planting. It is at this time or during planting that control measures are instituted. The organochlorine group of insecticides are extremely effective against whitefringed beetle larvae when applied during this period. This is true even though these insects are approaching the completion of their larval development, and, as a general rule, the efficiency of insecticides applied against immature stages of insects decreases as the insect approaches maturity. The organochlorine group of insecticides, and particularly chlordane, have had no difficulty in controlling larvae of whitefringed beetle at this difficult-to-control developmental stage. When chlordane is applied at rates of 2.5 to 5 pounds AI/acre "broadcast" protection is extended during the oviposition period of the current year, thus reducing the probability of re-establishment by newly emerging larvae. Alternatively, chlordane may be used to treat rows to be planted. A "broadcast" treatment may be residually effective for as long as 3 years while a row treatment normally will retain its effectiveness for one year. This method of control is the only chemical treatment method available. No alternate insecticide is labelled for control of whitefringed beetle larvae. Alternate methods of control, both chemical and nonchemical, are not currently available as a practical matter.

37. Currently, the whitefringed beetle is distributed throughout Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Its greatest infestation is in Alabama, Georgia, and Florida. The extent of infestation of whitefringed beetle larvae is very difficult to predict and predictions must be based solely upon previous occurrences. The whitefringed beetle attracks practically all field and garden crops. The adult beetle feeds upon the leaves of plants. The adults do not account for a significant amount of economic damage. The larvae, however, are known to feed upon 385 species of plants distributed in 41 plant orders. All significant economic damage is done by the larvae. The larvae eat portions of the soft outer root layer and underlying tissues and may completely sever the main root of the plant. This is particularly common when the beetle attacks small seedling plants. Severe injury to the root system causes the plant to yellow, wilt, and die.

38. The reproductive potential of the whitefringed beetle is very great. Adult beetles may crawl as far as one-fourth mile in their lifetime. The beetles lay eggs from five to twenty-five days after they emerge. The egg-laying period ranges from 30 to 60 days. Adults may live as long as 150 days after emergence, but most die within 90 days. Eggs are deposited in masses of up to 60, but the usual mass contains from 11 to 14. The average length of the larval period is about 10 or 11 months. Some of the larvae hatch in one year. Some do not pupate during the summer of the first year and carry over to the next summer. Larvae generally hatch from eggs in August or September and become adults between May 25th and September 6th of the following year.

39. The peanut industry is the most important agricultural industry in the Alabama and Georgia area, and in the peanut production area of Florida. During the 1975–1976 growing season 200,000 acres of peanuts will be planted in Alabama, 520,000 acres in Georgia, and 55,000 acres in Florida. Total crop values in these states are estimated during that season to total $86 million in Alabama, $302 million in Georgia, and $25 million in Florida. The 1974 Georgia peanut yield was more than 1,670,000,000 pounds which constituted 40 percent of the peanut production in the United States. During the 1975–1976 growing season, approximate totals of 20,000 acres in Alabama, 26,000 acres in Georgia, and 10,000 acres in Florida of peanuts will be infested with the whitefringed beetle, causing economic loss. Of these, 15,000 acres in Alabama and 13,000 acres in Georgia will not be treated with chlordane even if available. A reason for the increased destruction by the whitefringed beetle is the effective weed control methods which have been developed in the Southeastern United States. Because herbicides are increasingly effective in destroying weeds which grow in peanut fields, the peanut plant becomes its only host. It is very difficult to predict accurately the level of infestation in any given area. In Alabama, it is recommended that growers treat only those fields, or portions of fields, where infestation by adult beetles is present.

40. Between 12,000 and 15,000 people are directly involved in the growing of peanuts in Georgia. Peanuts are by far the most important crop in Georgia. Many related industries, in the supply, processing and distribution phases, are dependent upon the peanut harvest. Thousands of jobs depend upon the crop. Many small towns survive because of the peanut industry. The peanut crop, according to the best estimates available, will significantly increase in 1975. Chlordane and heptachlor are not cited as a recommended treatment for peanuts in Georgia and Virginia, which states account for nearly one half of U.S. peanut production, according to 1975 recommendations. In Georgia, "insurance" treatment with any insecticide is not recommended. If whitefringed beetle problems emerge, growers are encouraged to check with their county agent.

41. The value to Georgia, in terms of income, acreage and yield, of some of the other crops which may be attacked by the whitefringed beetle is as follows:

Crop	Acreage	Yield	Income
Tobacco	75,000	167,625,000 lb	$176,519,000
Corn	1,880,000	105,230,000 bu	171,100,000
Cotton	410,000	200,900,999 lb	57,796,000
Soybeans	1,010,000	25,755,000 bu	161,826,000

Approximately 12,000 to 15,000 persons are directly involved with the Georgia tobacco industry. An equal number grow cotton. As many as thirty to forty thousand Georgia citizens grow corn, and an equal number grow soybeans. As with peanuts, thousands of workers are employed in related supply, processing and distribution industries. In addition, truck crops produce an annual income of more than $76,000,000 in Georgia, but no acreage or yield estimates are available. Chlordane may be used in the planting of all of these crops in much the same way it is used to treat peanut acreage. The soil is treated before planting. However, diazinon may be used in the treatment of tobacco. Diazinon can be mixed with the water used in the transplanting of the tobacco plant. Diazinon is effective for a shorter period of time than chlordane.

42. Florida produces over 75 percent of the United States' supply of citrus, which represents approximately 28 percent of the world's supply. Citrus is grown on 877,000 acres and is by far the most important agricultural commodity grown in the State of Florida. Florida citrus has an annual value of near one billion dollars.

43. There are 7 weevils considered pests of citrus in Florida, all but one having in common an immature stage that feeds on citrus tree roots. The exception, the Coffee Bean Weevil, *Araecerus fascilculatus* (DeGeer), attacks the fruit itself. The 6 root-feeding pests of Florida citrus are the Little Leaf Notcher, *Artipus floridanus* (Horn), the 2 Citrus Root Weevils, *Pachnaeus litus* (Germar) and *P. opalus* (Olivier), the Fuller Rose Beetle, *Pantomorous cervinus* (Boh.), the West Indian Sugarcane Stalk Borer Weevil, *Diaprepes abbreviatus L.*, and *Tanymechus lacaena* (Hbst.), a species lacking a common name. The Little Leaf Notcher was first reported on limes on the Florida Keys and is now distributed along the east coast as far north as Merritt Island. The Citrus Root Weevils have been associated with citrus in Florida for over a century. Prior to 1885, *P. opalus* adults were caught in great numbers on the Keys and by 1966 had been collected in 21 counties. *P. litus* distribution was reported in 1825 as ranging from Cuba to Florida and by 1966 had been collected in 21 Florida counties. Immatures were identified in the soil in 1915. Fuller Rose Beetle was recognized as a pest of Florida citrus in 1952 when large numbers were observed in several groves in Indian River and St. Lucie counties. Since that time, this pest has been collected from 30 counties in the State. The West Indian Sugarcane Stalk Borer Weevil is the most recent intruder, being found initially in 1964 and becoming established in 1969 near Apopka, Florida, where it was confined until recently within a 16,000-acre quarantine zone regulated by the U.S.D.A. and the Florida Department of Agriculture and Consumer Services.[8] *Tanymechus lacaena*

[8] Chlordane and heptachlor are not registered for control of the West Indian Sugarcane Stalk Borer Weevil, and, therefore, their use to control this insect is beyond the scope of this proceeding. Some question exists as to whether these insecticides are registered for use against the Fuller Rose Beetle, apparently the major soil pest of citrus, although they were used for this purpose. This need be resolved by administrative officials. To place matters in perspective, it should be stated at this point that the Fuller Rose Beetle is a minor pest of citrus.

was first recorded for Florida in 1921 and has only posed an occasional problem in newly set groves.

44. The life cycle of all 6 root feeding species adheres to the 4-stage pattern inherent in beetles: the egg, larva, pupa, and adult. Eggs are deposited above ground and larvae enter the soil to feed on roots. Pupation occurs in the soil and adults emerge from the soil to remain above ground feeding on foliage, mating, and laying eggs. All 6 species are presently considered univoltine: producing but one generation per year. The adults feed on the young leaves of citrus and, when in great numbers, cause serious setback of young trees. With the exception of Tanymechus, for which no observations are recorded, adults alo feed on the flowers and on rind of young fruit, resulting in peel scars when the fruit matures. Occasionally, young shoots are devoured. The most serious injury by the pests is produced by the larvae which destroy the plant roots. Affected trees have sparse foliage that may become chlorotic and wilt. When larvae are numerous, young plants may be killed in a short time or dwarfed; older trees are more resistant, but do not grow well, are unthrifty in appearance, become poor yielders of fruit, and occasionally die. Since the damage caused by the larvae takes place underground, it often remains unnoticed until the plants start to wither and 'die black.'

45. A variety of methods, including mechanical control, biological control, chemical control, and cultural practices have been attempted over the years to control the Fuller Rose Beetle. Methods such as hand picking egg masses and adults, trunk banding and such practices as root barring were of temporary value and required continuous surveillance. Chemical control required 4 to 6 foliar applications to achieve season long control. No method gave the control of the weevil pests provided by soil application of the insecticides chlordane or heptachlor. The recommended program today for controlling the citrus weevil complex is a soil treatment with chlordane or heptachlor and is based on the fact that adults must, when emerging from the soil, pass through the toxic barrier created at the soil surface upon application of these insecticides. Newly hatched larvae may also be killed when attempting to enter the treated soil. Although 2 distinct periods of peak emergence occur in the spring and fall, adult weevils will emerge from the soil throughout the year in Florida.

46. Florida's integrated pest control programs utilize a combination of both biological as well as chemical methods to control citrus pest infestations. The biological control consists of several parasitic and predatory insect species which have been introduced into the citrus groves. These predatory insects control aphids and scale insects. The purple scale was at one time Florida's number one pest in citus. Soil applications of chlordane or heptachlor do not harm the beneficial predatory and parasitic insects. The only alternative to soil applications of chlordane or heptachlor is multiple foliar spraying to kill adult beetles. This would require 4 to 7 foliar spray applications of insecticides per year. Soil applications of chlordane or heptachlor on the other hand are only required every two or three years for the same control. The increased foliar applications would be disruptive to the Florida citrus integrated pest control program. The foliar applications required would kill the beneficial parasitic wasps which have been introduced into Florida's citrus groves. These wasps are today relied upon heavily for the control of scales and mites. The introduction of these beneficial insects have greatly reduced the use of pesticides in citrus cultivation. Scale insects, which are under biological control as a result of these introduced predators and parasites, could once again become serious economic pests with their natural enemies killed off by frequent foliar pesticide applications.

47. Without an effective soil insecticide, the only option for beetle control is increased spraying of organophosphates to control adult beetles as they migrate from the soil to the foliage of trees. This option would probably not provide the same level of control. Soil insecticides provide maximum protection to citrus groves by interrupting the life cycle as the larvae migrate to the soil and by providing control over the number of adults who can move from the soil back to the foliage. Foliar sprays can be effective in reducing the adult beetle population at the time of application and shortly thereafter; however, because of the variability of the life cycle of the target insects, quarterly foliar applications would probably be required. In this event, the entire spray schedule would have to be restructured together with modifications in the current biological control programs.

48. If left uncontrolled, the damage caused by the Fuller Rose Beetle could be severe with impacts distributed unevenly across the citrus growing regions of Florida. Citrus District Five, made up of Atlantic Coast counties including Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward, Dade, and portions of Volusia is characterized by groves planted on artificially constructed beds, surrounded by draining ditches, which were once partial swamp land. High water tables limit the depth of the root systems; 90 percent of the roots are often concentrated in the top 18 inches of soil. In the central part of Florida, citrus roots can penetrate up to twenty feet and average twelve to sixteen feet. In the coastal counties, a greater portion of the root system is available for larvae feeding. Thus, the same level of beetle infestation can result in greater damage for these trees than for inland groves. Disking in the inland groves to a depth of 6 inches around the trees may interrupt the pupation stage of the beetle thereby providing marginal, non-chemical control. In the coastal regions, disking to this depth would severely damage the root system. Without cultivation, grass and weeds compete with the tree for available moisture. For this reason, coastal groves are more susceptible to drought which in turn exerts a stress on the tree and leaves it more susceptible to damage by any factor that reduces the root system.

49. Without adequate control of root feeding beetles, citrus production in coastal counties could prove unprofitable for many groves. Using treatment history as a base to define infested acres (and assuming that treatment is made every three to five years), 25 percent of Florida's East Coast county citrus acreage could be subject to root damage if adequate control of soil beetles is unavailable. As a percentage of total Florida citrus, this coastal county acreage would affect approximately 6 percent of current citrus production (1972 base).

50. Because of an inelastic demand for citrus at the farm level, the market impact of a decrease in production would be an increase in farm level income to citrus growers in the aggregate. However, due to the greater potential for insect damage in the East Coast region, these growers could be subject to income reductions if an adequate control agent is not available. Due to currently low income levels and a lack of alternative employment, a significant production decline would cause significant social impacts.

51. In 1976, about 8,000,000 new citrus trees will be planted in Florida. This planting will be for the purpose of replacing dying trees as well as starting new groves. Areas of new planting in Florida may be subject to subterranean termite attack. Chlordane or heptachlor are used to protect these newly planted trees.

52. California use of chlordane on citrus is directed primarily at control of the Argentine ant which interferes with natural predators of scale insects. It has been estimated that 25,400 pounds of chlordane were used on 8,112 acres (3.2 percent of California citrus acreage) during 1973. A five percent granular chlordane compound applied either aerially or with ground equipment at a rate of 100 pounds per acre was the typical dose against Argentine ants during this period. Substitute control programs use two to four ground applications of diazinon for one application of chlordane or foliar sprays to directly control scale insects. One or two foliar applications of either parathion, malathion, carbaryl, guthion or supracide would be needed as an effective substitute for the chlordane treatment. Only a small proportion of the California citrus acreage (3.2 percent) requires treatment for control of Argentine ants and the substitute control program has a small effect on citrus production costs. The direct regional and national impacts associated with a restriction in chlordane use for California's citrus industry are expected to be small. The impact of suspending this use would be felt primarily by the grower. Such pesticides as parathion could upset pest management programs and require a reorganization of foliar spray schedules.

53. Seed treatment is used to decrease stand loss attributable to seed eating insects. It is intended to protect grain and vegetable seed up to the germination period. It is estimated that between 4 and 8.7 percent of all grain seed (1970–1974) was treated with heptachlor in five midwestern states. Similarly, between 8.6 and 20.2 percent of all seed was treated with one of five major insecticides including heptachlor. Estimates are not available on the intensity of seed insecticide treatment in other agricultural areas. Velsicol Chemical Corporation estimates that about 269,000 pounds of heptachlor were used for seed treatment or dressing in 1974.

54. Seed treatment provides temporary protection from seed eating insects (seed corn maggot, seedcorn beetle, thief ant, wireworms and false wireworms) during germination. Major protection from heavy infestations is provided by more costly and intensive soil treatments. Seed treatment alone does not provide adequate protection under such conditions. Commercial seed producers generally do not now apply insecticides to seed for protection during germination. For many types of seed the alternative to commercially treated seed is planter-box or drill-box treating by the farmer. These treatments are generally formulated with from 12½ to 25 percent active insecticide and, almost without exception, contain a lubricant such as agricultural grade graphite suspension of heptachlor seed treatment would generally result in the use of lindane, diazinon, or a combination of lindane/diazinon. State recommendations consistently recommend the above as seed treatment alternatives to heptachlor. However, supplies of lindane are scarce and a substantial portion of the heptachlor seed treatment use could not be made up by lindane. For diazinon the outlook is somewhat better as the volume needed for seed treatment is small compared to total diazinon use.

55. Resistance of seed feeding insects to cyclodiene insecticides is prevalent in certain geographical areas. Seed corn maggot and slender seed corn beetle, for example, are resistant to aldrin, chlordane and heptachlor

over the northern and east central areas of Missouri. Iowa no longer recommends chlorinated hydrocarbons in the state because of resistance in these insects. Illinois notes that, among other insects, seed-corn beetles, seed corn maggots and possibly wireworms are no longer effectively controlled by chlorinated hydrocarbons (lindane is included in this group).

56. Lack of efficacy and phytotoxicity data for diazinon prevents an accurate appraisal as to whether that chemical will be a good seed treatment substitute for heptachlor under all conditions. As with lindane many factors may affect its performance as a widely used seed protection.

57. Heptachlor removal as a seed treatment is most troublesome primarily in the Southwest. It is estimated that removal of heptachlor as a seed treatment may result in a financial loss of greater than $22 million dollars in the State of Texas. This estimate includes only the cost of replacing and replanting sorghum, small grain and corn seed. Seed replacement estimates vary between 10 and 20 percent of the planted acreage dependent upon crop. Further detailed economic assessments of additional loss due to reduction in yield quality or quantity have not been made. Wireworms are the major seed eating insect problem in Texas. Diazinon seed treatment is considered to be generally ineffective on wireworms. Though recommended as an alternative to heptachlor seed treatment for seed corn beetles, seed corn maggot and wireworms on corn and small grains, lindane is reported to cause various degrees of phytotoxicity particularly on sorghum. Neither chemical is considered to be an effective seed treatment alternative in the Texas grain producing areas. Cultural techniques are not believed to offer protection against seed eating pests. Planting dates cannot be delayed due to either climatic conditions or to the presence of other pests that can attack at other vulnerable stages. Potential control from rotation is limited by the fact that many grain growing areas in Texas are not adapted to crops other than grains. Additionally, cotton/grain and cotton/sunflower rotations in other locations are not always plausible as the market for cotton may be uncertain and sunflower seeds are a crop of limited demand. Insect infestations often exhibit densities directly proportional to the seeding rate, therefore, an increase in the rate of seeding will not necessarily produce the desired stand.

58. Low to moderate populations of wireworms are effectively controlled by heptachlor seed treatments of .175 to .25 ounces of active chemical per bushel of seed. Planter-box applications of heptachlor formulations including .5 to 1 ounce of active chemical per bushel of seed have been equally as effective provided lubricants of some sort are included in the formulation to remove the "planter drag" of the added material so that uniform, expected seeding rates are obtained. One bushel of seed is sufficient to plant 3 or more acres of corn. Sorghum seed treated at one-half to one and one-half ounces of actual heptachlor per 100 pounds of seed will plant from 10 to 25 acres.

59. The Pacific Northwest is the production center of narcissi, more commonly known as daffodils. Both bulbs and cut flowers are distributed nationally. The narcissus bulb fly is the principal insect pest of daffodils. Narcissus production is a small acreage industry, but one that has high per acre gross monetary value. Approximately 1800 acres are grown in the United States with the major production centers located in Washington, Virginia, New Jersey, California, North Carolina and Oregon. Income is derived from dry bulb sales, field-cut flowers and forced greenhouse flowers. Washington and Oregon are the major supply sources for dry bulb sales. Total value of the crop in these 2 states approaches $2,000,000 annually.

60. Narcissus production is concentrated in geographical areas with comparatively mild climates where winter and summer extremes are tempered by winds from large bodies of water. A normal cropping season extends from August to the following July. Bulbs are planted to fields in rows during August and September with specialized machines that set the bulbs uniformly spaced in deep furrows (6"–8" below the soil surface) which are then covered with dragbars or discs. Rows are hilled periodically to control weeds, facilitate drainage and protect the bulbs from freeze damage. In the late fall chemical weed killers are applied to suppress weeds until the following spring when the soil dries out enough to permit cultivation and post-emergence herbicide applications. The blubs sprout in late fall and foliage emerges during mid-winter. Daffodils usually bloom in late March or early April, depending upon the weather and location. Cut flowers are harvested at bud stage from some fields in March. The flower heads from nonharvested fields are removed to maximize bulb growth. Fields are rogued once or twice in the spring to remove off varieties and diseased plants. Irrigation is often provided in May and June to increase bulb yields. Harvesting commences in July after the plants have matured and the tops have died back. Bulbs are mechanically dug with grower-designed and constructed machines which resemble potato diggers, but contain additional components for preliminary field cleaning and grading. Bulbs are stacked in trays and field cured for 7–10 days. They are then transported to sheds where they are artificially cured, cleaned, graded and treated with chemicals for protection against disease, nematodes and insects. Bulbs are graded into planting stock and various sizes for sale.

61. The principal insect pest of daffodils is the narcissus bulb fly, *Meredon equestris*. It occurs wherever bulbs are grown in Europe and North America and causes more trouble than all other narcissus insects combined. While mainly a pest of narcissus, it also attacks amarylis, hyacinths, lilies, tulips and other bulbous plants. The flies, which resemble bumble bees, are present from the middle of April through June in Washington. Females lay separate eggs on the foliage or soil near the base of the plants. Eggs hatch in 10–15 days, and maggots, which are the destructive stage of this insect, move downward to the base of the bulb where they enter the bulb through the basal plate. The larvae feed on the interior of the bulb and eventually create a cavity filled with soft brown decayed tissue. The larvae develop to mature size, about ¾ inch long, by late September or October. Larvae remain in the bulbs during the winter and leave them in March to form puparia in the soil. Flies emerge from the puparia in late spring and begin the cycle again.

62. Since the 1950's narcissus growers have effectively controlled the bulb fly with heptachlor bulb dips prior to planting. The bulbs are usually soaked from 10–60 minutes in emulsions containing 0.8 pounds of heptachlor per one hundred gallons of water. Bulb dips are an economical and highly effective means of controlling the bulb fly on narcissus. The heptachlor bulb dip is the standard control measure wherever the pest is an economic problem. No practical alternative to heptachlor exists at this time. Chlordane is also an effective material as a bulb dip for the fly. However, this material was never recommended for commercial use because it was incompatible with the mercuric fungicides that were used in the dips for protection against bulb rots. In recent years mercury fungicides have been replaced with a modern organic fungicide, Benlate. Data are available which indicate that chlordane and this fungicide are compatible in the dipping tank. Several new insecticides show promise as bulb dips and may eventually become practical alternatives to heptochlor. The long-term impact of a heptachlor suspension or cancellation appears less serious than the immediate effect of such an action because potential alternative insecticides as bulb dip treatments do exist.

63. The adults (or June bugs) of the white grubs lay their eggs in soil, in sod, or in grassy fields. The larvae (called grubs) that hatch from these eggs feed primarily on the roots of the grasses. The grubs will feed for two or three years, depending on the species. When the field is broken for planting, the grubs will feed on the roots of any crops planted in that field. Their feeding can destroy the stand and weaken plants, thus reducing yield. The grubs are rarely distributed evenly across a field, and their damage usually appears as variously sized circular areas of poor stand surrounded by stunted plants. Also, the root damage caused by the grubs makes harvesting difficult. Grub damage has occurred throughout the State of Michigan, but most of the problems have been in the heavier soils in the southern half of the Lower Peninsula. Grub problems increase with an increase in opening of fallowed fields.

64. Good control of grass weeds in crops and maintenance of high vigor in forages is emphasized as a means of keeping grubs down in tilled land. An increased threat of insect damage occurs in fields recently removed from sod or heavy weeds. It is recommended that growers check plow furrows for white grubs when they are fitting their lands. There is no hard criteria for deciding when grub control is needed, but it is recommended that the field be protected from grubs when the grubs are easily found in the field. Treatments are not recommended unless the grubs can be found in the field because not all sod fields are heavily infested with grubs. Sometimes grubs are not detected until after the plants have emerged. The affected areas are treated, disked and replanted when there is time. This reduces the loss but increases the cost of control.

65. The alternative to chemical control of grubs is clean fallow of the land for one year following breaking it from sod. This removes the land from production for that season. Clean fallow leaves the land open to wind and water erosion.

66. A broadcast application of chlordane and mixing the insecticide into the upper layer of soil prior to planting is recommended for grub control. The insecticide can be applied as a spray or as granules. Broadcast granular applicators are scarce in Michigan, and most of the applications are made using weed killer type sprayers. The mixing can be done by the disking before planting and is recommended to prevent decomposition of the insecticide by the sun and hot surface of the soil, to reduce exposure of wildlife to the insecticide, and to reduce run-off. The broadcast application rather than a band application is required for control of grubs. Soil fumigation, recommended in some states, is exceedingly rare in Michigan.

67. The State of Michigan currently recommends 4 pounds active insecticide per acre of chlordane, parathion, or diazinion for white grub control in field crops. Parathion and

diazinon were recommended to have something to reduce the losses caused by white grubs in those crops where chlordane cannot be used. Their lack both of specificity and residual effectiveness have given acceptable control only in re-plant situations. Two newer insecticides, Lorsban and CGA–12223, are reported to be promising for white grubs, but they are still unproven.

68. The economic impact of a ban on chlordane in field crops in Michigan would not be major on a state-wide basis; however, the economic impact on a number of farmers would be very significant. The estimated acreage infested annually in Michigan is corn, 10,000 acres; small grains, 5,000 acres; soybeans, 3,000 acres; and dry beans, 2,000 acres.

69. Growers in New York State annually produce approximately four million pounds (two and two-thirds million quarts) of strawberries. The annual value of this crop at present is estimated to be at least 1 and ⅓ million dollars. Among the insects most difficult to control in a strawberry planting are those that spend their immature or larval stages feeding on the crowns or on the roots. Plants attacked by these species usually die or at least remain stunted and nonproductive. In New York State there are at least five species of insects that may, and when not controlled often do, injure the crowns and/or roots of strawberry plants. The most important species involved are: white grubs—*phyllophaga sp.*; strawberry rootworm—*Paria canella* (*Paria fragariae*); strawberry root weevil or crown girdler—*Brachyrhinus ovatus* (*Otiorhynchus ovatus*); black vine weevil—*Brachyrhinus sulcatus*; and strawberry crown borer—*Tyloderma fragariae*.

70. Strawberry plants are set in the spring in rows 4 feet apart with the plants about 18 inches apart in the row. These plants multiply by sending out runners which produce daughter plants to develop each row into a bed approximately 3 feet wide. No crop is produced the first year. Crops are produced the second year, and possible for 6 or 7 additional seasons, depending on cultural practices and the degree of weed, insect, and disease control obtained. Presently, some growers plan to fruit their beds 4 to 6 years.

71. The use of preplant soil treatment of a persistent insecticide protects the plants against the feeding of root destroying insects species for several years. In the Northeastern United States and Eastern Canada, chlordane is generally, and in most cases the only, recommended material for this purpose. Chlordane is specifically recommended in Minnesota, Michigan, Ohio, New York, Connecticut, Massachusetts, Maine, Vermont, New Jersey, Maryland, West Virginia, and in Ontario, Canada. New York State recommends the use of chlordane in strawberry production only if the land utilized had had previously been in sod. The chlordane formulation is incorporated in the upper 3 to 6 inches of soil before planting for the control of white grubs and other root-feeding species.

72. The larvae of rootweevils and white grubs are serious pests in certain areas for which several states recommended chlordane and for which alternative controls are limited. Other chemicals such as diazinon and carbaryl reportedly are effective controls but are not registered at sufficiently high rates of application to provide effective control. Most California production, which equals ⅔ of the U.S. total, would not be affected. In 1974, chlordane was used on only 16 percent of 1974 acreage grown (8,300 pounds on 1,409 acres). The next four ranking states in terms of commercial strawberry production would be adversely affected at least to some extent. They are, in terms of percentage of United States strawberry production, Oregon (10 percent), Washington (5 percent), Michigan (3 percent) and North Carolina (1 percent). If alternatives are unavailable for control of these pests in these commercially important production states significant national impacts would occur on the production of strawberries. The extent of economic impact of shifting to alternative crops for affected growers is not known at this time. The impact of shifting to alternatives is minimized to some extent in the state of Washington since neither chlordane nor heptachlor currently provide consistently effective control over the weevils attacking strawberries in that state. The lack of alternatives is likely to have production impacts also in Kentucky, Maryland, Missouri, Mississippi, Nevada, New York, Ohio, Tennessee and Wisconsin.

73. Hawaii is the world's largest producer of pineapple. The canned pineapple production in 1974 of 7.9 million cases represents 28 percent of the total world production. The gross income reported from the production of pineapple in Hawaii in 1974 amounted to 124.3 million dollars. Hawaii's pineapple, grown on 43,300 acres, employs approximately 3,700 people year around and an additional 7,000 during the peak of the season. The Hawaiian pineapple industry has experienced a decline in recent years.

74. The mealybug wilt disease is a highly devastating malady of pineapple. The affected plants do not produce marketable fruit. If no control measure is applied, the disease can spread rapidly and extensively, often over the entire field. The Hawaiian pineapple industry suffered a tremendous loss years ago from this disease prior to the development of effective control measures.

75. Mealybugs are the principal cause of mealybug wilt. Mealybugs suck sap from the pineapple plants. If the mealybugs are not controlled, the root systems of the pineapple plant will collapse. Ants have a commensal relationship with mealybugs. Ants carry mealybugs to and from pineapple plants, particularly from the wild growth in the outfield area to pineapple plants in the field, and ants attend or protect mealybug colonies on pineapple plants. All mealybugs excrete a sweet-tasting product referred to as honeydew. Ants particularly have developed the capacity to exploit honeydew as a food resource. Certain ant species such as the big-headed ant, *Pheidole megacephala* (Fabricius) and the Argentine ant, *Iridomyrmex humilis* (Mayr), aggressively seek out honeydew producers such as mealybugs. The active solicitation of honeydew by ants increases the volume of sap imbibed and the amount of honeydew produced by individual mealybugs. In Hawaii heavy populations of mealybugs are associated with attendant ants. Elimination of these ants allows natural enemies, such as predators and parasites to greatly reduce mealybug infestations. In the absence of ants, the mealybug becomes surrounded with masses of honeydew which is a substate for fungi that will cover and eventually kill the mealybugs. Mealybugs on pineapple can be largely controlled by eliminating the ants which tend them.

76. The major ant species in the Hawaiian pineapple fields are principally the big-headed ant and the Argentine ant. The principal mealybugs associated with pineapples in Hawaii are the pink pineapple mealybug, *Dysmicoccus brevipes* (Cockerell), and the gray pineapple mealybug, *Dysmicoccus neobrevipes* (Beardsley).

77. Heptachlor is effective for the control of ants in Hawaii's pineapple fields. Heptachlor may be applied to the soil at a rate of one to three pounds of active ingredient per acre and as a foliar spray for the control of the ants at a rate of one to two pounds of active ingredient per acre. Applications of this chemical may be made at monthly intervals to the foliage for as long a period as is required provided that it is not applied within 60 days of harvest. Chlordane also will give effective control of the ants. However, by label restrictions it can only be applied to the soil and only when there is no fruit present.

78. The only registered alternative for the control of ants in pineapple in Hawaii is mirex. Mirex, as a broadcast treatment of pineapple fields, may be applied only once in any twelve-month period. Mirex is applied at the rate of 2.5 pounds of Harvester Ant Bait "300" which contains 3.4 grams of active ingredient per acre per year. Wet ground or rain may make the bait worthless as an ant control measure. Oil in the bait is the attractant and moisture washes the oil out of the bait. Heptachlor can be used under those weather conditons where rainfall has rendered the mirex treatment worthless.

79. Without the control of ants the spread of mealybug wilt can accelerate and the commercial growing of pineapple could be in serious jeopardy. Mealybugs, as distinguished from the ants, can be partially controlled using diazinon or malathion. Mealybug infestation at subterranean level, however, cannot be reached with these insecticides. Without ant control, mealybug control by these two chemicals would be only a temporary restraint on the rapid acceleration of wilt.

80. An estimated 6,000 to 8,000 pest control firms throughout the country have one or more full-time employees. The type of work conducted by the pest control industry is commonly referred to as structural pest control and involves the control of several hundred potential pests. Only a few dozen are regularly encountered. In turn, three specialty areas of structural pest control are recognized in the industry: *Termite Control* including the control and elimination of wood destroying insects such as termites, powderpost beetles, old house borers and carpenter ants, in addition to the control of wood destroying fungi; *General Pest Control*, including the control of rats, mice and the common household insect pests such as cockroaches, ants, fleas, ticks, silverfish, food and pantry pests, fabric pests and occasional intruders from out-of-doors; and *Fumigation*, which may be a specialty in itself in either the termite or general pest control area depending on the problems in any given area.

81. Chlordane, first used commercially in 1946, came into broad scale use by pest control operators after 1950. Since that time the pest control industry has used chlordane to control a broad spectrum of household and wood destroying pests. Many efficacious substitutes or alternatives to chlordane exist for use against household pests, as recognized by the National Pest Control Association itself.

82. Carpenter ants of the genus *Camponotus* occur widely in North America and are the largest of our common ants. The adults vary in length from about ¼" for a minor worker up to ¾" for a queen. They are either black or black and red in color. They do not eat wood but excavate extensive galleries in logs and timbers to serve as nesting sites. Carpenter ants are being reported with increasing frequency as a serious household pest and wood-destroying insect. Carpenter ants are omnivorous in their food habits, that is, their diets include a great variety of both animal and plant foods. Most of the carpenter ants' animal food consists of insects and other small invertebrates living or dead. Many sweets and meats commonly found in kitchens and food storage areas in structures are attractive to these ants. A number of different ants utilize cavities in wood as nesting sites; however, only carpenter ants cause sufficient damage to

timbers by their extensive mining to be of economic importance. Although the nest is most often begun in soft, decaying wood, subsequent excavations frequently are made into sound and dry lumber. Unlike termite workings, the walls of the carpenter ants' nest are smooth and clean, having a sandpapered appearance. When carpenter ants are found in a structure, either the colony is nesting within the building proper, or they are nesting somewhere outside the structure and merely entering to forage for food. A 2 or 3 percent water emulsion or oil solution of chlordane applied as a spot treatment may be used. Dusts of 5 percent chlordane may be used in infested areas instead of, or in conjunction with, sprays. Dusts are particularly effective for treating the nest galleries. The gallery injection method of applying chlordane is generally used in treatment of carpenter ant infestations. In that case, liquid chlordane is injected directly into the insect-created cavity.

83. There are true powder-post beetles (Lyctidae), false powder post beetles (Bostrichidae), deathwatch and furniture beetles (Anobiidae) and old house borers (Hylotrupes bajulus(l.)). Insects in this group have the following common characteristics: they infest cured, even kiln-dried wood; they reinfest wood over and over again; their feeding takes place within, not on, the surface of wood; their larvae, which do virtually all of the injury to wood, work independently of one another and bore through the wood in an aimless fashion; and wood is chewed by a scraping or rasping action of the jaws at the head end of the insect, is partially digested in the insect's gut and then is discharged into a tunnel behind the larva as a fine powder of only slightly altered wood.

84. Among the many different kinds of insects that attack wood and wood products, the destructiveness of lyctid beetles is rated second only to that of termintes. Their activity causes many millions of dollars' worth of damage in the United States each year. Lyctids are a pest primarily of the sapwood of hardwoods and are more commonly found in recently dried rather than old wood. They are found infesting hardwood flooring, hardwood timbers, plywood, crating, furniture, tool handles, gun stocks, and many other specialized wood articles. Their attack is characterized by the reduction of sound wood to fine powder. Anobiid powder post beetle infestations are common in softwood framing—especially floor joists of crawl space buildings. They are common in the southeastern part of the country. Bostrichid powder post beetles are more prevalent along the west coast. Some are of moderate size up to an inch in length. The old house borer may attack ancient structures and a building may be many years old before the attack is discovered, but this moderate sized beetle most often attacks new structures in the United States. The old house borer has a very long life cycle and can infest the same piece of wood again and again. In the United States, the old house borer has become well established in most of the states along the Atlantic coast. Chlordane treatment for powder post beetles is generally limited to relatively few areas within a structure, normally areas of restricted access. Areas of common infestation are: substructures, framing, subflooring, attic framing and hardwood floors. Treatment is confined to the wooden member itself as it constitutes the insects' entire habitat.

85. Ticks and chiggers are pests to the human population, and some of the ticks are also vectors of serious illness in the south-central region of the United States, including Arkansas, Louisiana, Oklahoma, Missouri, and Texas. Eighteen species of ticks are known to presently occur in Arkansas. Those which are most common attack man. These are *Amblyomma americanum*, the lone star tick; *Dermacentor variabilis*, the American dog tick; and *Ixodes scapularis*, the black legged tick. These are the three most abundant species. The lone star tick extends from Central Texas to the Atlantic Coast and northward to Iowa and Maryland. Ticks attach themselves to warm blooded animals, including man, for the purpose of sucking blood from their host. In so doing, they inflict severe bites, which frequently are accompanied by swelling and infection.

86. In addition to the pest aspects, the hazard of contracting tularemia or Rocky Mountain Spotted Fever from ticks is present. Tularemia is primarily a tick-borne disease in Arkansas. In Arkansas 56 percent of 704 cases were attributed to tick bite. Tularemia is a debilitating ailment that leaves its victim suffering through a long period of convalescence unable to work effectively. This disease may also result in death to the individual. Rocky Mountain Spotted Fever is another disease that is specifically tick-borne. The American dog tick, *Dermacentor variabilis*, is a proven vector of this disease. This tick is the second most frequently occurring species. The lone star tick, *Amblyomma americanum*, which is the most abundant tick, is also a vector for this disease. Because dogs are commonly carriers of the dog tick, this disease agent is brought in intimate contact with the home environment and particularly children. Moreover, dogs themselves become infected and, in turn, infect additional ticks, thus increasing the exposure hazard.

87. More cases of Rocky Mountain Spotted Fever occurred in the United States during 1974 than in any previous year since definitive records have been maintained—a total of 774 cases have been reported to the Center for Disease Control. Rocky Mountain Spotted Fever is not confined to the Rocky Mountain area. In 1974, as in previous years, more cases occurred in the southeast than in the Rocky Mountain region. There were more cases in single states, such as Virginia, North Carolina, South Carolina, Georgia, Alabama, Tennessee, Arkansas, Oklahoma, and Texas, than in the entire Rocky Mountain region, where only seven cases were reported. Since 1960 tick-borne typhus or Rocky Mountain Spotted Fever has been reported in all the contiguous states except Maine, Vermont, Alaska and Hawaii.

88. In Arkansas, heptachlor and chlordane are not recommended for use against ticks on animals, such as beef cattle, dairy cows, horses, sheep, goats and dogs or interior or exterior household use against ticks and many other insecticides are recommended instead. For outdoor use around the home against chiggers, chlordane, diazinon and heptachlor are recommended and for tick and chigger control in recreational areas, heptachlor and diazinon are recommended.

89. Harvester ants are common ants often present in large numbers throughout the more arid areas of the Western United States. They are more numerous during drought years but cause problems every year. Their large mounds are found in recreation and other areas where vegetation is scanty such as school yards, playgrounds, roadsides, animal trails, and lawns which have patches where grass is not plentiful. Harvester ants also may be serious pests of alfalfa fields, recently planted orchards, pastures, and meadows, particularly during drought periods.

90. When nests are established where people frequently come in contact with them, the harvester ants may become a health problem. The effects of a sting can be very painful. Localized swelling and inflammation ensue rapidly. Soon thereafter a throbbing pain which may last for several hours extends to the lymph nodes of the inguinal, axillary, or cervical area, depending on the location of the sting. Multiple stings will produce excruciating pain and may induce systemic disturbances of considerable severity. Victims who are hypersensitive to the ant venom may collapse from anaphylactic shock and be in danger if not given prompt medical attention.

91. The swarms of reproductive harvester ants (Pogonomyrmex) which occur during the summer months may cause inconvenience and harm to those who are involved. Usually after a heavy rain during the summer the worker ants stop their harvesting activities and become much more aggressive. Animals encroaching upon the cleared area of the nest are driven off if possible, smaller animals are killed but not brought into the nest. Soon the winged ants (queens and kings) leave the nest and fly to an open area such as the roof of a building, parade ground, tennis court or other clear surface found at the highest elevation in the vicinity. Thousands of ants gather as a moving mass 6-8 inches deep. The swarm may remain in the area for several hours. All human activities in the swarming area are stopped. In cropland, once the harvester ants have developed a well established nest, the ants carry off seed necessary for revegetation of pasture. The seed is sorted in nest galleries extending as much as 15 feet below the surface. Long term alternatives to chlordane for use as a bait against the Texas harvester ant or Pogonomyrmex barbatus is apparently currently lacking.

92. Imported fire ants both sting and bite their victims. The imported fire ant attacks its victim by grasping the skin with its mandibles, or jaws, pulling on the skin, pinching it, doubling its abdomen forward and driving the stinger located at the hindmost end of the abdomen into the skin. The imported fire ant maintains this position for many seconds, usually 20 or 25. A poisonous venom is injected through the stinger into the skin. Grasping of the skin by the mandibles is the "bite" of the imported fire ant. The injection of venom into the skin of the victim through the stinger is its sting.

93. The pustule appearing at the site of the sting is sterile. The venom of the imported fire ant is poisonous not only to human tissues but also to bacteria and fungi. However, the fluid and skin membrane, plus the maintenance of the dead tissues at body temperature create an incubator for microorganisms able to enter the pustule resulting in secondary infection, which is probably the most common problem arising from an imported fire ant sting. Persons who are allergic to components of the venom of the imported fire ant sometimes develop massive swelling in the vicinity of the sting. Large blisters sometimes form at sting sites and bleeding into the blisters sometimes occurs. Imported fire ant stings sometimes cause a chronic spreading skin condition called infectious dermatitis. This occurs frequently when persons are stung on the lower extremities.

94. A small percentage of the population exposed to imported fire ant stings or the stings of other venomous insects, such as bees and wasps, develops a sensitivity to the venom which results in anaphylactic shock. Anaphylactic shock is a critical and life-threatening condition, accompanied by difficulty in breathing and decrease in blood pressure. Fatalities caused by imported fire ant stings are most likely to result from anaphylatic reactions. If a person who has seriously impaired circulation to his or her extremities, for example, due to arteriosclerosis, is stung on the hand, arm, foot or leg by imported fire ants, the tissues inade-

quately supplied by blood tend to heal poorly. Secondary infection is more likely to occur and may result in gangrene developing. If the blood supply cannot be improved, it may be necessary to amputate the gangrenous portion of the limb.

95. Overall, 2,485 doctors in 143 counties in Mississippi, Alabama and Georgia which were heavily and moderately infested by imported fire ants were surveyed during August, September and October 1971. 1,336 or approximately 54 percent of the doctors surveyed, responded. 901, or approximately 67 percent of those responding, reported they had treated patients for imported fire ant stings or complications from such stings. 12,438 patients were treated by these doctors for imported fire ant stings or complications during the first 7 to 9 months of 1971. 6,788 of these patients required treatment for secondary infection. 428 required extensive debridement. 6,182 patients had allergic reactions involving localized swellings. Of these 1,356 had generalized urticaria and/or angioedema. 561 patients had other systemic symptoms. A total of 76 cases of anaphylactic shock was reported for the first 7 to 8 months of 1971 in Mississippi and the first 9 months in Alabama and Georgia. For 1970, 52 cases were reported. For 1969, 27 cases. Seventeen deaths resulting from imported fire ant stings were reported by the doctors surveyed.[9]

CONCLUSIONS

I. As stated by the Administrator in his notice of intent to suspend registrations of pesticides containing heptachlor or chlordane, in effect, instituting this proceeding, dated July 29, 1975, "In accordance with FIFRA section 6(c), where the Administrator finds that 'action is necessary to prevent an imminent hazard during the time required for cancellation * * *' he may by order suspend the registration after providing an opportunity for an expedited hearing on the question of 'whether an imminent hazard exists'. The term 'imminent hazard' is defined by FIFRA section 2(*l*) to mean a 'situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment * * *'" The phrase "unreasonable adverse effects on the environment" is, in turn, defined by section 2(bb) of the act (7 U.S.C. 136(bb)) to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

In this connection, the Administrator further stated in his notice, as follows:

The courts have repeatedly "cautioned that the term 'imminent hazard' is not limited to a concept of crisis: 'It is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process.'" *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 510 F. 2d 1292, 1297 (D.C. Cir. 1975) (emphasis in original), quoting from *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 465 F.2d 528, 540 (D.C. Cir 1972). Of course, as in the cancellation proceeding, the Administrator does not have the burden of proving that a pesticide is unsafe since the statute and case law place "[t]he burden of establishing the safety of a product requisite for compliance with the labeling requirements . . . at all times on the applicant and registrant." *EDF* v. *EPA*, 510 F.2d at 1297 *EDF* v. *EPA*, 465 F.2d at 540.[10]

In addition, crucial to any description of this proceeding is the holding of the Court in *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 510 F. 2d 1292, 1298 (D.C. Cir. 1975), the sole suspension, proceeding under section 6(c) of the act, that "'the function of the suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues. We cannot accept the proposition * * * that the Administrator's findings * * * [are] insufficient because controverted by respectable scientific authority. It [is] enough at this stage that the administrative record contain[s] respectable scientific authority supporting the Administrator.' Environmental Defense Fund, Inc. v. EPA, *supra*, 150 U.S. App. D.C. at 357, 465 F. 2d at 537."

II. Much of the initial controversy herein turns on the results of the review of slides of basically the rodent liver by pathologists.[11] Velsicol Chemical Corporation takes the position, in effect, that this is a very subjective matter among pathologists and that this proceeding merely describes differences of opinion among pathologists based on their subjective examination of mouse and rat liver slides and that, therefore, the carcinogenicity of heptachlor and chlordane has not and, perhaps, cannot be established herein. There is some validity to this position. A certain degree of subjectivity is involved and it is not expected that there would be complete agreement as to the diagnosis of the classification of a particular lesion found on a particular slide of a rodent liver in all cases. But, it appears to us that some of the divergence demonstrated is, in reality, a matter of semantics or nomenclature rather than substance.

Respondent had Dr. Reuber conduct a re-examination of all or nearly all slides in various experiments where heptachlor, heptachlor epoxide, combinations thereof, or chlordane were administered to mice or rats. Dr. Williams also looked at most of the heptachlor CFN rat slides. Additionally, selected slides from some of these experiments were reviewed by additional pathologists on behalf of respondent, namely, Drs. Stewart, Squire, Williams and Popper. Also, Velsicol sent to pathologists and others slides from some of these experiments. These were Drs. Newberne, Sternberg, Deichman and MacDonald, Becker and Rust. Frankly, we were somewhat startled when we realized the significance of the examination of selected slides by pathologists on behalf of Velsicol in 1972 and in 1974 and 1975.

It should be emphasized at this point that the consultant pathologists utilized by respondent generally confirmed and agreed with Dr. Reuber's classifications and diagnoses [12] and that those employed by Velsicol mentioned above then also did so.[13] It is highly significant, we believe, that none of these pathologists previously consulted by Velsicol, other than Dr. Rust, were called as witnesses by Velsicol. It should further be stated at this point that Dr. Reuber is a well qualified pathologist and expert in the field of the rodent liver and that examination of his credentials and publications confirm this fact.[14] Also, he was relied upon by the Administrator in the aldrin/dieldrin proceeding. While Dr. Reuber does not make an imposing witness on the stand due to nervousness his qualifications as a pathologist especially in the area of the rodent liver are impressive and, as seen from his diagnoses, when compared with those of others, he cannot be characterized as extremely liberal. His diagnoses were confirmed by the other pathologists presented by respondent and, in reality, by those mentioned above who were selected by Velsicol. It need be stated at this point also that the pathologists utilized by respondent are each well qualified as are those employed by Velsicol and that Drs. Popper and Stewart are especially renown in the field of liver and liver pathology. In fact, Dr. Rust, a witness for Velsicol, testified that "I think Hans Popper is one of the great men in liver disease, and so is Red Stewart * * * they are two of the greatest."

Time does not permit and no useful purpose would be served by a detailed description and examination of each of the experiments involved. However, we shall briefly discuss some of these studies as illustrative generally of the state of the record with respect to the studies at issue and especially the studies conducted for Velsicol Chemical Corporation by the International Research and Development Corporation and, in part, by Kettering Laboratory.

A 2 year feeding study was conducted by the United States Food and Drug Administration utilizing the C3H mouse fed heptachlor or heptachlor epoxide at 10 parts per million. While there were some shortcomings to this experiment, it was found in 1969 by the Advisory Panel on the Carcinogenicity of Pesticides, Report of the Secretary's Commission [USDHEW] on Pesticides and Their Relationship to Environ-

[9] Although precise numbers are reported, due to an inability to, in part, cross-examine as to these statistics, with respect to Georgia and Alabama, the absolute numbers should be regarded as general indications of results.

[10] Registrant Velsicol Chemical Corporation took the position at the hearing that the language of the Court in Environmental Defense Fund, Inc. v. Environmental Protection Agency, 510 F.2d 1292, 1297 (D.C. Cir. 1975) with respect to burden of proof of safety is merely dicta and that such burden is not placed upon it in this proceeding under section 6(c) of the act. Of course, it is clear that the Administrator so held in his October 1, 1974 opinion in the aldrin/dieldrin suspension proceeding (In re Shell Chemical Company, *et al.*, FIFRA Dockets No. 145 et al. (39 F.R. 37265) and we are bound thereby and by section 164.121(q) of the rules of practice (40 CFR 164.121(q)) which so provides. In addition, this registrant's arguments in this regard are lacking in merit, we believe. It would be strange, indeed, that the 1972 amendment to the act would change the cornerstone of the statute without mention. Such amendment to section 6(c) merely related to the status or type of presiding officer that could conduct the proceeding and did not, in reality, address or change the central issue of burden of proof of safety.

[11] This factor distinguishes this proceeding from the aldrin/dieldrin suspension proceeding (In re Shell Chemical Company, FIFRA Dockets No. 145 et al., October 1, 1974, affirmed Environmental Defense Fund, Inc. v. Environmental Protection Agency, 510 F. 2d 1292 (D.C. Cir. 1975)) in that in such proceeding it was not, in reality, disputed that those pesticides induced cancer in 5 different strains of mice.

[12] While the record demonstrates some differences in diagnosis of individual slides by experts presented by respondent, such differences are largely a matter of semantics or nomenclature as explained by such witnesses on cross-examination.

[13] Dr. Rust initially, in effect, agreed with Dr. Reuber's diagnoses but disagreed emphatically on a more substantial rereview.

[14] Velsicol's attempt to discredit Dr. Reuber on the basis of his analysis of 2 non-liver tissue slides does not detract from his background with respect to rodent livers. Also, the slides in question were made in 1975 and were to some slight degree at least different from the slides reviewed by Dr. Reuber.

mental Health that heptachlor was "positive" for tumor induction. Dr. Gross, in this proceeding, statistically analyzing the data from this study found this also to be the case with a great deal more statistical significance. Tumor induction itself has substantial meaning. Dr. Reuber, upon reanalysis found statistically significant increase in carcinomas in the treated animals, which animals developed much larger carcinomas than the few controls with carcinomas, some metastasis in treated animals and treated animals with multiple carcinomas. Slides from 20 animals from the treated group in this study, 19 of which were diagnosed by Reuber as having carcinomas were submitted to Drs. Stewart, Squire and Williams by respondent and to Dr. Sternberg by Velsicol Chemical Corporation. Each of these pathologists, in effect, confirmed Dr. Reuber's diagnoses with Drs. Sternberg and Stewart finding 20 carcinomas.

The Velsicol Chemical Corporation employed the International Research and Development Corporation to conduct a study of CD–1 mice [15] fed a mixture of 75 percent heptachlor epoxide and 25 percent heptachlor for 18 months at dietary levels of 1, 5 and 10 ppm. Included in the experiment were a negative control group and a positive control group fed 250 ppm of 2-acetamidoflourene (2AAF), a known carcinogen. The pathologists who reviewed slides from this experiment disagreed sharply, in effect, with the original analysis thereof. This includes those selected by Velsicol, namely, Drs. MacDonald and Deichman, Drs. Newberne, Becker and Rust,[16] and those utilized by respondent, namely, Drs. Stewart, Squire and Williams. It is significant that each of those consulted by Velsicol diagnosed *more* animals with cancer than was diagnosed by the International Research and Development Corporation in this entire experiment even though they examined slides of relatively few animals. Of even greater significance is Dr. Newberne's report that the majority of the sections examined were "*frank* liver cell carcinomas" which represented malignant change "beyond nodular hyperplasia." (Emphasis supplied.) The record indicates that the word "frank" has great meaning. It is recognized that Dr. Newberne was also seeing a few slides from positive control animals but his diagnosis included carcinomas in treated animals.

The bulk of the slides from this experiment was reviewed by Dr. Reuber and he found a highly statistically significant incidence of hepatocellular carcinomas in male mice at the 5 and 10 ppm level and in female mice at 10 ppm. This was so even though the study may have been weighted toward a negative result due to the fact that animals with liver masses could not be reviewed histologically by reason of their being autolyzed. Basically, the entire situation described above is the same with respect to the IRDC mouse study involving chlordane.

There are further indications in recent studies conducted by Gulf South Research Institute for the National Cancer Institute as to the carcinogenicity of heptachlor and chlordane in the mouse which lend some confirmation to the other studies discussed above. However, only preliminary data is available with respect thereto and we have some serious questions as to the protocols followed therein, that is, with respect to the size of the control group and the dosage fed and do not now rely on these studies pending further examination thereof in the cancellation proceeding involving heptachlor and chlordane.

In reality, there is only one carcinogenicity experiment in point involving the administration of the pesticide heptachlor to the rat. That is the 1959 Kettering Laboratory rat study done for Velsicol Chemical Corporation involving the CFN rat fed dietary levels of heptachlor epoxide at 5 dose levels ranging from 0.5 to 10 ppm. Here again, the Gulf South Research Institute studies done for the National Cancer Institute are only preliminary in nature and contain problems with respect to the size of the control group and the dosage administered.[17]

The Kettering study did find an excess of "hepatomas" in the treated animals but concluded that "The data obtained from these animals are not sufficient to implicate Heptachlor epoxide as the agent responsible for the development of these hepatomas." Here again, however, the Mrak Committee, as was the case with the 1965 FDA mouse study mentioned above, on the basis of statistical analysis, concluded that heptachlor should be classified as a compound "judged to be 'positive' for tumor induction on the basis of tests conducted adequately in one or more species, the results being significant at the 0.01 level." Dr. Gross, a qualified pathologist and statistician, reported several highly statistically significant increases in tumors in female groups and in the males and females combined.[18]

In addition, there was independent evaluation of the liver histology by Drs. Reuber and Williams, and the examination of selected cases by Drs. Stewart, Squire and Popper. The number of carcinomas in the liver and elsewhere found was especially significant because of the rarity of this finding and the finding of neoplastic nodules *now, perhaps, takes on added meaning* with respect to the rat. We are especially impressed by the testimony of Dr. Popper, the biological significance he attributed to his findings and his statement that *"I am convinced this is one of the most potent carcinogens of which I can recall* * * *" (Emphasis supplied.)

We are inclined to believe that the record does not contain substantial or meaningful refutation of the results of the FDA helptachlor and heptachlor epoxide mouse experiment reported by Dr. Reuber. With respect to the IRDC mouse experiments, we are faced with a rather strange situation. Velsicol presented the pathologist who performed the original analysis to affirm, in effect, his original report and for sophisticated theories and distinctions, in part, between the positive control and treated animals. Yet, his original diagnosis, in reality, was certainly not affirmed and was in fact contradicted by Drs. Newberne and Becker, Dr. Rust, both in his original examination of the slides and even somewhat on cross-examination at the hearing, and by Drs. Reuber, Squire, Popper, Stewart and Williams. It is also suggested in the record that when the original diagnostician "reviewed the slides back in approximately 1973, the criteria for evaluation was not as severe as it is now." In any event, obviously, we are not well qualified to measure the correctness of the histological examination of rodent liver slides. But, we do have experience in weighing evidence and the credibility thereof. By virtue of the setting in which the testimony of the original disagnostician is presented herein we cannot give his rediagnosis and analysis great weight. We mean no disparity of his professional abilities and are uncomfortable in this connection, but we feel, on the basis of the record, restricted as to the weight to be accorded to his testimony herein.[19] In addition, such pathologist, who has no great experience or background in experimental pathology and has not studied intensely the development of tumors has made statements in that regard which he was not particularly qualified to make and on the basis of insufficient data.

We are also presented with a rediagnosis of the 1959 CFN rat slides by the pathologist who performed much of the original diagnosis, which diagnosis was greatly weakened, we believe, by the findings of Drs. Reuber, Williams, Stewart, Squire, and Popper, whose diagnostic criteria appear to be in agreement with Drs. Newberne and Becker generally. In fact, as indicated above, Dr. Popper concluded on the basis of the selected slides from this experiment which he reviewed that "I am convinced this is one of the most potent carcinogens of which I can recall * * *" and whose diagnosis of individual slides differed from the original analysis. By reason of our conclusions with respect to the reanalysis of IRDC mouse slides by the pathologist who was originally involved with such bioassay and with the same reservations we expressed there, the 1959 CFN rat slide rediagnosis by the pathologist submitted by Velsicol herein cannot be given great weight. In addition, the pathologist involved is not expert in experimental pathology.

We are not unmindful, however, of the testimony of Dr. Butler, an expert in hepatic carcinogenesis in rats and mice, and Dr. Rust. In addition, their testimony tends to confirm and corroborate the testimony of the original diagnosticians employed by IRDC and Kettering and for that reason we have certainly not totally discounted the testimony of the oriignal diagnosticians. It should be stated that Dr. Butler appears to be extremely conservative in the area of the degree of metastasis required and by reason thereof we have some reservations as to his testimony. In addition, some of his testimony is based on speculation, surmise and unproven hypotheses. We cannot rely in this proceeding on some of his general testimony

[15] This mouse is a hardy, non-inbred strain with a low incidence of spontaneous tumors generally and is used widely as a standard animal for carcinogenicity screening studies.

[16] Dr. Rust's rereview and Dr. Butler's review will be dealt with later herein.

[17] The studies are partially suggestive of a carcinogenic effect of chlordane and heptachlor in the liver of rats. They do not appear to be as supportive of that conclusion, however, as the preliminary studies with respect to mice and will be considered after fuller exploration with respect thereto in the cancellation proceeding to follow. While there were other rat studies, including one done by Kettering, they are not, in effect, usable as carcinogenicity studies but did not, however, indicate negative results.

[18] We are in agreement with Dr. Gross, and not with Dr. Carlborg, that in safety testing of suspected carcinogens a one-sided test for probability is appropriate.

[19] By reason of these facts and the record as a whole, we feel that these matters should, perhaps, upon return to the heptachlor/chlordane cancellation proceeding, be submitted to the National Academy of Sciences for consideration. Also, while we agree with Velsicol that the opinion of the original investigator is entitled to weight we cannot so evaluate such opinion in this instance. There is a suggestion in the record that the reexamination of slides by experts in experimental pathology is somehow unethical. This record demonstrates a decided need for such reanalysis.

until the state of our knowledge is much more advanced [20] We recognize that this comment to some lesser extent need be applied to respondent's witnesses. Also, Dr. Rust's change in diagnosis of slides from 1972 to 1975 is disturbing although he presented a somewhat reasonable explanation for such change.

Despite what we have said above, we have great difficulty with the differences in the diagnosis of individual liver slides between Drs. Butler and Rust and Dr. Reuber and others and cannot disregard the histological appraisals of Drs. Butler and Rust or state that they are necessarily in error or employ improper criteria. In reality, we do not feel competent to do so. Added to this is the apparent absence of metastasis or invasion. Dr Rust looked for metastasis but did not find it.[21] There is some reference to "micro-invasion" in the evidence in connection with Dr. Becker's diagnosis of selected slides but it is unexplained and there is no other significant reference to invasion with respect to the liver slides at issue. But cf. *Synthetic Organic Chemical Manufacturers Association* v. *Brennan*, 503 F.2d 1155, 1158 (3d Cir. 1974) where "mice under experimental exposure * * * development tumors with 'malignant potentiality'." See also, however, the working draft of the National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis.

By reason of the foregoing, we conclude that heptachlor and its metabolite *appear to be* a carcinogen in the mouse on the basis of the FDA and IRDC studies and *may be* a carcinogen in the CFN rat [22] on the basis of the Kettering study and that chlordane *appears to be* a carcinogen in the mouse on the basis of the IRDC study involved. We have utilized the phrases "appear to be" and "may be" because we are troubled by the histologic findings of Drs. Butler and Rust to the contrary and the absence of meaningful metastasis or invasion and feel very strongly that these matters should be reviewed by others more qualified with respect to pathology than we for a more definitive appraisal (See footnote 19). In other words, we are *hesitantly unwilling at this time* to find that heptachlor and chlordane are conclusively carcinogens in laboratory animals.[23]

We are not unmindful in this connection that currently attention is being given "to efforts that better define, in functional terms, a chemical carcinogen, and to the development of general guidelines which can be used for interpreting carcinogenicity data." These efforts have not affected our conclusions set forth above as the results thereof have not been determined. But, it is hoped that assistance can be rendered by the attention focused on this area in the heptachlor/chlordane cancellation proceeding. Also, we do not wish to leave the impression that the safety of heptachlor and chlordane is not still a matter of grave concern. In other words, they are not "home free" by any means with respect to whether they are carcinogens in laboratory animals and a potential carcinogenic risk to man. We merely state that at this time we do not so conclude and, by reason thereof, we cannot find an "imminent hazard" with respect thereto.

III. We have been concerned up to this point with the risk factor involved in the risk-benefit analysis required in this proceeding. Cf. *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency, supra*. Our findings in part II of these Conclusions would obviate the necessity for a consideration of the benefit side of the equation. However, should the Administrator disagree with our findings there, as well he might, we hereby present our analysis of the record on the question of benefits.[24] In this connection, it should be stated that heptachlor presents a greater question of risk than chlordane, both in terms of the amount of incriminating evidence in that regard and its presence in our foods generally as compared to chlordane, and that where the use of these 2 pesticides is interchangeable, we only recommend chlordane and not heptachlor. This preference was also that of most benefits witnesses presented by the United States Department of Agriculture and Velsicol, not necessarily for the reasons stated.[25]

Heptachlor and, in particular, chlordane are apparently the last of the widely used persistent chlorinated hydrocarbons which have been utilized in agriculture and other areas for many years. It seems to us that perhaps we may not be at the point where they can be discarded completely even if considered to be a carcinogenic hazard to man. The Administrator has recognized this to some extent in his suspension order, in effect, instituting this proceeding and in the notice of intention to cancel as well by allowing their continued utilization for termite control in a somewhat "closed" system and for the dippling of the tops and roots of nonfood plants. It may well be that after the cancellation proceeding involving these pesticides that, even if the decision is adverse to such pesticides, a period of transition or phase-out might be necessary as to certain limited uses or that certain limited uses would remain. We speculate in this regard because the record in this suspension proceeding demonstrates that certain uses should be continued during a period of suspension when taking into account "the economic, social, and environmental costs and benefits" of these pesticides, as we must. The record is not as complete as we would like it to be on the question of benefits. However, there follows our somewhat abbreviated appraisal thereof, limited by the time allowable for this Recommended Decision and the paucity of the record in certain respects with recognition of the obvious fact that these conclusions may well be altered after the much fuller record expected to be available after the completion of the cancellation proceeding. Heptachlor Use Should be Continued During a Suspenion for—[26]

1. Seed treatment is used to decrease stand loss attributable to seed eating insects and is intended to protect grain and vegetable seed up to the germination period. (See Findings of Fact 53–58). A *minimal* amount of insecticide is utilized *on a per acre basis*. The only recommended alternatives to heptachlor for this purpose are lindane, diazinon or a combination of lindane/diazinon. However, supplies of lindane are scarce and a substantial portion of the heptachlor seed treatment use may not be made up by lindane. Some question exists as to the "safety" of lindane.[27] In addition, diazinon may present some problem as to its ability to protect seed against the wireworm and lack of efficacy and

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[20] For example, Dr. Butler himself states that "The diagnosis of benign neoplasia—adenoma—of the liver presents considerable problems and it is recognized that this diagnosis cannot be made in rodent liver at present * * * In the rodent liver, in order to demonstrate a noninvasive lesion to be an adenoma, it would be necessary to demonstrate that the proliferation of cells is autonomous. So far, this has not been done, and hence the diagnosis of benign liver cell neoplasm or adenoma is not made."

[21] While metastasis was not found in the IRDC data, many of the animals did not survive and the rest of the animals were sacrificed too early for metastasis to develop perhaps. There were suggestions or limited findings of metastasis but they do not appear to be significant enough to be meaningful. It should be stated, however, that not much in the way of metastasis was found in connection with the 2AAF treated mice, 2AAF being a known carcinogen.

[22] We recognize, however, that there is some question as to the appropriateness of the CFN rat as a test animal.

[23] The Administrator could perhaps do so on the basis of this record. Should he so conclude, we state briefly for his consideration that the record contains no valid epidemiologic proof that the pesticides at issue are safe with respect to the question of cancer and that Velsicol's position that heptachlor and chlordane are present in our food supply at "virtually safe" levels under the Mantel-Bryan formula and otherwise does not take into consideration other avenues of exposure to the chemicals such as inhalation and dermal contact, does not account for the wide variability in human susceptibility as compared to laboratory animals and different degrees of exposure, considers exposure only to a single carcinogen, has not been established appropriately according to the testimony of Mr. Mantel and Dr. Schneiderman and may not be the test for safety to be utilized according to such witnesses. In reality, the attempt to establish a safe level of a carcinogen for man is in its infancy and we are not, on the basis of this record, at a point where this can be done for heptachlor and chlordane. CF. Working draft of the National Cancer Advisory Board Subcommittee on Environmental Carcinogenesis. We have serious doubts that mouse data can be quantitatively extrapolated to man in this respect. Also, the Administrator, on the basis of the record, could determine that the pesticides involved pose potential or possible carcinogenic hazard to man basically for the reasons stated in the aldrin/dieldrin suspension proceeding. It should be stated in this connection, however, that the significance of animal laboratory results to man is also a matter of current concern and examination.

[24] Also, we fear that otherwise the benefit considerations might be submerged in the consideration of the risks. Due to the nature of the suspension proceeding, the record is not as complete as it might or would otherwise be with respect to benefits in a cancellation proceeding.

[25] By letter dated November 25, 1975, Velsicol Chemical Corporation stated that "As of November 24, Velsicol has voluntarily restricted domestic shipments of heptachlor to use for termites until a decision is reached by the Administrator regarding suspenion. Should the Administrator find in favor of the continued use of heptachlor during a cancellation proceeding, Velsicol shall, nevertheless, voluntarily restrict domestic shipments of heptachlor to uses for termites, seed treatment, fire ants and pineapples pending completion of that proceeding." It is unclear, however, whether Velsicol could similarly restrict the end use products of the formulators to which it sells technical heptachlor although it states an intention to do so.

[26] Obviously, this analysis does not include consideration of the environmental impact of the utilization of heptachlor or chlordane or health risks other than that considered herein.

[27] But see Environmental Defense Fund, Inc. v. Environmental Protection Agency, *supra* at p. 1303 where the Court discusses a somewhat similar situation between aldrin and heptachlor.

phytotoxicity data prevents an accurate appraisal as to whether diazinon will be a good seed treatment substitute under all conditions. The need for seed treatment is especially severe in the Southwest part of the country and especially on sorghum seed. Severe potential losses are possible in the absence of treated seed in the Southwest. Commercial seed companies do not now treat seed with heptachlor prior to sale. It is applied by the farmer at time of planting by planter-box or drill-box treatment. Chlordane has not been perfected for such use. Of course, this record was not concerned with the environmental consequences of treated seed. The effect thereof upon birds, for example, need be considered in the cancellation proceeding.

2. An extremely minimal amount of heptachlor is utilized to treat against the narcissus bulb fly by the use of heptachlor bulb dips prior to planting. For example, approximately 200 pounds of heptachlor are used for this purpose in the State of Washington, a major production area. Substantially less heptachlor is used in Oregon. This use may come within the Administrator's exception from suspension of the dipping of roots of nonfood plants and, if not, it certainly comes within the spirit thereof. The minor amount used on nonfood plants, the confined nature of such use, the totally unsatisfactory alternative of field treatment with much more pesticide to bulb dips prior to planting and the fact that the use of heptachlor is a short range matter as promising alternatives may soon be available all support a conclusion that this use of heptachlor should be continued during the pendency of the cancellation proceeding. Even a potential or possible 3.5 percent injury of total acreage in Washington and Oregon, which was the experience prior to the utilization of heptachlor dips 20 years ago, is unacceptable under the conditions presented. (See Findings of Fact 59–62).

3. The Hawaiian pineapple industry has presented a very striking need for a pesticide to deal with ants having a commensal relationship with the mealybug, which is the principal cause of mealybug wilt, a potentially devastating disease in pineapple fields. (See Findings of Fact 73–79). It seems to us that mirex [28] presents an effective and, perhaps, preferable alternative to heptachlor due to the small amount of chemical utilized although its use is not as flexible as the use of heptachlor by reason of label restrictions, that is, mirex, as a broadcast treatment of pineapple fields, may be applied only once in any 12-month period. Such restriction may, of course, be altered and mirex appears to be the preferred treatment of pineapple growers. However, mirex is the subject of a proceeding under section 6(b)(2) of the act and its continued use is in question although the fact that action was instituted under section 6(b)(2) would indicate less cause for questioning safety as distinguished from a suspension proceeding or a notice of intent to cancel under section 6(b)(1) of the act, the source of the cancellation notice with respect to heptachlor and chlordane.[29] In any event, because, in part of the uncertainty as to the status of mirex under the act, the availability of supplies of mirex is questionable. In the absence of mirex, heptachlor need be available for this use and a great amount of heptachlor is not required. Heptachlor is applied in relatively small quantities, within prescribed boundaries, under close, professional supervision and at infrequent intervals. In addition, a zero tolerance exists for residues of heptachlor on raw pineapples (See 40 CFR 180.104). It seems to us that continued heptachlor use indirectly against the mealybug should be allowed during a period of suspension with the *proviso* that should mirex use be continued for this purpose at the conclusion of the proceedings under section 6(b)(2) with respect thereto and the supply of mirex is once again assured, this suspension proceeding could, if deemed appropriate by the Administrator, be held open or reopened to consider the effect of mirex availability on these conclusions.[30] The consequences of the absence of mirex and heptachlor could potentially be very great to an industry which is already hard pressed. It is not certain that mealybug wilt would reoccur in devastating fashion absent chemical control, but the possibility is too real for the risk of no chemical treatment.

Chlordane Use Should Be Continued During A Suspension for—

1. Chlordane is basic and crucial to the Federal-State quarantine programs involving the Japanese beetle and the imported fire ant (See Findings of Fact 23–30). These are programs authorized by the Congress and the Secretary of Agriculture of the United States and we are not in a position now to measure their worth and perhaps should not do so in any event. These programs clearly require, as a practical matter, the application of a persistent pesticide and could not function, as presently constituted, without the use thereof. Fumigation and dips are not practical under the programs for general use. While mirex is a substitute, in part, with respect to the imported fire ant, it is not so with respect to the treatment of nursery stock and there are problems as to its availability, as indicated above.

2. The State of Michigan has a nursery quarantine program with respect to the black vine weevil and the movement of infested nursery stock, that is, infested Japanese yews. (See Findings of Fact 31–32). It does not appear that a large amount of chlordane is required under this program and there appears to be no substitute therefor. There is no basis in the record to appraise and, in fact, we are not aware of other similar state quarantines which are independent of the Federal quarantine program. (But see footnote 8). Also, there may be some need for chlordane for nursery use against the black vine weevil, but the record is unclear in this connection and we make no such recommendation.

3. Another insect with which we are concerned is the white fringed beetle. (See Findings of Fact 34–41). Until very recently it was subject to a Federal-State quarantine program. Apparently, there is no chemical substitute to chlordane for use against this insect which is found in the states of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, and alternative methods of control, both chemical and nonchemical, are not currently available as a practical matter. We have been unable in this record to determine with any precision the extent of damage or economic loss that might be expected from this insect absent chlordane. However, it appears that some would occur in peanut acreage and other crops in the southeastern part of the country, that the insecticide is usually utilized when adult beetles are seen in a field, it is incorporated into the soil and it does not appear that large amounts of chlordane are required. We conclude that chlordane should not be suspended for use in the 8 state area listed above against the whitefringed beetle except in the case of tobacco. A witness indicated that diazinon may be utilized in lieu of chlordane in the treatment of tobacco by mixing diazinon with water used in the transplanting of the tobacco plant. It does not appear likely that the whitefringed beetle could or would spread beyond the 8 state area during the period of time necessary to complete the cancellation proceeding.

4. We turn our attention now to the use of chlordane against the Fuller Rose Beetle on citrus in Florida and on other root weevils considered pests of Florida citrus except the West Indian Suparcane Stalk Borer Weevil for which it is not now registered. (See Findings of Fact 42–50). Some question exists as to whether it is registered against the Fuller Rose Beetle, but that is a matter for the attention of administrative officials. We were extremely impressed by the Florida integrated pest control programs utilized to control much more important citrus pests than those in issue and the effect the application of foliar sprays to control the root weevils could have upon the integrated pest control programs.[31] The foliar application would kill the beneficial parasitic wasps relied upon to control scales and mites, much more serious pests to Florida citrus than the root weevil. Further, the record indicates that large amounts of chlordane are not used, that only a portion of affected or potentially affected acreage is treated each year, and that economic impact could result from failure to control the Fuller Rose Beetle in the Indian River area of Florida especially. We realize that the economic impact will not be that severe during a period of suspension, but some economic impact is to be expected. It should be stated, however, that promising substitutes to chlordane are known, but that further research with respect thereto has come to a halt apparently. We believe that such research should continued rapidly.[32] It also appears that chlordane is used against termites in the planting of new citrus trees in Florida. The United States Department of Agriculture reports only a relatively minor loss from termites, the record is not adequate

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[28] We know nothing, of course, as to the "safety" of mirex and our discussion in this decision with respect thereto does not and cannot weigh this factor.

[29] Section 6(b) of the act (7 U.S.C. 136d(b)) reads, in part, as follows:

"(b) Cancellation and Change in Classification.—If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this Act or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of his intent either—

"(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for his action, or

"(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

[30] This proviso is applicable to each of the uses mentioned herein where mirex is an alternative to heptachlor or chlordane.

[31] This was not made apparent in the aldrin/dieldrin suspension proceeding.

[32] California use of chlordane against the Argentine ant in citrus also may be helpful on limited acreage to prevent a disruption of their integrated pest management program. However, the record is totally deficient in this regard.

for appraisal of this use and, by reason of the foregoing, we cannot now recommend that such use should be continued pending completion of the cancellation proceeding.

5. The use of preplant soil treatment of chlordane in strawberry beds protect the plants against the feeding of root destroying insect species for several years (See Findings of Fact 69–72). As no crop is produced the first year and as some strawberry growers plan to fruit their beds 4 to 6 years, a preplant persistent soil insecticide may be fairly essential to strawberry production. Soil insects are an especial problem if the land had previously been in sod and, in fact, New York State recommends, for example, the use of chlordane in strawberry production only if the land utilized had previously been in sod. Much of the problem of soil insects in strawberry production can be solved by rotation. But, alternative chemical controls to the use of chlordane are limited and the record indicates that significant national impacts could occur on the production of strawberries absent chlordane, as testified by the witness presented by respondent on the issue of economic impact. Other chemicals such as diazinon and carbaryl reportedly are effective controls but are not registered at sufficiently high rates of application to provide effective control. While fumigation is utilized in California, the practicality of its use elsewhere, especially in the Northeast, has not been established.

6. The harvester ant is often present in large numbers in the more arid areas of the Western United States and may become a health problem. (See Findings of Fact 89–91). The record only indicates the need for chlordane bait against the Texas harvester ant or Pogonomyrmex barbatus in the State of Oklahoma and its use therefor in that form in this State should be continued. Here again, mirex bait might be an alternative. The witness presented by Velsicol with respect to the harvester ant indicated that different ecological conditions exist in other states, and that, therefore, the state recommendations in such other states for chemical treatment against such ants are not applicable to Oklahoma. For these reasons chlordane bait application is recommended to be continued in Oklahoma and the use of such pesticide is not recommended herein for use elsewhere against the harvester ant.[33]

7. The imported fire ant presents both a nuisance and health problem in the southern states and it seems apparent that some chemical treatment should be available against this pest. (See Findings of Fact 92–95.) We are presented again with the question of the status under the act, and the availability of, mirex in this connection. Such pesticide in bait form appears to be an effective and, perhaps, an environmentally preferable insecticide against the imported fire ant to chlordane. The only disadvantage stated in the record to mirex bait is the alleged fact that it is slower acting than chlordane. But, in reality, it is not slow in destroying imported fire ant colonies taking about 10 days to 2 weeks. However, as noted above, its availability at present is in doubt. By reason thereof, and *only* by reason thereof, chlordane should be available for use against the imported fire ant. The United States Department of Agriculture has indicated on the record that it has no plans to employ chlordane, in the absence of mirex, in the Federal-State Cooperative Imported Fire Ant Control Program which may again be operative with mirex. Therefore, permitting the continued use of chlordane against the imported fire ant should not result in an extensive increase in the use of chlordane for this purpose. As stated above with respect to the use of heptachlor in pineapple fields, this proceeding could be held open or reopened should mirex once again become available for use against the imported fire ant.

8. The United States Department of Agriculture presented a witness with respect to the problem of white grubs in the State of Michigan and particularly in the heavier soils in the southern half of the Lower Peninsula. (See Findings of Fact 63–68.) The problem appears to be especially severe in fields recently removed from sod or heavy weeds. While rotation is in good measure an answer to the grub problem in Michigan, the alternative to chemical control of clean fallow of the land for one year following breaking it from sod does not appear to be an economically viable or practical alternative. Treatments are not recommended unless the grubs are actually found in the field, the acreage involved is relatively small and, consequently the amount of chlordane to be used is not relatively great, and the economic impact on a limited number of farmers could be significant. We were especially impressed by the fact that the United States Department of Agriculture has singled out this use for special concern. However, in the brief filed and at oral argument the United States Department of Agriculture would expand the testimony of the witness presented to encompass the use of chlordane against the white grub on small grains generally, that is, apparently on a national basis. The testimony included soy beans and dry beans in addition to small grains and was, in reality, limited to Michigan. In addition, the record contains reports of resistance of white grubs to chlordane in other states and fumigation may be a practical alternative elsewhere. The issue of the continuance of this use in Michigan during a period of suspension is very close and we have no basis to extend this use beyond this State and, in fact, might well conclude otherwise depending on the acreage that might be encompassed and the amount of chlordane that might involve. By reason of the foregoing, we recommend that chlordane use against the white grub in the State of Michigan be continued during a period of suspension.[34]

IV. The record indicates that there exist many alternatives to chlordane for use against non-wood destroying household insects.[35] This is recognized, in reality, by the National Pest Control Association, Inc. for professional use and the situation is the same for insecticidal application by homeowners or householders. Similarly, the record further indicates that diazinon and dursban will control soil insects attacking lawns and turf during the period it will take to complete the cancellation proceeding involving chlordane and heptachlor. The efficaciousness of the substitutes for control of household and lawn insects is not really in issue. General arguments are made with respect to the toxicity thereof as compared to chlordane, and the persistence and cost of the alternatives. The registrants have attempted to paint with a very broad brush in this connection. The record indicates that some of the substitutes, in terms of acute toxicity, are less toxic than, some are as toxic as, and some are more toxic than, chlordane. In addition, costs are more or less comparable for the limited period under consideration. It may be that an additional application may be necessary subsequent to the period of our concern, but generally speaking additional applications for lawn protection will not be necessary during the period until the cancellation proceeding is expected to be completed. In any event, we have previously stated and iterate that alternatives to the pesticide or pesticides at issue need not be as efficacious as, and no more costly than, the chemicals at issue when the risk at hand is as ominous as cancer.

We turn our attention to the wood destroying insects other than termites, that is, basically the carpenter ant and the group of insects categorized herein as the powder post beetle (See Findings of Fact 80–84). The record indicates that substitutes exist for treatment against these wood destroying insects. Lindane and pentachlorophenol are registered and recommended substitutes for chlordane against the powder post beetle. Lindane appears to be in short supply and pentachlorophenol has a disadvantage by virtue of its objectionable odor. However, there are also complaints as to odor with respect to the application of chlordane when utilized in an oil based formulation and most or many of the applications would be under the affected buildings. Also, the pest control witnesses who testified in this proceeding indicated that where heavy infestations occur fumigation is necessary and that, in reality, neither chlordane nor its substitutes would be utilized. There also exist substitutes for control of the carpenter ant although we do have some reservation as to whether they are equally effective. As noted above, precise equality of effectiveness should not be an essential element in the risk-benefit equation when the risk in issue is cancer. It should be stated at this point that the suspension of chlordane use against the wood destroying insects would cause some disruption and dislocation in the pest control industry. However, we believe that this is only a transitional problem that can be overcome. We also have some reservations with respect to pentachlorophenol and suggest the Administrator closely reexamine this issue. Should the Administrator disagree with the foregoing analysis, it is suggested that chlordane use against the carpenter ant and powder post beetle be permitted by professional pest control operators only during a period of suspension.

The single most difficult issue in the risk-benefit analysis is the use of chlordane or heptachlor for control of the cutworm in corn production.[36] We are especially con-

[33] We do not at this time recommend the continued use of chlordane against ticks and chiggers. The testimony in that connection dealt basically with the State of Arkansas. The record indicates that chlordane is not recommended in that State for many uses against these pests, that many insecticides are recommended instead, and that alternates to chlordane exists for those limited uses for which chlordane is recommended. (See Findings of Fact 85–88). In reality, the use of chlordane in recreational areas is all that is involved and diazinon and rabon are adequate substitutes during a period of suspension.

[34] Should the Administrator determine to suspend some but not all uses of the pesticides involved, it appears to us that, as a technical matter, a registration containing a suspended and a nonsuspended use would need be suspended with the registrant applying for an amended registration conforming to the Administrator's decision.

[35] While the specialized use of chlordane in a shelf paper marketed by Athena Corporation may not be duplicated except with lindane which is in short supply, many other insecticides are available against household insects by other means of application. It should be mentioned, perhaps, as well that the German roach, which is the predominant roach, is resistant generally to chlordane.

[36] Velsicol has not and, in reality, cannot argue for the use of the pesticides against the corn rootworm by reason of resistance and adequate substitutes are available for use against the wireworm, and wireworm problem to a large extent is a matter of rotation, and there exists some question of resistance.

cerned in this connection because *millions of pounds* of technical heptachlor and chlordane are involved in this use, and the importance of the 1976 corn crop is self-evident. This represents the major use of heptachlor and the major agricultural use of chlordane. Velsicol's commitment not to utilize heptachlor for this purpose may reduce its availability during the pendency of the cancellation proceeding to some extent, but it appears that chlordane production is capable of replacing any heptachlor eliminated by the offer or commitment (See footnote 25).

It is extremely difficult to estimate the effect of a suspension of the pesticides involved upon corn production and, especially, damage to be expected from cutworms. Cf. extensive discussion with respect to the 1975 corn crop absent aldrin in *In re Shell Chemical Company*, I.F. & R. Dockets No. 145 et al., October 1, 1974, affirmed, *Environmental Defense Fund, Inc. v. Environmental Protection Agency, supra*, at 39 FR 37246, 37260–37262.[37] While corn is the major agricultural use of chlordane and heptachlor, the importance of these two compounds to corn production must be placed in proper perspective. (See Findings of Fact 19–22.) Chlordane and heptachlor together were used on about 2.6 million acres or 3.5 percent of the total corn acreage in the United States in 1975. Chlordane was used on about 1.2 million acres of corn equalling 1.6 percent of U.S. corn acreage. Heptachlor was used on 1.4 million acres of corn equalling 1.9 percent of U.S. corn acreage in 1975. The acres treated with chlordane and heptachlor represent an increase from the average of the years 1973–1974 when only 2.5 percent of corn acres were treated with these compounds. This increase is accounted for in part of the suspension of aldrin in 1974 which led to a decline in the use of aldrin from 9.6 percent of U.S. commercial corn acreage in the average of the years 1973–1974 to 3.3 percent in 1975. The total percentage of corn acres treated with chlorinated hydrocarbons in 1975 was only 6.8 percent of the national total and 8.6 percent of the corn acreage in the 8-state region known as the Corn Belt[38] was so treated, with much of that treatment for "insurance" purposes. Missouri led the nation in percent of corn acres treated with chlorinated hydrocarbons in 1975, treating an estimated 30 percent of commercial corn acreage. The next ranking state, Indiana, was far behind with 14.1 percent.

In reality, projections of loss absent chlordane and heptachlor presented by Velsicol are based upon the estimates of 2 entomologists, which estimates were admittedly "shaky," and are estimates which were not corroborated by other entomologists in the Midwest and, in fact, were disputed by such other entomologists.[39] In addition, the 1975 corn crop is "forecast at a record 5,804 million bushels as of November 1." This was accomplished with the use of considerably less chlorinated hydrocarbon insecticides on corn than had previously been the case by virtue of the suspension and cancellation of aldrin. In fact, the average of the 2 years 1973–1974 indicates that chlorinated hydrocarbons had been used on 12.1 percent of U.S. commercial corn acreage while in 1975 such pesticides were applied on only 6.8 percent thereof. It is recognized that more acreage was devoted to corn production in 1975 and that corn yields were down in certain states. But, the weather, that is, a very dry July and August, probably accounts for decreased yields as compared to 1973[40] and not cutworm damage. We would have expected in this record detailed and specific evidence as to cutworm damage in the Corn Belt *at significant economic levels* if such injury caused significant yield losses. Such evidence was not, in reality, forthcoming. While an entomologist testified with respect to increased reports of cutworm damage in Ohio, yields are up in that state as compared to 1973 even though there was also some adverse weather experienced there. We cannot similarly appraise the Missouri, Iowa, and Nebraska situation due to severe adverse weather conditions there.

Nor can we determine the amount of corn that might be lost due to cutworm injury and the absence of heptachlor and chlordane. It does appear, however, that the estimates of the 2 entomologists presented by Velsicol are much too high and that the "Delvo estimates" involved in the record also appear to be too high although they are *much* lower than projected by Velsicol's entomology witnesses, especially in view of the opinions of other entomologists in the Corn Belt and other evidence of record. In this connection, it should be stated that the States of Illinois and Iowa do not recommend the use of heptachlor or chlordane for control of the cutworm, confirming, perhaps, the view of some entomologists as to the seriousness of the problem and the availability of substitute treatment. It would be unfair, however, to neglect to state that many corn farmers in those 2 states do not follow the state recommendations in this regard. It need also be kept in mind that the Administrator has indicated in his notice of intent to suspend that existing stocks of these pesticides as of the date of such notice, July 29, 1975, could be utilized. We have been unable to determine the extent of such stocks, but there is some intimation in the record that they could be substantial if the experience with respect to existing stocks of aldrin is typical. In this connection, a nursery witness testified that his large commercial nursery had on hand a one-year supply of chlordane. Some corn farmers may similarly be so supplied. Also, Velsicol has been manufacturing these insecticides during this suspension proceeding and undoubtedly additional supplies thereof are at the dealer and farm level.[41] Further, estimates presented by Velsicol of corn loss have been bottomed basically on the premise that there are no effective substitute chemicals. Such is not the case. In short, we do not believe that Velsicol has established any macroeconomic effect from the suspension of the pesticides involved in relation to corn production.

This is confirmed or corroborated by a linear program model employed by respondent. We have greater faith in, and place greater reliance on, the "September" computer run of the model as the earlier run was based on the "Delvo estimates" of loss which appear, on the basis of this record, overstated. In addition, even the earlier run projects only a 0.7 percent reduction of corn production absent chlordane or haptachlor. This need be modified downward as some existing supplies will be available and utilized in the production of the 1976 corn crop.[42]

We are concerned about, however, and have *agonized* over the possible effect of such a suspension upon certain individual farmers. The problems presented by a suspension to the corn farmer of Missouri bottomland, for example, are substantial. Again, we are presented with the application of millions of pounds of the pesticides involved and know of no way to define limitations on use to cover only very essential cases since much of the applications of heptachlor and chlordane are for "insurance" purposes with no certainty that a cutworm infestation or an economically significant cutworm infestation will occur.

The cutworm presents a very real threat in certain limited areas in the Corn Belt. The cutworm is associated generally with poorly drained river bottom land, heavy soils and low wet spots in upland fields. There are fields that have a history of cutworm problems. Most farmers, even in Missouri where the problem appears to be the most acute, however, treat in a band or row application which, unlike a broadcast application at a higher rate of the pesticide, does not give protection against and is not effective against a heavy cutworm infestation. This fact need be balanced against the effectiveness of substitute treatment for the cutworm. Additionally, cutworm injury does not generally result in a total economic loss. Injury may not be at economic levels, may be spotty in a field or, if at significant levels, the farmer replants. In the latter event, the farmer suffers the costs of replanting and some loss of yield due to the later planting. But, the individual farmer would not necessarily suffer a net loss for his entire crop or even on affected fields due to the price of corn and the fact that all of his fields need not be affected.

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[37] The Court in Environmental Defense Fund, Inc. v. Environmental Protection Agency, *supra*, at p. 1304 held that the Recommended Decision therein, in effect, was adopted by the Administrator in his Decision except where a difference in commentary is made explicit.

[38] The major corn growing states in the United States include Illinois, Indiana, Ohio, Wisconsin, Iowa, Minnesota, Missouri, and Nebraska.

[39] In this connection, Velsicol Chemical Corporation presented a witness who, in part and in effect, reported someone else's analysis of the economic impact of the absence of heptachlor and chlordane for use on corn. We have rarely, if ever, in our experience of presiding at hearings or examining transcripts for the purpose of preparing final decisions witnessed such a presentation. It consisted of misstatements, omissions of known material contradictory to such testimony, slanted presentation of facts, etc. One need only compare the cross-examination to the written direct testimony in this regard so to conclude. Needless to say, we place little reliance or credence upon this analysis with respect to corn.

[40] The year 1974 was atypical and yields were low due to unusually adverse weather conditions. A bumper crop was experienced, we believe, in 1973.

[41] This is a matter the Administrator need consider in connection with his intention to allow the use of stocks existing as of July 29, 1975. We know nothing with respect to the administrative capabilities of following pesticides from the manufacturer or formulator and the record is silent in this regard.

[42] The model was subjected to much criticism. However, it seems to be in line with other evidence of record, some of the criticism was made without real knowledge of the data built into the model or used in the flexibility penalties employed therein and the witness voicing the criticism demonstrated extreme bias in other portions of his testimony although we place greater credence in his testimony with respect to the model than other portions of his testimony. (See footnote 39.)

We do not wish to leave the impression that the corn farmer is without any pesticidal protection against the cutworm absent chlordane and heptachlor. First, diazinon is registered as a preplant treatment against the cutworm. Such treatment does not appear, however, to give total or extended protection and there is some question of its availability in this formulation. In addition, post emergent treatment by baits and sprays are available and, as indicated above, are recommended by the States of Iowa and Illinois as the sole treatment against the cutworm and are recommended by other states in the Corn Belt for emergency treatment, that is, if no preplant treatment was done or if such preplant treatment with heptachlor or chlordane has failed. Also as indicated above, band or row treatment by these chemicals will not control heavy cutworm infestations. In addition, there is some evidence in the record questioning the efficacy of chlordane and heptachlor under other conditions.

The record herein also indicates that post emergent treatment with baits and sprays is effective against the cutworm if infestations are discovered timely and the baits and sprays are timely applied. This requires scouting of suspect fields or parts of fields in order to discover cutworm damage early. Witnesses for Velsicol testified as to why a scouting program cannot be effective for the 1976 corn crop. We agree that a total corn pest management program with trained scouts is not foreseeable for 1976, although the State of Illinois apparently has a successful pilot program. We further agree with the entomologist witnesses for Velsicol that to require the farmer to scout his fields, or have scouts, etc., would represent *a major change* in approach to the cutworm problem and would place an onerous burden upon some farmers at their busy time of year.[42] But, the alternative to this approach is the input into the environment and in connection with a food crop basic to meat and poultry production of millions of pounds of heptachlor and chlordane, assuming for the purpose of this discussion that they represent a carcinogenic hazard to man. It appears to us that the price to society would be too great and that the statute requires otherwise. We do not suggest that scouting by some farmers or their employees will operate as well as a corn pest management program with trained scouts. We do suggest that scouting will provide perhaps somewhat less effective control, but control nevertheless. The situation with which we are presented cannot wait for "perfection." It seems strange, indeed, that the major entomology witness for Velsicol demonstrated extreme reluctance or hesitation to utilize post emergent treatment if suspect cutworm leaf feeding occurs because of uncertainty as to whether such damage was, in fact, caused by the cutworm when he strongly urged preplant "insurance" treatments of heptachlor and chlordane when there exists no evidence of the cutworm's presence at all. In other words, he would demand a degree of certainty for post emergent treatment which does not exist with respect to preplant application of the chemicals at issue. In addition, the States of Illinois and Iowa recognize the effectiveness of post emergent baits and sprays absent a total corn pest management program with trained scouts as do the other states with their recommendations of post emergent sprays and baits as emergency treatment. In addition, if the post emergent alternative is not acceptable to some farmers of bottom land, they have the option, perhaps, of planting other feed crops during the 1976 season.

Some of the reasons advanced for the inability of post emergent treatment to be effective in 1976 are premised on a static situation unresponsive to this decision. We cannot so assume and there is evidence in the record that such is not necessarily the case. We believe that post emergent treatment is a viable alternative even in 1976, but we would be less than candid if we did not state that we have a "nagging fear" that afected corn farmers may not be willing to adjust thereto. In addition, there is some testimony in the record of a buildup in cutworm populations, but this is not apparently the view of all entomologists in the Corn Belt.

Nor do we find any additional uses of heptachlor or chlordane which should be continued during any period of suspension. The record is too general, imprecise and inadequate and the evidence is too conflicting and uncertain as to other uses to enable us to form a judgment in this regard. For example, there are broad statements with respect to chlordane use on fruits and vegetabels generally and the inappropriateness of registered substitutes therefor. The difficult determinations required in a suspension proceeding cannot be made on the basis of such testimony. The delicate risk-benefit analysis is impossible in this context. In addition, we place little credence in the economic analysis presented by Velsicol as to other uses (See footnote 39).

Velsicol Chemical Corporation ascribes numerous invalidities to the notice of intent to suspend and the clarification issued in connection therewith. It is difficult, if not impossible, to anticipate all of the arguments to be advanced in this regard. Due to the very short statutory period of time available for the preparation of this decision, its preparation had to begin prior to the filing of briefs or even the closing of the record. Consequently, this decision is responsive to what we had belived Velsicol's position to be and also to what it now is in this connection and also with respect to the substantive issues herein.

On November 18, 1974, the Administrator issued a notice of intent to cancel the registrations of pesticide products containing heptachlor or chlordane (39 F.R. 41298) pursuant to section 6(b) of the statute. Such notice was accompanied by a detailed statement of reasons in support thereof. Prior to the beginning of hearings in the consolidated cancellation proceedings, the Administrator, on July 29, 1975, issued his notice of intent to suspend these pesticides. Such notice contained detailed findings of imminent hazard posed by heptachlor and chlordane, as require by the statute. One need only compare the 2 notices to determine the reasons why the Administrator determined to institute the suspension proceeding. The Administrator could have issued his notice of intent to suspend on the basis of an extensive reevaluation of existing information "which perhaps brought its full impact to the attention of the experts for the first time." *Bell* v. *Goddard*, 366 F.2d 177, 181 (7th Cir. 1966). He appears to have issued such notice on the basis of additional laboratory animal carcinogenicity experiments, then recently obtained reviews thereof by consultants for Velsicol Chemical Corporation and the Environmental Protection Agency and additional monitoring data. It is clear that different and additional data were available to the Administrator in reaching his determination to issue his notice of intention to suspend. Also, it is patent that his findings of imminent hazard were adequate to support the notice issued and, in fact, perhaps require its issuance. Cf. *Velsicol Chemical Corporation* v. *Train*, Civil C–75–362 (W.D. Tenn. 1975). The notice of intention to suspend is similar to that issued in the aldrin/dieldrin suspension proceeding which was held adequate by the Court. *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, *supra*, at pp. 1299–1300.

Velsicol Chemical Corporation makes much of language in the notice of intention to suspend to suggest that the Administrator has prejudged this controversy. This argument did not impress the Court in an action by Velsicol to enjoin this proceeding (*Velsicol Chemical Corporation* v. *Train*, *supra*) and does not impress us. After reciting his findings of imminent hazard and at the end of the notice except for a matter dealing with the invocation of section 15(b)(2) of the act in connection with the use of existing stocks of the pesticides, the Administrator stated, in part, that "Although we cannot determine precisely the magnitude of the human cancer risk as a result of the past and continuing exposure to heptachlor and chlordane, I have found that these compounds cause cancer in laboratory animals and that laboratory tests are reliable indications of the human cancer hazard."

The notice of intent to suspend is, in reality, comparable to a conventional complaint instituting an administrative proceeding. It seems to us that the quoted language was comparable to the end of a complaint wherein the issuing authority indicates the consequences of the facts previously alleged or pleaded or the conclusions charged as a result thereof. To ascribe a prejudgment by the Administrator by virtue thereof is, indeed, stretching reason and technical in the extreme. An inference of prejudgment cannot be made on the basis of such language in the context in which it is employed. Cf. *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, *supra*, at pp. 1305–1306.

We next turn to an additional portion of the notice of intent to suspend and the clarification issued August 6, 1975. In the July 29, 1975 notice the Administrator stated, in part, as follows:

As I have repeatedly stated,[44] after extensive EPA experience in evaluating the cancer hazard of pesticides, we do not begin our evaluation of the cancer threat of heptachlor/chlordane in a vacuum. In my prior orders relating to DDT and Aldrin/Dieldrin, and in the Preamble to the FIFRA registration regulations, I have set forth the basis for evaluating the carcinogenicity of pesticides which I am applying in evaluating the cancer hazard posed by the use of heptachlor and chlordane for purposes of this suspension notice and which shall be applied to evaluate that hazard in an expedited suspension hearing, if a hearing is requested.

Velsicol Chemical Corporation is its objections to the notice of intent to suspend asserted that such notice was defective in that "the Administrator (a) directs that

[42] As stated in Environmental Defense Fund, Inc. v. Environmental Protection Agency, *supra*, at p. 1302, however, "When the subject is risk of cancer, convenience may be relevant but it does not weigh heavy in the scales."

[44] *See* Opinion of the Administrator, Environmental Protection Agency, on the Suspension of Aldrin-Dieldrin, 39 Fed. Reg. 37265 (October 18, 1974); State of Louisiana Request for Emergency Use of DDT on Cotton, Statement of Reasons for Denial and Supplemental Statement of Reasons for Denial, 40 Fed. Reg. 1934, 15949 (April 8, 1975); Preamble to Subpart A—Registration, Reregistration and Classification Procedures, 40 Fed. Reg. 28242, 28253 (July 3, 1975).

certain scientific standards be applied and permits no evidentiary challenge to their validity . . ." Velsicol similarly in its court action to enjoin this proceeding complained of this section of the notice as a denial of procedural due process.

On August 6, 1975, the Deputy Administrator, who was apparently the Acting Administrator that day, issued in this proceeding a document entitled "Clarification of Evidence Which May Be Introduced in the Hearing On Suspension of Registrations of Pesticides Containing Heptachlor or Chlordane" in which he stated as follows:

. . . some uncertainty has arisen with respect to whether registrants or other parties to the hearing are permitted to introduce evidence in challenge to the basis for evaluating the carcinogenicity of pesticides which was referred to in the Administrator's July 29 Notice of Intent. The Notice of Intent set forth the basis for that evaluation and pointed out that such basis was applied "in evaluating the cancer hazard posed by the use of heptachlor and chlordane for purposes of [the] suspension notice and which shall be applied to evaluate that hazard in an expedited suspension hearing. . . ."

That statement was not intended to foreclose registrants or other parties from introducing evidence in challenge to the basis for evaluation. Rather, it was intended to make it clear that in satisfying its burden of going forward to present an affirmative case in accordance with 40 CFR § 164.80(b), the proponent of suspension is not required to present evidence to establish the points referred to as the basis for evaluating carcinogenicity. In satisfying its ultimate burden of persuasion, however, in accordance with 40 CFR § 164.80(b), the proponent of registration shall have the right to submit relevant evidence in challenge to those points, subject, of course, to rebuttal opportunity by the proponent suspension.

The purpose of these rulings was to simplify and expedite the hearing process while preserving a full opportunity for a hearing on all material issues.

It appears to us that in the issuance of the July 29, 1975 notice of intent to suspend the mechanics of the hearing itself were, in part, overlooked, which is not unusual or surprising. In response to the objections raised by Velsicol both in the court proceeding and in the suspension proceeding with respect to its inability to challenge with evidence the scientific standards stated in the notice and the denial of due process alleged to result therefrom, the clarification of August 6, 1975 was issued. In fact, it was issued on the first day of the prehearing conference herein and must have been in process prior to such conference. It's issuance resulted from *ex parte* contact between the Deputy Administrator and the Office of General Counsel.

Vesicol makes much of such *ex parte* contact. We found and find no violation by reason thereof of section 164.7 of the rules of practice (40 CFR 164.7) which provides, in part, that "At no stage of a proceeding shall the Administrator . . . discuss *ex parte* the merits of the proceeding with any party . . ." The clarification issued by the Deputy Administrator was merely procedural in nature and did not involve the merits of the controversy. In addition, in the court action to enjoin this proceeding Velsicol argued that the notice of intent to suspend[46] and the clarification were tainted by *ex parte* contacts and the court found that the notice and clarification "comply with the Act." The status of the record did not warrant an evidentiary hearing on the question of *ex parte* contacts. The cases cited by Velsicol are clearly distinguishable from this proceeding. Cf. *Camero* v. *United States*, 345 F.2d 798 (Ct. Cl. 1965); *Sangamon Valley Television Corp.* v. *United States*, 269 F.2d 221 (D.C. Cir. 1959). It should be stated at this point, perhaps, that Velsicol's position is somewhat strange in this regard as the clarification issued by the Deputy Administrator clearly afforded it a right which it contended it was entitled to and was being deprived of. The peculiarity is further emphasized by the fact that Velsicol wanted the clarification, which afforded it the opportunity it claimed it was being deprived of, stricken from this proceeding.

In the notice of intent to suspend, as indicated above, the Administrator set forth the basis for evaluating the carcinogenicity of pesticides, which bases those defending the continued use of the pesticides could rebut by evidence introduced in this proceeding. Such bases, as stated by the Administrator culminated from "extensive EPA experience in evaluating the cancer hazard of pesticides" and are found in the totally amended registration, reregistration and classification regulations promulgated under the act. In fact, the preamble to such regulations and specifically the discussion with respect to Screening Criteria for Rebuttable Presumption (40 F.R. 28242, 28263) closely parallel the bases stated by the Administrator in the notice of intent to suspend. The chemical industry including Velsicol Chemical Corporation had an opportunity for input into these regulations. Cf. *e.g.*, *Synthetic Organic Chemical Manufacturers Association* v. *Brennan*, *supra*. It seems strange and wasteful, especially in a suspension proceeding where time is of the essence to engage in a "full dress" reexamination of agency policy. Velsicol availed itself of the opportunity to rebut agency policy.

Velsicol Chemical Corporation sees some sort of plan or ploy in the institution of the suspension proceeding to deprive it of alleged rights it would have in the cancellation proceeding. We know of no such plot. As noted above, the notice of intent to suspend was issued on the basis of additional matters some of which Velsicol apparently did not timely call to the attention of the Administrator as it was its statutory duty to do. We cannot say that the Administrator was arbitrary in the issuance of such notice on the basis of the matters therein contained and, in fact, it appears to us that such matters may well have required the Administrator, with his continuing duty to monitor the safety of pesticides, to issue such notice. The question of the possible suspension of heptachlor and perhaps chlordane is not new and was not created or manufactured for the purpose apparently ascribed by Velsicol. It was a very real issue during the aldrin/dieldrin cancellation and suspension proceedings and even before the issuance of the notice of intent to cancel heptachlor and chlordane. See *In re Shell Chemical Company, et al.* FIFRA Dockets No. 145 *et al.*, affirmed *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, *supra*.

We have utilized the phrase "alleged rights" in the preceding paragraph to refer to the provisions of section 6(d) of the act dealing with the procedure for the referral of scientific questions to a committee of the National Academy of Sciences. Velsicol appears to see a plot to deprive it of a referral of questions to such a committee. It should be made very clear, as was done on the record of this proceeding, that such referral is not a matter of right and that we had not decided, and certainly had not decided in the affirmative, Velsicol's motion for such referal in the cancellation proceeding when the suspension proceeding was instituted. While Velsicol agrees that there is no provision for a similar submission in a suspension proceeding, the United States Department of Agriculture filed such a request in the suspension proceeding. Such motion was denied as it is patent that section 6(d) dealing with cancellation proceedings does not apply to this suspension proceeding under section 6(c) of the statute. In fact, this is so clear that the filing of the motion in that connection leads one to wonder why it was filed and why it was pursued to the Administrator even though the rules of practice clearly do not provide for such procedure.

ORDER

By reason of the foregoing, the notice of intention to suspend is dismissed.

HERBERT L. PERLMAN,
Chief Administrative Law Judge.

DECEMBER 12, 1975.

[FIFRA Docket No. 384]

VELSICOL CHEMICAL CORPORATION, ET AL., REGISTRANTS.

(*Expedited Hearing On Heptachlor-Chlordane*)

DECISION OF THE ADMINISTRATOR ON THE SUSPENSION OF HEPTACHLOR-CHLORDANE

This is a proceeding under section 6(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"),[1] to suspend the registrations of the pesticides heptachlor and chlordane pending a final decision on the question of whether to cancel these registrations. As set forth in this decision and Order, I have concluded that the registrations of helptachlor and chlordane should be and are hereby suspended for some, but not all uses.

I. *Background*

A. *History of the Proceeding.* On November 18, 1974, I issued a notice of intent to cancel all registered uses of heptachlor and chlordane on the basis of a finding that there was a substantial question of the safety of the use of these pesticides.[2] The basis of the decision to initiate cancellation proceedings was evidence that heptachlor expoxide and

[46] With respect to Velsicol's contentions in connection wtih *ex parte* contact and the issuance of the notice of intent to suspend see Environmental Defense Fund, Inc. v. Environmental Protection Agency, *supra*, at pp. 1304–1305.

[1] The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 135 *et seq.*, as amended by P.L. 92–516, 86 Stat. 973, October 21, 1972. The regulatory authority under FIFRA was transferred from the U.S. Department of Agriculture to the U.S. Environmental Protection Agency by Reorganization Plan No. 3, 1970.

[2] 39. F.R. 41298. The cancellation notice specifically exempts "the use of heptachlor and chlordane through subsurface ground insertion for termite control and the dipping of roots or tops of nonfood plants." Following the publication of the cancellation notice (and a companion publication regarding intrastate pesticide products containing heptachlor and chlordane, 39 F.R. 41256), Velsicol Chemical Corporation (the sole manufacturer of technical grade heptachlor and chlordane) and many other registrants filed objections to such notice. These objections, together with objections to the notice regarding intrastate products, were consolidated for hearing (*In re Velsicol Chemical Corporation et al.*, FIFRA Dockets No. 336 et al.)

oxychlordane (metabolites of heptachlor and chlordane) were widely found in human adipose tissue, that heptachlor epoxide is transferred from human mothers to their fetuses across the placenta and was present in human milk, that heptachlor epoxide is commonly found in dairy, meat, fish, and poultry in the human diet, that heptachlor and heptachlor epoxide had caused cancer in laboratory animals, and that, in general, heptachlor and chlordane are highly persistent, mobile in the environment, and soluble in lipids.

On July 29, 1975, prior to the commencement of hearings in the cancellation proceeding (discovery and other pretrial activities had begun), because of the time it was taking for the cancellation proceeding to begin and the fact that new evidence which "confirms and heightens the human cancer hazard" of heptachlor and chlordane had come to my attention, I issued a notice of intent "to suspend the registrations and prohibit the production for use of all pesticides containing heptachlor or chlordane other than those registrations exempted from the heptachlor/chlordane cancellation order."[3] Subsequently, on August 6, 1975, a clarifying order regarding the introduction of evidence relating to the so-called "cancer principles" was entered.[4]

Under the expedited hearing procedures created by the FIFRA, EPA's implementing regulations,[5] and the July 29 notice, prehearing conferences were held on August 6, 7, and 11, with Chief Administrative Law Judge Herbert L. Perlman presiding,[6] and the hearing began on August 12. By order dated August 6, 1975, Judge Perlman declared the consolidated cancellation proceeding in abeyance pending the outcome of the suspension proceeding.[7] The hearing covered 43 hearing days and was closed on December 4.[8] Following the hearing, the parties submitted proposed findings and conclusions and briefs (on December 8), and Judge Perlman submitted his recommended findings and conclusions on December 12.

B. *The Recommended Decision.* In a 122-page Recommended Decision, Judge Perlman has set forth 95 Findings of Fact and 50 pages of Conclusions, leading to a proposed Order, which states: "By reason of the foregoing, the notice of intention to suspend is dismissed." A copy of the Recommended Decision is appended to this final Decision and Order. For the reasons stated herein, I adopt all 95 Findings of Fact set forth in the Recommended Decision and hereby specifically incorporate them by reference in this final Decision. Notwithstanding my agreement with the facts as found by Judge Perlman, I have reached different conclusions on some of the issues presented and, therefore, partially accept and partially reject his recommendations.

As will be seen herein, in partially rejecting Judge Perlman's recommended conclusions, I have in most instances substantially agreed with this assessment of the facts. The partial reversal results almost completely from the application of rules of law laid down by the FIFRA itself and by judicial decisions interpreting it. Indeed, I want to stress at this point my admiration for the masterful fashion in which Judge Perlman presided over these hearings. Under time constraints that may be described only as excruciating, he oversaw the amassing of 10,000 pages of transcript and an equal volume of exhibits. He did this knowledgeably, efficiently, sensibly, and with good humor, belying many hours of preparation outside the hearing room.

1. *Findings of Fact.* The facts found by the Administrative Law Judge ("ALJ") in this proceeding cover a wide range of items, including the identification of the sole manufacturer of technical grade heptachlor and chlordane, Velsicol Chemical Corporation ("Velsicol" or "registrant"), and the intervening parties; the chemical nature of qualities of heptachlor, chlordane, and their metabolites; the finding of residues of these chemicals in human adipose tissue, human milk, and human fetuses after passing through the placenta; the finding of residues in the ambient air, soil, bodies of water, fish, shellfish, molluscs, plankton, sediments, and so on; the finding of residues of these chemicals in dairy products, meat, fish and poultry and, to a lesser extent, in raw agricultural products by the U.S. Department of Agriculture and the Food and Drug Administration; the use of heptachlor and chlordane on vegetables and fruits, homes, lawns, and gardens by private homeowners and commercial pesticide control operators on crops such as corn, citrus, strawberries, tomatoes, and grapes, as well as on ornamentals, as seed treatment, and against specific pests; the findings regarding alternative pest controls for such uses; and the effects of the unavailability of heptachlor and chlordane which might result from suspension and continue for the duration of the cancellation proceeding.

I have reviewed the findings of fact contained in the Recommended Decision carefully and completely and, as noted above, adopt them in full for purposes of this final Decision and Order.

2. *Conclusions.* As stated above, while I agree with Judge Perlman's findings of fact based on the record of this proceeding, I do not accept all of his conclusions.

A crucial question in this proceeding is the issue of carcinogenicity; that is, the issue of human cancer and whether the continued use of heptachlor and chlordane during the time required to reach a final decision in the cancellation proceeding creates an "imminent hazard" in terms of a human cancer risk. This proceeding is not concerned with other potential human health risks or with potential harm to the natural environment.

On the issue of carcinogenicity, Judge Perlman found that heptachlor, its metabolite, heptachlor expoxide, and chlordane "appear to be" carcinogens in the laboratory mouse and that heptachlor and heptachlor epoxide "may be" carcinogens in the laboratory rat.[9] He concluded, however, that he was "hesitantly unwilling at this time to find that heptachlor and chlordane are *conclusively* carcinogens in laboratory animals." (emphasis added.)[10]

In spite of the foregoing finding, Judge Perlman stated that he did not wish "to leave the impression that the safety of heptachlor and chlordane is not still a matter of grave concern."[11] In the statement of his ultimate conclusion on the issue of carcinogenicity, Judge Perlman said:

In other words, [heptachlor and chlordane] are not "home free" by any means with respect to whether they are carcinogens in laboratory animals and a potential carcinogenic risk to man. We merely state that at this time we do not so conclude and, by reason thereof, we cannot find an "imminent hazard" with respect thereto.[12]

After so holding with respect to the risk to human health of the continued use of chlordane and heptachlor, the ALJ held that he need not consider the question of whether the economic, social, and environmental benefits of the use of heptachlor and chlordane during the time required to reach a final decision in the cancellation proceeding are sufficient to outweigh the risks of their continued use. Nonetheless, Judge Perlman proceeded to set forth his recommendations regarding the uses, benefits, and alternatives for heptachlor and chlordane "should the Administrator disagree with our findings [on carcinogenicity], as well as he might. . . ."[13]

As set forth in some detail in Part III of this Decision, Judge Perlman recommended that, assuming the Administrator disagreed with him on carcinogenicity, the major uses of heptachlor and chlordane (by volume), including use on corn crops and household uses, should be suspended because these uses would not provide sufficient benefits to justify their continuation pending completion of the cancellation proceeding. He also recommended, however, that many relatively minor uses not be suspended.

In sum, therefore, the ALJ's precise holding that there was no "imminent hazard", and thus no basis for suspension under section 6(c) of the FIFRA (1) was made without balancing the risks of continued use of chlordane and heptachlor against the bene-

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[3] 40 F.R. 34456. Section 6(c)(1) of FIFRA provides that, "No order of suspension may be issued unless the Administrator has issued or at the same time issues notice of his intention to cancel the registration or change the classification of the pesticide."

[4] "Clarification of Evidence Which May Be Introduced in the Hearing On Suspension of Registrations of Pesticides Containing Heptachlor or Chlordane", 40 F.R. 34455.

[5] 40 C.F.R. 164.120–122.

[6] Judge Perlman was appointed Presiding Officer in the suspension proceeding on August 4, 1975. Thereafter, during the course of the suspension hearing, Velsicol Chemical Corporation petitioned the Administrator to have Judge Perlman removed as presiding officer on the basis of alleged prejudgment (from his participation as presiding officer in the aldrin-dieldrin proceedings and his role as presiding officer in the heptachlor-chlordane cancellation proceeding) and alleged bias in the conduct of the suspension hearing. I have rejected all of these allegations as being totally unfounded and without merit in fact or law. Judge Perlman has conducted these proceedings with admirable impartiality and fairness, and I have the highest regard for his abilities as a jurist, particularly in consideration of the extremely complicated nature of these proceedings. His experience, knowledge, and service in the public interest are invaluable.

[7] During the course of the suspension hearing Velsicol Chemical Corporation also petitioned the Administrator for review of Judge Perlman's August 6 order, asserting that the cancellation and suspension proceedings should go forward simultaneously. At the root of this issue was the question of whether Judge Perlman should rule on a motion pending in the cancellation proceeding seeking the appointment of a Committee of the National Academy of Sciences, pursuant to Section 6(d) of FIFRA. The National Agricultural Chemicals Association and the U.S. Department of Agriculture also petitioned the Administrator for review of the August 6 order, essentially on the same grounds. In the case of all three petitions as well as a subsequent Velsicol petition for reconsideration, I denied the relief requested. I also dismissed Velsicol's suggestion that the Administrator be recused from the proceeding on the ground of prejudgment.

[8] At the request of Judge Perlman and for good cause, on November 25 I extended the hearing beyond the 40 days provided for in the notice of suspension to include an additional 10 days for rebuttal and surrebuttal evidence.

[9] Recommended Decision, p. 86.

[10] Recommended Decision, p. 86.

[11] Recommended Decision, p. 87.

[12] Recommended Decision, p. 87.

[13] Recommended Decision, p. 88.

fits of that use, and (2) was grounded solely on the holding that he was "hesistantly unwilling" to find that chlordane and heptachlor are "conclusively" carcinogens in laboratory animals even though they both "appear to be" such carcinogens and the question of their safety on this score is "a matter of grave concern."

Both of these holdings contain misapplication of the pertinent statutory provisions and controlling judicial decisions.

Section 6(c)(1) of the FIFRA provides that the Administrator may suspend the registration of pesticides where "that action is necessary to prevent an imminent hazard during the time required for cancellation . . . proceedings. . . ."

The term "imminent hazard" is defined in Section 2(1), in pertinent part, as "a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment . . ."

The phrase "unreasonable adverse effects on the environment", in turn, is defined in section 2(bb) to mean, "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

Thus, in combination, sections 6(c)(1), 2(e), and 2(bb) provide that suspension depends upon a finding that continued use of a pesticide during the time required for a cancellation proceeding would be *likely* to result in any *unreasonable risk* to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide.

As the courts have held (and, indeed, as counsel for the registrant have urged in this proceeding), the question of the "reasonableness" of the risk presented depends upon an assessment of the nature and magnitude of risk of harm to man or the environment as compared to the nature and magnitude of economic, social, and environmental benefits which are derived from the use of the pesticide during the time required for a cancellation proceeding.[14]

Thus, the FIFRA and the cases, in my opinion, make two points clear with regard to a suspension proceeding. First, it is not necessary to find "conclusively" that actual harm to man will occur if the use of the pesticide in question is continued; rather the finding required is that continued use during the cancellation proceeding is "likely" to result in any "unreasonable risk" to man or the environment. As the court of appeals has held:

> [T]he term "imminent hazard" is not limited to a concept of crisis: "It is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in realistic projection of the [cancellation] process." [15]

Second, the propriety of suspension turns upon an analysis in which the risks are balanced against the benefits, rather than from an analysis of risks or benefits alone.

It should also be noted that the mere fact that the evidence on either of these issues (risks or benefits) is not complete, or that more evidence may be expected to be developed in the cancellation proceeding, is not a reason to deny suspension. Suspension is an interim remedy, to be determined on a record assembled on an expedited basis, as was the case here. Congress must have expected that the record of a suspension proceeding would not contain all the evidence on crucial questions that would be expected and presented in a cancellation proceeding. As the court of appeals has held:

> [T]he function of the suspension decision is to make a preliminary assessment of evidence and probabilities, not an ultimate resolution of difficult issues.[16]

For the foregoing reasons, I find that the ground given by the Administrative Law Judge in determining not to recommend suspension of the registrations of heptachlor and chlordane is deficient as a matter of law. He failed to weigh adequately the risks in relation to the benefits as required by the statute and by Agency policy. Moreover, he held that the fact that the carcinogenicity of heptachlor and chlordane had not been "conclusively" established with respect to laboratory animals was determinative of the potential risk of cancer to man, even though the statute talks in terms of the likelihood of an unreasonable risk. Indeed, I believe that this much less stringent statutory standard was met by Judge Perlman's findings that heptachlor and chlordane "appear to be" carcinogenic in laboratory animals and are pesticides whose safety is a matter of "grave concern." [17] In the same vein, the courts have also insisted that the burden of proof of the safety of a pesticide lies at all times with the registrant.[17a] Thus, insofar as the showing of risk of harm from heptachlor and chlordane is not yet conclusive, it should be emphasized that it is not the Agency's burden to establish the risk of harm, but rather the registrant's burden to disprove it once its safety has been called into question by a sufficient showing of probable risk.

II. The Issue of Carcinogenicity of Heptachlor-Chlordane

As discussed in Part I of this Decision, I believe the ALJ's own findings of fact on carcinogenicity establish a "substantial likelihood" of harm when the proper legal standard is applied, sufficient to find an "imminent hazard." In combination with his findings as to benefits, this would require at least partial rejection of his recommended dismissal of the suspension notice. However, while I largely agree with the ALJ's specific findings on these issues, I do not agree entirely, and therefore will discuss the issue of carcinogenicity in this Part and the benefits issue in Part III of this Decision.

A. *Underlying Principles.* The Agency's experience and knowledge in the area of identifying substances which cause a risk of cancer in man continues to grow. In addition to my decision of October 1, 1974, on the suspension of aldrin and dieldrin [18] and the statements on the denial of the State of Louisiana's request for Emergency Use of DDT on Cotton,[19] the Agency has also, after lengthy study and consideration (including requests for and consideration of comments from all portions of the interested public), adopted procedures for registration, reregistration, and classification of pesticides, including a specific standard for determining whether a pesticide presents a risk of oncologic effects in man.[20]

In view of the Agency's developed experience and knowledge in this area, the notice of intent to suspend (together with the clarifying order of August 6) provided a statement of the principles and policy that would be applied in this proceeding. The record in this proceeding confirms the correctness of these principles.[21]

It is generally not possible to obtain sufficient information to determine whether particular substances that are widespread in the environment in small amounts cause cancer in man. The fact of wide distribution makes it impossible to compare the reaction of those persons who are exposed to the substance with those who are not, since people in the latter category cannot be found. Similarly, for obvious reasons, studies in which artifically high levels of a suspected carcinogen are intentionally given to a test roup are not performed on humans. Situations where this occurs by accident are rare and not subject to control.

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[14] *Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F. 2d 1292, 1302 (C.A.D.C. 1975); *EDF* v. *EPA*, 465 F. 2d 528, 538 (C.A.D.C. 1972).

[15] *EDF* v. *EPA*, supra, 510 F. 2d at 1297, citing *EDF* v. *EPA*, supra, 465 F. 2d at 540.

[16] *EDF* v. *EPA*, supra, 510 F. 2d at 1298, citing *EDF* v. *EPA*, supra, 465 F. 2d at 537.

[17] In other words, when the correct legal standard is applied to the facts found by the ALJ, those facts themselves warrant, and indeed require, reversal of his ultimate decision. Thus, the registrant's assertion that particular deference should be paid to the ALJ's findings because of his great experience is something of a weak reed. (Velsicol's Brief in Support of Affirmance, at p. 41–42). Indeed the registrant admits that "there are certain findings and conclusions rendered by the Chief Administrative Law Judge . . . to which Velsicol objects. . . ." (*id.* at 40).

[17a] *E.g.*, *EDF* v. *EPA*, supra, 510 F. 2d at 1297; *Dow Chemical Co.* v. *Ruckelshaus*, 477 F. 2d 1317, 1324 (C.A. 8 1973).

[18] *In re Shell Chemical Company*, 39 Fed. Reg. 37265, 6 ERC 2047.

[19] 40 Fed. Reg. 1934, 15949 (April 8, 1975).

[20] 40 Fed. Reg. 28242, 28254–28257, 28262–28264 (July 3, 1975).

[21] Registrant raises again before me both an objection to the *ex parte* communication leading to the August 6 order of clarification and to the procedures set out in that order for submission of evidence on this issue. As to the first point, I believe it to be insubstantial, at least for the reasons stated by the ALJ in his Recommended Decision. See pages 117–120. As to the second point, I cannot see that any harm whatsoever has been done to the registrant. Early in the suspension hearing the registrant complained to the ALJ that it had been foreclosed by the suspension notice from presenting evidence on the issues discussed in the notice. However, the August 6 order made it clear that the registrant could present such evidence, thus giving the registrant exactly what it had asked. Now, seeking to show *some* harm that it has suffered on this account, the registrant argues that, had the contact between the Office of General Counsel and the Deputy Administrator not been *ex parte*, the registrant might have been able to convince the Deputy Administrator in addition to place upon the Agency the burden of going forward with evidence on this issue. I do not believe that such an argument, even if correct, amounts to any significant detriment to the registrant in view of the clarity of the statements made in the notice of suspension as to the points in issue. Equally important, however, I am not convinced that the registrant is being entirely candid in raising this argument before me. The fact is that, at the very beginning of the hearing, the respondent did introduce into evidence as part of the testimony of Dr. Epstein an article by Dr. Epstein entitled "Environmental Determinants of Human Cancer," *Journal of Cancer Research*, October 1974, pages 2425–2435, EPA Ex. 8, App. 2. This evidence comprehensively covers the points discussed in the suspension notice, and thus constituted a "going forward" with the evidence (and more) that registrant now argues respondent did not do, but might have done. Moreover, counsel for registrant was well aware of this portion of Dr. Epstein's testimony and objected to its admission into evidence, which objection was quite properly overruled by the ALJ. Tr. 503–507. In sum, I do not find any merit whatever in the registrant's contention.

In addition, the latency periods for cancer-inducing chemicals tend to be long (in the tens of years), so that what results there are from the study of human exposure are difficult to gather and may well appear too late to save people from an already widespread chemical to which they are unavoidably exposed.

For these reasons, pesticides and other chemicals are tested for carcinogenicity in laboratory animals, particularly mice (the first choice) and rats, which are proadly accepted by the scientific community as appropriate test animals for these purposes.

The mouse develops almost every kind of cancer that occurs in man and, with few, if any, exceptions, is subject to cancer from any source which is known to be a carcinogen in man. In both mouse and man, genes are involved in the control of processes through which cancer is induced. They control reactions to physical and chemical carcinogens. The genetic characteristics of mouse and man are suffiently similar to permit the assumption that if a chemical or other agent (such as radiation) causes cancer in a particular organ of mice, then it will also cause cancer in the same organ, or possibly some other organ, of man.[22]

In fact, the difficulty with using laboratory animals to test for carcinogenicity lies in the other direction. The failure of a chemical to induce cancers in a particular strain (or even several strains) of laboratory animals is not an assurance that the chemical is not a carcinogen in man, since that particular strain may be genetically resistant to cancer from that source; where, by contrast, the genetic susceptibility of people to cancer varies a great deal from person to person.[23]

Some interest has focused on the high dose levels given to laboratory animals as opposed to the much lower levels encountered by man in the environment, the supposition being that the lower doses naturally encountered may not be dangerous. However, there is not any evidence to indicate that there is a minimum dosage of any known carcinogen below which it does not have a carcinogenic effect.[24] There does appear to be a relationship between the dose level of a carcinogen on the one hand and, on the other, both the percentage of the total of persons or animals exposed who get cancer and the latency period of the disease. High doses in animal experiments are thus justified, and indeed necessary, because the comparatively small numbers of animals necessarily involved in the experiments make it very difficult at least to test for positive results at lower doses.

Testing at * * * relatively high doses is now generally regarded as essential to the attempt to reduce the gross insensitivity imposed on tests by the small size of animal groups routinely tested, such as 50 or so rats or mice per dose level per chemical, compared with the millions of humans of presumptive risk. . . .

To illustrate the insensitivity of conventional animal test systems, assume that man is as sensitive to a particular carcinogen as the rat or mouse. Assume further that this particular agent carries a risk of producing cancer in 1 of 10,000 humans exposed; this would result in approximately 20,000 cancers in the United States population. Then the chances of detecting this in groups of 50 rats or mice, tested at ambient human exposure levels, are very low. Indeed, samples of 10,000 rats or mice would be required to yield 1 cancer, over and above any spontaneous occurrences, for statistical significance, perhaps 30,000 rodents would be needed.[25]

Moreover, there exists the problem that for patricular chemicals, human beings may be far more sensitive than laboratory animals. For example, thalidomide produces teratogenic effects in man at a dose level that is 1/60 of that needed to produce that effect in mice, 1/100 of that for rats, 1/200 of that for dogs, and 1/700 of that for hamsters.

Finally, I have noted some tendency, not entirely absent from the record, to assert that any chemical, if fed in sufficiently large amounts, will cause cancer in test animals. This is not true. A study sponsored by the National Cancer Institute tested 140 pesticides and industrial chemicals in two strains of mice; less than ten percent of these were found to be carcinogenic.[26]

One of the registrant's witnesses, Dr. Coulston, a toxicologist, did testify, using generalized and unsupported broad statements, that laboratory animal studies are an inadequate substitute for epidemiological studies in man. He stated that "a study on workers with high degrees of exposure is far more valuable than a study exposing 200 or 2000 mice."[27] However, in the same paragraph he conceded that a single epidemiological study is not conclusive. Indeed, evidence was introduced into this record as to three epidemiological studies, two of field workers and one of persons employed in the manufacture of heptachlor and chlordane. Owing to the difficulties of low numbers of subjects, lack of proper controls (*i.e.*, other persons with precisely the same environment, but not exposed to these pesticides), inability to track down persons and obtain precise diagnoses, short duration of the studies as compared to expected cancer latency periods, difficulty in obtaining data from subjects,[28] the fact that subjects were not representative of the whole population, and similar problems, Registrant and USDA witnesses who presented this testimony uniformly agreed that the results were at best inconclusive.[29]

Thus, contrary to Dr. Coulston's claim, the present record confirms that human epidemiological studies are by their nature inadequate, and his testimony did not suggest any method to improve such studies. Indeed, Dr. Coulston at least implicitly admitted that the animal tests upon which the present result is based do serve as proper ground for the suspension action taken.

Judge Perlman * * * [W]hat did you mean when you said * * * that if you find a chemical that doesn't produce the same results in laboratory animals that we should use the other chemicals * * *?

[Dr. Coulston] That means exactly what it says * * * Obviously if you have alternatives that will substitute, let's say, for chlordane, and the benefits are equal, and if the alternative was such a chemical that did not produce hepatomas, et cetera, et cetera, one would be foolish not to say, "I would take the alternate," if there were such an alternate, of equal benefit.[30]

Thus, despite his other testimony, Dr. Coulston actually confirmed, from a scientific point of view, a course of benefit-risk analysis based on laboratory animal experiments which is quite similar to that followed here.

B. *Evidence of Carcinogenicity.* The evidence of carcinogenicity of heptachlor and chlordane in mice and rats rested upon a series of animal studies. In addition to the diagnosis made during the studies, rediagnoses were made of slides of organs by experts for both the registrant and respondent.

With respect to chlordane, there exist a Velsicol-commissioned study on the mouse by the International Research and Development Corporation (IRCD), and a preliminary version of a National Cancer Institute-sponsored study on the mouse by Gulf South Research Institute (GSRI).

With respect to heptachlor and heptachlor epoxide, there are a Velsicol-commissioned IRDC mouse study, a Food and Drug Administration mouse study, preliminary NCI/GSRI studies on mice and rats, a 1959 Kettering Laboratory study on the rat, and certain other studies.

With the exception of the NCI/GSRI studies, whose results are still in preliminary form, all or part of the slides generated by the other studies were reviewed in a "blind" fashion (*i.e.*, without any labeling as to whether the rat in question was male or female, a test or control animal, etc.) by Doctors Reuber, Stewart, Squire, and Williams. Dr. Popper reviewed slides from the IRDC chlordane study and the 1959 Kettering rat study.

Doctors Popper and Stewart have extraordinary, and perhaps unparalleled credentials for diagnosing mouse and rat tumors, and Dr. Reuber has performed an unusual and impressive amount of work in this specific area.

The diagnoses and testimony of these expert scientists, along with that of Dr. Epstein and Dr. Gross (who analyzed the results for statistical significance) are highly persuasive of the carcinogenicity of chlordane and heptachlor in mice, and of heptachlor in rats.

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[22] EPA Ex. 44, at pp. 9–10 (testimony of Dr. Heston); EPA Ex. 8, App. 2, at pp. 2427–2428 (Dr. Epstein).

[23] EPA Ex. 44, pp. 6, 13–14.

[24] EPA Ex. 45A, pp. 16–17; EPA Ex. 8 App., p. 2427.

[25] EPA Ex. 8, App. 2, p. 2427 (Dr. Epstein); Tr. 568–69.

[26] See EPA Ex. 8, App. 2, p. 2428. There is also an interesting tale of an experiment which allegedly showed that table salt was carcinogenic. The record reveals that an experiment has been performed in which, when fed to mice along with two known carcinogens, table salt increased the incidence of cancer, but only because it eroded the lining of the stomach and permitted the carcinogens a better opportunity to come into contact with the cells they affect. Tr. 8561–8562.

[27] Vel Ex. 40, p. 10.

[28] Dr. Samuel Sandifer had conducted a study of 57 North Carolina field workers who had applied heptachlor and chlordane. On cross-examination, Dr. Sandifer was asked whether samples of the fat of these workers had been analyzed; this is of obvious importance since heptachlor and chlordane like other chlorinated hydrocarbons, are soluble in lipid tissue, and it is in such tissue that the highest residues of these chemicals are found in humans. The exchange thus occasioned is symptomatic of the great difficulty in conducting studies on humans:

Q. [by Mr. Lee] Were any adipose samples taken from any of the subjects?

A. [by Dr. Sandifer] Not in this group.

Q. Was there any reason why they were not taken?

A. People did not want to have them done. We had enough trouble getting blood. They would not stay with us.

Judge Perlman. They would not stand for it?

[Dr. Sandifer]. That is right. We didn't even ask them, to tell the truth. We thought it was an unreasonable request. Tr. 7730–7731.

[29] Tr. 3632–3634, 3613, 7728–7736, 7955–7966. See Respondent's Final Brief, at pp. 182–194.

[30] Tr. 7856–7857; see 7851.

Quite apart from the convincing nature of that testimony, the record also shows that the registrant submitted slides from certain of the studies to other experts, in particular, Doctors Becker, Newberne, Steinberg, Deichman, and McDonald, for the apparent purpose of determining whether they should be asked to testify. These doctors submitted reports to the registrant indicating their view that the slides showed cancers.[31] These reports confirm the finding of carcinogenicity. In addition, none of these experts was called by the registrant to testify.

Judge Perlman was unwilling, in his recommendations, to give any weight to the NCI/GSRI mouse studies because of "serious questions as to the protocols therein, that is, with respect to the size of the control group and the dosage fed * * *"[32] I have carefully reviewed the evidence as to this study, and I do not believe that Judge Perlman's reluctance to give weight to the NCI/GSRI experiments is justified. The exact doses of chlordane and heptachlor were changed downward during the experiment because they appeared originally to be so high as to be inducing an acute toxic effect. The downward adjustment means at most that the actual feeding levels can only be estimated within certain limits, but that does not disqualify the entire experiment for the general question of whether these chemicals are carcinogenic. Moreover, as Dr. Epstein testified, the low number of control animals (10 per group), as compared to the test animals, actually makes the experiment *less* sensitive to a positive result. In other words, the small number of controls makes it statistically much more difficult to demonstrate a positive result. In Dr. Epstein's words, the NCI/GSRI studies, which have only ten controls, "are massively loaded against finding a positive result."[33] Therefore, I regard this particular deficiency in method as actually increasing the reliability of the positive results that Dr. Epstein reported from the preliminary reports of the NCI/GSRI studies, and confirming the finding that chlordane and heptachlor are carcinogens in mice.[34]

The major issue in this proceeding with respect to the pathology of the lesions induced in laboratory animals in these studies has centered on the asserted insufficient finding of invasion or metastasis.[35]

The registrant has argued that in the absence of invasion or metastasis, cancer simply cannot be diagnosed, and that a requirement of invasion or metastasis for a diagnosis of cancer is necessary to avoid diagnosis on "subjective" bases.

As discussed elsewhere herein, the ALJ was impressed to some degree by this argument and the testimony of Doctors Rust and Butler for the registrant. It is important to note, however, that the ALJ's concern on this issue was sufficient only to make him "hesitantly unwilling at this time" to find that heptachlor and chlordane are "conclusively" carcinogens in laboratory animals.

I have concluded, as discussed above, that this admittedly hesitant reluctance to make a conclusive finding at this point is not a legally sufficient ground to refuse the finding of "significant likelihood" of harm that is necessary for suspension under the FIFRA and controlling legal precedent. Therefore, to deny suspension on this issue I would have to find the registrant's evidence on this point to the stronger than did the ALJ. On the basis of the present record, however, I cannot make such a finding. Indeed, I do not find the registrant's evidence to be at all convincing.

At the outset of this discussion, it should be stressed that the low number of findings of invasion and metastasis in the treated animals in the studies involved does not mean that those developments were sought after and not found. Quite the opposite is true. The techniques (primarily the new technique of serial sectioning, or taking many slides rather than just one slide of the organs affected) necessary to look comprehensively for invasion and metastasis were not employed in the studies involved here. Moreover, many test animals were sacrificed too early for metastasis to have developed more significantly. Indeed, there was evidence in the record that on the basis of the smaller degree of incidence of invasion and metastasis found here, a much larger percentage would have been found had serial sectioning been employed.[36] Moreover, the record shows that cancer should be diagnosed not only with respect to those lesions that have demonstrated metastasis or invasion, but also with respect to those that have the capacity to metastasize and invade even though they may not yet have done so.[37]

It is also of extreme importance to characterize this argument properly on the basis of the testimony of Doctors Butler and Rust. Neither testified that it is never possible to diagnose cancer from slides of the lesion itself without evidence of invasion or metastasis. Rather, both testified that this is a matter of degree, and, assuming sufficient familiarity with the species of animal, the organ, and the tumor in question, it is possible to diagnose cancer on the basis of a slide of the lesion without evidence of invasion or metastasis. In their view, however, experience with the mouse and heptachlor and chlordane are too limited to provide the basis for judgments as to carcinogenicity without a finding of invasion or metastasis.[38]

Thus, Rust, and particularly Butler, are generally less willing to make the leap than the other doctors whose diagnoses are involved here, since no other expert refused to make a diagnosis on this basis. To disagree with the conclusion of Doctors Rust and Butler as to the ability to diagnose liver cancer in the mouse strictly on the basis of study of the lesions themselves, then, it is not necessary to disagree in any radical way with a medical theory; rather one must be more knowledgeable about the mouse liver and tumors therein, or more confident about the implications of what one observes. On this record considering the great erudition and experience of the respondent's witnesses in this field, I am not willing to discredit their conclusions that cancer in the mouse liver can reliably be diagnosed on histologic evidence alone.

This conclusion is buttressed by a feature of Dr. Rust's testimony that calls his testimony on this point into some doubt. In 1972, the registrant sent Dr. Rust a series of slides of livers of mice fed heptachlor, with some slides of control mice and some of "positive controls" (that is, mice fed a known carcinogen). Dr. Rust reviewed the slides and sent the registrant a 31-page report diagnosing the slides. In the conclusion of the report, Dr. Rust stated, "It is quite clear that the test animals were subjected to a severe hepatatoxin and carcinogen."[39]

This conclusion was made without any statement of whether invasion of metastasis had been observed. Dr. Rust later changed this conclusion, testifying at the hearing that the change came about because he had previously been unaware that slides from positive controls had been included in those submitted to him in 1972.[40] This may explain the change in conclusion as to the carcinogenicity of the pesticide (an explanation which the ALJ tended to credit). However, it does not explain why in the 1972 report Dr. Rust was willing to conclude that whatever had caused the lesions in question was a carcinogen without making any prominent mention (and, apparently, with no mention at all) of either invasion or metastasis. Dr. Rust did testify at the hearing that he had found invasion in 1972.[41] Even if he did, however, the fact that that finding was not featured in his written 1972 report and diagnosis casts grave doubt on the credibility of Dr. Rust's current testimony as to his view of the crucial importance of a finding of invasion or metastasis to a conclusion of carcinogenicity. In addition, Dr. Rust's rather emotional outbursts and his apparent emotional commitment on this issue, while perhaps providing a leavening influence on the hearings, unfortunately also limit the value of his testimony.[42]

For these reasons, I do not believe that the question of invasion and metastasis is as important as the registrant argues, and I cannot conclude that the testimony of Doctors Butler and Rust discredits the diagnoses of the respondent's experts.

A related argument by the registrant is that the so-called "subjective" diagnoses by the respondent's expert pathologists are frequently in conflict and that this supports the argument that an "objective" standard—namely, one requiring a finding of invasion or metastasis—is preferable. As the ALJ found, however, these asserted disagreements are not substantial. In the first place, the registrant has a tendency to point to varying diagnoses of individual slides, ignoring the overall agreement of the diagnoses. It would be surprising indeed if there were no differences of opinion at all among these pathologists. Moreover, as the ALJ also found, a great deal of the apparent difference is due to varying nomenclature for the same events, a situation which is made more difficult by the fact that the nomenclature still is in a state of some flux. There appeared to be very substantial agreement among the respondent's experts on which lesions were reversible if the stimulus were withdrawn, which had passed to a point where they

[31] EPA Exs. 5, 7, 8, 29, 41.
[32] Recommended Decision, p. 80.
[33] Tr. 569. Dr. Epstein also testified that this kind of insensitivity of the experiments may also be responsible for the absence of positive results at lower feeding levels. Tr. 568–69.
[34] In addition, in view of Dr. Gross's testimony as to the statistical significance of the results of the 1959 Kettering rat study (EPA Ex. 12, at 3–5), the very low natural incidence of tumors in rats, and Dr. Popper's conclusion from study of slides from this experiment that "I am convinced that this is one of the most potent carcinogens of which I can recall," (EPA Ex. 9; Tr. p. 22), I conclude that heptachlor is a carcinogen in the rat, as well as the mouse.
[35] "Invasion" is the spreading of the tumor into surrounding tissue, and "metastasis" is the spreading of cancer to the organs. These are the effects of malignant tumors which are most harmful to the host animal.
[36] EPA Ex. 31.
[37] Tr. 676–680 (Dr. Stewart); EPA Ex. 2, p. 8 (Dr. Reuber); Tr. 716 (Dr. Squire).
[38] Tr. 3390–3402; 3856–3857.
[39] EPA Ex. 6, p. 31.
[40] Tr. 3849–3852.
[41] Tr. 3850.
[42] Tr. 3837–3839.

might reverse and they might not, and which were irreversible.[43]

The registrant also has elaborately argued that a mathematical model, called the Mantel-Bryan formula after its developers, can be used to show that the level of heptachlor and chlordane in the environment is so small that it would be "safe"; that is, it would cause a very small number of cancers. In addition to noting that Dr. Mantel himself severely criticized the use of the variants of his formula by the registrant's witness as very insufficiently conservative,[44] I agree with the ALJ's conclusion[45] that this entire line of analysis is unreliable because of the incomplete assumptions made by the registrant's witnesses about the sources of human exposure in the environment, the natural variation in human susceptibility to cancer, the lack of any evidence relating the level of human susceptability to cancer from heptachlor and chlordane as opposed to that of the mouse, and the absence of precise knowledge as to the minimum exposure to a carcinogen necessary to cause cancer. As the ALJ noted, mathematical modeling to show the risk of cancer is in its very infancy; it is not now useful to establish "safe" levels of exposure.

Late in the hearing, the registrant produced and introduced into evidence a copy of a "working draft" of a subcommittee on environmental carcinogens of the National Cancer Advisory Board,[46] asserting broadly that this document casts grave doubt upon the methodology employed by the respondent herein to establish carcinogenicity.[47] In addition to the facts that this is only a non-final working draft, that little was shown about the qualification of the committee, and that nothing is known about the import the committee intended the rather vaguely worded working draft to have, no witness from the subcommittee appeared to testify as to these questions or the draft itself. The witness through whom the ALJ permitted these documents into evidence know practically nothing about them.[48] As such the draft is almost completely worthless as evidence. Moreover, the language of the draft itself will not at all bear the weight the registrant seeks to put on it. For example, the registrant cites a statement in the draft that experiments using experimental animals with "very high spontaneous frequency of a particular tumor" do not in themselves constitute definitive evidence for carcinogenicity."[49] The registrant does not quote the following sentence, "Positive results in such procedures do suggest, however, that the compound is potentially carcinogenic and therefore warrants further study." Moreover, of course, the draft does not make clear what "definitive" means or how high a "very high spontaneous frequency of a particular tumor" is. In this proceeding, Dr. Heston testified convincingly that the C3H mouse used in the FDA study here did not have such high levels of spontaneous tumors as to render the results unreliable, and that, in any event, the mice used in the NCI/GSRI and IRDC studies had much lower natural incidences of tumors.[50] This point from the subcommittee draft thus has little, if any, weight for present purposes.

The subcommittee draft also states that studies "in which the test compound causes a significant and reproducible increase in only benign tumors" do not in themselves constitute "definitive evidence of carcinogenicity" but suggest that "the compound is potentially carcinogenic"; the draft goes on to say, "Further testing is particularly indicated if the compound induces benign tumors since it is known that such compounds when adequately studies [sic] often induce malignant tumors."[51] Even taken at face value, and even assuming that "only" benign tumors had been shown in the pertinent studies, this statement is not at all reassuring as to the carcinogenicity of heptachlor and chlordane. In addition, some invasion and metastasis were found (although not enough to satisfy Doctors Butler and Rust) in the studies here involved, and thus these studies did not produce "only" benign tumors. Moreover, I am convinced that, in view of the diagnoses of Doctors Popper, Stewart, and Reuber, and the work reflected EPA Exhibit 31, that had the most modern serial sectioning techniques been employed, more incidences of metastasis and invasion would have been found. For these reasons as well, I cannot give the draft subcommittee report significant weight.

Finally, the registrant argues that even assuming that chlordane and heptachlor are carcinogenic, their persistence in the environment, the slowness with which they degrade and the long latency period of cancer will combine to prevent an appreciable health benefit from accruing to man from cessation of their use for the year, 18 months, or more that the cancellation proceeding will be in effect.[52] This line of reasoning is not satisfactory. First, it is an established Agency principle that an imminent hazard "may be declared at any point of a chain of events which may ultimately result in harm to the public."[53] Thus, the fact that harm may not actually result during the cancellation process is not significant if the use of heptachlor and chlordane during that period would irreversibly create a risk of harm at a later time. Moreover, aside from speculation, in view of the failure of the registrant to adduce evidence that it would be safe to continue to permit release of these pesticides for the period of the cancellation proceeding, and in view of the evidence as to their carcinogenicity, the widely varying susceptibility of individuals to cancer, and the presence of heptachlor and chlordane in the environment for more than 18 years, I cannot agree that their use during the cancellation proceeding would not involve a substantial likelihood that serious harm would result.

III. The Uses, Benefits, and Alternatives for Heptachlor-Chlordane

A. Relevance of the Benefits Issue. As discussed above in Section II, the FIFRA requires that the Administrator take into account the economic, social, and environmental costs and *benefits* of the use of any pesticide in determining whether its continued during the time required for completion of the cancellation proceeding would be likely to result in "any unreasonable risk to man or the environment." As noted previously, I have concluded that the ALJ did not conduct adequately the kind of risk/benefit balancing process which the law and Agency policy requires and, therefore, I am setting forth in this part my findings and conclusions on the relationship between the risks and benefits of specific heptachlor and chlordane uses. This part also considers the availability of alternative pesticides.

In my decision last year on the suspension of aldrin-dieldrin, I noted that in a suspension proceeding, unlike a cancellation action, EPA is not specifically required to balance possible benefits against the environmental and health risks of pesticide use. In that opinion, I also cited the language of the court of appeals, to the effect that: "We do not say that there is an absolute need for analysis of benefits."[54] The court, in reaching that conclusion, stated:

> We are not clear that the FIFRA requires separate analysis of benefits at the suspension stage. We are clear that the statute empowers the Administrator to take account of benefits or their absence as affecting imminency of hazard.[55]

Here, as in the aldrin-dieldrin case, however, I will follow the Agency policy of considering the benefits in relation to the risks of continued use of heptachlor and chlordane during the cancellation process. It is particularly appropriate, in view of the findings and conclusions contained herein relating to the issue of carcinogenicity and human health risks, that the particular uses and benefits of heptachlor and chlordane be addressed in some detail. This risk/benefit analysis is also appropriate since I have concluded, because of the varying degrees of risks and benefits associated with particular uses, that some uses should be suspended and others should not.

It should be emphasized that, in carrying out the risk/benefit balancing process, I have followed the rule that, "The responsibility to demonstrate that the benefits outweigh the risks is upon the proponents of

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[43] The process of development of tumors in mouse livers is continuous. The earliest stage is a small abnormal cluster of liver cells, five to ten cells in diameter, called dysplasia or early hyperplasia This lesion may well regress if the carcinogen is no longer applied. As the lesion expands in size and compresses the surrounding cells, it becomes a hyperplastic nodule. Some of these nodules will regress if the carcinogen is withdrawn and some will not, but will progress further to carcinomas. Because it is not at present possible to tell which will regress and which will not, and because these nodules are caused only by carcinogens, there has been a recent trend to call them neoplastic nodules, but this change or difference in nomenclature is not significant to diagnoses. See Tr. 408–414; EPA Exs. 2, 3, 4.

[44] EPA Ex. 43, pp. 5–13.

[45] Recommended Decision, pp. 86–86, note 25.

[46] Vel. Ex. 45.

[47] Registrant's Supplemental and Reply Brief, p. 4ff.

[48] Tr. 8651–8652, 8661–8663. The respondent included in its final brief material from a transcript of subcommittee deliberations on the working draft. On motion of the registrant, the ALJ held that this material was not in evidence and could not be considered. While that holding was correct, I do note that the registrant attempted to read from the same transcript at the hearing. Tr. 8663–8664. Obviously, some such explanatory material would be necessary to render the working draft sufficiently comprehensible for use in a proceeding like the present.

[49] Registrant's Supplemental and Reply Brief, p. 7, quoting Vel. Ex. 45, p. 2.

[50] Tr. 8580–8581.

[51] Vel. Ex. 45, pp. 2–3.

[52] The registrant introduced evidence to show that the decline of DDT residues in food crops was slow after cancellation in 1972. Vel. Ex. 4. However, on cross-examination it was established that DDT use on food crops was rapidly declining in any event in the years before cancellation and that those declines in use were quickly followed by declines in residues of DDT and its metabolites in food crops. Tr. 7346–7353.

[53] Reasons Underlying the Registration Decisions Concerning Products Containing DDT, 2,4,5-T, Aldrin and Dieldrin (March 18, 1971), p. 6.

[54] *EDF v. EPA, supra,* 465 F. 2d at 540.

[55] *EDF v. EPA, supra,* 465 F. 2d at 538.

continued registration."[56] I should also note that, in addressing the limited time available to the Administrator (seven days) and the question of how much *detail* Congress contemplated would be required of the Administrator's findings, the court of appeals in the aldrin-dieldrin case indicated that the law does not require "explicit evaluation of all relevant testimony when that is not necessary to deal with the salient grounds of objection and would preclude practical use of the suspension provisions."[57] The court of appeals concluded that it is sufficient "that there is substantial evidence in the record and that the court is able to discern the *fair import* of the Administrator's reasoning" (emphasis added).[58] Also, in keeping with the above, I will not in this Decision unduly recite the findings and reasoning of the ALJ except where a difference is made explicit and elaboration is necessary.

The uses of heptachlor and chlordane can be divided into two general categories: agricultural and non-agricultural. The former includes soil treatments to control various insects associated with the production of corn, citrus, peanuts, pineapple, strawberries, certain vegetables and fruits, and other miscellaneous crops. It also includes the treatment or dressing of corn, sorghum, and small grain seeds. The non-agricultural category (referred to by the registrant as "Public Health and Environmental Quality" uses) includes uses to control various lawn and turf insects, household pests (structural and non-structural), narcissus bulb pests, harvester ants, imported fire ants, ticks and chiggers, and as a constituent in shelf paper. The non-agricultural category also includes Federal quarantine programs to control the Japanese beetle and the imported fire ant.

B. Non-agricultural Uses. The principal non-agricultural uses of chlordane and heptachlor subject to this proceeding include their use against various household and lawn insects both by private homeowners and by commercial pesticide control operators (PCO's), use against various biting and stinging insects (harvester ants, fire ants, ticks and chiggers), and for purposes of Federal and State quarantine programs to control a few specific pests.

The ALJ recommended that, as to these non-agricultural uses, the use of *heptachlor* be continued to control the narcissus bulb fly and the use of *chlordane* be continued for use in the Federal-State quarantine programs involving the Japanese beetle and the imported fire ant, in the Michigan quarantine program involving the black vine weevil,[59] for the control of the harvester ant in the State of Oklahoma,[60] and for use against the imported fire ant in the Southern states.[61] He also recommended, however, that the use of chlordane against non-wood destroying (*i.e.* non-structural) household insect (including lawn and turf insects), as well as the use of chlordane against wood-destroying (*i.e.* structural) insects, be suspended. He further found no need to continue the use of chlordane against ticks and chiggers[62] or as a constitutent in shelf paper.[63]

Two actions taken by the parties late in the course of this proceeding with regard to the non-agricultural uses of chlordane and heptachlor also must be considered at this point. On November 25, 1975, the registrant submitted a letter regarding a voluntary curtailment of domestic shipments of heptachlor. In that letter, the registrant made a commitment to restrict domestic shipments of heptachlor to use for termite control until a decision is reached on suspension, and thereafter, during the pendency of the cancellation proceeding, to voluntarily restrict heptachlor domestic shipments to uses for *termites, seed treatment, fire ants,* and *pineapples,* even if the Administrator decides not to suspend the use of heptachlor.

The import of the registrant's commitment is that it amounts to a voluntary suspension of heptachlor use on narcissus bulbs (except, presumably, to the extent that existing stocks may be available for this use) and for use by PCO's (*i.e.*, on household pests, other than termites). Although narcissus bulb use involves an extremely limited amount of heptachlor (approximately 200 pounds in the State of Washington, and even less in Oregon, with the Northwest being the major narcissis producing area), PCO use in 1974 accounted for 26.8 percent of all heptachlor use. The registrant's commitment also, however, indicates a strong belief on its part that the use of heptachlor against fire ants (which accounted for almost 2 percent of heptachlor use in 1974) is necessary during 1976.

The second of the two actions referred to above involves a statement made by the respondent, in its Exceptions to the Recommended Decision of the Presiding Officer filed on December 6, as follows:

> We do not contest dismissal of the suspension notice as to the following uses which should be more fully considered in cancellation and with respect to which the ALJ found that there are no adequate substitutes.[64]

Following the above statement is a listing of several uses of heptachlor and chlordane, including the following non-agricultural uses:

> Heptachlor:—Narcissus bulbs.
> Chlordane:—
> Federal quarantine for Japanese beetle and fire ants.
> Fire ant, if mirex is unavailable.
> Harvester ant in Oklahoma.[65]

The effect of the respondent's statement is a voluntary agreement not to pursue suspension of the foregoing uses of heptachlor and chlordane. Respondent apparently concedes the need, at least in 1976, for the use of *heptachlor* on narcissus bulbs, presumably because of the small amount involved and the fact that it is a non-food related use. Respondent's concession on the aforementioned *chlordane* uses is more significant, since they involve a broader range of use and significant amounts of chlordane (although the amount used for these purposes in 1974 apparently is not quantified in the record). It must also conclude from the respondent's exceptions that it agrees with the ALJ's recommendation that the use of chlordane against ticks and chiggers and as a constituent in shelf paper, be suspended.

The major import of the respondent's statement, with respect to non-agricultural uses, is that it strongly urges the suspension of home, lawn, garden and turf use (representing approximately 36 percent of total production of chlordane in 1974, or more than 7½ million pounds) because "there are adequate substitutes (as the ALJ found * * *)—and even if adequate substitutes were not always available, the benefits from the home, lawn, garden and turf use of Heptachlor/Chlordane simply do not justify the resulting widespread exposure of the population to a potential carcinogen."

In view of the ALJ's recommendations and the actions taken by the registrant and the respondent, I am tempted to conclude summarily that certain non-agricultural uses of heptachlor and chlordane—not including home, garden, lawn, and turf used by homeowners and PCO's—can be resolved without any extended consideration of the relative risks and benefits associated with each specific non-agricultural use. In spite of the foregoing, I feel compelled to state my understanding and assessment of the risks and benefits of each of these uses.

1. *Narcissus Bulbs.* A very small amount of heptachlor is used to treat against the narcissus bulb fly by dipping bulbs prior to planting. About 200 pounds are used for this purpose annually in the State of Washington, and even a smaller amount in Oregon. The total acreage of narcissi (or daffodils) grown in Washington, Oregon, New Jersey, California, Virginia, and North Carolina is only about 1,800 acres. The value of the narcissus group in Washington and Oregon is approximately $2 million.

It is apparent from the record that there is not now an effective, economical alternative to heptachlor for this use. The only alternative suggested was Dylox, which might be as much as 43 times more expensive to apply than heptachlor. Dr. Getzin estimated that about 3.5 percent of the Washington-Oregon crop would become infested in 1976, creating a severe economic threat.[66]

In view of the foregoing, I agree with the ALJ's recommendation that the use of heptachlor for this purpose be continued, particularly in view of the fact that such a minute quantity is used and the risk of exposure to humans is negligible.

2. *Federal-State Quarantine Programs for Japanese Beetles and Fire Ants.* The Congress has enacted various statutes pursuant to which the United States Department of Agriculture (USDA) has established and administers the Plant Protection and Quarantine Program in cooperation with State governments for the eradication, prevention, or control of certain pests and insects whose movement or spread could create a hazard or economic loss potential.

The Japanese Beetle and imported fire ant are such an insect and pest, respectively. One regulatory program under the overall program requires, *inter alia,* that nursery stock whose movement out of the quarantine area presents a hazard of spread be certified to be pest-free prior to shipment.[67] Certification is conditioned upon the treatment of such stock, including soil treatment with chlordane, for the Japanese Beetle and imported fire ant.[68]

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[56] *EDF v. EPA, supra,* 10 F. 2d at 1302. See also *EDF v. EPA,* supra, 465 F. 2d at 532; *E F v. Ruckelshaus, supra,* 439 F. 2d at 592 n. 22.

[57] *EDF v. EPA, supra,* 10 F. 2d at 1304.

[58] *EDF v. EPA,* 510 F. 2d at 1304.

[59] The ALJ was unaware of any other state quarantine programs for similar purposes, and therefore limited his recommendation to the Michigan program. He also concluded that the need for chlordane for nursery use against the black vine weevil was insufficiently documented in the record to justify a specific recommendation. Recommended Decision, pp. 94–95.

[60] The ALJ expressly limited this recommendation to Oklahoma, since the record did not indicate that the same problem existed in other areas.

[61] The ALJ conditioned this recommendation expressly on the doubtful availability of mirex bait, and recommended that this proceeding could be reopened should mirex become available for use against the fire ant.

[62] Recommended Decision, p. 98, note 35.

[63] Recommended Decision, p. 102, note 37.

[64] Respondent's exceptions to the Presiding Officer's Recommended Decision, p. 4.

[65] *Ibid.*

[66] USDA Ex. 9, p. 5.

[67] USDA Ex. 8.

[68] Id. at 5.

Under the overal program is yet another program of a non-regulatory, cooperative nature, whereby quarantine areas are designated and suppression and control efforts are instituted wherever necessary throughout the nation to prevent or control the movement of certain insects and pests.

One such effort has been directed over the years against the fire ant, under the auspices of the Federal-State Cooperative Imported Fire Ant Control Program. Between 1963 and 1967, the fire ant, characterized by its venomous sting and bite, spread through an area approximating 75 million acres. Largely due to action taken under the Federal-State control program, the area of additional spread between 1969 and 1973 was held to 3 million acres.

To illustrate the fire and hazard, testimony adduced at the hearing reflects a tri-state (Mississippi, Alabama, Georgia) survey of physicians, conducted in 1971, reporting upwards of 12,000 patients having been treated during a 6–9 month period of fire ant stings, which induced approximately 1,000 allergic reactions, 6,000 secondary infections, 76 instances of anaphylactic shock, and resulted in 17 deaths.

Mirex, during the past decade, has replaced chlordane in the cooperative fire ant program. I note, however, the concern of the USDA over the future status and availability of mirex. On the assumption that chlordane will not be used for this purpose unless mirex is not available, and since no suitable alternative to those pesticides exists for use in the Cooperative Fire Ant Control Program, I will not suspend chlordane for this purpose.

As to the question of continued availability and use of chlordane upon nursery stock for the purpose of certification under the Japanese beetle and fire ant quarantine regulatory program, I am persuaded by the testimony submitted by the USDA that chlordane is the only effective and available larvacide to achieve this control, in light of USDA's evaluation of possible alternatives including carbaryl, malathion, methoryphlor, OMPA, Chlorpyrifos, resmethrin, allethrin, lindane, metesystox, ovex, diazinon, and rotenone.[69] None is reported as offering the necessary residual protection, while some are inactivated in the soil, leaving the larvae virtually unaffected. While certification may be accomplished by the dip or injection method of treatment with ethylene dibromide, this method is considered an emergency treatment until chlordane can be applied. This method is nearly prohibitive in cost and is time consuming, with a low incidence of plant survival.

The only treatment for sod, nursery stock with soil, and similar items accepted by the USDA for quarantine certification purposes are chlordane or chlordane in association with mirex. USDA Agricultural Research Service scientists who have screened alternative compounds find none effective for quarantine purposes.[70] Accordingly, I conclude that continued use of chlordane is essential for effective quarantine of the Japanese beetle and the fire ant under the quarantine program.

3. *Imported Fire Ant.* The record of this proceeding suggests doubt concerning the ready availability of mirex and mirex baits for non-quarantine purposes, that is, for use by private individuals.[71] In consideration thereof, and in view of the public health problem which may result from the fire ant sting and bite (and the lack of any other effective and readily available alternative), I conclude that chlordane should be continued for use by individuals for this purpose.

4. *Black Vine Weevil in Michigan.* The State of Michigan's prohibition against the sale of nursery stock infested with black vine weevil is particularly applicable with respect to such infestations in the popular ornamental evergreen, the Japanese Yew.

The Michigan Agricultural Experienment Station recommends only chlordane for destruction of the black vine weevil larvae, which might otherwise infest and destroy the Yew root system.

A witness for the USDA testified that few nursery losses of $20,000 per acre could be forecast if chlordane were removed from the marketplace and the weevil left unchecked.[72]

In view of the fact, that the affected area peculiarly subject to severe economic impact is small, that the amount of chlordane needed for effective treatment is relatively minor, and that no substitutes appears to be recommended or available, I conclude that the benefit of continued use of chlordane exceeds the possible risk of harm which might result from its use for this purpose in Michigan.

5. *Harvester Ants.* Harvester ants are a significant public health concern, particularly in the arid Southwest. They inhibit large mounds which serve as a nest from which, when disturbed, they swam to attack the source of disturbance. Their bite and sting frequently requires medical attention.

Heavy infestations of harvester ants also can cause erosion of soil, particularly roadside banks during periods of drought.

The only effective method of control known is through the use of baits treated with mirex or chlordane. It appears from the record that the harvester ant in Oklamoha (as distinguished from the Western harvester ant) is effectively controlled with chlordane bait, which may be due to somewhat different ecological conditions.[73]

The ALJ recommended that the use of chlordane bait be continued, but only in the State of Oklahoma.[74] Although I find such a geographical limitation somewhat puzzling in view of the fact that the subject pest is named the "Texas" harvester ant, I conclude that the record does not support extending this use beyond Oklahoma, as the ALJ recommended. With respect to that limited use, I conclude that the benefit of chlordane use for this purpose outweighs the possible risks.

6. *Household Garden, Lawn, and Turf Uses.* Chlordane is a commonly used house and garden insecticide. It is used in the home by homeowners and pest control operators to control both "non-structural" pests such as ants, cockroaches, spiders, crickets, earwigs, silverfish, firebrats, wasps, hornets, and other invading insects, as well as "structural" pests such as termites, carpenter ants, and "powder post beetles" (actually four groups of insects). Heptachlor generally is not recommended for use against household pests.[75]

Of a total of some 21 million pounds of chlordane used in the United States in 1974, about 7½ million pounds were devoted to home, garden, lawn, and turf use, or almost 36 percent to all chlordane used that year. The percentage used in home and garden, as distinguished from lawn and turf, is not apparent from the record.

a. *Non-structural Pests.* In the garden, chlordane is used as a soil treatment to control a wide variety of pests, including cutworms, maggots, wireworms, grubs, weevils, rootworms, and budworms. Its value for this purpose is due largely to its effectiveness and persistence for an entire growing season.

On the lawn, chlordane is used in granular form as a soil treatment to control a number of pests, including white grubs and ticks. Again, its principal value is its effectiveness and persistence.

In the home, chlordane is used against a variety of non-structural pests, including earwigs, crickets, centipedes, millipedes, spiders, silverfish, firebrats, wasps, carpenter ants, and hornets.

The registrant has stated that the importance of chlordane to the homeowner is indicated by the dollar figures on homeowner use of chlordane, which, according to one survey, accounted for about one-third of the gross sales of four of the largest home-use pesticide manufacturers, or almost 2.5 million pounds in 1974. Another estimate in the record is that homeowners spend about $50 million annually on chlordane for home use.[76]

The principal turf-damaging pests are the many species of white grubs (the larval stage of hard-shelled beetles) which feed on grass and plant roots. Both chlordane and heptachlor are valued for this use because of their residual effectiveness for several years. Chlordane is used as a soil treatment for turf around airports to control Japanese beetles, which seem to be peculiarly attracted to aircraft.

The risks to human intake associated with these uses of chlordane and heptachlor are manifest due to the many avenues which exist for direct exposure, through improper handling and misuse, inhalation, and absorbtion through the skin from direct contact.[77]

There is compelling testimony in the record that the benefits which result from the use of chlordane on the lawn, as well as in the home and garden, and the use of chlordane and heptachlor on turf, are considerably less than the risks associated with these uses, particularly in light of the availability of efficacious alternative pesticides.

Diazinon and dursban are effective alternatives for use on lawn and turf.[78] Diazinon, malathion, dursban, baygon, and DDVP are all effective against a wide variety of household and garden insects.[79]. These and other insecticides are effective in controlling household roaches and ants, whereas the German cockroach (the most common household treatment by pesticide control operators) is resistant to chlordane.[80]

For these reasons, including most importantly the availability of effective, economical alternatives and the high risk of direct exposure, I agree with the ALJ's recommendation that the continued use of heptachlor and chlordane for home, garden, lawn, and turf use not be permitted.

b. *Structural Pests.* In addition to the household pests discussed above, there are at least two significant household pests which cause structural damage to wooden floors, walls, and attic members. The "powder post beetle" and the carpenter ant can cause significant structural damage if not controlled.[81]

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[69] USDA Exs. 6, 7, and 8.
[70] USDA Exs. 6, 7, and 8; Tr. 6008–09, 6141.
[71] Tr. 6436–37.
[72] Tr. 6057.
[73] Tr. 5812.
[74] Recommended Decision, p. 98.
[75] EPA Ex. 26–T, Table 1. See generally Velsicol's Brief on Benefits, pp. 35–53.
[76] Vel. Ex. 41, pp. 94–95.
[77] Tr. 5677.
[78] Tr. 5731–32, 5740, 5642, 5663, 5672–76.
[79] Tr. 4607.
[80] Tr. 4561.
[81] The July 29, 1975, notice of intention to suspend specifically exempted the use of heptachlor or chlordane in subsurface ground injection for termite control from this suspension proceeding. (O.C.F.R. 34456).

As with the other household uses discussed above, Judge Perlman found that adequate substitutes are available and effective for treatment against these wood-destroying insects. Lindane and pentachlorophenol are registered and recommended for powder post beetles.[82] Fumigation also is a possible alternative where surface treatments are not adequate, although there are some disadvantages in terms of acute toxicity (if improperly applied) and additional cost. Alternatives for treating carpenter ants also are available, including pyrethrins, DDVP, malathion, lindane, baygon, and diazinon.[83]

In view of the increased risk of direct exposure to chlordane when used in treating these household pests, I cannot conclude that the benefits of its use for this purpose are greater than the associated risks, particularly in light of the availability of effective subtstitutes.

c. *Agricultural Uses.* The dominant agricultural uses of chlordane and heptachlor subject to this proceeding include their use as soil treatment to control pests associated with corn, citrus, peanuts, pineapples, strawberries, and certain fruits and vegetables registered for use on some forty varieties, including potatoes, tomatoes, cabbage, and grapes) and other miscellaneous crops, as well as seed dressing for corn, sorghum, and small grain seeds.

In the event of suspension, the ALJ recommended that, with the exception of use on corn (and on certain unspecified fruits and vegetables and other miscellaneous crops, as to which the record was insufficient to make any specific recommendation), all the above agricultural uses of heptachlor and chlordane be permitted to continue during the period required to complete the cancellation proceeding. That is, he recommended that heptachlor use for seed treatment and for control of the pineapple mealybug [84] not be suspended, and that chlordane use for control of the white-fringed beetle on peanuts,[85] control of the Fuller Rose Beetle and other root weevils on citrus,[86] as a preplant soil treatment in strawberry beds, and for control of white grubs in the State of Michigan [87] also not be suspended.

Two actions taken by the parties late in the course of this suspension proceeding with regard to the agricultural uses of chlordane and heptachlor also must be taken into account. On November 25, 1975, the registrant submitted a letter regarding a voluntary curtailment of domestic shipments of heptachlor, in which it stated:

As of November 24, 1975, Velsicol Chemical Corporation has voluntarily restricted domestic shipments of heptachlor to use for *termites* until a decision is reached by the Administrator regarding suspension. Should the Administrator find in favor of the continued use of heptachlor during a cancellation proceeding, Velsicol shall, nevertheless, voluntarily restrict domestic shipments of heptachlor to uses for termites, *seed treatment, fire ants* and *pineapples* pending completion of that proceeding. (emphasis added).

The effect of the registrant's commitment is a voluntary suspension of the use of heptachlor on corn and by pesticide control operators (*i.e.* on household pests, other than termites), which together constituted almost 85 percent of the heptachlor used in 1974. The other significant aspect of the registrant's commitment, is an obviously strong statement of its belief that the use of heptachlor on pineapples and for seed dressing (as well as fire ants) is necessary during 1976. These uses constituted most of the remaining 15 percent of the heptachlor used in 1974.

The second action referred to above concerns a statement made by the respondent, in its Exceptions to the Recommended Decision of the Presiding Officer filed on December 16, 1975, as follows:

We do not contest dismissal of the suspension notice as to the following uses which should be more fully considered in cancellation and with respect to which the ALJ found that there are no adequate substitutes: [88]

Following the above statement is a listing of various uses of heptachlor and chlordane, including the following agricultural uses.

Heptachlor:
Seed treatment.
Pineapples.
Chlordane:
Black vine weevil and white grubs in Michigan.
Strawberries.
White fringed beetles in the eight Southern States (other than on tobacco).
Florida citrus soil insects.[89]

The effect of the respondent's statement is a voluntary agreement not to pursue suspension of the foregoing uses of heptachlor and chlordane. Of particular significance is the fact that respondent apparently concedes the need, at least during 1976, for the use of heptachlor on pineapples and for seed dressing. Also significant, however, is respondent's concession that all agricultural uses of chlordane at issue in this proceeding, other than on corn, should not be suspended. I must also assume from the respondent's exceptions that, although not specifically mentioned one way or the other, it does not contest the ALJ's recommended disposition of "certain fruits and vegetables and other miscellaneous crops", as to which he concluded that the record was "too general, imprecise and inadequate and the evidence is too conflicting and uncertain * * * to enable us to form a judgment * * *."

In view of the ALJ's recommendations and the actions taken by the registrant and the respondent, I am tempted to conclude summarily that the question of suspension as to all agricultural uses of heptachlor and chlordane (except the use on corn) can be resolved (in favor of continued use) without any extended consideration of the relative risks and benefits associated with each specific use. In spite of the foregoing, I feel compelled to state my understanding and assessment of the risks and benefits of each of these uses.

1. *Hawaiian Pineapples.* Heptachlor is employed by Hawaiian pineapple growers to control ants, and thereby control the spread of mealy bug wilt. This disease rises out of a virus in the pineapple plant which is activated by the saliva of the feeding mealy bug. The mealy bug depends for transport from plant to plant and for survival upon the ant which feeds upon the sweet tasting exudate of the bug, which but for this removal would drown or suffocate in the exudate. Effective ant control, therefore, is essential to the control of the mealy bug wilt. This has been generally and successfully effected by the use of mirex baits. Mirex bait has generally replaced the earlier method of control through heptachlor soil treatments. To the limited extent that these baits are rendered ineffective by the excessive rainfall, foliar applications of heptachlor are made upon the matured plant.

Diazinon and malathion, as alternative foliar applications, are considered ineffective against subterranean infestation. Mealy bugs, as distinguished from ants, can be partially controlled by these pesticides. Were these the only factors to be considered, the case for continued availability of heptachlor for mealy bug wilt control would lack strong basis. However, a serious question exists regarding the safety of mirex which is presently being examined in an ongoing hearing under Section 6(b)(2) of FIFRA. As a result, there is some doubt cast upon the continued availability of mirex baits, as evidenced by a letter received late in the mirex hearing from the chemical manufacturer of the bait, representing that production of these baits has ceased as of July 1975, with no present manufacturer intention to resume that production.

The record clearly reveals that heptachlor is used on pineapples in minimal amounts within prescribed boundaries, under close professional supervision, and at infrequent intervals. In addition, a zero tolerance exists for residues of heptachlor on raw pineapples. Annual use of heptachlor for the Hawaiian pineapple crop is projected at only 7700 pounds, subject to the continued availability of mirex and the findings and recommendations which may emerge from the hearing bearing upon its safety.

While it is undisputed that mealy bug wilt is under control, this factor obviously does not eliminate the need to continue certain agricultural practices which appear to have achieved this condition. Indeed, this fact militates toward continuance of such practices.

In view of the uncertainties involving the availability of mirex, the fact that at the present time the amount of heptachlor used is very small, and the fact that existing alternative chemicals lack efficacy as substitutes, I must conclude that the benefits attendant upon the use of heptachlor outweigh any risks associated with its use on pineapples during the period required to complete the cancellation proceeding.

2. *Seed Treatment.* Heptachlor treatment or dressing of seed, particularly that of corn, sorghum, and certain small grains, provides effective control at minimal cost to the farmer of insects which attack and otherwise feed upon the seed. Most notable among these insects are the seed corn beetles and maggots and wireworms.

The high residual and persistent nature of heptachlor protects the seed for extended periods while stored and during the post-planting period through germination. Alternate chemicals registered for seed treatment are diazinon and lindane. The record reflects considerable misgivings concerning the persistency level of diazinon and the degree of protection it provides the seed, particularly against the wireworm. Present lack of efficacy and phytotoxicity data casts additional doubt upon diazinon's merits as a reasonable alternative to heptachlor.

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[82] Tr. 7649–52.
[83] Tr. 4631–34.
[84] The ALJ's recommendation regarding use on pineapples is made subject to the proviso that should mirex be available for this purpose, after the conclusion of the mirex 6(b)(2) proceeding, this suspension proceeding could be reopened to reconsider the use of heptachlor for this purpose.
[85] The ALJ recommended that chlordane not be allowed for use to control the white-fringed beetle on tobacco.
[86] The ALJ recommended that the use of chlordane for controlling termites in the planting of new citrus trees not be continued.
[87] The problem of white grubs in Michigan relates principally to soy beans, dry beans, and small grains. The ALJ found no basis in the record to extend the use of chlordane for this purpose beyond the State of Michigan.
[88] Respondent's Exceptions to the Presiding Officer's Recommend Decision, p. 4.
[89] Ibid.

Nor, for the purpose of this proceeding, can lindane qualify as a viable, available, and realistic alternative. The evidence is uncontroverted that lindane is presently, and is expected to remain for an indeterminate period, in low production and short supply pending the outcome of examination and testing which bear upon its safety. This totality distinguishes these facts from the issue raised in the aldrin-dieldrin cancellation proceeding reflecting the utility of heptachlor as an alternative seed treatment to dieldrin. I therefore find it unnecessary to adjudicate the conflicting claims revealed in testimony at the instant Hearing bearing upon whether lindane would *otherwise* qualify as an adequate seed treatment alternative to heptachlor.

No other alternatives proposed, including pyrethrins and malathion, appear to provide protection against seed attacking soil insects. In a similar category is methorychlor, which is used for the limited purpose of stored product insect control.

I conclude, therefore, that there is a continuing need by the farmers for commercial seed treatment, particularly for use in the Southwest, as well as other seed treatment, including planter box treatment, in other parts of the country, and that this need outweighs any risks associated with the use of heptachlor for this purpose during the period required to complete the cancellation proceeding.

3. *White Fringed Beetle.* This pest has so persisted in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee since it was first detected ravaging peanut crops in the 1930's that, until recently, it was the subject of a Federal quarantine program for 3½ decades.

It is during the early larval stage that most of the crop destruction occurs, as the larvae feed upon the plant roots. They migrate through the soil at depths of 4–6 inches.[90]

Incorporation of chlordane several inches into the soil prior to planting appears to be the most effective treatment for larvae control. Due to the high residual character of chlordane, such treatment may be effective for 2–3 years.[91]

The registrant projects that of 20,000 acres and 26,000 acres in Alabama and Georgia, respectively, in which infestation is expected to occur during the 1975–76 growing season, only 15,000 acres (or 75 percent) and 13,000 acres (or 50 percent), respectively, in those states will be treated.[92] Without assessing the accuracy of this projection, suffice it to say that such a potential may be explained by the fact that insurance treatments do not typify the peanutgrower's practice.[93] Rather, his treatment is predicated upon detection of the larvae, which is rendered difficult because of its small size in the earlier critical stages. Upon detection, only those portions of the field are treated in which the infestation has occurred.

While this practice appears to occasion considerable losses (estimated for the 1975–76 growing season by the registrant to exceed $1 million and $2 million in Alabama and Georgia, respectively), it certainly does not suggest overuse of chlordane, as perhaps insurance treatments might suggest.

The long persistence of the beetle in the Southern states merits concern, particularly since no alternative chemicals are registered for their treatment.

In view of the foregoing, I conclude that the continued availability of chlordane within the abovementioned eight Southern states is necessary for the control of the white fringed beetle infestations in food crops grown in those states. I conclude otherwise with respect to the tobacco crop use, since the record discloses that a diazinon treatment is equally effective as chlordane (although for a shorter period of time) and that it is available for pesticidal treatment of tobacco.[94]

4. *Florida Citrus Soil Insects.* Chlordane is used as a soil insecticide to control the Florida citrus weevil complex, particularly the Fuller's Rose Beetle or weevil. This method of control is primarily centered in the Indian River region of Florida, one of two prominent citrus regions in the state. The geology of that area permits only a shallow rooting system which increases the citrus tree's susceptibility to attack by the root-feeding weevil larvae,[95] with consequent results of sparse foliage, poor fruit yields, stunted growth, and destruction of infested younger trees.[96]

Control of the weevil is accomplished as the weevils pass through the treated soil in completion of their life cycle from larvae to adults. Without the benefit of soil insecticide in infested areas, the weevil emerges from the soil as an adult and must be contained by the use of foliar sprays. Foliar applications, however, apparently kill predators and parasites, such as the wasp, which is relied upon to control scales and mites, which themselves are extremely serious pests to Florida citrus crops.[97]

Florida has implemented an integrated pest control program for citrus which combines biological and chemical control methods, and results in reduced pesticide use.[98]

The hearing record indicates that two species of wasps were introduced within the past decade to control red and purple scales, which were then among the most significant pests. Introduction of the wasps reduced the foliar applications of chemicals from as many as eight to one or two annually.

Based upon experimental data submitted with Velsicol's Exhibit 16, a witness for the registrant concluded that there were a number of promising materials for the control of the Fuller Rose Beetle.[99] The witness explained, however, that due to the grower reluctance to participate in any experimental tests with alternative compounds, no test data has been generated since 1971. In view of this, I join with the ALJ in urging the Florida citrus industry to re-commence this research at the earliest possible date.

Considering the economic impact which could result to the Florida citrus industry without the benefit of an effective soil insecticide, and recognizing that chlordane is applied at intervals and in quantities which minimize the possible risks due to this use, I conclude that chlordane use to control Florida citrus soil insects should continue.

5. *Strawberries.* Chlordane is specifically recommended as a preplant soil treatment for strawberries grown in Minnesota, Michigan, Ohio, New York, Connecticut, Massachusetts, Maine, Vermont, New Jersey, Maryland, and West Virginia, because of its highly persistent quality which protects the plant against root destroying insects for 4–6 years.[100] This extended protection appears especially necessary and desirable since a strawberry plant may be expected to produce (after the first year) annual crops up to the sixth year after initial fruiting.

The economics of a strawberry grower's decision as to when a plant should be ploughed under and a new crop planted appears to depend largely upon the type of growing operation involved. Larger growers, particularly those in California, customarily re-fruit the beds annually, and therefore do not generally employ the persistent chlordane preplant treatment.[101] This practice contrasts with that found particularly in the Northeastern states, in which strawberry farming is typically a smaller operation and strawberry beds are fruited for a 4–6 year crop.

Proposed alternative chemicals such as diazinon and carbaryl are not registered at sufficiently high rates of application to provide effective control. Other chemical alternatives are effective only as to some soil insects or are efficacious as foliar sprays applied frequently. The success of fumigants (extensively used in California) depends upon sufficiently high soil temperatures, which creates a problem in the Northern and Northeastern strawberry growing states.[102]

While the more significant portion of strawberry plant acreage in the United States would be relatively unaffected by a chlordane suspension, the record indicates such a suspension would result in a significant adverse impact upon smaller strawberry growers in those states in which the chlordane preplant treatment appears necessary.[103] Moreover, the amount of chlordane involved for this purpose is quite small.[104]

When measured against the possible risks associated with the continued use of chlordane on strawberries, the economic desirability for continued use of chlordane for preplant treatments appears more compelling at this time.

6. *White Grubs in the State of Michigan.* White grubs (of which there are many species) appear to be a problem of special significance in the Lower Peninsula of Michigan. Grubs feed on the roots of any crop planted in the field, which weakens the plant and reduces crop yield.

While the estimated cropland in Michigan annually infested with the white grub aggregates only some 20,000 acres, serious economic plight is forecast for farmers deprived of an effective and economically feasible means of grub control. Chlordane treatments are not recommended unless the grubs are actually detected in the fields. The amount of chlordane involved in this use is small.

An alternative to chemical control, *viz.*, clean fallow for one year, does not appear to be an economically viable alternative.[105]

In view of the record in this matter, I believe the benefits of continued availability of chlordane during 1976 for this limited purpose in Michigan outweighs the possible risks associated with its use.

7. *Corn.* The ALJ characterized the use of heptachlor or chlordane to control cutworms in corn crops as "the single most difficult issue in the risk-benefit analysis."[106] That

[90] Tr. 6208.
[91] Tr. 5867.
[92] Vel. Brief on Benefits, p. 167.
[93] Tr. 6322.
[94] Tr. 6223, 6297, 6322, 6347.
[95] Tr. 4830.
[96] Tr. 4794; EPA Ex. 26–N, p. 4.
[97] Tr. 4879.
[98] Tr. 4728–29.
[99] Tr. 4791–92.
[100] Tr. 5457–58.
[101] Approximately 16–20 percent of the total California strawberry acreage was treated with chlordane in 1974. Tr. 5464.
[102] Tr. 5504.
[103] Tr. 2825.
[104] Tr. 2826.
[105] USDA Ex. 10, p. 4.
[106] Recommended Decision, p. 104.

assessment is due, in part at least, to the fact that it represents the major use of heptachlor and the major agricultural use of chlordane. During 1974, the combined use of heptachlor and chlordane on corn accounted for about 5.5 million pounds (or slightly less than 25 percent) of the total amount of 23.23 million pounds of chlordane and heptachlor used during that year.

The ALJ, citing data submitted by the registrant, found that use on corn constituted 58% of the total use of heptachlor during 1974 and 20.4% of the total use of chlordane for that year. Recommended Decision, pp. 20, 22.

Of the some 6 million pounds of chlordane used in agriculture generally during 1974, data submitted by the registrant indicates that 4.32 million pounds were used on corn. As of 1975, chlordane is used on about 1.2 million acres of corn, or some 1.6 percent of the total U.S. corn acreage. This includes about 12,000 farms, or 1.3 percent of all U.S. commercial corn farms.

Of a total volume of 2.05 million pounds of heptachlor used during 1974 (about three-fourths of which was devoted to agriculture), data submitted by the registrant indicates that 1.19 million pounds were used on corn. As of 1975, heptachlor is used on about 1.4 million acres of corn, or some 1.9 percent of the total U.S. corn acreage. This includes about 15,500 farms, or 1.7 percent of all U.S. commercial corn farms.

Thus, chlordane and heptachlor together are used on about 2.6 million acres of corn as of 1975, or some 3.5 percent of the total U.S. corn acreage. They are used on some 27,500 farms, equalling about 3 percent of all commercial corn farms in the United States.

Comparisons between 1974 and 1975 statistics suggest that some of the increase in heptachlor and chlordane use in 1975 (up from 1.3 percent in 1974 to 1.6 percent in 1975 of total U.S. corn acreage in the case of chlordane, and up from 1.2 percent to 1.9 percent in the case of heptachlor) is due to the decline in use of aldrin (from 9.6 percent in 1973/74 to 3.3 percent in 1975) following the suspension of aldrin prior to the 1975 growing season.

An additional important factor concerning the corn use issue is the matter of its efficacy in controlling certain corn pests. Rootworms, wireworms, and cutworms are the dominant corn pests for which chlordane and heptachlor and other chlorinated hydrocarbon soil treatments have been recommended in the past. Chlordane and/or heptachlor have registrations for use against these and other lesser economic corn pests. It is clear from the record, however, as reflected in the ALJ's recomendations, that the dominant concern centers on the black cutworm. It appears that the registrant has not argued for the use of heptachlor/chlordane on corn rootworms because of developed resistance.[107] It also appears that wireworms did not constitute a significant issue in controversy as the hearing, due largely to the availability of adequate substitute chemicals, nonchemical control methods (rotation), and resistance.[108] Thus, the real issue in this proceeding, insofar as corn use is concerned, is the need for heptachlor/chlordane to control cutworms.

The record indicates that the highest risk of cutworm infestation occurs in lowland, river bottom areas, such as the Missouri River bottom areas in Missouri. In these fields, damaging infestations generally occur one out of three years or two out of five years. Estimates of the numbers of high risk acres treated for cutworm infestations include 900,000 acres (or about 30 perent) of Missouri corn land and some 450,000 acres (or about 12 percent) in Ohio. These figures represent the acres treated, and not necessarily the acres known to be actually infested.

During the period 1969 to 1975, the number of farms reporting cutworms as a major problem varied from 19,000 to 71,000 (2 to 8 percent of total U.S. corn farms), with an overall average of some 53,000 farms. During the same period, the number of farms treating for cutworms ranged from 13,000 to 48,000 (52 to 71 percent of those reporting a major cutworm problem), with an overall average of about 32,000 farms. This illustrates the highly variable nature of cutworm infestations (and treatment) and the concomitant difficulty of projecting economic thresholds for treatment.

It is difficult to judge from these statistics or from more general statements in the record what the actual need may be for corn soil treatments with heptachlor or chlordane. It is significant that the States of Illinois and Iowa do not recommend any chlorinated hydrocarbon as a preplant soil incorporation insecticide for control of the cutworm. Yet, many farmers in the eight-state "Corn Belt" region have, or believe they have, a significant need for soil treatments with persistent pesticides. In 1975, Missouri corn farmers treated 30 percent of their commercial corn land with chlorinated hydrocarbons, while in Indiana 14.1 percent of the corn acreage was so treated, with lesser percentages for the other major corn growing states. The record indicates that while an average of only some 6 percent of U.S. corn farms reported major cutworm problems during 1969 to 1975, in 1973 and 1974 chlorinated hydrocarbons were used on over 12 percent of all U.S. corn acres.

This statistic, together with other information, has given rise to the charge that corn farmers over the past several years have unnecessarily applied persistent pesticides on an "insurance" or "prophylactic" basis, without actual confirmation of significant economic levels of infestation. In the aldrin-dieldrin suspension decision last year, in fact, I determined that corn farmers had continued to use those pesticides even in the absence of an indication of an actual threat of economic injury.

The most difficult aspect of the corn use issue is the matter of projecting economic losses which might result from the absence of heptachlor and chlordane. The ALJ discussed at length the macroeconomic impact analyses of two entomologists who testified for the registrant, and characterized their estimates as "admittedly 'shaky'," uncorroborated, and disputed. He expressed some dismay at the lack of "detailed and specific evidence as to cutworm damage in the Corn Belt *at significant economic levels* if such injury caused significant yield losses."[109]

Given the difficulty of making macroeconomic impact projections (which is virtually conceded by all parties), it is nonetheless essential to make a judgment based on the limited information and opinion available in the record. The registrant's witness, Dr. Fairchild, estimated that nationwide losses to corn production in heptachlor and chlordane registrations are suspended could be in the range of two to five percent.[110] In some high risk, lowland areas (such as Missouri and Southern Illinois), he stated that the loss could be up to fifteen percent.[111] In his view, whatever the actual percentages, the overall loss would be "substantial and important."[112]

Dr. Musick, the second entomologist witness or the registrant, testified that the estimated nationwide loss would be in the range of two or three percent of the nation's corn crop.[112]

Studies conducted by the Stanford Research Institute for the registrant suggest that the "low range" economic impact for corn is $79.1 million and the "high range" is $673.75 million.[114]

In contrast to the foregoing estimates by the registrant, the respondent's evaluation of macroeconomic impacts, using the EPA agricultural lineal programming model and reflecting the results of two long-term productivity studies in Illinois and Iowa,[115] concluded that "the benefits of chlorinated hydrocarbon treatments for corn soil insects are generally in the range of 6–10% over acres receiving no treatment."

Two evaluations of the impacts of heptachlor and chlordane removal presented by Dr. Aspelin for the respondent concluded that in the "typical-year case," a slight increase in corn production (200,000 bushels) would result in 1977, and the price impact of suspension on corn would be nominal. In the "worst case," impacts would result in a reduction of corn production by 0.7 percent (or 37 million bushels) leading to price increases or corn of 2.6 percent. Dr. Aspelin predicted that the impact from suspension in the 1976 growing year would be somewhat less than the typical-case year, largely due to the availability of existing stocks of chlordane and heptachlor.

The respondent also cited the general statements of entomologists contacted in the Stanford Research Institute study to the effect that there would be "no serious impact" (Iowa),[116] "essentially no impact" (Illinois),[117] "little effect" (Indiana),[118] and "not much of an impact statewide" (Ohio).[119]

The respondent, moreover, succeeded in pointing out a number of significant deficiencies in the registrant's lost estimates, citing in particular the failure to include in their estimates the availability of treatment alternatives and the use of existing stocks in 1976.

In considering the foregoing, as well as other information in the record, I agree with the ALJ's conclusion that the registrant has not established any significant macroeconomic effect from the suspension of heptachlor and chlordane in relation to corn production.

There is, however, another major consideration involving economic and social impact which I believe is more compelling than the foregoing analysis; namely, the likely impact of suspension of heptachlor and chlordane on the high cutworm risk corn producing areas and on individual farmers within those regions and elsewhere. The ALJ expressed his concern and "agony" over the possible effect of suspension upon certain individual farmers. He acknowledged that in certain limited areas of the Corn Belt a "very real threat" exists from the cutworm. He was persuaded, however, that mitigating factors (alternative preplant or post-emergent treatment and/or replanting) would reduce the potential loss to these farmers, even though he was obviously troubled by a "nagging fear" that the affected corn farmers might not be willing to change or adjust to the different techniques required for post-emergent treatment with baits and sprays.

[107] Recommended Decision, p. 104 n. 38.
[108] Recommended Decision, p. 104 n. 38.
[109] Recommended Decision, p. 107.
[110] Vel. Ex. 34, p. 1.
[111] Vel. Ex. 34, p. 25.
[112] *Ibid.*
[112] Vel. Ex. 35, p. 22.
[114] Vel. Ex. 41, p. 19a.
[115] EPA Ex. 26–L, pp. 8–11.
[116] Tr. 8122.
[117] Tr. 8183.
[118] Tr. 8125.
[119] Tr. 8126.

The difficulty in assessing this microeconomic impact issue is the lack of hard information in the record. Yet, it is apparent that as many as 27,000 farmers (out of nation's 900,000-plus farms) are likely to be significantly penalized by the removal of heptachlor and chlordane. The question to be asked is whether this projected cost is justified in view of the nature and magnitude of the risks associated with the use of heptachlor and chlordane on corn.

As noted above, the ALJ agonized over the problems which suspension would present to the individual corn farmer of Missouri bottomland and concluded that they would be "substantial." But, he was equally concerned with "the application of millions of pounds of the pesticides involved and [we] know of no way to define limitations on use to cover only very essential cases since much of the applications of heptachlor and chlordane are for 'insurance' purposes . . ." [120]

The ALJ's concern about the amount of the pesticides to be applied may be mitigated to some extent by the registrant's decision to voluntarily to restrict domestic shipments of heptachlor for use on corn, but, as the ALJ also found, "it appears that chlordane production is capable of replacing any heptachlor eliminated by the offer of commitment [of the registrant]." [121]

In 1974, some 1.19 million pounds of heptachlor was used on corn. Presumably, even if suspended, some existing stocks of heptachlor will be available for use on corn during the 1976 growing season, but no doubt at a reduced amount compared to 1974. Some 4.32 million pounds of chlordane was used on corn in 1974. With the suspension of aldrin-dieldrin in 1974, the amount of heptachlor and chlordane used on corn in 1975 has probably increased, although the record does not contain a poundage figure for 1975 use. If applied at the rate of 2 pounds per acre, however, it appears that the 3.5 million acres of heptachlor/chlordane used on corn in 1975 would mean that approximately 7 million pounds were used in 1975, which is about 1.5 million pounds more than the 1974 level.

The essential question to be resolved is whether the introduction of some 7 million pounds of chlordane (assuming a one-for-one substitution of chlordane for heptachlor) into the environment through its use on corn represents an unreasonable risk in view of the conclusion reached herein that there is a substantial likelihood that serious harm will be experienced from the continued use of heptachlor and chlordane. I conclude that the risks associated with this use do not constitute an unreasonable risk to man or the environment such that it should be suspended *for the 1976 growing season*. During the more than one year before the 1977 growing season begins, I urge the USDA and the affected States to engage in the educational programs necessary to inform farmers of the alternative techniques necessary to avoid the use of chlordane, in the event that the cancellation proceeding lasts into the 1977 season. This education will, of course, also prove valuable if the final decision of the cancellation proceeding is the permanent removal of chlordane from the market for this use, but in any event it will be worthwhile for the purpose of stopping the bad practice of making needless "insurance" applications of this persistent pesticide.

The combined effect of the actions described herein (suspension of chlordane for all home, garden, lawn, and turf uses (including PCO use), as well as suspension of heptachlor use by PCO's and the registrant's voluntary suspension of heptachlor use of corn) means that the total amount of heptachlor and chlordane introduced into the environment during the period required to complete the cancellation proceeding will be greatly reduced from 1974 levels. Using 1974 data, it appears that the amount of chlordane eliminated from the environment by these actions will constitute roughly a *70 percent* reduction from the 1974 total amount of *chlordane* used (*i.e.*, 29.9 percent for home, lawn, and garden; 5.9 percent for turf; and 34.7 percent by PCO's). These actions (including the registrant's commitment regarding the suspension of domestic shipments of heptachlor for use on corn) also mean that almost 85 percent of the 1974 total amount of heptachlor used (*i.e.*, 58 percent on corn; 26.8 percent by PCO's) will be eliminated from the environment during 1976. These figures are somewhat inflated obviously, since some existing stocks will be available for use during 1976, although the exact amount cannot now be determined.

A considerable part of the record of this proceeding dealing with the implications of a suspension of chlordane treatment on corn crops concerns a discussion of the impact that suspension would have upon the Missouri bottomland farmer, inasmuch as 30 percent of the corn acreage in that state is treated with chlorinated hydrocarbons.

A witness for the registrant from Missouri was examined at length during the hearing upon his view that no reasonable alternative to chlordane exists, despite the fact that (as well as chlordane) diazinon is recommended by the State of Missouri in the official State Insecticide Recommendations for 1975, for use as a preplant treatment on corn.[122] The witness' explanation was that diazinon, to be effective against the cutworm would have to be applied immediately prior to planting in view of its lower residual character when compared with clordane. He agreed, however, that diazinon "greatly reduced the cutworm population." [123]

The testimony of record also reveals that the most destructive cutworm population is that which hits the corn plant after the growing plant has emerged from the ground, and that this occurs, under ideal warm conditions, about three weeks after planting.[124] It is at about this time that cutworm damage is detectable.

To the extent that a preplant soil treatment is not effective, post-emergence treatment or, if he damage is too extensive, replanting may be necessary. According to a study conducted in 1971–1972, 3.61 percent of pretreatment corn acreage in Missouri had to be replanted because of extensive cutworm damage.[125] This occurred despite the presumed use of aldrin or chlordane.

Post-emergent sprays and baits are recommended in Corn Belt states either as auxiliary methods of controlling the cutworm following preplant treatment, or in lieu thereof.[126] The two largest corn producing states in the nation, Iowa and Illinois, recommend carbaryl baits and sprays in lieu of pretreatment. Indiana, Iowa, Minnesota, Missouri, Ohio and South Dakota also recommend carbaryl as a post-emergent treatment.[127] Toxaphene spray is recommended in all Corn Belt states except Illinois. Dylox baits are recommended in Illinois, Indiana, and Kansas. Dylox spray is recommended in all Corn Belt states.

I am well aware, after close examination of the record, of the many problems associated with crop surveillance or "scouting," and I do not minimize their significance. Missouri has had a scouting program on cotton since the late 1950's and it has proved to be a "very successful program." [128] That scouting for corn pests has not received the same priority that cotton scouting programs have received in the past may be explained by the availability of inexpensive chlorinated hydrocarbon insecticides during the past two decades. Yet, I note that scouting programs are currently being sponsored by state entomology departments throughout the Corn Belt.[129]

Also noteworthy is the statement of a witness as follows:

> We have been telling the farmer for many years to go out and check his fields. He inherently has not been doing that. For whatever the reason, he does not do it. Also, he will tell you he is checking his fields when in effect all he is doing is driving by the field and glancing out over the edge of it. He doesn't recognize damage until a significant number of plants are gone. He isn't out there doing what we asked him to do.[130]

I can only conclude from the foregoing that even the most persistent preplant treatment on corn provides no panacea to the problem with cutworms. Rather, the record most persuasively suggests that this problem would become one of degree following a suspension of the use of chlordane, and that it is a problem which a more concerted effort at crop surveillance could, to the largest extent, remedy.

Nonetheless, I am also persuaded that, at least with respect to the 1976 growing season, a significantly large number of individual corn farmers in high cutworm risk areas will not be able to make a satisfactory transition to effective post-emergent treatment programs, and thus find that there is a continuing need during the 1976 planting season for chlordane.

I am convinced, however, that the overall reduction in the total amount of heptachlor and chlordane to be introduced into the environment in 1976 as a result of this proceeding means that the risk to man and the environment will be significantly reduced and that this result represents a reasonable balancing of the relative risks and benefits.

However, in order to insure that even the reduced degree of risk assumed by this Decision is not prolonged by the possibility that the cancellation proceeding may carry over into the 1977 corn growing season, I have concluded that the volume of chlordane used on corn which may be anticipated during the 1976 growing season (based on the 1974/1975 corn use figures and estimates of 7 million pounds) is such that it should not be continued beyond the 1976 growing season, regardless of when the cancellation proceeding is completed.

For all of the foregoing reasons, I have determined that the use of heptachlor and chlordane on corn should be suspended; provided, however, that such suspension shall not become effective until August 1, 1976.

IV. Conclusions

1. Based on the testimony of record in the suspension hearing and the considerations set forth in Part II of this Decision, I have concluded that the continued use of heptachlor and chlordane during the time required

[120] Recommended Decision, p. 109.
[121] Recommended Decision, p. 104.
[122] EPA Ex. 26G. Indiana and Nebraska make the same recommendation. The States of Michigan, Minnesota, and South Dakota recommend diazinon as a band treatment. Michigan also recommends diazinon as a foliar spray.
[123] Tr. 6976.
[124] Tr. 6979.
[125] Tr. 7027.
[126] Tr. 6909.
[127] EPA Ex. 26–G.
[128] Tr. 7018.
[129] Tr. 7015.
[130] Tr. 7209–7210.

to reach a final decision in the cancellation proceeding presents a substantial likelihood that serious harm to man or the environment will be experienced during that period. I also conclude, based on the record of the hearing and taking into account the economic, social, and environmental costs and benefits of the use of heptachlor and chlordane, that the continued use of haptachlor and chlordane during the time required to reach a final decision in the cancellation proceeding would be likely to result in an unreasonable human health risk and, therefore, that an "imminent hazard" within the meaning of section 2(1) of FIFRA would result during the pendency of the cancellation proceeding.

2. I have concluded further, based on the testimony or record and the considerations set forth with respect thereto in Part III of this Decision, that the benefits of continued use of heptachlor and chlordane for household, garden, lawn, and turf purposes (both by private homeowners and by pesticide control operators), against ticks and chiggers, and as a constituent in shelf paper, during the time required to reach a final decision in the cancellation proceeding, are not sufficient to outweigh the human health risks identified, and that, in any event, alternative registered and recommended pesticides do exist and will be available to provide effective, economical pest control for these purposes.

3. I have concluded further, based on the testimony of record and the considerations set forth with respect thereto in Part III of this Decision, that the benefits of continued use of heptachlor and chlordane to control cutworms on corn crops during the time which may be required to reach a final decision in the cancellation proceeding are not sufficient to outweigh the human health risks identified; *provided, however,* that particularly in view of the difficult transition required to implement alternative cutworm control methods, the use of heptachlor and chlordane to control cutworm on corn crops should be permitted during the 1976 corn growing season. Accordingly, I have concluded that the registration for use of heptachlor and chlordane to control cutworms on corn crops should be suspended effective August ?, 1976.

4. Notwithstanding the foregoing conclusion regarding the existence of an "imminent hazard," I have concluded that the benefits of continued use of heptachlor or control of the (1) narcissus bulb fly, (2) seed treatment, and (3) the pineapple mealybug, and the continued use of chlordane for the (1) Federal-State quarantine programs for Japanese beetle and imported fire ant, (2) the Michigan quarantine program for black vine weevil, (3) the harvester ant (in Oklahoma), (4) the imported fire ant, (5) the white fringed beetle (except on tobacco), (6) the Fuller Rose Beetle and other root weevils on Florida citrus crops, (7) the root-destroying pests on strawberry crops, and (8) white grubs in the State of Michigan, during the time required to reach a final decision in the cancellation proceeding outweigh the human health risks identified, particularly in view of the unavailability and cost of alternative treatment methods and the relatively small amounts of heptachlor or chlordane used for these purposes.

5. It should be noted that the record in this proceeding is not sufficient to reach a conclusion regarding the continued use of heptachlor or chlordane on certain fruits and vegetables and other miscellaneous crops. Further evidence should be forthcoming in the cancellation proceeding to resolve the question of cancellation with respect to these uses.

6. The effect of this decision is greatly to restrict the amount of heptachlor and chlordane which will be introduced into the environment during the time required to reach a final decision in the cancellation proceeding. The suspension of heptachlor use for household, garden, lawn, and turf purposes, together with the registrant's voluntary commitment to restrict domestic shipment of heptaclor to uses for termites, seed treatment, fire ants, and pineapples pending completion of the cancellation proceeding (i.e., most significantly, eliminating its use on corn), means that the amount of heptachlor will be reduced (by comparison to 1974 use levels) by almost 85 percent. Moreover, the amount of chlordane will be reduced (by comparison to 1974 use levels) by more than 70 percent immediately and, after August 1, 1976 (the effective date for suspension of chlordane use on corn crops), by over 90 percent.

While these reductions are the best estimates which can now be made, it should be noted that some additional heptachlor and chlordane will be available during 1976 from existing stocks. As set forth in the notice of intention to suspend issued on July 29, 1975, the continued use of stocks of heptachlor and chlordane in existence as of that date will be permitted. Although the precise amount of existing stocks was not determined in the suspension hearing, it was clear that at the time the notice of intent to suspend was issued that the continued use of these stocks would be environmentally safer than attempting to retrieve them, transport them, and then somehow dispose of the consolidated and remaining supplies. I also do not think it would be appropriate to penalize farmers, growers, and other users who have already purchased these pesticides with the expectation of being able to use them.

RUSSELL E. TRAIN.

DECEMBER 24, 1975.

VELSICOL CHEMICAL CORPORATION ET AL., REGISTRANTS

[FIFRA Docket No. 384]

ORDER

In accordance with the foregoing Decision, the registrations issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, 7 U.S.C. 135, *et seq.*, for all pesticide products containing heptachlor or chlordane for use (1) on corn pests, (2) on household, garden, lawn, and turf pests (both by private homeowners and by pesticide control operators), (3) against ticks and chiggers, and (4) as a constituent in shelf paper, are hereby suspended and the production of all such pesticide products intended for the foregoing uses is prohibited; *provided, however,* that this suspension and prohibition as to products for use on corn pests shall not become effective until August 1, 1976. Any stocks of technical grade heptachlor or chlordane formulated into products intended for such uses after July 29, 1975, may not be placed in commerce, sold, or used for such purposes or any other purpose not specifically exempted in the November 18, 1974, cancellation order or specifically permitted in accordance with the Decision of the Administrator attached hereto.

Notwithstanding the foregoing, for the reasons stated in my Notice of Intention to Suspend dated July 29, 1975, and in accordance with the "Special Rule" provisions of section 15(b)(2) of FIFRA, the continued sale and use of existing stocks of registered products containing heptachlor or chlordane which were formulated prior to July 29, 1975, shall be permitted.

Dated: December 24, 1975.

RUSSELL E. TRAIN.

[FIFRA Docket No. 384]

VELSICOL CHEMICAL CORPORATION ET AL., REGISTRANTS

CLARIFICATION OF ORDER OF DECEMBER 24, 1975

On January 7, 1975, Respondent EPA filed a Suggestion for Clarification of the Order of December 24, 1975, in the above-captioned proceeding, seeking clarification of the uses of products containing heptachlor and chlordane for which registrations are *not* suspended by the December 24 Decision and Order. Respondent also submitted a Proposed Order, including an attachment setting forth a proposed list of uses not suspended, together with certain explanatory notes.

On January 13, 1976, I issued a notice of the filing of Respondent's Suggestion for Clarification and Proposed Order and requested written comments from the parties, thereby indicating my intention to consider the possible need for clarification of the December 24 Decision and Order.[1] On January 15, 1976, written comments were received from counsel for Velsicol Chemical Corporation; counsel for the Pineapple Growers Association of Hawaii and the Attorney General and Department of Agriculture of the State of Hawaii; counsel for some 300 registrants of various products containing heptachlor or chlordane; the Environmental Defense Fund; the U.S. Department of Agriculture; and Respondent EPA. All of the foregoing parties, except the Environmental Defense Fund, oppose Respondent's suggested clarification of the December 24 Order, both on grounds that the Administrator lacks jurisdiction or authority to clarify, modify, or alter the Order and that the Order is final and cannot now be changed in the manner proposed by Respondent.

Even though not expressly provided for in the Rules of Practice governing expedited hearings under the FIFRA, I have determined that authority does exist to clarify the December 24 Order and that some clarification is warranted, in view of the apparent possibility that its provisions may be unclear. In my view, the December 24 Decision and Order are clear and specific in their terms and should not require any further elaboration. Implicit in Respondent's suggested clarification, however, is the notion that proper administration of the Decision and Order by the Agency and explicit understanding thereof by all the parties require a clear statement of the uses of products containing heptachlor and chlordane for which registrations have not been suspended. In an abundance of caution and concern, therefore, I believe proper administration of the Decision and Order will be served and facilitated by the following clarification of the December 24 Order.

In reviewing the Decision and Order and the possible need for clarification, I have not considered any new evidence or argumentation. I have sought only to discern any possible source or sources of any lack of clarity in the expression of my intentions at the time I issued the Decision and Order.

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[1] Written comments in response to Respondent's suggested clarification were submitted by counsel for Velsicol Chemical Corporation on January 12, 1976, but not sufficiently in advance of the preparation of the January 13 notice to be considered therein.

Comments received from the parties have been most helpful in determining whether or not my intentions were clearly expressed. The sole purpose of this clarification is to add clarity to the expression of my intentions at the time I issued the December 24 Decision and Order.

The December 24 Order, by its terms, provides that all pesticide products containing heptachlor or chlordane for use (1) on corn pests, (2) on household, garden, lawn, and turf pests (both by private homeowners and by pesticide control operators), (3) against ticks and chiggers, and (4) as a constituent in shelf paper, are suspended [the suspension of products for use on corn having a post-effective date of August 1, 1976]. The Order further provides that any stocks of technical grade heptachlor or chlordane formulated into products intended for such uses [after July 29, 1975] may not be placed in commerce, sold, or used for such purposes *or any other purpose* not specifically exempted [in the November 18, 1974, cancellation order] *or specifically permitted in accordance with the Decision of the Administrator attached thereto.*

The uses *specifically permitted* or continued by the Decision accompanying the December 24 Order include only those set forth in paragraph 4 of the Conclusions contained in the Decision[2] and, therefore, these uses (together with the exempted uses for subsurface ground injection for termite control and dipping of roots or tops of nonfood plants) are the only uses *not* suspended by the December 24 Decision and Order. All other registrations for uses of products containing heptachlor or chlordane are suspended. Because the words "intended for such uses" in line 12 of the Order might be interpreted as limiting the suspended uses to the four uses enumerated in the first sentence of the Order, the words "intended for such uses" are hereby deleted from the December 24 Order.

The reasons for the specific enumeration of four uses suspended in the first sentence of the Order, while suspending uses for "any other purpose" in blanket form in the second sentence, are twofold: (1) other than an occasional reference to certain fruits and vegetables and other miscellaneous crops, the record (including the Recommended Decision of the Administrative Law Judge) does not adequately address many other (presumably minor) uses of heptachlor and chlordane, as to which little or no benefits evidence was presented at the hearing, and, indeed, because the record was so inadequate in this regard, the Administrative Law Judge recommended that such other uses not be continued, and (2) the four uses enumerated specifically in the December 24 Order are among the uses as to which sufficient benefits evidence was presented at the hearing to permit a risk-benefit assessment. Blanket suspension of uses as to which there was little or no evidence on benefits was necessary because the evidence on carcinogenicity risk was applicable to all uses. In view of the risk so established, and in the absence of sufficient benefits evidence as to uses for "any other purpose," it was of course necessary to suspend such other uses, even though (for the reasons indicated above) they could not be enumerated specifically in the Order.

As to the grouping of uses on "certain fruits and vegetables and other miscellaneous crops" [referred to in paragraph 5 of the Conclusions in the Decision], it was my intention that the provision in the Order applicable to uses for "any other purpose" apply as well to this grouping of uses. In stating that "the record in this proceeding is not sufficient to reach a conclusion" regarding this grouping of uses,[2] I stated only that the evidence on benefits was insufficient to permit the kind of discussion of the risk-benefit assessment which I had used for better documented uses. Therefore, with respect to this grouping of uses, I reached the same ultimate conclusion as discussed above concerning uses for "any other purpose" generally, *i.e.* that, in view of the evidence on carcinogenicity risk, and in the absence of sufficient benefits evidence, these uses are suspended, even though they could not be enumerated specifically in the Order. Thus, there is no inconsistency between paragraph 5 of the Conclusions in the Decision and the provisions of the Order.

In view of the foregoing, I do not find it necessary to either adopt or reject the Proposed Order submitted by Respondent.

Dated: January 19, 1976.

RUSSELL E. TRAIN.

CERTIFICATE OF SERVICE

I certify that I have this day supervised the filing of the original and two copies of the attached "Clarification of Order of December 24, 1975," with the Hearing Clerk, U.S. Environmental Protection Agency, and that one true and exact copy has been hand delivered to each of the following parties of this proceeding:

Robert L. Ackerly, Esquire, Charles A. O'Connor, III, Esquire, Sellers, Connor and Cueno, 1625 K Street, NW., Washington, D.C. 20006

Robert Weinberg, Esquire, Williams, Connolly & Califano, 839 Seventeenth Street, NW, Washington, D.C. 20006

Alfred R. Nolting, Esquire, Counsel for the Secretary of Agriculture, Room 2042-A, South Building, 14th & Independence Avenue, SW, Washington, D.C. 20250

Jacqueline M. Warren, Environmental Defense Fund, 1525 Eighteenth Street, NW, Washington, D.C. 20036

Clausen Ely, Jr., Esquire, Covington & Burling, 888 Sixteenth Street, NW, Washington, D.C. 20006

Jeffrey H. Howard, Associate General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460

Dated: January 19, 1976.

MICHAEL K. GLENN,
Chief Judicial Officer.

[FR Doc.76-4817 Filed 2-18-76;8:45 am]

[FRL 491-7]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9:00 a.m. on March 17 and 18, 1976, at the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (Room 2117).

The purpose of the meeting will be to discuss New Source Performance Standards to be proposed under Section 111 of the Clean Air Act for phosphate fertilizer plants (guidelines to states for existing plants), sulfuric acid plants (guidelines to states for control of sulfuric acid mist from existing plants), opacity regulations for basic oxygen plants in steel mills, stationery internal combustion engines, the lime industry, and phosphate rock preparation plants.

The meeting will be open to the public. Anyone wishing to attend or submit a paper should contact Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The telephone number and area code are (919) 688-8146, extension 271.

Dated: February 13, 1976.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.76-4815 Filed 2-18-76;8:45 am]

[FRL 491-5; OPP-33000/367]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94-140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

[2] Decision of the Administrator, p. 76.

Any person who (a) is or has been an applicant, (b) believes that data be developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, S.W., Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated February 13, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/367)

EPA File Symbol 1416-UR. Churchill Chemical Co., 576 S. Chambers St., Galesburg IL 61401. NEW NO-GRO WEED KILLER. Active Ingredients: Monuron Trichloroacetate [3-(p-chlorophenyl)-1,1-dimethylurea trichloroacee] 3.19%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 100-575. Ciba-Geigy Corp., Home and Garden Products, Agri. Div., PO Box 11422, Greensboro NC 27409. SPECTRACIDE HOME GARDENING SPRAY. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 25%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA File Symbol 5748-LN. Conwood Corp., Household Products Div., 813 Ridge Lake Blvd., Memphis TN 38101. HOT SHOT HIT FLY AND MOSQUITO KILLER. Active Ingredients: Pyrethrins 0.150%; Technical Piperonyl Butoxide 0.300%; N-Octyl Bicycloheptene Dicarboximide 0.500%; Petroleum Distillates 98.900%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 4829-55. Coastal Chemical Co., 190 Jony Drive, Carlstadt NJ 07072. TARRY 7-DAY STABILIZED CHLORINATING BIG TABS. Active Ingredients: Trichloro-s-Triazinetrione 100%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 11741-RL. D. W. Davies & Co., Inc., 3200 Phillips Ave., Racine WI 53403. "BOWL-KLEEN" 100. Active Ingredients: Hydrogen Chloride 9.0%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl ammonium chlorides 0.75%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 3125-252. Chemagro Agri. Div., Mobay Chemical Co., Box 4913, Kansas City MO 64120. DASANIT + DI-SYSTON. Active Ingredients: O,O-Diethyl O-[4-(methylsulfinyl)phenyl] phosphorothioate 7.5%; O-O-Diethyl S-[2-(ethylthio) ethyl] phosphorodithioate 7.5%. Method of Support Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 2224-50. Mobil Chemical Co., PO Box 26683, Richmond VA 23261. MODOWN HERBICIDE 80% WETTABLE POWDER. Active Ingredients: Bifenox [Methyl 5-(2',4'-dichlorophenoxy)-2-nitrobenzoate] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use & Revised offer to pay statement submitted. PM25

EPA File Symbol 1553-RNR. Momar Inc., 1830 Ellsworth Industrial Drv., Atlanta GA 30318. NO MOW II WEED AND GRASS KILLER. Active Ingredients: Lithium Salt of Bromacil (5-Bromo-3 sec-butyl-6-methyluracil) 5.475%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 10133-T. National Chemical 840 Selig Dr. SW, Atlanta GA 30336. NATIONAL CHEMICAL'S NP-45L. Active Ingredients: Disodium cyanodithioimidocarbonate 3.63%; Ethylenediamine 1.37%; Potassium N-methyldithiocarbamate 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 7001-207. Occidental Chemical Co., PO Box 198, Lathrop CA 95330. BEST MEHTYL PARATHION 25 WP. Active Ingredients: Methyl Parathion (O,O-Dimethyl O-p-nitrophenyl phosphorothioate) 25%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA Reg. No. 7001-218. Occidental Chemical Co. OXY DIAZINON 3 DUST. Active Ingredients: O,O-diethyl O-(2-isopropyl-6-Methyl-4-pyrimidinyl) phosphorothioate 3%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 7001-266. Occidental Chemical Co. THIODAN 3 EC. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 34.0%; Xylene 58.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 7001-EER. Occidental Chemical Co. OXY ABATE 1% GRANULAR. Active Ingredients: Temephos (O,O,O'O'-Tetramethyl O,O'-thiodi-p-phenylene) phosphorothioate 1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA File Symbol 7001-ERR. Occidental Chemical Co. OXY LINDANE BORER SPRAY. Active Ingredients: Lindane (Gamma isomer of benzene hexachloride) 20.0%; Xylene 67.6%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 432-452. S. B. Penick & Co., Unit of CPC International Inc., Commercial Development Dept., 215 Watchung Ave., Orange NJ 07050. SBP-1382 AQUEOUS PRESSURIZED SPRAY INSECTICIDE 0.25 FOR HOUSE AND GARDEN. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use; Revised offer to pay statement submitted. PM17

EPA Reg. No. 359-534. Rhodia Inc., Agri. Div., PO Box 125, Monmouth Junction NJ 08852. CAN-TROL A 4-(MCPB) WEED KILLER. Active Ingredients: Sodium salt of 4-(2-methyl-4-chlorophenoxy) butyric acid 23.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA File Symbol 11273-RG. Sandoz-Warner, Inc., PO Box 1489, Homestead FL 33830. ZORIAL 80 WP HERBICIDE. Active Ingredients: norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-m-tolyl)-3(2H)-pyridazinone] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM24

EPA File Symbol 538-RGL. O. M. Scott & Sons Co., Marysville OH 43040. SCOTTS STOP INSECTS BEFORE THEY START. Active Ingredients: [O,O-dimethyl S-(methylcarbamoylmethyl) phosphorodithioate 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM16

EPA File Symbol 19149-R. Superior Chemical Co., PO Box 53125, Lafayette LA 70501. SUPERIOR-S-55 INDUSTRIAL BACTERIOSTAT. Active Ingredients: Trichlorophenol 32.7%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM32

EPA Reg. No. 1386-594. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. THIODAN 3 E.C. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-bendodioxathiepin oxide) 33.6%; Heavy Aromatic Naptha 60.7%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

[FR Doc.76-4809 Filed 2-18-76;8:45 am]

[FRL 491-4; OPP-33000/366]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were ef-

fectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [P.L. 94–140], and the new regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, S.W., Washington, DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street, S.W., Washington, DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated February 12, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP–33000/366)

EPA File Symbol 38406–R. A.C.C.O., Inc., 3090 Lakeview Dr., Odessa TX 79762. BIOCHEK C. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 7151–L. Alexander Chemicals, 222 S. Riverside Plaza, Chicago IL 60606. HYPO. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished Revised offer to pay statement submitted. PM34

EPA File Symbol 1730–UR. American Cyanamid Co., 859 Berdan Ave, Wayne NJ 07470. CYTOX 3522N INDUSTRIAL MICROBIOCIDE. Active Ingredients: Methylenebis (thiocyanate) 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 12473–U. Carbon Solvents Labs., Inc., 156 Mount Bethel Rd., PO Box 4246. Warren NJ 07060. CARBICIDE N COMPOSITION. Active Ingredients: Disodium cyanodithioimidocarbonate 6.35%; Ethylenediamine 2.40%; Potassium N-methyldithiocarbamate 8.75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 3125–184. Chemagro Div. of Baychem Corp., PO Box 4913, Kansas City MO 64120. DYLOX 80% SOLUBLE POWDER CROP INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1 hydroxyethyl) phosphonate 80%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added claims; Revised offer to pay statement submitted. PM16

EPA File Symbol 35572–U. Chem-Tab Chemical Corp., 211 E Delamo Blvd., Compton CA 90220. GRANULAR SUPERIOR POOL PRODUCTS. Active Ingredients: Sodium Dichloro-s-triazinetrione 100%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 239–2186. Chevron Chem. Co., Ortho Div., 940 Hensley St., Richmond CA 94801. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl - 4,4' - bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses; Revised offer to pay statement submitted. PM25

EPA File Symbol 9887–RR. Custom Blend of California, 202 W Broadway Ave., PO Box 758, San Gabriel CA 91778. CUSTOM BLEND 301. Active Ingredients: Pyrethrins 0.30%; Piperonyl Butoxide, Technical 0.60%; N-octyl bicycleheptene dicarboximide 1.00%; Aliphatic petroleum hydrocarbons 98.10%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 464–201. The Dow Chemical Co., PO Box 1706, Midland MI 48640. ESTERON 99 CONCENTRATE LOW-VOLATILE HERBICIDE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses; Revised offer to pay statement submitted. PM23

EPA File Symbol 464–LGN. The Dow Chemical Co. DICHLOROPROP, BUTOXY ETHANOL ESTER. Active Ingredients: Butoxy Ethanol Ester of Dichloroprop [2-(2,4 - dichloro - phenoxy)propionic acid] 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM23

EPA Reg. No. 464–497. The Dow Chemical Co. DOW NEW FORMULA BATHROOM CLEANER. Active Ingredients: Sodium salt of o-phenylphenol 0.21%; Tetrasodium salt of ethylenediamine tetraacetic acid 2.78%; Sodium n-dodecylbenzene sulfonate 0.38%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses; Revised offer to pay statement submitted. PM32

EPA File Symbol 11741–O. D. W. Davies & Co., Inc., 3200 Phillips Ave., Racine WI 53403. "TRIPLE-KLEEN" 100. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 7779–ER. E. F. Houghton & Co., Van Buren & Madison Aves., Norristown PA 19401. SLIMEX 36. Active Ingredients: Methylene bis (thiocyanate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA Reg. No. 7364–23. Great Lakes Biochemical Co., Inc., 6120 W. Douglas Ave., Milwaukee WI 53218. ALGIMYCIN "400". Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%; Simazine [2-chloro-4,6-bis (ethylamino)-s-triazine] 3.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 19605–L. Gulf Chemicals Co., 6840 Piccadilly, Houston TX 77017. No. 12 SANITIZER-DETERGENT. Active Ingre-n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbomate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 9123–RT. Magnolia Fertilizer Co., 500 7th Ave., So., Kirkland WA 98033. LIQUID MOS-A-WAY. Active Ingredients: Ferrous sulfate 16.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA File Symbol 8325–RG. Misco Products Corp., Box 623, R.D. 2, Reading PA 19605. MISCO DISINFECTANT-CLEANER-SANITIZER-FUNGICIDE-DEODORANT. Active Ingredients: Sodium metasilicate 3.0%; n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 10349–RG. Nalco Cemical Co., PO Box 87, Sugar Land TX 77478. ADOCIDE II. Active Ingredients: 2-Nitro-1-butyl phosphate 11.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 538-RUN. O. M. Scott & Sons, Co., Marysville OH 43040. SUMMER INSECT AND DISEASE CONTROL PLUS LAWN FERTILIZER. Active Ingredients: Thiophanate-methyl 5.50%; Chlorpyrifos 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement. PM12

EPA File Symbol 9605-A. Philadelphia Quartz Co., Valley Forge PA 19482. FABRI-STAPH II FABRIC SOFTENER & BACTERIOSTAT/SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 11.2%. Method of Support: Application methyl ethylbenzyl ammonium chlorides 11.2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 3367-TI. Reily Chemical Co., 450 Mandeville St., New Orleans LA 70117. DELT-O-PINE SCENT DISINFECTANT. Active Ingredients: Pine Oil 25.00%; Soap 11.24%; Isopropyl Alcohol 4.79%; o-Benzyl-p-Chlorophenol 1.61%; Essential oils 0.25%; Pine Tar Oil 0.25%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 4822-RUI. S. C. Johnson & Son, 1525 Howe St., Racine WI 53403. JOHNSON YARD MASTER FOAM CRABGRASS PREVENTER. Active Ingredients: N - butyl-N-ethyl-*a-a-a*-trifluoro-2,6-dinitro-*p*-toluidine 11.48%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM25

EPA Reg. No. 10663-23. Sentry Chemical Co., 1481 Rock Mountain Blvd., Stone Mountain GA 30083. SL-55. Active Ingredients: Poly-[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 476-ERTO. Stauffer Chemical Co., 1200 S 4th St., Richmond CA 94804. SURPASS 6.7E. Active Ingredients: S-propyl dipropylthiocarbamate 88.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA Reg. No. 476-1897. Stauffer Chemical Co., 1200 S 47th St., Richmond CA 94804. BETASAN 2.9-E. Active Ingredients: S-(*O,O*-diisopropyl phosphorodithioate) ester of *N*-(2-Mercaptoethyl) Benzenesulfonamide 34.8%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Change in use; Revised offer to pay statement submitted. PM25

EPA File Symbol 1729-RRN. Tesco Chemicals, Inc., 1850 Airport Industrial Park Dr., Marietta GA 30062. TOWER-GARD CHEMICAL STICKS. Active Ingredients: Trichloro-s-triazine-trione 72%; Pentachlorophenol 2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 1729-RRE. Tesco Chemicals, Inc., 1850 Airport Industrial Park Dr., Marietta GA 30062. TOWER – GARD + PLUS CHEMICAL STICKS. Active Ingredients: Trichloro-s-triazinetrione 50%; Potassium Bisulfate 20%; Pentachlorophenol 2%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA File Symbol 9640-RD. Vulcan Labs., 408 Auburn Ave., Pontiac MI 48058. MICROBIOCIDE NM. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68% Potassium N-methyl-dithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 9640-ER. Vulcan Labs. MICROBIOCIDE 1393M. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7%; Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 9640-EN. Vulcan Labs. MICROBIOCIDE 1392M. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 38052-R. Water Purification Industries, Inc., 1931 NW 29th St., Fort Lauderdale FL 33311. MEDI-PURE WATER SANITIZER. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 11656-62. Western Farm Service Inc., 2401 Crow Canyon Rd., San Ramon CA 94583. PARATHION 25 WETTABLE. Active Ingredients: Parathion 25%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM12

EPA File Symbol 1270-ENE. Zep Mfg. Co., PO Box 2015, Atlanta GA 30301. ZEP CONTROL 136A. Active Ingredients: n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 3.00%; n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 3.00%; tetrasodium ethylenediamine tetraacetate 2.30%; Sodium metasilicate 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

[FR Doc.76-4810 Filed 2-18-76;8:45 am]

[FRL 491-3; OPP-50067]

CIBA-GEIGY CORP.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to CIBA-GEIGY Corporation, Greensboro, North Carolina 27409. Such permit is in accordance with and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the Federal Register on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 100-EUP-42) allows the use of 2,000 pounds active ingredient of the plant growth regulator ethanedial dioxime on oranges for use as an abscission agent. A total of 2,000 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from January 26, 1976, to January 26, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 13, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-4811 Filed 2-18-76;8:45 am]

[FRL 491-1 OPP-50065]

CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chevron Chemical Company, Richmond CA 94804. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239-EUP-77) allows the use of 38,000 pounds of active ingredient of the herbicide S-[(4-chlorophenyl)methyl] diethylcarbamothioate on rice to evaluate control of barnyardgrass, sprangletop, junglegrass, and various watergrasses. A total of 9,500 acres is involved; the program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, and Texas. The experimental use permit is effective from January 26, 1976, to January 26, 1977. A temporary tolerance has been established for residues of the active ingredient in or on rice.

Interested parties wishing to review the experimental use permit are referred to Rm. E-315, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 13, 1976.

JOHN B. RITCH, Jr.
Director, Registration Division.

[FR Doc.76-4813 Filed 2-18-76;8:45 am]

[FRL 491-2; OPP-50066]

CHEVRON CHEMICAL CO.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to Chevron Chemical

Company, Richmond, California 94804. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 239-EUP-78) allows the use of 2,000 pounds active ingredient of the herbicide S-[4-chlorophenyl) methyl] diethylcarbamothioate on rice to evaluate control of barnyardgrass, sprangletop, junglegrass, and various watergrasses. A total of 500 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from January 26, 1976, to January 26, 1977. A temporary tolerance for residues of the active ingredient in or on rice has been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-1851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 13, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.76-4812 Filed 2-18-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONFERENCES CONDUCTED PURSUANT TO SUBPART M OF 10 CFR PART 205

Under the Federal Energy Administration's ("FEA's") procedural regulations, a person applying to the FEA's National and Regional Offices of Exceptions and Appeals for any relief that is within the jurisdiction of those offices, or any other party that might be aggrieved by the outcome of such proceeding, may request an informal conference on such application. In addition, the applicant or any other aggrieved party in an exception or appeal proceeding may also request a hearing, instead of or in addition to a conference. 10 CFR §§ 205.171, 205.172. These regulations require the person requesting the conference or hearing to make a showing that it "will materially advance the proceeding."

In the past the Offices of Exceptions and Appeals have generally granted such conferences or hearings only when the applicant has carried the burden of showing that they would materially advance the proceedings, since these offices have generally had to function with very limited staffs and resources. For the near future, at least, the FEA does not expect any improvement in existing staffing levels, but has nevertheless decided that it will, on a trial basis, attempt to grant all timely requests for a hearing under § 205.172 in connection with a request for exception or appeal, except where it is apparent from the face of the request that no useful purpose would be served if the request were granted. In short, on a trial basis, it will be presumed that a hearing will materially advance an exception or appeal proceeding, and a request for a hearing will be denied only where it is clear that such hearing will *not* advance the proceeding. This policy will apply only with respect to exceptions and appeals proceedings and only with respect to informal hearings under § 205.172, not public hearings under §205.173. It will not apply to applications for stays, modifications or rescissions, or other proceedings before the Offices of Exceptions and Appeals, and it will not apply to proceedings before other offices, which formulate their own policies on this issue. Moreover, hearings will ordinarily be granted only after all parties have complied with the FEA's requests for written submissions of information and the agency has had the opportunity to review those submissions.

If the implementation of this policy creates an undue burden on the staffs of the Offices of Exceptions and Appeals and results in a significant lengthening of the average time required to act upon matters pending before those offices, the policy will be discontinued.

Issued at Washington, D.C. on February 13, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76-4784 Filed 2-13-76;3:51 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1159-R]

AGAPITO TORRES

Order of Revocation

On February 10, 1976, Agapito Torres, 39-A First Street, Urbanizacion Constancia, Ponce, Puerto Rico 00731, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1159-R for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1159-R issued to Agapito Torres be and is hereby revoked effective February 12, 1976, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Agapito Torres.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-4769 Filed 2-18-76;8:45 am]

[Docket No. 76-6]

BERWIND LINES, INC.

Order of Investigation and Suspension Regarding Proposed General Rate Increase in the Puerto Rico/Virgin Islands Domestic Offshore Trade

Berwind Lines, Inc (Berwind) has filed with the Commission revised tariff pages which reflect a general rate increase of 18.5 percent.[1] Berwind is a common carrier operating in the domestic offshore trade between Puerto Rico and the Virgin Islands.

Financial data submitted by Berwind in support of the increase indicate the projected financial results for 1976 (including the requested rate increase) will show a 9.71 percent rate of return. This rate of return in itself is not unreasonable. However, the Commission notes the existence of peculiarities in the financial data which cast doubt on the reliability of the rate of return figure. These peculiarities include:

(a) An accelerated depreciation schedule for dry and refrigerated containers which permits full depreciation of this equipment in three years.

(b) An extremely high level of Administrative and General Expense. Administrative and General expense is 24.55 percent of the expense of the firm.

(c) Berwind is one of five related companies operating in the Puerto Rico-Virgin Islands area. The relationship of Berwind to these firms is such that there exists the possibility that the high level of A&G expense mentioned in paragraph (b), *supra*, is the result of absorption by Berwind of expense properly attributable to related companies.

(d) In support of a previous general rate increase, Berwind projected a rate of return of 8.64 percent for 1974. The actual rate of return for that year was 20.95 percent.

(e) Many of the cost increases projected by Berwind are of a speculative nature and will not become effective until later in 1976.

Because of the above areas of concern in the financial data submitted by Berwind, the Commission is of the opinion that the proposed general rate increase should be made the subject of an investigation to determine whether it is unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916.

The Commission is of the further opinion that the subject tariff matter (identified in Appendix A) should be suspended pursuant to authority granted the Commission by section 3 of the Intercoastal Shipping Act, 1933.

Therefore, it is ordered, That pursuant to sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933 an investigation is hereby instituted into the lawfulness of the tariff matter listed in

[1] This figure includes a 3.5 percent bunker surcharge. The net effect to shippers will be a 15 percent increase.

Appendix A for the purpose of making such findings as the facts and circumstances warrant. In the event the tariff matter is further changed, amended, or reissued, such changes are hereby ordered to be included in this investigation;

It is further ordered, That the objectives of this investigation shall include, but not necessarily be limited to, the accurate determination of Berwind's:

1. Revenues for calendar year 1975;
2. Projected revenues for calendar year 1976;
3. Equity capital;
4. Rate base;
5. Return on Equity;
6. Return on rate base;
7. Need for increased revenues;

It is further ordered, That pursuant to Section 3 of the Intercoastal Shipping Act, 1933, the tariff matter set forth in Appendix A is hereby suspended and the use thereof deferred to and including June 13, 1976, unless otherwise ordered by the Commission;

It is further ordered, That there shall be filed immediately by Berwind consecutively numbered supplements to the aforementioned tariff matter, which supplements shall bear no effective date, shall reproduce this order in its entirety, and shall state that the aforesaid matter is suspended and may not be used until June 14, 1976 and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired, and that the rates, fares, charges, classifications, rules, regulations or practices in effect prior to the date of this order and which were to be changed by the suspended tariff matter, or part or parts thereof, shall remain in effect during the period of suspension, unless otherwise ordered by the Commission;

It is further ordered, That as part of this investigation a determination shall be made as to whether Berwind's proposed increase in rates is unreasonable under section 18(a) of the Shipping Act, 1916 and section 4 of the Intercoastal Shipping Act, 1933;

It is further ordered, That copies of this order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That Berwind Lines, Inc. be named as Respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearings be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing shall commence no later than August 12, 1976;

It is further ordered, That (I) a copy of this Order be served upon respondent and upon this Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER, and (II) the respondent and Hearing Counsel be duly served with notice of time and place of hearing(s);

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 C.F.R. 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

APPENDIX A

SUPPLEMENT NO. 1 AND 8TH REVISED TITLE PAGE NO. 1 TO TARIFF FMC-F NO. 4

[FR Doc.76-4768 Filed 2-18-76;8:45 am]

JAPAN/KOREA—ATLANTIC AND GULF FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 10, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esquire, 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 3103-63, among the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference, amends the Conference agreement by adding a new paragraph to Article 1 providing that members publishing their own individual intermodal tariffs pursuant to said Article 1 shall remain at all times fully subject to the Conference's self-policing provisions and to the same misrating and statistical requirements as are applicable to the membership as a whole.

Dated: February 13, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.76-4767 Filed 2-18-76;8:45 am]

FEDERAL RESERVE SYSTEM

CBT CO.

Formation of Bank Holding Company

CBT Co., Columbus, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Citizens Bank and Trust Company, Columbus, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1976.

Board of Governors of the Federal Reserve System, February 10, 1976.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.76-4770 Filed 2-18-76;8:45 am]

FMB CORP.

Formation of Bank Holding Company

FMB Corporation, Midland, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of the successor by consolidation to First National Bank & Trust Company of Midland, Midland, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 5, 1976.

Board of Governors of the Federal Reserve System, February 10, 1976.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.76-4771 Filed 2-18-76;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 1-76; Foreign Trade Zone No. 21]

DORCHESTER COUNTY, S. CAROLINA

Application To Establish a Temporary Zone Site

Correction

In FR Doc. 76-4475 appearing at page 6805 in the issue of Friday, February 13, 1976, on this page 6805, the first paragraph should read as follows:

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority, Charleston, South Carolina, requesting authority to establish a temporary foreign-trade zone site for a period of one year in Summerville, Dorchester County, South Carolina. The site consists of a 63,000-square foot warehouse/light manufacturing building on a 16.6-acre tract within the Summerville Industrial Park, located on Industrial Boulevard, some two miles from the zone's permanent industrial park site in Dorchester County which is presently under construction. The grant of authority for that site was issued by the Board on June 12, 1975 (40 FR 2563, 6-17-75)."

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 11, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before March 8, 1976, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

CIVIL AERONAUTICS BOARD

Request has been submitted for approval of an amendment to the reporting requirements of section 234.8 of Part 234 of the Board's Economic Regulations. The amendment will increase the number of designated domestic passenger flights reported to the Board from the top 100 to the top 200 city pairs and eliminate the exclusion of the reporting of city pairs less than 200 miles apart. The purpose of these changes is to improve the comparative evaluation of carrier on-time performance which Part 234 seeks to facilitate and to provide the traveling public with data for judging comparative performance in a larger number of city pairs. This reporting requirement is mandatory under the Federal Aviation Act. The respondents will be certificated route air carriers which schedule nonstop passenger flights between any of the 200 top-ranking pairs of points. The monthly reporting burden is estimated to be one hour per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-4800 Filed 2-18-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the time and place indicated. Anyone who is interested in attending or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL

REGION 7

Meeting date: March 26, 1976.
Time: 1:00 p.m.
Place: Hilton Inn, Old Square Meeting Room, 1-20 and Commerce Street, Fort Worth, TX 76101.
Agenda: Discuss the regional archival program and make recommendations for its improvement.

For further information contact: Mr. Odell B. Lamb, NARS Regional Commissioner, 819 Taylor Street, Fort Worth, TX 76102, 817-334-2759.

Issued in Washington, DC on February 10, 1976.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.76-4659 Filed 2-18-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-5]

CHAIN DOOR LOCKS

Order Concerning Procedure for Determination and Action

Notice is hereby given that: 1. On February 4, 1976, Administrative Law Judge Myron R. Renick issued his Recommended Decision in this proceeding, in which he made certain findings of fact and conclusions of law; recommended that the Commission determine there has been violation of section 337 of the Tariff Act of 1930, as amended, in respect of imports of certain chain door locks and there has been no violation in respect of imports of certain other chain door locks; and certified the record in this proceeding to the Commission. Copies of Judge Renick's Recommended Decision, which was served upon all parties of record on the day after it issued, are available for inspection to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

2. Not later than the close of business Monday, February 23, 1976, any party to this proceeding, or any person with a substantial interest in the outcome of this proceeding, may file exceptions to Judge Renick's Recommended Decision and submit alternative findings of fact, conclusions of law and recommendations. Documents setting forth such exceptions and alternatives shall be in form and number as set forth in § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8) and, further, shall be in accordance with the following, which are prescribed to aid the Commission in meeting the statutory time limits placed upon its investigations under section 337:

(a) Each exception shall be separately numbered and shall be stated as a separate point and shall not be restated in several repetitive exceptions.

(b) Each exception shall state, sufficiently identify, and be limited to, an ultimate conclusion in the decision to which exception is taken (such as that a patent is or is not valid; that particular acts do or do not constitute an unfair act or method, etc.).

(c) Exceptions shall specify any matters of law, fact or policy which were not argued before the administrative law judge but are set forth for the first time on argument to the Commission.

No objection may be made at a later time to an ultimate conclusion embodied in the Recommended Decision which is not expressly made the subject of an exception in compliance with the provisions of this paragraph.

3. The Commission will now give plenary review to this proceeding and determine whether there is a violation of section 337 and, where appropriate, what, if any, action shall be ordered to remedy the violation. Briefs filed in support of exceptions to and alternatives for Judge Renick's findings of fact, conclusions of law and recommended decisions shall be in form and number as set forth in § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8) and, in addition, be of no more than 35 pages. Such briefs shall be filed not later than March 8, 1976.

4. If the Commission determines, after consideration of the action of the Presiding Officer, that there is a violation of section 337, the Commission will consider what order (cease and desist or exclusion from entry) is appropriate, and the amount of bond to be imposed during the 60-day period of Presidential consideration. The Commission must also consider the effect of any such order on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. Persons having information relevant to the Commission's consideration of these factors are re-

quested to submit such information and any argument on what order should issue no later than March 8, 1976. The Commission will also consider any motion for a hearing, limited to argument relevant to the issues described in this paragraph, filed not later than February 23, 1976; and responses to such motions filed not later than March 3, 1976.

5. Parties and the public are advised that the Commission will not look favorably upon requests for extensions of time in the matters set forth in this notice and order, except where compelling circumstances are shown.

Issued: February 13, 1976.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.76-4777 Filed 2-18-76;8:45 am]

[Investigation No. 337-TA-4]

EXPANDED, UNSINTERED POLYTETRAFLUOROETHYLENE IN TAPE FORM

Concerning Procedure for Commission Determination and Action

Notice is hereby given that:

1. On February 4, 1976, Administrative Law Judge Myron R. Renick issued his Recommended Decision in this proceeding, in which he made certain findings of fact and conclusions of law; recommended that the Commission determine there has been no violation of section 337 of the Tariff Act of 1930, as amended, in respect of imports of expanded, unsintered polytetrafluoroethylene tape; and certified the record in this proceeding to the Commission. Copies of Judge Renick's Recommended Decision, which was served upon all parties of record on the day after it issued, are available for inspection to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

2. Not later than the close of business Monday, February 23, 1976, any party to this proceeding, or any person with a substantial interest in the outcome of this proceeding, may file exceptions to Judge Renick's Recommended Decision and submit alternative findings of fact, conclusions of law and recommendations. Documents setting forth such exceptions and alternatives shall be in form and number as set forth in § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8) and, further, shall be in accordance with the following, which are prescribed to aid the Commission in meeting the statutory time limits placed upon its investigations under section 337:

(a) Each exception shall be separately numbered and shall be stated as a separate point and shall not be restated in several repetitive exceptions.

(b) Each exception shall state, sufficiently identify, and be limited to, an ultimate conclusion in the decision to which exception is taken (such as that a patent is or is not valid; that particualr acts do or do not constitute an unfair act or method, etc.).

(c) Exceptions shall specify any matters of law, fact or policy which were not argued before the administrative law judge but are set forth for the first time on argument to the Commission.

No objection may be made at a later time to an ultimate conclusion embodied in the Recommended Decision which is not expressly made the subject of an exception in compliance with the provisions of this paragraph.

3. The Commission will now give plenary review to this proceeding and determine whether there is a violation of section 337 and, where appropriate, what, if any, action shall be ordered to remedy the violation. Briefs filed in support of exceptions to and alternatives for Judge Renick's findings of fact, conclusions of law and recommended decisions shall be in form and number as set forth in § 201.8 of the Commission's rules of practice and procedure (19 CFR 201.8) and, in addition, be of no more than 35 pages. Such briefs shall be filed not later than March 8, 1976.

4. If the Commission determines, after consideration of the action of the Presiding Officer, that there is a violation of section 337, the Commission will consider what order (cease and desist or exclusion from entry) is appropriate, and the amount of bond to be imposed during the 60-day period of Presidential consideration. The Commission must also consider the effect of any such order on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. Persons having information relevant to the Commission's consideration of these factors are requested to submit such information and any argument on what order should issue no later than March 8, 1976. The Commission will also consider any motion for a hearing, limited to argument relevant to the issues described in this paragraph, filed not later than February 23, 1976; and responses to such motions filed not later than March 3, 1976.

5. Parties and the public are advised that the Commission will not look favorably upon requests for extensions of time in the matter set forth in this notice and order, except where compelling circumstances are shown.

Issued: February 13, 1976.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.76-4776 Filed 2-18-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-528, 50-529, 50-530]

ARIZONA PUBLIC SERVICE CO., ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2 AND 3)

Time and Place for Hearing on Application for Construction Permits

Before the Atomic Safety and Licensing board.

1. An Evidentiary Hearing in the above-identified matter will be held in the United States Tax Court, Room 235, Federal Building and Post Office, 522 North Central Avenue, Phoenix, Arizona, beginning at 10:00 a.m. on the morning of February 23, 1976, and continuing thereafter as long as necessary to accomplish the purpose thereof. In the event that, for any reason, the purpose of the hearing cannot be accomplished in continuous session, the hearing will be adjourned and thereafter reconvened as events dictate.

2. The purpose of the Evidentiary Hearing is to receive evidence on all issues which must be considered by the Board to determine whether construction permits should be issued to Applicant.

3. As a result of the Notice of Hearing on Application for Construction Permits published in the FEDERAL REGISTER on October 22, 1974, which, in addition to stating the issues, provided for intervention and for limited appearances, the Arizona Clean Energy Coalition and Mr. Carmine F. Cardamone, Jr., were admitted as intervening parties. Also, the Atomic Energy Commission of the State of Arizona requested participation pursuant to 10 CFR 2.715(c), which request was granted. In addition, a number of requests have been received and granted to make limited appearances.

4. Arizona Clean Energy Coalition and Mr. Carmine F. Cardamone, Jr. have withdrawn from this proceeding.

5. The application was filed by Arizona Public Service Company and five other joint applicants. As a result of Southern California Edison Company's replacement of Tucson Gas and Electric Company as one of the joint applicants, an Amended Notice of Hearing on Application for Construction Permits was issued on December 18, 1975. This amendment afforded opportunity for intervention for those affected by the change.

6. On the first day of the hearing those persons or entities desiring to make limited appearances will be given an opportunity to do so, either by oral or written presentation or both. In view of the number of such persons, oral presentations must be brief. Written presentations may be as lengthy as desired.

7. After the withdrawal of intervenors Arizona Clean Energy Coalition and Mr. Carmine F. Cardamone, Jr., the Board by letter dated January 9, 1976, posed a number of questions to the Applicant and the Staff. During a telephone conference on January 19, 1976, it was agreed that the Evidentiary Hearing would begin on February 23, 1976, unless postponement should be required because of new intervenors in response to the Amended Notice for Hearing. No new requests for intervention have been received. During the said telephone conference, it was further agreed that additional testimony, responsive to said questions, would be forwarded to the Board not later than February 13, 1976.

8. Save to the extent modified by the withdrawal of intervenors or by one or more of the above paragraphs of this

notice, paragraphs 19 through 23 of the Memorandum and Order Re: Third Prehearing Conference and Subsequent Pleadings and Notice of Hearings dated November 10, 1975, remain in effect.

Dated at Bethesda, Maryland, this 11th day of February, 1976.

The Atomic Safety and Licensing Board.

HUGH K. CLARK,
Chairman.

[FR Doc.76-4576 Filed 2-18-76;8:45 am]

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2, located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications relating to the spent fuel storage pool. As amended, the Technical Specifications permit the licensee to install 36 additional storage locations in the present spent fuel storage pool, increasing its capacity from 240 fuel assemblies to 276 fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on October 31, 1975 (40 F.R. 50753). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

In connection with issuance of this amendment, the Commission has issued a Negative Declaration and Environmental Impact Appraisal. The Negative Declaration is being published in the FEDERAL REGISTER concurrently with this notice.

For further details with respect to this action, see (1) the application for amendment dated September 5, 1975, as supplemented by letters dated October 31, 1975, and November 13, 1975, (2) Amendment No. 19 to License No. DPR-23, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of February, 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-4575 Filed 2-18-76;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. 40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment changes the Facility License and the Technical Specifications to permit generalized provisions for the receipt, possession, and use of byproduct, source, and special nuclear material.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1975, (2) Amendment No. 11 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of February 1976.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.76-4574 Filed 2-18-76;8:45 am]

[Docket No. 50-549]

POWER AUTHORITY OF THE STATE OF NEW YORK (GREENE COUNTY NUCLEAR POWER PLANT)

Receipt of Partial Application for Construction Permit and Operating License

The Power Authority of the State of New York (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed the remaining portion of its application. The application is for authorization to construct and operate a pressurized water reactor designated as the Greene County Nuclear Power Plant on the applicant's site in Greene County, New York. The reactor is designed for an equivalent net electrical output of approximately 1273 megawatts. This portion of the application which consisted of a Preliminary Safety Analysis Report and certain site suitability information was accepted for docketing on January 26, 1976 and assigned Docket No. 50-549.

A Notice of Hearing on Application for Construction Permit was published in the FEDERAL REGISTER under Docket No. 50-549 on December 8, 1975 (40 FR 57237). That notice set forth the requirements for filing a petition for leave to intervene by any person whose interest might be affected by the proceeding and who wished to participate as a party in the proceeding. At that time, the specific contentions related to the Preliminary Safety Analysis Report or certain site suitability information were not required to be included in the petitions for leave to intervene. Such contentions now must be specified in writing under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. These contentions must be filed with the Secretary of the Commission and others as specified below. The deadline for filing these contentions will be established by the Atomic Safety & Licensing Board.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Scott B. Lilly, Esquire, General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019 and Lex Larson, Esquire, LeBoeuf, Lamb Leiby & MacRae, 1757 N Street, NW., Washington, D.C. 20036, attorneys for the applicant.

Copies of the Preliminary Safety Analysis Report and site suitability information are available for public in-

spection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Catskill Public Library, Franklin Street, Catskill, New York 12414.

Dated at Bethesda, Maryland, this 4th day of February, 1976.

For the Nuclear Regulatory Commission.

D. B. VASSALLO,
Chief, Light Water Reactors, Branch No. 5, Division of Project Management.

[FR Doc.76-4579 Filed 2-18-76;8:45 am]

[Docket No. 50-261]

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT 2

Negative Declaration

The U.S. Nuclear Regulatory Commission, (the Commission) has reviewed the licensee's proposed modification to the H. B. Robinson facility licensed under Operating License DPR-23. The modification would authorize the Carolina Power and Light Company to expand the H. B. Robinson spent storage pool (SFP) by 15 percent. This expansion permits the storage of an additional 36 spent fuel assemblies, increasing the ultimate capacity of the SFP from 240 to 276 assemblies. It will require the installation of an additional two fuel storage racks. It will not involve any SFP external construction nor alter the external physical geometry of the pool or require fuel pool clean up system modifications.

The Commission's Division of Reactor Licensing has prepared an environmental impact appraisal for the proposed modification to the SFP. Within the context of this appraisal, the Staff applied, weighed, and balanced the five factors specified by the Commission in its issuance of FEDERAL REGISTER Notice (F.R. 42801) on September 16, 1975 regarding handling and storage of spent fuel from light water power reactors. On the basis of this environmental impact appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this proposed amendment will not significantly affect the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20555, and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina.

Dated at Rockville, Maryland, this 21st day of November 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch No. 4, Division of Reactor Licensing.

[FR Doc.76-4576 Filed 2-18-76;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.104, "Overhead Crane Handling Systems for Nuclear Power Plants," describes methods acceptable to the NRC staff for complying with the Commission's regulations with regard to the design, fabrication, and testing of overhead crane systems used for reactor refueling and spent fuel handling operations.

The NRC staff has prepared an assessment of the value and impact of this guide. In order to assist the NRC staff in evaluating the results of that effort, we are planning to send a copy of this guide with its assessment to those organizations believed to be most affected by the guide with a request for their comments on the staff assessment. This value-impact statement may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Single copies may be obtained by written request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Office of Standards Development.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.104 will, however, be particularly useful in evaluating the need for an early revision if received by April 15, 1976.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland this 10th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76-4578 Filed 2-18-76;8:45 am]

[Docket No. 50-324]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-62 issued to Carolina Power & Light Company (the licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 2 (the facility), located in Brunswick County, North Carolina.

The amendment would permit operation of the Brunswick Steam Electric Plant, Unit 2, with plugging devices installed in the core support plate of the reactor, and revise provisions in the Technical Specifications relating to operation in this configuration. The amendment is proposed by the licensee's application for amendment dated February 4, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By March 19, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of this amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention:

Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555 and to Richard E. Jones, Esquire, Carolina Power & Light Company, 336 Fayetteville Street, Raleigh, North Carolina 27602 attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated February 4, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461. The license amendment and Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-4819 Filed 2-17-76;10:18 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Proposed Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee) for operation of the Palisades Plant (the facility), located in Van Buren County, Michigan.

The current license requires that any steam generator tube with wall thinning of 50 percent or greater be removed from service by plugging. According to the licensee, recent analysis indicates that the minimum tube wall thickness that must be preserved throughout the operating period between inspections is 36 percent of the original tube wall thickness (64% degraded). The minimum tube wall thickness would be increased by an operating allowance to be determined and proposed by the licensee when the current inspection has been completed. The operating allowance will be based on inspection results, the operating time between inspections and other factors. In addition, the licensee proposes a revised primary-to-secondary leakage limit for the steam generators which will be based on analyses and tests currently being conducted to establish a relationship between a tube crack length and leakage. The revised limit would provide assurance that tube cracks will be detected and repaired before they reach unacceptable lengths. The licensee has tentatively proposed a maximum upper limit of 0.4 gallons per minute per steam generator, subject to downward revision, if appropriate, when the analysis is completed. The current limit is 0.3 gallons per minute. Finally, the licensee proposes changes in the procedures for hydrostatic and leak testing of the reactor coolant system, consistent with the tube wall thickness analyses. The amendments are proposed by the licensee's application for amendment dated January 30, 1976.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By March 19, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject provisional operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to M. I. Miller, Esquire, Isham, Lincoln & Beale, Suite 4200, One First National Plaza, Chicago 60670 and J. L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, the attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated January 30, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library 315 South Rose Street, Kalamazoo, Michigan 49006. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of February 1976.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-4820 Filed 2-17-76;10:18 am]

[Docket No. 50-548]

OMAHA PUBLIC POWER DISTRICT AND NEBRASKA PUBLIC POWER DISTRICT

Hearing on Application for Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the rtgulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that hearing will

be held before an Atomc Safety and Licensing Board (Board), to consider the application filed under the Act by the Omaha Public Power District and Nebraska Public Power District (the applicants), for a construction permit for a pressurized water nuclear reactor designated as the Fort Calhoun Station, Unit 2 (the facility), which will be designed for operation at 3425 thermal megawatts with a net electrical output of approximately 1150 megawatts. The proposed facility is to be located on the southwest bank of the Missouri River approximately 19 miles north-northwest of the center of Omaha, Ntbraska. This site is owned by Omaha Public Power District.

The htaring, which will be scheduled to begin in the vicinity of the site of the prposed facility, will be conducted by an Atomic Safety and Licensing Board (Board), which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Emmeth A. Luebke, member, Dr. Quentin J. Stober, member and Robert M. Lazo, Esq., Chairman.

Pursuant to 10 CFR § 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicants. In the event that a separate hearing is held with respect to a limited work authorization, Item 6 below describes the matters for consideration.

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether in accordance with the provisions of 10 CFR § 50.35(a):

(a) The applicants have described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether Omaha Public Power District is technically qualified to design and construct the proposed facility;

3. Whether the Omaha Public Power District and Nebraska Public Power District are financially qualified to design and construct the proposed facility; and

4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

Issue Pursuant to National Environmental Policy Act of 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permit should be issued as proposed.

Issues Pursuant to 10 CFR § 2.761a (Limited Work Authorization)

6. Pursuant to 10 CFR § 2.761a, a separate hearing and partial decision by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR § 50.10(e) authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR § 2.4(n), the Board will determine without conducting a *de novo* evaluation of the application: (1) whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether a construction permit should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section 51.52(c) of 10 CFR Part 51: (1) determine whether the requirements of section 102(2) (A), (C) and (D) of NEPA and Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permit with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether a construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR § 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR § 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1–5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by April 19, 1976. The presiding Atomic Safety and Licensing Board may make further provisions with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR § 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of

the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by March 22, 1976. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petitioner, in addition to the matters specified in 10 CFR § 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR § 2.714(a) (1)–(4) shall be considered in making a determination whether there has been a substantial showing of good cause by the petitioner.

An answer to this notice, pursuant to the provisions of 10 CFR § 2.705, must be filed by the applicant by March 10, 1976.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Station, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Harry H. Voigt, Esq., Le Boeuf, Lamb, Leiby and MacRae, 1757 "N" Street, N.W., Washington, D.C. 20036, attorney for the applicants.

For further details, see the application for a construction permit and the applicants' Preliminary Safety Analysis Report dated August 1, 1975, including site suitability information, and the applicant's environmental report dated January 23, 1976, which, along with any amendments or supplements thereto, are or will be available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of those documents will also be available at the Omaha Public Library, 1823 Harney Street, Omaha, Nebraska 69102 for inspection by members of the public between the hours of 9:00 a.m. and 8:30 p.m. Monday thru Friday and from 9:00 a.m. to 5:30 p.m. on Saturday. As they become available, a copy of the safety evaluation report by the Commission's Office of Nuclear Reactor Regulation, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permit, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permit and the ACRS report may be obtained, when available by request to the Director, Division of Project Management, United States Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Office of Nuclear Reactor Regulation's safety evaluation report and final environmental statement may be obtained, when available, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Washington, D.C. this 6th day of February 1976.

U.S. NUCLEAR REGULATORY COMMISSION,
SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-4580 Filed 2-28-76;8:45 am]

TENNESSEE VALLEY AUTHCRITY

[Docket Nos. 50-327 and 50-328]

Order Extending Construction Completion Dates

Tennessee Valley Authority is the holder of Construction Permits (Nos. CPPR-72 and CPPR-73) issued by the Atomic Energy Commission[1] on May 27, 1970, for constructon of the Sequoyah Nuclear Plant, Units 1 and 2, presently under construction at the applicant's site in Hamilton County, Tennessee.

On October 28, 1975, the applicant filed a request for an extension of the completion dates. The reasons construction has been delayed are (1) complexities associated with the redesign to incorporate the ECCS requirements, especially the design and installation of the upper head injection system, and (2) extensive analysis for seismic qualification of cable trays and supports in all Category I structures, and resultant delay in cable installation. This action involves no significant hazards consideration; good cause has been shown for the delay and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated February 10, 1976.

It is hereby ordered That the latest completion dates for CPPR-72 and CPPR-73 are extended from December 1, 1975, and August 1, 1976, to September 1, 1977, and May 1, 1978, for Units 1 and 2, respectively.

For the Nuclear Regulatory Commission.

Date of Issuance: February 11, 1976.

RICHARD C. DEYOUNG,
Assistant Director for Light Water Reactors Division of Project Management.

[FR Doc.76-4581 Filed 2-18-76;8:45 am]

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

[Docket No. 50-282]

NORTHERN STATES POWER CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-42, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit 1 of the Prairie Island Nuclear Generating Plant (the facility) located in Goodhue County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility to eliminate the February 1976 functional testing of the turbine valve, governor valve, and intercept valve of unit 1. These tests are normally required to be performed monthly.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 29, 1976, (2) Amendment No. 10 to License No. DPR-

42, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of February, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-4582 Filed 2-18-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS NUCLEAR REGULATORY COMMISSION

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on March 4–6, 1976, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, MARCH 4, 1976

8:30 a.m.–9:30 a.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations related to: nomination of candidates for appointment to the Committee; ACRS policy regarding proposed meetings; and activities of the NRC Staff. The Committee members will exchange and discuss individual opinions regarding evaluation of the ACRS Subcommittee and consultants related to the Washington Public Power Supply System Nuclear Project No. 3 & 5.

9:30 a.m.–1:00 p.m.: Washington Public Power Supply System Nuclear Project No. 3 & 5 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Applicant related to the request for a Construction Permit for this project. Closed sessions will be held if required to discuss proprietary information applicable to this project. Closed sessions will also be held if required to discuss security arrangements for this plant and for Committee deliberative sessions.

2:00 p.m.–2:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the personal opinions of individual members and to exchange recommendations regarding the evaluation of the ACRS Subcommittee and its consultants related to the proposed repairs and modifications at the Browns Ferry Nuclear Plant which have been proposed as a result of the fire which occurred on March 22, 1975.

2:30 p.m.–7:00 p.m.: Browns Ferry Nuclear Power Plant Units 1 & 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and the Tennessee Valley Authority regarding proposed repairs and modifications at the Browns Ferry Nuclear Plant which have been proposed as a result of the fire which occurred on March 22, 1975. Portions of this session will be closed if required to discuss proprietary information applicable to this plant.

FRIDAY, MARCH 5, 1976

8:30 a.m.–11:00 a.m.: Executive Session (Closed)—The Committee will meet in closed session to exchange individual opinions and recommendations of the members regarding the NRC inspection and enforcement program. This session will include discussion with the Executive Director for Operations and the Director, Office of Policy Evaluation, regarding preliminary results and conclusions of internal reviews of the NRC regulatory and inspection and enforcement programs.

11:00 a.m.–1:00 p.m.: Discussion with NRC Staff (Open)—The Committee will meet in open session with members of the NRC Staff to discuss the NRC inspection and enforcement program; procedures and requirements for licensing reactor operators; recent operating experience and licensing actions; and the anticipated schedule for future ACRS meetings.

2:00 p.m.–2:30 p.m.–Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations regarding the evaluation of the ACRS Subcommittee and its consultants related to proposed modification of the containment for the Vermont Yankee Nuclear Power Station.

2:30 p.m.–5:30 p.m.: Vermont Yankee Nuclear Power Station (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Company, the Vermont Yankee Nuclear Power Corporation, and the MK–I Review Group related to proposed modification of the containment for the Vermont Yankee Nuclear Power Station.

Portions of this session will be closed if necessary to discuss proprietary information applicable to this plant and/or the pressure suppression containment design. Closed portions will also be held for Committee deliberative sessions.

5:30 p.m.–6:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and exchange recommendations leading to the formulation of advice to the Commission and the NRC Staff regarding proposed criteria for packages used for air shipment of plutonium, proposed NRC Regulatory Guides, and ACRS review of application amendments.

SATURDAY, MARCH 6, 1976

8:30 a.m.–4:30 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the opinions of individual members and to exchange recommendations leading to the formulation of advice to the Commission with respect to matters considered at this meeting. Proposed ACRS reports regarding generic items such as emergency core cooling systems, management of radioactive wastes, and the design basis accident for fast reactors will also be discussed. Propective candidates for appointment as ACRS consultants will be considered.

I have determined in accordance with Subsection 10(d) of Pub. L. 92–463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552(b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)), and to preclude unwarranted invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliverative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than February 25, 1976, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

WASHINGTON PUBLIC POWER SUPPLY SYSTEM NUCLEAR PROJECT NO 3 & 5

H. W. Able Memorial Library, 125 Main Street South, Montesano, WA 98563.

BROWNS FERRY

Athens Public Library, South and Forrest Streets, Athens, AL 12333.

VERMONT YANKEE NUCLEAR POWER STATION

Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a

prepaid telephone call on March 3, 1976, to the Office of the Executive Director of the Committee (Telephone: 202–634–1371) between 8:15 a.m. and 5:00 p.m., Eastern Time. It should be noted that the schedule noted above is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on March 3, 1976.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the argeement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC, on or after June 4, 1976. Copies may be obtained upon payment of appropriate charges.

JOHN C. HOYLE,
Advisory Committee Management Officer.

FEBRUARY 12, 1976.

[FR Doc.76–4818 Filed 2–17–76;10:18 am]

NOTE: This document is reprinted without change from the issue of Wednesday February 18, 1976.

NATIONAL SCIENCE FOUNDATION

AD HOC GROUP ON THE SCIENCE COURT OF THE ADVISORY GROUP ON CONTRIBUTIONS OF TECHNOLOGY TO ECONOMIC STRENGTH

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad hoc Group on the Science Court of the Advisory Group on Contributions of Technology to Economic Strength.

Date: March 5, 1976.

Time: 10 a.m. to 5 p.m.

Place: Rm. 543, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of Meeting: Open.

Contact person: Mr. William Montgomery, Special Assistant, Science and Technology Policy Office, Rm. 1225, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4061. Anyone planning to attend should notify Mr. Montgomery by March 2.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of meeting: Additional development and refinement of possible experimental tests of a proposed meachanism for clarifying technical issues where there is controversy in the scientific community. Several members of the Advisory Group on Contributions of Technology to Economic Strength will meet with selected outside consultants and advisors to explore various aspects of the proposed "Science Court" mechanism and to develop a set of criteria for selection and conduct of an experiment to test this proposal. It is intended that the results of this review provide an input to the advisory group's discussion at a subsequent meeting.

Agenda:

10:00 Introductory remarks and progress report—Dr. Arthur Kantrowitz.
10:30—A review of papers prepared by invitees.
12:00—Recess.
1:00—Discussion of issues by invited participants.
3:00—Review of report to Advisory Group on Contributions to Economic Strength.
5:00—Adjourn.

February 13, 1976.

GAIL A. MCHENRY,
Acting Committee Management Officer.

[FR Doc.76–4751 Filed 2–18–76;8:45 am]

ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular Biology.
Date: March 8 and 9, 1976.
Time: 9 a.m. each day.
Place: Rm. 338, National Science Foundation, 1800 G St., NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Walter Bonner, Program Director for Biochemistry, Rm. 329, National Science Foundation, Washington, D.C. 20550, telephone 202/632–4260.
Purpose of advisory panel: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).
Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of Section 10(d) of Public Law 92–463.

GAIL A. MCHENRY,
Acting Committee Management Officer.

FEBRUARY 13, 1976.

[FR Doc.76–4752 Filed 2–18–76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 76–8]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSE

Availability and Receipt

Railroad Accident Report. The National Transportation Safety Board announces the release February 9 of report No. NTSB–RAR–75–9, which resulted from its investigation of the rear-end collision of two Texas and Pacific Railway Company freight trains. The collision occurred at Meeker, Louisiana, May 30, 1975. Probable cause of the accident, as determined by the Board, was the failure of one of the engineers to obey a slow-speed signal and to see the other train ahead in time to prevent the collision. The Board also held that a cause of the severity of the three-fatality collision of the two freights was the subnormal braking capability of a significant number of cars. Following investigation, the Board reiterated to the Federal Railroad Administration two earlier recommendations. One urged that railroad operating rules, whenever assigning train safety responsibility equally to the engineer and conductor, require that each be located and informed so that they can make quick, effective decisions (R–73–11). The other recommendation sought development of a comprehensive program in signal systems and operating rules requiring as a minimum that (1) all mainline trains be equipped with continuous

cab signals in conjunction with automatic-block signals; and (2) engineers, in order to nullify a train control device, be required to take a prescribed positive action which would be recorded for later reference (RSS–71–3–45). Further, the Board last month issued five new recommendations for FRA action on regulations covering operational railroad use of radio, train brake maintenance, automatic block signalling, and an adequate backup system for mainline freight trains to insure compliance with signals. These recommendations, Nos. R–76–1 through 5, were reported February 5 at 41 FR 5353.

Aviation Safety Recommendations. On September 30, 1975, Wien Air Alaska Flight 99, a Fairchild F–27B, crashed into a mountain while attempting to land at the village of Gambell, St. Lawrence Island, Alaska. Investigation of the crash prompted the Board to recommend that the Federal Aviation Administration (1) insure that certificated airports in Alaska comply with the provisions of 14 CFR Part 139—specifically those provisions which require that airport lighting systems and similar equipment be maintained in an operable condition and that NOTAM's be issued regarding the conditions of such items, as needed; and (2) expedite existing programs and initiate additional programs to install and improve facilities at certificated airports in Alaska so that the visual conspicuity of runway environments is improved. These recommendations, Nos. A–76–1 and 2, were issued February 8.

Response to Safety Recommendations. Federal Highway Administration has supplied the Safety Board with information pertinent to recommendations H–75–37 and 38 which were issued December 2, 1975, to the Business and Transportation Agency for the State of California. (See 40 FR 57726, December 11, 1975). FHA's letter of February 4, although not a formal response to these recommendations, indicates that research regarding appropriate speed limits for fog situations is currently underway at FHA's Oregon fog test facility. An interim report, issued last May, is attached to the letter, and a second interim report is planned for this spring. Also, FHA later this year will initiate a new study, "Effectiveness of Reduced Visibility Guidance Techniques," assisted by the California Department of Transportation. The letter indicates that the fog warning system, described in FHA's 1972 paper, "Adverse Weather and Visibility Hazard Warning Systems," has limited utility for specific, localized high-density fog locations such as stream crossings. "This type of system would have questionable value for valley type fogs," according to FHA.

Availability of 1974–75 Accident Reports and Special Studies. The Safety Board has available a limited number of copies of the following publications, according to Press Release SB 76–8 released February 11:

CIVIL AVIATION

Air East, Beech 99A, Johnstown, Pennsylvania, 1/6/74.
TWA 707, Los Angeles, California, 1/16/74.
Sierra Pacific Airlines, 340/440, Bishop, Califorina, 3/13/74.
Air Frace 707 over O'Neill, Nebraska, 4/13/74.
Saturn Airways L–382, Springfield, Illinois, 5/23/74.
IBM Grumman, Kline, South Carolina, 6/24/74.
National Airlines DC–10 near Tampa, Florida, 7/8/74.
TWO 707 in the Ionian Sea, 9/8/74.
EAL DC–9 at Charlotte, North Carolina, 9/11/74.
New Jersey ANG and Piper near Saxis, Virginia, 10/11/74.
Rockwell Turbo Commander & USAF F–111 near Kingston, Utah, 11/12/74.
Northwest Airlines 727 near Thiells, New York, 12/1/74.
TWA 727 at Berryville, Virginia, 12/1/74.
Golden West Airlines and Cessna 150 at Whittier, California, 1/9/75.
USAF Convair and Cessna 150 at Newport News, Virginia, 1/9/75.
FAA DC–3 at DuBois, Pennsylvania, 3/27/75.
Western Air Lines 737, Casper, Wyoming, 3/31/75.

SPECIAL STUDIES

Weight and Balance.
Fatal, Weather-Involved General Aviation Accidents.
Safety Aspects of Emergency Evacuations from Air Carrier Aircraft.
Turbine Engine Rotor Disk Failures.

HIGHWAY ACCIDENT REPORTS

Schoolbus-type bus at Blythe, California, 1/15/74.
Multipurpose vehicle produce truck near El Centro, California, 3/8/74.
Multiple Vehicle collisions near Corona, California, 2/28/75.
Southern Railway Work Train & Schoolbus at Aragon, Georgia, 10/23/74.

RAILROAD ACCIDENT REPORTS

Delaware and Hudson Railway at Oneonta, New York, 2/12/74.
Penn Central at Cleveland, Ohio, 5/8/74.
Amtrak, Melvern, Kansas, 7/5/74.
Norfolk and Western Railway, Decatur, Illinois, 7/19/74.
St. Louis-San Francisco Railway, Mustang, Oklahoma, 9/1/74.
Southern Pacific Transportation Company's Englewood Yard, Houston, Texas, 9/21/74.
Long Island Rail Road at Huntington Station, New York, 12/1/74.
Penn Central commuter at Botanical Garden Station, New York, 1/2/75.

PIPELINE ACCIDENT REPORTS

Michigan-Wisconsin Pipe Line at Monroe, Louisiana, 3/2/74.
Transcontinental Gas Pipe Line near Bealeton, Virginia, 6/9/74.

The freight train collision report and the aviation safety recommendation letter are available to the general public; single copies may be obtained without charge. As long as they last, single copies of the above-listed 1974–75 accident reports and special studies may be obtained free on request. Copies of the FHA response letter may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by report or recommendation number and date of publication of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2), 307, Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906))

MARGARET L. FISHER,
Federal Register Liaison Officer.

FEBRUARY 13, 1976.

[FR Doc.76–4774 Filed 2–18–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1208]

MAINE

Declaration of Disaster Area

Washington County and adjacent counties within the State of Maine, constitute a disaster area because of damage resulting from heavy rains, windstorms and flooding on February 2, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 12, 1976, and for economic injury until the close of business on November 12, 1976, at:

Small Business Administration, District Office, 40 Western Avenue, Augusta, Maine 04330

or other locally announced locations.

Dated: February 11, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76–4734 Filed 2–18–76;8:45 am]

[License No. 08/08–0038]

MERCHANTS FINANCE CO., INC.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1975)) by Merchants Finance Company, Inc., 1700 South 1800 West, Salt Lake City, Utah 84104 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and shareholders are:

Donald P. Lloyd, 2045 East 1300 South, Salt Lake City, Utah 84108; chairman of the board, general manager and director.
Arthus Evdasin, 4850 South 3 Fountains Drive #150, Murray, Utah 84107; president and director.
David Gill Warner, 2265 Country Club Drive, Salt Lake City, Utah 84109; vice president and director.
George LaMont Richards, 2315 East 13th South, Salt Lake City, Utah. 84108, secretary-treasurer and director.
Robert L. Wangsgard, 3055 Circle Way, Ogden, Utah. 84403, director.
Edward L. Burton, III, 1510 Indian Hills Drive, Salt Lake City, Utah. 84108, director.

Raymond F. Sudbury, 900 Donner Way, Apt. 404, Salt Lake City, Utah. 84108, director.
Merchants, Inc., 1700 South 1800 West, Salt Lake City, Utah. 84104, 100 percent shareholder.

Merchants, Inc., is a publicly owned corporation which has 234 shareholders and is in the business of equipment and merchandise sales, equipment leasing, and inventory financing to retail grocers. Approximately 95 percent of the gross sales volume of Merchants, Inc., is conducted with member/shareholders of Associated Food Stores, Inc. (AFS). AFS is a Utah corporation whose member/shareholders are retail food grocers and is operated on a cooperative basis for the mutual benefit of its member/shareholders. AFS owns approximately 12.4 percent of Merchants, Inc.

The Applicant will begin operations with a capitalization of $500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Salt Lake City, Utah.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Date: February 12, 1976.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.76-4736 Filed 2-18-76;8:45 am]

PHILADELPHIA DISTRICT ADVISORY COUNCIL

Public Meeting

The Philadelphia District Advisory Council will hold a public meeting at 9:00 a.m., Thursday, March 18, 1976, at the Hotel Hershey, Hershey, Pennsylvania, to discuss such business as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call William B. Patterson, District Director, Suite 400-East Lobby, One Bala Cynwyd Plaza, 231 St. Asaph's Road, Bala Cynwyd, Pennsylvania, 19004, (215) 596-5801.

Dated: February 11, 1976.

ANTHONY S. STASIO,
Chief Counsel for Advocacy.

[FR Doc.76-4733 Filed 2-18-76;8:45 am]

[License No. 05/07-0012]

WISCONSIN CAPITAL CORP.

Notice of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the Regulations governing Small Business Investment Companies (13 C.F.R. Section 107.701 (1975)) for transfer of ownership and control of the Wisconsin Capital Corporation (WCC), 840 North Third Street, Milwaukee, Wisconsin 53203, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq*).

WCC was licensed on January 5, 1960, and its private paid-in capital and paid-in surplus totalled $525,000 at October 31, 1975. The proposed transfer of control is subject to the prior written approval of SBA.

Pursuant to an agreement dated December 1, 1975, between Dr. Ronald Herget, Messrs. Eugene H. Shorts, Charles Lomas and Malcolm J. Omer (Purchasers) and Mr. Herbert O. Schoenherr (Shareholder), Purchasers have offered to purchase 50 percent of the outstanding stock of WCC owned by Shareholder for $125,000 cash. In addition, the Purchasers have offered to purchase 50 percent of three loans in the Licensee's portfolio at book value of $103,802.24. Shareholder shall have the right and option to purchase the above loans from the Purchasers for $25,000. This option expires March 1, 1976. Assuming consummation of the proposed transfer of ownership and control, the management and the owners of WCC will be:

	Percent of stock ownership
Malcolm J. Omer, 18065 Colline Vue Blvd.; Brookfield, Wis. 53005; president, treasurer, and director	2.5
Earl A. Charlton, 840 North Third Street, Milwaukee, Wis. 53203; secretary and director	40.0
Eugene H. Shorts, 125 Fisher Lake Road, Florence, Wis. 54121; director	22.5
Dr. Ronald E. Herget, 2610 Wauwatosa Avenue, Milwaukee, Wis. 53213, director	20.0
Charles H. Lomas, N76 W13911 Lomas Lane, Menomonee Falls, Wis. 53051; director	5.0
William D. Charlton, 19816 West Volerio Street, Los Angeles, Calif. 91406; shareholder	10.0

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new shareholders and management, and the probability of successful operations of the company under such management (including profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

Date: February 12, 1976.

[FR Doc.76-4735 Filed 2-18-76;8:45 am]

PRIVACY ACT OF 1974

Systems of Records

On September 10, 1975, the Small Business Administration published in the FEDERAL REGISTER (40 FR 42132) a proposal of Notice of Systems of Records. No comments were received. That System of Records is adopted with the following change to clarify when responses to requests from members of Congress are to be regarded as routine uses.

Delete from the paragraph entitled: ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, for each system of records where now appearing (including SBA 005, 025, 065, 085, 105, 195, 230, 235, 250, 305, 375) the reference to responses to members of Congress and add to such paragraph for *every* SBA system of records published in the SBA Notice of Systems of Records (SBA 001—SBA 420 inclusive) the following: "Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

Effective September 27, 1975.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-4822 Filed 2-18-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 978]

Office of Hearings

ASSIGNMENT OF HEARINGS

FEBRUARY 13, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 88285 Sub-4, Bruce & Son Van & Storage Co., a Corporation, now being assigned April 12, 1976 (1 week), at Dallas, Texas, in a hearing room to be later designated.

AB-52 Sub-2, Atchison, Topeka and Santa Fe Railway Company Abandonment from West of Ardmore to Ringling, also Between Cobalt Junction and Healdton, in Carter and Jefferson Counties, Oklahoma, now being assigned April 7, 1976 (3 days), at Ardmore, Oklahoma, in a hearing room to be later designated.

AB-1 Sub-45, Chicago and North Western Transportation Company Abandonment between Minerva Junction and Roland, in Story and Marshall Counties, Iowa, now being continued April 5, 1976 (2 days), at Marshalltown, Iowa, in a hearing room to be later designated.

MC-F 12240, O.N.C. Freight Systems, now being assigned April 12, 1976 at Seattle, Washington, in a hearing room to be later designated.

MC 89716 (Sub-No. 50), Dick Jones Trucking, now being assigned April 7, 1976 (3 days), at Billings, Montana, in a hearing room to be later designated.

MC 61592 (Sub-No. 349), Jenkins Truck Line, Inc., now being assigned April 5, 1976 (2 days), in a hearing room to be later designated.

MC-F-12456, Skyline Transport, Inc.—Lease (Portion)—O'Boyle Tank Lines, Inc., now assigned March 2, 1976, is postponed to April 5, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8650, Overnite Transportation Company v. Eagle Express Company, Inc., now assigned March 3, 1976, will be held in the Conference Room, 4th Floor, State Office Building, Frankfort, Ky.

MC-F-12552, D & L Transport, Inc.—Purchase (Portion)—Suburban Express, Inc. and MC 116273 (Sub-No. 197), D & L Transport, Inc. now assigned March 10, 1976, Chicago, Ill., will be held in Room 1086-A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 110420 (Sub-No. 739), Quality Carriers, Inc., now assigned March 8, 1976, Chicago, Ill., will be held in Room 1086-A, Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 129749 (Sub-No. 3), Foundry Service Corporation, now being assigned April 7, 1976 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 51146 (Sub-No. 439), Schneider Transport, Inc, now being assigned April 5, 1976 (2 days), New York, N.Y., in a hearing room to be later designated.

MC 15735 (Sub-No. 25), Allied Van Lines, Inc., now assigned March 30, 1976, Los Angeles, Calif., will be held in Room 3123, Federal Building, 300 North Los Angeles Street.

MC 141162, Markay Trucking Company, Inc., now being assigned April 5, 1976 (1 week), at New York, N.Y. in a hearing room to be later designated.

W-1294, Shoreline Boating Service, Inc., now assigned March 10, 1976, at New Haven, Conn., is canceled and reassigned to March 8, 1976, at Hartford, Conn., Room 134, Federal Office Building, 450 Main Street.

MC-FC-75074, American Tank Transport, Inc., Transferee and Yale Transport Corp., Transferor, now assigned February 23, 1976, at Washington, D.C., is postponed to April 12, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 141200, Clancy Bros. Transportation Co., Inc., now being assigned April 7, 1976 (3 days), in Buffalo, New York, In a hearing room to be later designated.

MC 140833, Glengarry Transport Limited, now being assigned April 12, 1976 (1 week) at Buffalo, New York, In a hearing room to be later designated.

Ex Parte No. 317, In the Matter of Thomas A. Weir, now being assigned April 6, 1976 (1 day), in Buffalo, New York, in a hearing room to be later designated.

MC 5623 Sub-26, Arrow Trucking Co., now being assigned March 11, 1976 (2 days), in Room 5A15-17, New Federal Building, 1100 Commerce Street, Dallas, Texas.

MC 130321, Fred Bunge Tours, now assigned March 31, 1976, San Diego, Calif., will be held in Room B-109 (Auditorium), California State Office Building, 1350 Front Street.

MC 106644 (Sub-No. 215), Superior Trucking Company, Inc., now assigned April 5, 1976, will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 111545 (Sub-No. 215), Home Transportation Company, Inc., now assigned April 5, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 105566 (Sub-No. 115), Sam Tanksley Trucking, Inc., now assigned April 6, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 117823 (Sub-No. 49), Dunkley Refrigerated Transport, Inc., now assigned April 8, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Avenue.

MC 127539 (Sub-No. 46), Parker Refrigerated Service, Inc., now assigned April 8, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 138274 (Sub-No. 19), Shippers Best Express, Inc., now assigned April 8, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Avenue.

MC 61592 (Sub-No. 359), Jenkins Truck Line, Inc., now assigned April 12, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 109397 (Sub-No. 316), Tri-State Motor Transit Co., now assigned April 12, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 123407 (Sub-No. 257), Sawyer Transport, Inc., now assigned April 12, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

MC 124692 (Sub-No. 150), Sammons Trucking, now assigned April 12, 1976, San Francisco, Calif., will be held in Room 13025, Federal Building, 450 Golden Gate Ave.

No. AB 6 (Sub-No. 15), Burlington Northern Inc., Abandonment Between Joliette and Pembina, In Pembina County, North Dakota is now being assigned April 22, 1976 (2 days), at 9:30 a.m. local time, Pembina, N. Dak., in a hearing room to be later designated.

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

[FR Doc.78-4758 Filed 2-18-76;8:45 am]

[Notice No. 3]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 13, 1976.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 C.F.R. 1042.2(c)(9) and notice thereof to all interested persons is hereby given as provided in such rules (49 C.F.R. 1042.2(c)(9).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 C.F.R. 1042.2(c)(9) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 704), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed January 29, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From New Orleans, La., over Interstate Highway 10 to junction Mississippi Highway 57, thence over Mississippi Highway 57 to junction U.S. Highway 90, with the following access routes: (a) From junction Interstate Highway 10 and Mississippi Highway 607 over Mississippi Highway 607 to junction U.S. Highway 90, (b) From junction Interstate Highway 10 and U.S. Highway 49 over U.S. Highway 49 to Gulfport, Miss., and (c) From junction Interstate Highway 10 and Interstate Highway 110 over Interstate Highway 110 to Biloxi, Miss., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From New Orleans, La., over

U.S. Highway 90 to junction Mississippi Highway 57 and return over the same route.

By the Commission.

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

[FR Doc.76-4759 Filed 2-18-76;8:45 am]

[Notice No. 7]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 13, 1976.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 C.F.R. 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 C.F.R. 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 C.F.R. 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 11220 (Deviation No. 28), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, Tenn. 38101, filed February 9, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over Interstate Highway 55 to junction U.S. Highway 67, thence over U.S. Highway 67 to Little Rock, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis, Mo., over U.S. Highway 61 to Memphis, Tenn., thence over U.S. Highway 70 to Little Rock, Ark., and return over the same route.

No. MC 13235 (Deviation No. 6), CENTRALIA CARTAGE CO., 650 West Noleman St., Centralia, Ill. 62801, filed February 5, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Evansville, Ind., over U.S. Highway 41 to junction U.S. Highway 6 (Interstate Highway 94 and Interstate Highway 80) thence over U.S. Highway 6 (Interstate Highway 94 and Interstate Highway 80) to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 45, and (2) From Evansville, Ind., over U.S. Highway 41 to junction Indiana Highway 63, thence over Indiana Highway 63 to junction U.S. Highway 41 thence over U.S. Highway 41 to junction U.S. Highway 6 (Interstate Highway 94 and Interstate Highway 80) thence over U.S. Highway 6 (Interstate Highway 94 and Interstate Highway 80) to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 45 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Evansville, Ind., over U.S. Highway 460 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 130, thence over Illinois Highway 130 to junction Illinois Highway 15, thence over Illinois Highway 15 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Illinois Highway 37, thence over Illinois Highway 37 to junction U.S. Highway 45, thence over U.S. Highway 45 to Chicago, Ill., and return over the same route.

No. MC 42487 (Deviation No. 107), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed February 3, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Kansas City, Mo., over U.S. Highway 24 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Nebraska Highway 2 near Nebraska City, Nebr., thence over Nebraska Highway 2 to junction Interstate Highway 80, near Lincoln, Nebr., thence over Interstate Highway 80 to junction U.S. Highway 26 near Ogallala, Nebr., thence over U.S. Highway 26 to junction Interstate Highway 25, thence over Interstate Highway 25 to Casper, Wyo., and (2) From Kansas City, Mo., over the same routes described in (1) above to Lincoln, Nebr., thence over Interstate Highway 80 to Cheyenne, Wyo., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, Mo., over the Kansas Turnpike to Wichita, Kansas, thence over U.S. Highway 54 to Bucklin, Kans., thence over unnumbered highway to junction U.S. Highway 154, thence over U.S. Highway 154 to Dodge City, Kans., thence over U.S. Highway 50 to Garden City, Kans., thence over U.S. Highway 83 to junction U.S. Highway 24 near Halford, Kans., thence over U.S. Highway 24 to Limon, Colo., thence over U.S. Highway 40 to Denver, Colo., thence over U.S. Highway 85 to Cheyenne, Wyo., thence over U.S. Highway 87 to Casper, Wyo., and return over the same route.

No. MC 111231 (Deviation No. 46), JONES TRUNK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed February 5, 1976. Carrier's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth St., NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 70 to St. Louis, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 71 to Carthage, Mo., thence over U.S. Highway 66 to St. Louis, Mo., and return over the same route.

No. MC 112713 (Deviation No. 33), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kans. 66207, filed January 26, 1976. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 35 and Ohio Highway 7 near Pt. Pleasant, W. Va., over U.S. Highway 35 to junction U.S. Highway 60 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Highway 35 and Ohio Highway 7 near Pt. Pleasant, W. Va., over Ohio Highway 7 to Chesapeake, Ohio, thence across the Ohio River to Huntington, W. Va., thence over U.S. Highway 60 to junction U.S. Highway 35, and return over the same route.

No. MC 115093 (Deviation No. 16), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 98 and U.S. Highway 331, near Santa Rosa, Fla., over U.S. Highway 331 to DeFuniak Spring, Fla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Macon, Ga., over Georgia Highway 94 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over U.S. Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and (2) From Jacksonville, Fla., over U.S. Highway 90 to Tallahassee, Fla., thence over Florida Highway 20 to junction U.S.

Highway 231, thence over U.S. Highway 231 to Panama City, Fla., thence over U.S. Highway 98 to Pensacola, Fla., and return over the same routes. Said operations in (1) and (2) above are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 17), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Ft. Walton Beach, Fla., over Florida Highway 85 to Niceville, Fla., thence over Florida Highway 285 to junction U.S. Highway 90, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Macon, Ga., over Georgia Highway 49 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over U.S. Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and (2) From Jacksonville, Fla., over U.S. Highway 90 to Tallahassee, Fla., thence over Florida Highway 20 to junction U.S. Highway 231, thence over U.S. Highway 231 to Panama City, Fla., thence over U.S. Highway 98 to Pensacola, Fla., and return over the same routes. Said operations in (1) and (2) above are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 18), MERCURY EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cottondale, Fla., over U.S. Highway 231 to Dothan, Ala., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Macon, Ga., over Georgia Highway 49 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over U.S. Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., (2) From Albany, Ga., over Georgia Highway 62 to junction Alabama Highway 52, and (3) From junction Georgia Highway 62 and Alabama Highway 52 over Alabama Highway 52 to junction Alabama Highway 27, thence over Alabama Highway 27 to the Alabama-Florida State Line, and return over the same routes. Said operations in (1), (2), and (3) above, are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 19), "MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 90 and Georgia Highway 97, near Chattahoochee, Fla., over Georgia Highway 97 to Camilla, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Macon, Ga., over Georgia Highway 49 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over Georgia Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same routes. Said operations are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 20), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Quincy, Fla., over Florida Highway 12 to Havana, Fla., thence over U.S. Highway 27 to junction Georgia Highway 111, thence over Georgia Highway 111 to Meigs, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Macon, Ga., over Georgia Highway 49 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over U.S. Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same routes. Said operations are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 21), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Marianna, Fla., over Florida Highway 71 to Malone, Fla., thence over Florida Highway 2 to the Florida-Georgia State Line, thence over Georgia Highway 91 to Albany, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Macon, Ga., over Georgia Highway 49 to junction Georgia Highway 27, thence over Georgia Highway 27 to Americus, Ga., thence over U.S. Highway 19 via Meigs, Ga., to junction Alternate U.S. Highway 19, thence over Alternate U.S. Highway 19 to Thomasville, Ga., thence over U.S. Highway 319 to Tallahassee, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and return over the same routes. Said operations are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 22), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Greenville, Fla., over U.S. Highway 221 to Quitman, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Jacksonville, Fla., over U.S. Highway 90 to Tallahassee, Fla., thence over Florida Highway 20 to junction U.S. Highway 231, thence over U.S. Highway 231 to Panama City, Fla., and thence over U.S. Highway 98 to Pensacola, Fla., (2) From Thomasville, Ga., over U.S. Highway 19 to junction Alternate U.S. Highway 27, thence over Alternate U.S. Highway 27 to Williston, Fla., thence over U.S. Highway 27 to Miami, Fla., and (3) From Midway, Ga., over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 84 to Thomasville, Ga., and return over the same routes. Said operations in (1), (2), and (3) above,

are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 23), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lake City, Fla., over U.S. Highway 441 to Homerville, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Miami, Fla., over U.S. Highway 41 to Calhoun, Ga., and (2) From Midway, Ga., over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 84 to Thomasville, Ga., and return over the same routes. Said operations in (1) and (2) above are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115003 (Deviation No. 24), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From MacClenny, Fla., over Florida Highway 121 to the Florida-Georgia State Line, thence over Georgia Highway 121 to Folkston, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Fayetteville, N.C., over U.S. Highway 301 to Bradenton, Fla., and (2) From Jacksonville, Fla., over U.S. Highway 90 to Tallahassee, Fla., thence over Florida Highway 20 to junction U.S. Highway 231, thence over U.S. Highway 231 to Panama City, Fla., thence over U.S. Highway 98 to Pensacola, Fla., and return over the same routes. Said operations in (1) and (2) above, are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

No. MC 115093 (Deviation No. 25), MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, Fla. 33622, filed October 3, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Thomasville, Ga., over U.S. Highway 319 to Tifton, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Miami, Fla., over U.S. Highway 41 to Calhoun, Ga., and (2) From Midway, Ga., over U.S. Highway 82 to Waycross, Ga., thence over U.S. Highway 84 to Thomasville, Ga., and return over the same routes. Said operations in (1) and (2) above, are restricted to the transportation of traffic moving between points in Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, and those in that part of New York on and south of New York Highway 7, on the one hand, and, on the other, points in Georgia and Florida.

By the Commission.

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

[FR Doc.76-4760 Filed 2-18-76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY APPLICATIONS

FEBRUARY 13, 1976.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 113666 (Sub-No. 97G), filed January 14, 1976. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: William H. Shawn, 1730 M. Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refractory products* (except in bulk), from points in Pennsylvania, to points in New York, Michigan, Illinois, Indiana, Ohio, Maryland, New Jersey, and West Virginia, restricted in (1) against the transportation of refractory products from Clearfield, Pa., and points within 25 miles thereof, and from Clymer, Mt. Union, and Womelsdorf, Pa., and brick and structural tile from Clearfield, Pa., and points within 25 miles thereof, (2) *refractory products* (except in bulk), from points in Ohio, to points in Indiana, Illinois, Ohio, New York, New Jersey, Michigan, Pennsylvania, and Maryland, (3) *refractory products* (except in bulk), from points in Kentucky, to points in Pennsylvania, Illinois, Indiana, Ohio, Maryland, West Virginia, New Jersey, Michigan, and New York, (4) *refractory products* (except in bulk), from points in Missouri, to points in Michigan, West Virginia, Ohio, Illinois, and Indiana, and (5) *refractory products* (except in bulk), from points in West Virginia, to points in New York, Michigan, New Jersey, Illinois, Indiana, Ohio, Maryland, and Pennsylvania. The purpose of this filing is to eliminate the gateways of Detroit, Mich. and Buffalo, N.Y.

No. MC 119176 (Sub-No. 12G), filed June 5, 1974. Applicant: THE SQUAW TRANSIT COMPANY, a Corporation, P.O. Box 9368, 6211 South 49th West Ave., Tulsa, Okla. 74107. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies*, used in or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery, and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Michigan, Illinois, Indiana, and Ohio, on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, and Florida. The purpose of this filing is to eliminate the gateways of points in Oklahoma, Arkansas, and Texas.

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES NOTICE

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving

fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identificaiton. Protests, if any, must refer to such letter-notices by number.

No. MC 504 (Sub-No. E4) (Correction), filed June 5, 1974, and published in the FEDERAL REGISTER September 2, 1975. Applicant: HARPER MOTOR LINES, INC., P.O. Box 460, Elberton, Ga. Applicant's representative: B. K. McClain, P.O. Box 6985, Atlanta, Ga. 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Baltimore, Maryland, on the one hand, and, on the other, points in North Carolina within the boundaries of U.S. Highway 1, from North Carolina-South Carolina State line, to junction North Carolina Highway 211 to junction North Carolina Highway 41, thence along North Carolina Highway 41 to North Carolina- South Caroline State line, including points on the above named highways. (2) *Granite*, (a) from points in South Carolina in the counties of Greenville, Pickens, Oconee, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Saluda, Aiken, Barnwell, Allendale, Hampton, Jasper, and Beaufort, to points in Maryland on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of points in South Carolina within a 30 mile radius of Laurinburg, North Carolina (Wallace-McColl-Dillion) in (1) above; points in South Carolina within 25 miles of Elberton, Georgia (Starr, South Caroline). The purpose of this partial correction is to correct the destination in (2) (a) above.

No. MC 504 (Sub-No. E13) (Correction), filed May 30, 1974, and published in the FEDERAL REGISTER July 31, 1975, and republished as corrected in this issue. Applicant: HARPER MOTOR LINES, INC., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, . . . (b) from points in South Carolina, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Wilmington, Delaware. The purpose of this filing is to eliminate the gateways of points in North Carolina and South Carolina within 25 miles of Laurinburg, North Carolina (Cheraw, South Carolina-Bennettsville, South Carolina-Dillon, South Carolina). The purpose of this partial correction is to reflect the correct name in (b) above. The remainder of the letter-notice remains as previously published.

No. MC 8535 (Sub-No. E40) (correction), filed July 16, 1975, and published in the FEDERAL REGISTER September 9, 1975. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, Md. 21120. Applicant's reperesentative: James B. Nestor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and Aluminum Products*, from points in Alabama, west of the counties of Jackson, Dekalb, Etowah, Calhoun, Cleburne, Clay, Coosa, Elmore, Montgomery, Grenshaw, and Covington, to points in Connecticut, Massachusetts, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of the facilities of National Southwire Aluminum Co., Southwire Company and National Aluminum Corporation, at or near Hawesville, Ky. The purpose of this partial correction is to reflect the correct applicant's name.

No. MC 8535 (Sub-No. E42) (Correction), filed July 16, 1975, and published in the FEDERAL REGISTER September 9, 1975. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, Md. 21120. Applicant's representative: James B. Nestor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and Aluminum Products*, generally requiring rigging, special equipment or specialized handiling, from points in Kentucky west of Oldham, Shelby, Spencer, Nelson, Marion, Taylor, Adair, Russell, and Wayne Counties, to points in Connecticut, Massachusetts, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of points in Hancock County, Kentucky. The purpose of this republication is to reflect the correct applicant's name above.

No. MC 51146 (Sub-No. E4) (Correction), filed May 1, 1974, and published in the FEDERAL REGISTER issue of April 14, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (58) *Veneer*, as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from High Point and Linwood, N.C., to points in Washington, Oregon, Idaho, Montana, Wyoming, Colorado (except points south of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Interstate Highway 80S, thence along Interstate Highway 80S to the Colorado-Nebraska State line), Utah (except points south of a line beginning at the Arizona-Utah State line and extending along U.S. Highway 91 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Colorado State line), Nevada (except points south of Interstate Highway 15), and California (except points south of a line beginning at the Pacific Ocean at Los Angeles, Calif., and extending along Interstate Highway 10 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line. The purpose of this filing is to eliminate the gateway of Green Bay, Wis. The purpose of this partial republication is to indicate the correct Nevada and California territories proposed to be served.

No. MC 51146 (Sub-No. E5) Correction), filed May 2, 1974, and published in the FEDERAL REGISTER issue of April 15, 1975, republished in the FEDERAL REGISTER of August 18, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (5) *Glass jars, glass bottles, caps, and covers* for glass jars and bottles, and *tin cans* utilized by food business houses (except commodities in bulk), from points in Indiana (except points south of U.S. Highway 24), to points in Washington, Oregon, California, Nevada, Idaho, Montana, North Dakota, Wisconsin (except points south of a line beginning at Lake Michigan and extending along U.S. Highway 41 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Wisconsin-Minnesota State line), Minnesota (except points south of a line beginning at junction U.S. Highway 212, thence along U.S. Highway 212 to the Minnesota-South Dakota State line), South Dakota (except points south of U.S. Highway 16), Wyoming (except points south and east of a line beginning at the South Dakota-Wyoming State line and extending along U.S. Highway 16 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Wyoming-Utah State line), Utah (except points east of a line beginning at the Wyoming-Utah State line and extending along U.S. Highway 30S, thence along U.S. Highway 30S to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line) (Green Bay, Wis.*) * * *

(17) *Fibreboard and pulpboard products* (except commodities in bulk), from Aurora, Ill., to points in Arizona, Cali-

fornia, Washington (except points east of U.S. Highway 97), Oregon (except points east and south of a line beginning at the Washington-Oregon State line and extending along U.S. Highway 395 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 395, thence along U.S Highway 395 to the Oregon-California State line), Nevada (except points north and east of a line beginning at the Oregon-Nevada State line and extending along U.S. Highway 95 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Nevada Highway 25, thence along Nevada Highway 25 to the Nevada-Utah State line), New Mexico (except points north of a line beginning at the Arizona-New Mexico State line, and extending along U.S. Highway 66 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line), Texas (except points north of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 84 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line), and Louisiana (except points north of a line beginning at the Texas-Louisiana State line and extending along Louisiana Highway 8 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Louisiana-Mississippi State line), restricted to shipments originating at the plant and warehouse sites of Georgia-Pacific Corporation (Muncie, Ind.) * * * *

(27) *Paper and paper products* (except commodities in bulk) from the plant and warehouse sites of Packaging Corporation of America, at Burlington, Wis., and the plant and warehouse sites of Guaarian Container Co., Inc., at Kenosha, Wis., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina, restricted to the transportation of traffic originating at the above-named plant and warehouse sites (Muncie, Ind.*) (36) *Cheese and foodstuffs* (except meats, meat products, and meat by-products, and except commodities in bulk), which are materials and supplies utilized by food business houses, from Washington, Oregon, California, Nevada, Colorado, Idaho, Utah, Arizona, Montana, Wyoming, California, New Mexico, North Dakota, South Dakota, Minnesota, Wisconsin (except points south and east of a line beginning at Lake Michigan at Milwaukee, Wis., and extending along U.S. Highway 18 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Wisconsin-Illinois State line), Iowa (except points south and east of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 151 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Missouri State line), Nebraska (except points south and east of a line beginning at the Iowa-Nebraska State line and extending along Nebraska Highway 2 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, Kansas (except points east of U.S. Highway 281), Texas (except points east of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 87 to junction Texas Highway 349, thence along Texas Highway 349 to junction U.S. Highway 67, thence along U.S. Highway 67 to the United States-Mexico International Boundary line), and points in Cimarron, Tex., Beaver and Harper Counties, Okla., to Rhode Island (Green Bay, Wis.) * * *

(40) *Cheese and foodstuffs* (except meats, meat products, and meat by-products, and except commodities in bulk) which are materials and supplies utilized by food business houses, from points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Minnesota, Wisconsin (except points south of a line beginning at Lake Michigan at Sheboygan, Wis., and extending along Wisconsin Highway 23 to junction U.S. Highway 16, thence along U.S. Highway 16 to the Wisconsin-Minnesota State line), Iowa (except points south of Iowa Highway 9), Colorado (except points east of a line beginning at the Nebraska-Colorado State line and extending along Colorado Highway 71 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line), and New Mexico (except points east of a line beginning at the Colorado-New Mexico State line and extending along U.S. Highway 285 to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line), to points in New York, Vermont, New Hampshire, and Maine (Green Bay, Wis.) *. The purpose of this filing is to eliminate the gateways indicated by arterisks above. The purpose of this partial republication is to correct various errors in the territorial descriptions described in the above proposals.

No. MC 51146 (Sub-No. E8) (Correction), filed May 5, 1974, and published in the FEDERAL REGISTER issue of October 23, 1974, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (59) (a) *Paper and paper products* (except commodities in bulk), from points in New York on and south of Interstate Highway 84, and points in New Jersey on and north of a line from Camden, N.J., along New Jersey Highway 70 to the intersection of New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean at Point Pleasant Beach, N.J. (except Riegelsville, Milford, Hughesville, and Warren Glen, N.J.), to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, California, Nevada, Oregon, and Washington, East St. Louis, Ill., and points in Illinois on and south of U.S. Highway 460, points in Mississippi (except points south and east of a line from the Alabama-Mississippi State line along U.S. Highway 82 to the junction of U.S. Highway 51, thence along U.S. Highway 51 to the Mississippi-Louisiana State line), and Evansville, Ind.; (b) *materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) from the destination territory described in (a) above to the origin territory described in (a) above (Paxinos, Pa. and Muncie, Ind.) *. Restriction: The operations authorized immediately above are restricted against the transportation of traffic originating at the excluded (i.e., "excepted") points in New Jersey. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial republication is to indicate that Missouri, Arkansas, and Louisiana should be included as destination states in the above proposal.

No. MC 51146 (Sub-No. E9) (Correction), filed May 9, 1974, and published in the FEDERAL REGISTER September 6, 1974, and republished in part as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (10) *Wood pulp* (except in bulk), between points in Milwaukee, Racine, and Kenosha Counties, Wis., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, points in Michigan south and east of a line from the Indiana-Michigan State line along U.S. Highway 27 to the junction of Michigan Highway 46, thence along Michigan Highway 46 to Lake Huron, points in Indiana on, south, and east of a line from the Illinois-Indiana State line along U.S. Highway 36 to the junction of Interstate Highway 69, thence along Interstate Highway 69 to the Indiana-Michigan State line, and points in Illinois on and south of a line from the Iowa-Illinois State line along U.S. Highway 50 to the junction of Illinois Highway 121, thence along Illinois Highway 121 to the junction of U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line (Lake Geneva, Wis.) *; * * * (47) *Wood pulp* as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products (except commodities in bulk), between points in New Jersey, New York, and Pennsylvania on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Utah, Idaho, Wyoming, Montana, points in Colorado on and west of a line from the Wyoming-Colorado State line along U.S. Highway 87 to the junction of U.S. Highway 285, thence along U.S.

Highway 285 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the junction of U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line, and points in Arizona on and west of a line from the Utah-Arizona State line along an unnumbered highway to the junction of Arizona Highway 63, thence along Arizona Highway 63 to the junction of U.S. Highway 66, thence along U.S. Highway 66 to the junction of U.S. Highway 180, thence along U.S. Highway 180 to the Arizona-New Mexico State line (Green Bay, Wis.) *;

(61) (a) *wood pulp* produced or distributed by manufacturers and converters of paper and paper products (except commodities in bulk), from points in Maryland, Delaware, West Virginia, and Virginia to points in North Dakota, Minnesota, points in South Dakota on and north of a line from the Iowa-South Dakota State line along South Dakota Highway 46 to the junction of U.S. Highway 81, thence along U.S. Highway 81 to the Iowa-Nebraska State line; points in Iowa on and north of a line beginning at Lansing, Iowa and extending along Iowa Highway 9 to junction Iowa Highway 60, thence along Iowa Highway 60 to Le Mars, Iowa, thence along Iowa Highway 3 to the South Dakota-Iowa State line, and points in Nebraska on and north of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 83 to Valentine, Nebr., thence along U.S. Highway 20 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to Scottsbluff, Nebr., thence along U.S. Highway 26 to the Wyoming-Nebraska State line; (b) *wood pulp* used in the manufacture and distribution of paper and paper products (except in bulk), from points in North Dakota, Minnesota, and points in South Dakota, on and north of a line from the Iowa-South Dakota State line along South Dakota Highway 46 to the junction of U.S. Highway 81, thence along U.S. Highway 81 to the Iowa-Nebraska State line, points in Iowa on and north of a line beginning at Lansing, Iowa and extending along Iowa Highway 9 to junction Iowa Highway 60, thence along Iowa Highway 60 to Le Mars, Iowa, thence along Iowa Highway 3 to the South Dakota-Iowa State line, and points in Nebraska on and north of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 83 to Valentine, Nebr., thence along U.S. Highway 20 to junction Nebraska Highway 71, thence along Nebraska Highway 71 to Scottsbluff, Nebr., thence along U.S. Highway 26 to the Wyoming-Nebraska State line, to points in Maryland, Delaware, West Virginia, and Virginia (Mosinee, Wis.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial republication is to correct various errors in the territorial descriptions described in the above proposals.

No. MC 51146 (Sub-No. E10) (Correction), filed May 9, 1974, and published in the FEDERAL REGISTER issue of August 23, 1974, and republished in part as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's arepresentative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (10) *Canned goods and frozen vegetables* utilized by food business houses as materials and supplies (except commodities in bulk from points in New York, New Jersey, and Pennsylvania, to points in Washington, Oregon, California, Nevada, Utah, Wyoming, Montana, Idaho, points in Arizona on and west of a line from the Utah-Arizona State line and extending south over unnumbered highway to the intersection of Arizona Highway 63, thence along Arizona Highway 63 to the junction of U.S. Highway 66, thence along U.S. Highway 66 to the junction of U.S. Highway 180, thence along U.S. Highway 180 to the Arizona-New Mexico State line, and points in Colorado on and west of a line from the Wyoming-Colorado State line along U.S. Highway 87 to the junction of U.S. Highway 85, thence along U.S. Highway 85 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the junction of U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line (the plant and warehouse facilities of Haskon, Bingham/Risdon Division at Ashwaukenon, Wis.) * * * *

(63) *Metal containers, container ends*, utilized by food business houses (except commodities in bulk) from points in Washington, Oregon, Montana, North Dakota, points in Minnesota, on and north of a line from the Wisconsin-Minnesota State line along U.S. Highway 12 to the junction of Minnesota Highway 23, thence along Minnesota Highway 23 to the junction of U.S. Highway 14, thence along U.S. Highway 14 to the Minnesota-South Dakota State line, points in South Dakota, on and north of U.S. Highway 14, points in Idaho, on, north, and west of a line from the Montana-Idaho State line along U.S. Highway 191 to the junction of U.S. Highway 30 N, thence along U.S. Highway 30 N to the junction of U.S. Highway 30, thence along U.S. Highway 30 to the junction of U.S. Highway 93, thence along U.S. Highway 93 to the Idaho-Nevada State line points in Nevada, on, north, and west of a line from Idaho-Nevada State line along U.S. Highway 93 to the junction of U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-California State line, and to points in California, on and north of Interstate Highway 80, to points in Indiana (Green Bay, Wis.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial republication is to indicate that Idaho should be included as a destination in (10) above, and to indicate that North Dakota should be included as an origin in (63) above.

No. MC 51146 (Sub-No. E11) (Correction), filed May 8, 1974, and published in the FEDERAL REGISTER issue of April 22, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (4) *such new furniture* as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from Altavista, Va., to points in Washington, Oregon, Idaho, Montana, Wyoming, Colorado (except points on and south of a line beginning at the Nebraska-Colorado State line and extending along Colorado Highway 113 to junction U.S. Highway 138, thence along U.S. Highway 138 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Utah State line), Utah (except points on and south of a line beginning at the Colorado-Utah State line and extending along U.S. Highway 6 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line), Nevada (except points south of U.S. Highway 91), and California (except points on, south, and east of a line beginning at the Nevada-California State line and extending along Interstate Highway 15 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction California Highway 111, thence along California Highway 111 to the United States-Mexico International Boundary line (Green Bay, Wis.*).

(43) *Cellulose materials and supplies, paper and paper products, and materials*, equipment, and supplies used in the production and distribution of the above-described commodities (except in each instance commodities in bulk), between points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island, on the one hand, and, on the other, points in Minnesota, Wisconsin, Iowa, Michigan, Kentucky, Indiana (except the Evansville commercial zone as defined by the Commission), Tennessee (except points in the Memphis commercial zone), Illinois (except points in the Chicago commercial zone as defined by the Commission, points in that part of the St. Louis-East St. Louis commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460), Ohio (except those points north of U.S. Highway 322), Alabama (except those points on and north of U.S. Highway 78 and their commercial zones, and Mobile and points in its commercial zones as defined by the Commission), West Virginia (except those points east of U.S. Highway 219), and those points in Pennsylvania on, south and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 322 to junction U.S. Highway 219 at Luthersburg, Pa., thence along U.S. Highway 219 to the Pennsylvania-Maryland State line, restricted against the transportation (a) of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio, and Florence, Ky., and points in their commercial zones as defined by the Commission, (b) of cardboard cartons from points in the described portions of Alabama and Tennessee to points in Maine, New Hampshire,

Vermont, Massachusetts, Rhode Island, and Connecticut, (c) of traffic originating at New Milford, Conn., Lee, Mass., Nashua and Merrimack, N.H., Lincoln, Millinocket, East Millinocket, Rumford, Westbrook, and Woodland, Maine, and Gilman, Vt. (Paxinos, Pa.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial republication is to eliminate an inapplicable restriction in (43) above, to indicate that California Highway 111 intersects the United States-Mexico International Boundary line, not the United States-Canada International Boundary line.

No. MC 51146 (Sub-No. E13) (Correction), filed June 12, 1974, and published in the FEDERAL REGISTER issue of August 18, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (17) (a) *Paper* and paper products, from Lexington, Ky., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, points in Missouri on, north, and west of a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 24 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Oklahoma State line, points in Oklahoma on and west of a line beginning at the Missouri-Oklahoma State line and extending along U.S. Highway 60 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Oklahoma-Texas State line, and points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 281 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico at Port Lavaca, Tex. The purpose of this filing is to eliminate the gateway of Muncie, Ind. The purpose of this partial republication is to indicate the correct Oklahoma Highway boundary lines in the above proposal.

No. MC 51146 (Sub-No. E14) (Correction), filed November 2, 1974, and published in the FEDERAL REGISTER issue of December 18, 1974, republished in the FEDERAL REGISTER issue of February 13, 1975, and republished in part as corrected this issue. Applicant SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (54) *paper and paper products* (except commodities in bulk), from points in Kentucky on and within an area bordered on the north by the Indiana-Kentucky State line, on the west by U.S. Highway 40, on the south by the Tennessee-Kentucky State line, and on the east by Interstate Highway 65, to points in Delaware, New York, Maine, Vermont, New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, points in Virginia on and north of U.S. Highway 50, points in Maryland, on and north of U.S. Highway 50, points in North Dakota on, north and east of a line beginning at the intersection of the Montana-North Dakota State line and U.S. Highway 2, thence along U.S. Highway 2 to its intersection with U.S. Highway 281, thence along U.S. Highway 281 to the International Boundary line between Canada and the United States, and the District of Columbia. Retriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. The purpose of this filing is to eliminate the gateway of the plantsite of Laminated and Coated Products Division of St. Regis Paper Co., at Troy, Ohio. The purpose of this partial republication is to indicate that Delaware should be included as a destination state in the above proposal.

No. MC 51146 (Sub-No. E17) (Correction), filed January 30, 1975, and published in the FEDERAL REGISTER issue of April 9, 1975, partially republished in the FEDERAL REGISTER of August 25, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (12) (a) *such plastic products* (except commodities in bulk) as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from points in Nevada, to points in South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, South Dakota (except points north and west of a line beginning at the Wyoming-South Dakota State line, thence along U.S. Highway 212 to junction U.S. Highway 83, thence along U.S. Highway 83 to the North Dakota-South Dakota State line), North Dakota (except points west of U.S. Highway 83), Missouri (except points south of U.S. Highway 40), Kentucky (except points south and west of a line beginning at the Illinois-Kentucky State line, thence along Kentucky Highway 91 to Hopkinsville, thence along U.S. Highway 41 to the Kentucky-Tennessee State line), Tennessee (except points south and west of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to Crossville, thence along U.S. Highway 70 to the Tennessee-North Carolina State line), and the District of Columbia, and (b) *Materials and supplies* (except commodities in bulk and those which because of size or weight require special equipment) used in the manufacture and distribution of the commodities described in (a) above, from the destination territory described in (a) above to Nevada (Clearfield, Utah)*.

(15) (a) *Such plastic products* (except commodities in bulk) as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from points in that part of Idaho on and south of U.S. Highway 26, to points in Kansas, Missouri, Iowa, Illinois, Indiana, Ohio, Michigan, Wisconsin (except points north of a line beginning at St. Croix Falls, thence along U.S. Highway 8 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 2, thence along U.S. Highway 2 to Ashland), Minnesota (except points north of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 2125 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to Wilmar thence along U.S. Highway 12 to the Wisconsin-Minnesota State line), South Dakota (except points west and north of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 281 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Minnesota State line), and Nebraska (except points north and west of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 30 to junction U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-Nebraska State line), and (b) *Materials and supplies* (except commodities in bulk and those which because of size or weight require special equipment) used in the manufacture and distribution of commodities described in (a) above from the destination territory described in (a) above to the origin territory described in (a) above (Clearfield, Utah)*;

(18) (a) *Such plastic products* (except commodities in bulk) as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from points in Utah (except points south and east of a line beginning at the Arizona-Utah State line, thence along U.S. Highway 91 to junction Utah Highway 26, thence along Utah Highway 26 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Utah-Colorado State line, to points in South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Ohio, Michigan, Wisconsin, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, North Dakota (except points south and west of a line beginning at the United States-Canada International Boundary line, thence along U.S. Highway 52 to junction North Dakota Highway 200, thence along North Dakota Highway 200 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to junction U.S. Highway 52, thence along U.S. Highway 52 to Fargo, N. Dak.), Minnesota (except points south and west of a line beginning at Ortonville, thence along Minnesota Highway 7 to junction Minnesota Highway 22, thence along Minnesota High-

way 22 to Mankato, thence along U.S. Highway 14 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Minnesota-Iowa State line), Illinois (except points west and south of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 26 to Peoria, thence along Illinois Highway 29 to Pekin, thence along Illinois Highway 9 to the Illinois-Indiana State line), Indiana (except points south and west of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 74 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Indiana Highway 37, thence along Indiana Highway 37 to Bloomington, thence along Indiana Highway 46 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Indiana-Kentucky State line), Kentucky (except points west of a line beginning at Louisville), thence along U.S. Highway 31W to junction Kentucky Highway 90, thence along Kentucky Highway 90 to Glasgow.

Thence along U.S. Highway 31E to the Kentucky-Tennessee State line), Tennessee (except points west of a line beginning at the Kentucky-Tennessee State line thence along U.S. Highway 31E to Nashville, thence along U.S. Highway 41 to Chattanooga), Georgia (except points west of a line beginning at the Tennessee-Georgia State line, thence along Interstate Highway 75 to Cordele, thence along U.S. Highway 280 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Georgia-Florida State line), Florida (except points west of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 441 to Ocala, thence along Interstate Highway 75 to Tampa), and the District of Columbia, and (b) *Material and supplies* (except commodities in bulk and those which because of size or weight require special equipment) used in the manufacture and distribution of commodities described in (a) above, from the destination territory described in (a) above to the origin territory described in (a) above (Clearfield, Utah)*; The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial republication is to correct various errors in the territorial descriptions described in the above proposals.

No. MC 51146 (Sub-No. E18) (Correction), filed May 23, 1974, and published in the FEDERAL REGISTER issue of May 1, 1975, and republished in part in the FEDERAL REGISTER issue of August 18, 1975, and partially republished as corrected this issue. Applicant: SCHNEIDER TRANSPORT, P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (10) *Plastic pallets* produced or distributed by manufacturers and converters of paper and paper products (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment), from points in Washington, Oregon, California, Nevada, Utah, Idaho, Montana, Wyoming, Arizona, and points in Colorado on, north and west of a line beginning at the Nebraska-Colorado State line and extending along Colorado Highway 71 to the intersection of U.S. Highway 24, thence along U.S. Highway 24 to the intersection of U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line, to points in New York, Pennsylvania, and New Jersey, (Neenah, Wis.)*; (15) *Metal containers* (except containers which because of size or weight require the use of special equipment), and container ends utilized by food business houses (except commodities in bulk), from Rockford, Ill. and Kankakee, Ill., to points in Washington, Oregon, Montana, Minnesota (except points south of a line beginning at the Canadian-Minnesota boundary and extending along U.S. Highway 71 to the intersection of Minnesota Highway 34.

Thence along Minnesota Highway 34 to the intersection of U.S. Highway 10, thence along U.S. Highway 10 to the Minnesota-North Dakota State line), North Dakota (except points south and east of a line beginning at the Minnesota-North Dakota State line and extending along U.S. Highway 10 to the intersection of U.S. Highway 281, thence along U.S. Highway 281 to the North Dakota-South Dakota State line), South Dakota (except points south and east of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to the intersection of U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line), Wyoming (except points south of a line beginning at the South Dakota-Wyoming State line and extending along U.S. Highway 14 to the intersection of U.S. Highway 20, thence along U.S. Highway 20 to the Wyoming-Idaho State line), Idaho (except points south and east of a line beginning at the Montana-Idaho State line and extending along U.S. Highway 191 to the intersection of U.S. Highway 30, thence along U.S. Highway 30 to the intersection of U.S. Highway 93, thence along U.S. Highway 93 to the Idaho-Nevada State line), Nevada (except points south of Interstate Highway 15), and California (except points east of a line beginning at the Nevada-California State line and extending along Interstate Highway 15 to junction Interstate Highway 5, thence along Interstate Highway 5 to the United States-Canada International Boundary line. (Ashwaubenon, Wis.*).

(18) *Metal containers* (except those which because of size or weight require the use of special equipment) and *metal container ends and accessories* therefor, utilized by food business houses (except commodies in bulk), from the plant and warehouse sites of Crown Cork and Seal Company, Inc., at Baltimore, Md.; Salisbury, Md.; North Bergen, N.J.; and Philadelphia, Pa., and from the plant and warehouse sites of National Can Corporation at Baltimore and Cambridge, Md., Danbury, Conn.; Edison, N.J., Fairless and Hanover, Pa., and within that part of New York Commercial Zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemptions provided by Section 203(b)(8) of the Act (the exempt zone), to points in Washington, Oregon, California, Nevada, Idaho, Utah, Wyoming, Montana, North Dakota, Minnesota, points in South Dakota on, north and west of a line beginning at the Minnesota-South Dakota State line and extending along U.S. Highway 16 to the intersection of South Dakota Highway 47, thence along South Dakota Highway 47 to South Dakota-Nebraska State line, points in Colorado on and west of a line beginning at the Wyoming-Colorado State line and extending along U.S. Highway 87 to the intersection of U.S. Highway 285, thence along U.S. Highway 285 to the intersection of U.S. Highway 50, thence along U.S. Highway 50 to the intersection of U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line, and points in Arizona on and west of a line beginning at the Utah-Arizona State line, thence south over unnumbered highway to the intersection of Arizona Highway 63, thence along Arizona Highway 63 to the intersection of U.S. Highway 66, thence along U.S. Highway 66 to the intersection of U.S. Highway 180, thence along U.S. Highway 180 to the Arizona-New Mexico State line. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the above described facilities, (Ashwaubenon, Wis.)*;

(23) *Cellulose materials and products, paper and paper products, materials and supplies* used in the production and distribution of the above-described commodities (except in each instance commodities in bulk), between points in New York on and south of Interstate Highway 84 and points in New Jersey on and north of a line beginning at Camden, N.J., extending along New Jersey Highway 70 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean at Point Pleasant Beach, on the one hand, and, on the other, to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, points in Colorado on and west of U.S. Highway 85, and points in New Mexico on and west of U.S. Highway 85. Restriction: The operations authorized above are restricted against the transportation of traffic originating from Riegelsville, Milford, Hughesville, and Warren Glen, N.J. (Paxinos, Pa. and Green Bay, Wis*). The purpose of this filing is to eliminate the gateways inidcated by asterisks above. The purpose of this partial republication is to correct various errors in the territorial description in the above proposals.

No. MC 107012 (Sub-No. E150), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Elkhart, Bartow, Carroll, Catoosa, Chattooga, Dade, Douglas,

Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, Whitfield, Fresno, Kings, Tulare, Inyo, Tuolumne, Yolo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Colusa, Madera, Monterey, Contra Cost, Amador. Eldorado, Marin, Mariposa, Napa, Alameda, Alpine, Merced, Mono, Placer, Calaveras, Trinity, Humboldt, Lake, Mendicino, Tehama, Glenn, Nevada, Siskiyou, Sierra, Plumas, Lassen, Modoc, Shasta, Yuba, Butte Counties, Calif.; Mesa, Moffat, Rio Blanco, Routt, Garfield Counties, Colo.; Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Woodbury, Buena Vista, Clay, Cherokee, Carroll, Ida, Kossuth, Monona, O'Brien, Osceola, Calhoun, Crawford, Dickinson, Emmet, Humboldt, Winnebaga, Winneshiek, Wright, Worth, Chickasaw, Delaware, Fayette, Clayton, Floyd, Franklin, Hancock, Howard, Mitchell, Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Cord Counties, Iowa; Eureka, Lander, Nye, Esmeralda, Pershing, Washoe, Storey, Douglas, Humboldt, Lyon, Mineral, Churchill, Ormsby, Elko, Hitepine Counties, Nev.; Summit, Wasatch, Utah, Tooele, Weber, Cache, Davis, Morgan, Rich, Box Elder, Salt Lake, Garfield, Wayne, Kane, Millard, Piute, Sanpete, Juab, Sevier Counties, Utah.

(2) From points in Barrow, Banks, Butts, Cherokee, Clayton, Elkhart, Clarke, Coweta, Cobb, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Hall, Hart, Habersham, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White Counties, Ga., to points in Inyo, Fresno, Kings, Tulare, Marin, Mariposa, Merced, Mono, Monterey, Napa, San Benito, Placer, Sacramento, San Francisco, San Joaquin, Santa Clara, San Mateo, Santa, Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Alameda, Alpine, Amador, Calaveras, Colusa, Glenn, Humboldt, Lake, Mendicino, Tehama, Yuba, Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou Counties, Calif.; Garfield, Mesa, Moffat, Rio Blancho, Routt, Counties, Colo.; Webster, Wayne, Warren, Tama, Story, Poweshiek, Polk, Monroe, Marshall, Marion, Mahaska, Jasper, Madison, Lucas, Hardin, Grundy, Hamilton, Greene, Dacatur, Dallas, Clarke, Boone, Appanoose, Sioux, Pocahontas, Sac, Plymonth, Woodbury, Palo Alto, Osceola, O'Brien, Monona, Ida, Kossuth, Lyon, Humboldt, Emmet, Dickinson, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Mitchell, Wright, Worth, Winneshiek, Winnebago, Howard, Hancock, Fayette, Floyd, Franklin, Delaware, Chickasaw, Clayton, Cerro Gord, Butler, Buchanan, Bremer, Clack Hawk, AHamakee Counties, Iowa; Esmeralda, Eureka, Lander, Nye, Washoe, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Elko, Whitepine Counties, Nev.; Rich, Utah, Summit, Tooele, Salt Lake, Wasatch, Weber, Morgan, Davis, Cache, Box Elder, Piute, Millard, Wayne, Sevier, Sanpete, Kane, Juab, Garfield, Washington, Iron, Beaver Counties, Utah.

(3) From points in Baldwin, Burke, Elkhart, Columbia, Emanuel, Glascock, Greene, Hancock, Jenkins, Jefferson, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkinson, Wilkes Counties, Ga.; to points in Fresno, Inyo, Kings, Tulare, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Mono, Merced, Mariposa, Marin, Madera, Eldorado, Contra Costa, Calaveras, Colusa, Amador, Alpine, Alameda, Santa Cruz, Santa Clara, San Mateo, San Joaquin, San Francisco, Sacramento, Placer, San Benito, Monterey, Napa, Trinity, Tehama, Mendicino, Lake, Humboldt, Glenn, Nevada, Plumas, Butte, Lassen, Modoc, Yuba, Shasta, Sierra, Siskiyou Counties, Calif.; Gilpin, Fremont, El Paso, Elbert, Eagle, Douglas, Denver, Cedar Creek, Chaffee, Boulder, Arapahoe, Adams, Teller, Summit, Pitkin, Park, Larimer, Jefferson, Lake, Grand, Jackson, Weld, Washington, Phillips, Sedgwick, Yuma, Logan, Kit Carson, Mesa, Garfield, Routt, Rio Blanco, Moffat, Counties, Colo.; Webster, Wayne, Lucas, Jasper, Hardin, Hamilton, Grundy, Greene, Decatur, Dallas, Clarke, Boone, Appanoose, Warren, Tama, Story, Poweshiek, Polk, Monroe, Marion, Marshall, Mahaska, Madison, Dickinson, Kossuth, Ida, Humboldt, Emmet, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Woodbury, Sioux, Sac, Pocahontas, Plymouth, Palo Alto, Osceola, O'Brien, Monona, Lyon, Pottawatta, Page, Montgomery, Mills, Harrison, Guthrie, Cass, Fremonth, Audubon, Adams, Adair, Taylor, Union, Ringgold, Shelby, Chickasaw, Floyd, Fayette, Delaware, Clayton, Black Hawk, Allamakee, Buchanan, Butler, Bremer, Wright, Worth, Winneshiek, Winnebago, Mitchell, Howard, Hancock, Franklin Counties, Iowa; Eureka, Esmeralda, Nye, Lander, Pershing, Ormsby, Mineral, Washoe, Storey, Lyon, Humboldt, Douglas, Churchill, Witepine, Elko Counties, Nev.; and points in Utah.

(4) From points in Bryan, Bullock, Candler, Chatham, Effingham, Elkhart, Evans, Liberty, Screven Countries, Ga., to points in Inyo, Fresno, Kings, Tulare, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruze, Solano, Sonoma, Stanislaus, Sutter, Monterey, Tuolumne, Yolo, Mono, Merced, Mariposa, San Benito, Placer, Napa, Marin, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Alameda, Alpine, Glenn, Humboldt, Kake, Mendicino, Tehama, Trinity, Yuba, Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou Counties, Calif.; Fremont, Jefferson, Lake, Jackson, Grand, El Paso, Gilpin, Larimer, Park, Elbert, Pitkin, Teller, Summit, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma, Rio Blanco, Routt, Garfield, Mesa, Moffat Counties, Colo; Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Tama, Marshall, Warren, Monroe, Polk, Poweshiek, Story, Webster, Wayne, Decatur, Greene, Appanoose, Boone, Clarke, Dallas, Grundy, Hamilton, Palo Alto, Plymouth, Pocahontas, Humboldt, Ida, Sac, Sioux, Lyon, Monona, O'Brien, Osceola, Woodbury, Kossuth, Dickinson, Emmet, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Taylor, Union, Pottawatta, Montgomery, Page, Ringgold, Shelby, Harrison, Mills, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Mithcell, Wright, Hancock, Winneshiek, Worth, Franklin, Winnebago, Delaware, Fayette, Floyd, Howard, Chickasaw, Clayton, Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gord Counties, Iowa; Esmeralda, Eureka, Lander, Nye, Washoe, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Whitepine Counties, Nev., and points in Utah.

(5) From points in Appling, Bacon, Elkhart, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, To Ware, Toombs, Wayne, Ware, Wheeler Counties, Ga., to points in Kings, Fresno, Inyo, Tulare, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Madera, El Dorado, Contra Costa, Colusa, Calaveras, Amador, Alpine, Alameda, Sacramento, San Benito, Placer, Napa, Mono, Monterey, Merced, Mariposa, Marin, Glenn, Mendocino, Tehama, Trinity, Humboldt, Lake, Modoc, Nevada, Plumas, Butte, Lassen, Shasta, Sierra, Siskiyou, Yuba Counties, Calif.; Park, Pitkin, Summit, Teller, Jefferson, Jackson, Gilpin, El Paso, Elbert, Eagle, Arapahoe, Adams, Larimer, Lake, Grand, Fremont, Denver, Douglas, Cedar Creek, Chaffee, Weld, Washington, Sedgwick, Phillips, Yuma, Logan, Morgan, Kit Carson, Moffat, Routt, Mesa, Rio Blanco, Garfield Counties, Colo.; Warren, Tama, Wayne, Webster, Poweshiek, Story, Hardin, Hamilton, Grundy, Greene, Decatur, Dallas, Clarke, Boone, Appanoose, Polk, Monroe, Marshall, Mahaska, Marion, Lucas, Madison, Jasper, Pocahontas, Sa, Sioux, Woodbury, Humboldt, Emmet, Dickinson, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Plymouth, Palo Alto, Osceola, Monona, O'Brien, Lyon, Kossuth, Montgomery, Mills, Harrison, Guthrie, Fremont, Cass, Audubon, Adams, Adair, Union, Shelby, Taylor, Ringgold, Pottawatta, Page, Wright, Worth, Fayette, Delaware, Chickasaw, Cerro Gordo, Butler, Buchanan, Bremer, Black Hawk, Allamakee, Winneshiek, Winnebago, Mitchell, Hancock, Howard, Franklin, Floyd, Clayton Counties, Iowa; Eureka, Lander, Nye, Esmeralda, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Douglas, Washoe Churchill, Elko, Whitepine Counties, Nev., and points in Utah.

(6) From points in Atkinson, Baker, Berrien, Ben Hill, Bibb, Bleckley, Brooks, Calhoun, Chattahoo, Clinch, Clay, Coffee, Cook, Colquitt, Crawford, Crisp, Decatur, Dougherty, Dodge, Dooly, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Marion, Macon, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole,

Stewart, Sumter, Taylor, Talbot, Terrell, Telfair, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth Counties, Ga., to points in Humboldt, Lake, Mendicino, Tehama, Glenn, Trinity, Butte, Modoc, Nevada, Plumas, Shasta, Lassen, Siskiyou, Yuba, Sierra Counties, Calif.; Boone, Clarke, Dallas, Decatur, Appanoose, Brundy, Hardin, Hamilton, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Humboldt, Emmet, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Woodbury, Allamakee, Bremer, Buchanan, Butler, Cerro Gord, Black Hawk, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright Counties, Iowa; Douglas, Humboldt, Churchill, Ormsby, Lyon, Mineral, Pershing, Washoe, Storey, Elko, Whitepine Counties, Nev., and Cache, Davis, Rich, Morgan, Box Elder, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, Utah. The purpose of this filing is to eliminate the gateway of Bremen, Ind.

No. MC 107012 (Sub-No. E151), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Elkhart, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassis, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Power Counties, Idaho, to points in Talladega, Tallapoosa, Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Montgomery, Macon, Pike, Russell Counties, Ala., Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, St. Johns, Union, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla, Brevard, Citrus, Hernando, Hillsboro, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Broward, Collier, Dade, Marion, Monroe, Palm Beach, St. Lucie, Charlotte, De Soto, Glades, Haruee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota Counties, Fla., Wayne, Washington, Woodford, Russell, Taylor, Cumberland, Fayette, Gerrard, Green, Jessamine, Mercer, Boyle, Clinton, Marion, Adair, Pulaski, Anderson, Lincoln, Madison, Casey, Metcalfe, Monroe, Rockcastle, Pike, Whitley, Bell, Breathitt, Jackson, Knott, Estill, Clay, Floyd, Knox, Harlan, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Rowan, Pendleton, Scott, Powell, Robertson, Wolfe, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Boone, Bourbon, Boyd, Bracken, Campbell, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Bath, Carroll, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Breckridge, Bullitt, Butler, Christian, Allen, Barren Counties, Ky., Wilson, Rutherford, Sumner, Trousdale, Williamson, Cannon, Jackson, Macon, Putnam, Montgomery, Overton, Robertson, Cheatham, Smith, Clay, Davidson, De Kalb, Dickson, Pickett, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Fentress, Franklin, Hamilton, Marion, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Grundy, Lincoln, Loudon, McMinn, Marshall, Meigs, Monroe, Moore, Morgan, Union, Washington, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi Counties, Tenn.

(2) From points in Adams, Ada, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington Counties, Idaho, to points in Talladega, Tallapoosa, Randolph, St. Clair, Shelby, Clay, Cleburne, Chilton, Chambers, Cherokee, Calhoun, Blount, Bibb, Autauga, Lee, Jefferson, Etowah, Elmore, Cullman, Coosa, Pickens, Tuscaloosa, Marion, Lawrence, Lauderdale, Lamar, Franklin, Fayette, Colbert, Winston, Walker, Marshall, Morgan, Madison, Limestone, Jackson, De Kalb, Henry, Houston, Geneva, Dale, Crenshaw, Covington, Coffee, Bullock, Barbour, Russell, Pike, Montgomery, Macon Counties, Ala., points in Florida; points in Woodford, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Perry, Pike, Whitley, Knott, Jackson, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Wolfe, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Edmonson, Christian, Grayson, Hart, Hardin, Henry, La Rue, Logan, Meade, Allen, Barren, Breckridge, Bullitt, Butler, Jefferson Counties, Ky., Sumner, Trousdale, Williamson, Wislon, Macon, Montgomery, Jackson, De Kalb, Dickson, Davidson, Clay, Cheatham, Cannon, Smith, Rutherford, Robertson, Putnam, Pickett, Overton, White, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, Hamilton, Grundy, Franklin, Cumberland, Fentress, Coffee, Bradley, Bledsoe, Bedford, Meigs, Marshall, Marion, McMinn, Loudon, Lincoln, Unicoi, Union, Washington, Sullivan, Sevier, Anderson, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Wayne, Weakley, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Benion, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston Counties, Tenn.; (3) from points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, Idaho, to points in Alabama, Florida, Kentucky, Mississippi, and Tennessee; and points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Plaquemine, Pointe Coupee, St. Bernard, Orleans, Livingston, LaFourche, Jefferson, Iberville, Iberia, East Felician, East Baton Rouge, Assumption, Ascension Counties, La. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E152), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Marion, Marshall, Mahaska, Madison, Monroe, Polk, Poweshiek, Story, Tama, Wayne, Warren, Webster Counties, Iowa, to points in Flagler, Duval, Clay, Bradford, Baker, Alachua, Union, St. Johns, Putnam, Marion, Nassau, Levy, Indian River, Hillsboro, Hernando, Citrus, Brevard, Volusia, Sumter, Seminole, Polk, Pinellas, Pasco, Orange, Osceola, Lake, Monroe, Martin, Dade, Collier, Broward, St. Lucie, Palm Beach, Hendry, Hardee, Glades, De Soto, Charlotte, Sarasota, Okeechobee, Manatee, Lee, Highlands Counties, Fla.; Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Jasper, Clayton, Clarke, Cherokee, Butts, Barrow, Jackson, Banks, Henry, Hart, Hall, Habersham, Franklin, Fulton, Gilmer, Gwinnett, Forsyth, Fannin, Fayette, Elbert, De Kalb, Coweta, Dawson, Cobb, Greene, Glasoock, Emanuel, Columbia, Burke, Baldwin, Wilkinson, Wilkes, Washington, Warren, Putnam, Richmond, Taliaferro, Treutlen, Oglethorpe, Lincoln, McDuffie, Laurens, Johnson, Jefferson, Jenkins, Hancock, Evans, Effingham, Chatham, Candler, Bullock, Bryan, Screven, Liberty, Long, Jeff Davis, Charlton, Camden, Bacon, Appling, Ware, Wayne, Wheeler, To Ware, Tattnall, Toombs, Pierce, Montgomery, Glynn, McIntosh, Brantley, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole,

Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Bleckley, Bibb, Berrien, Ben Hill, Baker, Grady, Atkinson, Early, Echols, Dougherty, Dooly, Drawford, Crisp, Decatur, Dodge, Cook, Coffee, Colquitt, Clinch, Clay, Calhoun, Chattahoo, Brooks Counties, Ga.; Cumberland, Clinton, Casey, Boyle, Anderson, Woodford, Adair, Wayne, Washington, Taylor, Russell, Metcalfe, Monroe, Pulaski, Rockcastle, Mercer, Madison, Marion, Lincoln, Jessamine, Gerrard, Green, Fayette, Harlan, Floyd, Estill, Clay, Breathitt, Bell, Owsley, Perry, Pike, Whitley, McCreary, Leslie, Letcher, Lee, Laurel, Knox, Knott, Jackson, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Campbell, Bracken, Boyd, Bourbon, Boone, Mason, Bath, Martin, Magoffin, Lewis, Lawrence, Greenup, Harrison, Johnson, Kenton, Grant, Franklin, Gallatin, Fleming, Elliott, Carter, Clark, Carroll Counties, Ky.; points in North Carolina and South Carolina; and points in Cocke, Claiborne, Carter, Campbell, Blount, Anderson, Washington, Union, Unicoi, Scott, Sevier, Sullivan, Knox, Jefferson, Johnson, Hawkins, Hancock, Hamblen, Greene, Grainger Counties, Tenn.

(2) From points in Buena Vista, Carroll, Calhoun, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Woodbury Counties, Iowa; to points in Clay, Flagler, Duval, Levy, Marion, Nassau, Putnam, St. Johns, Union, Alachua, Baker, Bradford, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla, Columbia, Dixie, Franklin, Hillsboro, Lake, Indian River, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Brevard, Citrus, Hernando, Martin, Palm Beach, Monroe, St. Lucie, Broward, Collier, Dade, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Charlotte, De Soto, Glades Counties, Fla.; points in Georgia; points in Wayne, Woodford, Casey, Cumberland, Clinton, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Adair, Anderson, Boyle, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Bell, Breathitt, Clay, Wolfe, Rowan, Scott, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Bath, Boone, Bourbon Counties, Ky.; points in North Carolina and points in South Carolina; points in Sequatchie, Van Buren, Warren, White, Coffee, Fentress, Cumberland, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Bedford, Bledsoe, Bradley, Blount, Campbell, Carter, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Anderson, Claiborne, Cocke Counties, Tenn.

(3) From points in Adams, Adair, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawatta, Ringgold, Shelby, Taylor, Union Counties, Iowa; to points in Marion, Nassau, Levy, Flagler, Duval, Clay, Bradford, Baker, Alachua, Union, St. Johns, Putnam, Pasco, Osceola, Orange, Lake, Indian River, Hillsboro, Hernando, Citrus, Brevard, Volusia, Sumter, Seminole, Polk, Pinellas, St. Lucie, Palm Beach, Monroe, Martin, Dade, Collier, Broward, Manatee, Okeechobee, Lee, Highlands, Hendry, Hardee, Glades, De Soto, Charlotte, Sarasota Counties, Fla.; Washington, Richmond, Wilkes, Taliaferro, Wilkinson, Treutlen, Warren, Jefferson, Jenkins, Hancock, Greene, Glascock, Emanuel, Columbia, Burke, Baldwin, Putnam, Oglethorpe, McDuffie, Lincoln, Laurens, Johnson, Screven, Liberty, Evans, Effingham, Chatham, Candler, Bullock, Bryan, Wayne, Wheeler, Long, McIntosh, Jeff Davis, Glynn, Charlton, Camden, Brantley, Bacon, Appling, Ware, To Ware, Toombs, Tattnall, Pierce, Montgomery Counties, Ga.; Perry, Pike, Whitley, Leslie, Letcher, Jackson, Harlan, Floyd, Estill, Clay, Breathitt, Bell, Owsley, McCreary, Lee, Laurel, Knox, Knott, Lewis, Lawrence, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Harrison, Johnson, Kenton, Carter, Clark, Carroll, Campbell, Bracken, Boyd, Bourbon, Boone, Bath, Greenup, Grant, Gallatin, Franklin, Fleming Elliott, Counties, Ky.; points in North Carolina and South Carolina; points in Union, Washington, Sevier, Sullivan, Unicoi, Hamblen, Greene, Grainger, Cocke, Claiborne, Carter, Campbell, Blount, Anderson, Scott, Knox, Johnson, Jefferson, Hawkins, Hancock, Counties, Tenn.

(4) From points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gord, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright Counties, Iowa, to points in Florida and Georgia; points in Taylor, Washington, Wayne, Woodford, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Lee, Laurel, Knox, Jackson, Knott, Harlan, Floyd, Estill, Clay, Breathitt, Bell, Whitley, Pike, Perry, Owsley, McCreary, Letcher, Leslie, Robertson, Rowan, Scott, Wolfe, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Lewis, Magoffin, Fleming, Elliott, Clark, Carroll, Carter, Campbell, Bracken, Boyd, Bourbon, Boone, Bath, Lawrence, Kenton, Johnson, Harrison, Grant, Greenup, Gallatin, Franklin Counties, Ky.; points in North Carolina and South Carolina; points in Pickett, Overton, Montgomery, Jackson, Macon, Dickson, De Kalb, Davidson, Clay, Cheatham, Cannon, Wilson, Williamson, Trousdale, Sumner, Rutherford, Smith, Robertson, Putnam, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Loudon, Lincoln, Hamilton, Franklin, Grundy, Fentress, Cumberland, Coffee, Bradley, Bledsoe, Bedford, Polk, Morgan, Moore, Monroe, Marshall, Meigs, Marion, McMinn, Washington, Hawkins, Hancock, Hamblen, Greene, Grainger, Cocke, Claiborne, Carter, Campbell, Blount, Anderson, Union, Unicoi, Sullivan, Sevier, Scott, Knox, Johnson, Jefferson Counties, Tenn.

(5) From points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Jones, Johnson, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington Counties, Iowa, to points in Martin, Monroe, Palm Beach, St. Lucie, Broward, Collier, Dade Counties, Fla.; Warren, Stanly, Stokes, Union, Vance, Wake, Allamance, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Anson, Cabarrus, Caswell, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quiman, Pitt, Tyrrell, Washington, Wilson, Beaufort, Bertie, Camden, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, Onslow, North Hanover, Pender, Robeson, Sampson, Scotland, Wayne, Bladen, Brunswick, Carteret, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Alexander, Alleghany, Ashe Counties, N.C.; Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Allendale, Bamberg, Georgetown, Horry, Marion, Williamsburg, Clarendon, Florence, Dillon Counties, S.C. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub No. E153), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Atchison, Brown, Douglas, Doniphan, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatom, Shawnee, Wabaunsee, Wyandotte Counties, Kans.; to points in Warren, Wake, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Durham, Davie, Chatham, Davidson, Caswell, Cabarrus, Anson, Allamance, Person, Orange, Moore, Montgomery, Lee, Guilford, Granville, Franklin, Forsyth, Pitt, Tyrrell, Washington, Wilson, Gates, Edgecombe, Currituck, Dare, Chowan, Camden, Bertie, Beaufort, Per Quiman, Pasquotank, Pamlico, Northampton, Nash, Martin, Hyde, Hertford, Halifax, Wayne, Scotland, Sampson, Greene, Duplin, Cumberland, Craven, Columbus, Carteret, Brunswick, Bladen, Robeson, Pender, Onslow, North Hanover, Lenoir, Jones, Johnston,

Hoke, Harnett, Horry, Marion, Georgetown, Williamsburg Counties, S.C.; points in Virginia.

(2) From points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson Counties, Kans.; to points in Tyrrell, Washington, Wilson, Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quiman, Pitt Counties, N.C.; Arlington, Caroline, Culpeper, Essex, Fauquier, Fairfax, Orange, King George, Prince William, Spotsylvania, Stafford, Westmoreland, Alexandria, Fairfax, Falls Church, Fredericksburg, Clarke, Frederick, Greene, Loudoun, Page, Madison, Rockingham, Rapahaneck, Shenandoah, Warren, Harrisonburg, Winchester, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Albemarle, Amelia, Brunswick, Buckingham, Chesterfield, Charles City, Dinwiddie, Cumberland, Fluvanna, Goochland, Hanover, Henrico, James City, King Queen, King William, Louisa, Lunenburg, Mecklenburg, Norfolk, Williamsburg, Portsmouth, Suffolk, Virginia Beach, Newport News, Hampton, Accomack, Gloucester, Greensville, Wight Isle, Lancaster, Mathews, Middlesex, Nansemond, Northampton, North Umberland, Richmond, Southampton, Surry, Sussex, York, Chesapeake, Emporia, Franklin Counties, Va.

(3) From points in Barton, Barber, Chase, Cloud, Clay, Dickinson, Ellsworth, Geary, Harvey, Harper, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osvorne, Ottawa, Pratt, Republic, Reno, Riley, Rice, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington Counties, Kans., to points in Richmond, Rockingham, Randolph, Orange, Person, Moore, Montgomery, Lee, Granville, Guilford, Franklin, Forsyth, Durham, Davie, Davidson, Chatham, Caswell, Cabarrus, Anson, Allamance, Warren, Wake, Vance, Union, Stokes, Stanly, Rowan, Tyrrell, Washington, Pitt, Pasquotank, Per Quiman, Pamlico, Northampton, Nash, Martin, Hyde, Hertford, Halifax, Gates, Edgecombe, Dare, Currituck, Chowan, Camden, Berties, Beaufort, Wilson, Scotland, Sampson, Pender, Robeson, Onslow, North Hanover, Lenoir, Johnston, Jones, Hoke, Harnett, Greene, Duplin, Cumberland, Craven, Columbus, Carteret, Brunswick, Bladen, Wayne Counties, N.C.; Williamsburg, Marion, Horry, Georgetown, Florence, Dillon, Clarendon Counties, S.C.; and points in Virginia;

(4) From points in Cheyenne, Decatur, Ellis, Gove, Graham, Greeley, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, Kans., to points in Wolfe, Scott, Rowan, Powell, Robertson, Pendleton, Montgomery, Morgan, Nicholas, Owen, Menifee, Mason, Martin, Boyd, Bracken, Campbell, Clark, Carroll, Carter, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Bath, Boone, Bourbon Counties, Ky.; Union, Wake, Vance, Warren, Stanly, Stokes, Caswell, Chatham, Davidson, Forsyth, Davie, Durham, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Allamance, Anson, Cabarrus, Beaufort, Currituck, Dare, Halifax, Edgecombe, Gates, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quiman, Pitt, Tyrrell, Washington, Wilson, Bertie, Camden, Chowan, Columbus, Craven, Cumberland, Harnett, Duplin, Greene, Hoke, Johnston, Jones, Lenoir, North Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Bladen, Brunswick, Carteret, Avery, Burke, Caldwell, Gaston, Catawba, Cleveland, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Alexander, Alleghany, Ashe Counties, N.C.; Georgetown, Horry, Marion, Williamsburg, Clarendon, Dillon, Florence Counties, S.C., and points in Virginia; (5) from points in Comanche, Edwards, Finney, Ford, Clark, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens Counties, Kans.; to points in Richmond, Rockingham, Rowan, Stanly, Warren, Stokes, Union, Vance, Wake, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Washington, Wilson, Tyrrell, Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quiman, Pitt, Wayne, Scotland, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, North Hanover, Onslow, Pender, Sampson, Robeson Counties, N.C., and points in Virginia. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E154), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub shower enclosures*, uncartoned, (1) from points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Wayne, Washington, Woodford Counties, Ky., to points in Maricopa, Santa Cruz, Pinal, Pima and Yuma Counties, Ariz.; points in California; points in Chaffee, Cedar Creek, Boulder, Arapahoe, Adams, Teller, Summit, Pitkin, Park, Lake, Larimer, Jackson, Jefferson, Grand, Gilpin, Fremont, El Paso, Elbert, Eagle, Douglas, Denver, Sedgwick, Phillips, Morgan, Logan, Kit Carson, Yuma, Weld, Washington, Routt, Rio Blanco, Moffat, Mesa, Garfield Counties, Colo.; points in Idaho, South Dakota, Utah, and Wyoming; points in Greene, Decatur, Dallas, Clarke, Boone, Appanoose, Webster, Wayne, Warren, Tama, Story, Poweshiek, Polk, Monroe, Marshall, Marion, Mahaska, Madison, Lucas, Jasper, Hardin, Hamilton, Grundy, Kossuth, Ida, Humboldt, Dickinson, Crawford, Buena Vista, Woodbury, Sioux, Sac, Pocahontas, Plymouth, Palo Alto, Osceola, O'Brien, Monona, Lyon, Emmet, Clay, Cherokee, Carroll, Calhoun, Cerro Gord, Butler, Buchanan, Bremer, Black Hawk, Allamakee, Wright, Worth, Winneshiek, Mitchell, Winnebago, Howard, Hancock, Franklin, Floyd, Fayette, Clayton, Delaware, Chickasaw Counties, Iowa; points in Minnesota and Nevada.

(2) From points in Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knox, Knott, Laurel, Leslie, Lee, Letcher, McGreary, Owsley, Perry, Pike, Whitley Counties, Ky., to points in Pinal, Pima, Maricopa, Santa Cruz, Yuma, Apache, Coconino, Mohave, Navajo, Yavapi Counties, Ariz.; points in California; points in Pitkin, Summit, Teller, Park, Larimer, Lake, Jefferson, Jackson, Grand Gilpin, El Paso, Fremont, Elbert, Denver, Douglas, Eagle, Chaffee, Cedar Creek, Boulder, Arapahoe, Adams, Weld, Yuma, Washington, Sedgwick, Phillips, Morgan, Logan, Kit Carson, San Miguel, San Juan, Saguache, Rio Grande, Quray, Montrose, Montezuma, Mineral, Hinsdale, Gunnison, LaPlata, Dolores, Delta, Conejos, Archuleta, Alamosa, Moffat, Mesa, Routt, Rio Blanco, Garfield Counties, Colo.; points in Idaho; points in Story, Tama, Warren, Wayne, Webster, Poweshiek, Polk, Monroe, Marshall, Marion, Mahaska, Madison, Jasper, Lucas, Hardin, Greene, Hamilton, Grundy, Decatur, Dallas, Clarke, Boone, Appanoose, Sac, Sioux, Woodbury, Pocahontas, Plymouth, Palo Alto, Osceola, O'Brien, Monona, Lyon, Ida, Kossuth, Humboldt, Emmet, Dickinson, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Union, Taylor, Shelby, Ringgold, Page, Pottawatta, Montgomery, Guthrie, Harrison, Mills, Fremont, Cass, Audubon, Adams, Adair, Wright, Worth, Winneshiek, Winnebago, Mitchell, Howard, Hancock, Franklin, Floyd, Fayette, Delaware, Cerro Gord, Clayton, Chickasaw, Butler, Buchanan, Bremer, Black Hawk, Allamakee Counties, Iowa; points in Minnesota, Nevada, South Dakota, Utah, and Wyoming; and points in San Juan, Rio Arriba, McKinley Counties, N. Mex., Moffat, Mesa, Routt, Rio Blanco, Garfield Counties, Colo.; points in Idaho; points in Story, Tama, Warren, Wayne, Webster, Poweshiek, Polk, Monroe, Marshall, Marion, Mahaska, Madison, Jasper, Lucas, Hardin, Greene, Hamilton, Grundy, Decatur, Dallas, Clarke, Boone, Appanoose, Sac, Sioux, Woodbury, Pocahontas, Plymouth, Palo Alto, Osceola, O'Brien, Monona, Lyon, Ida, Kossuth, Humboldt, Emmet, Dickinson, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Union, Taylor, Shelby, Ringgold, Page, Pottawatta, Montgomery, Guthrie, Harrison, Mills, Fremont, Cass, Audubon, Adams, Adair, Wright, Worth, Winneshiek, Winnebago,

Mitchell, Howard, Hancock, Franklin, Floyd, Fayette, Delaware, Cerro Gord, Clayton, Chickasaw, Butler, Buchanan, Bremer, Black Hawk, Allamakee Counties, Iowa; points in Minnesota, Nevada, South Dakota, Utah, and Wyoming; and points in San Juan, Rio Arriba, McKinley Countries, N. Mex.

(3) From points in Bath, Bourbon, Boone, Boyd, Bracken, Carroll, Campbell, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Greenup, Grant, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Morgan, Montgomery, Nicholas, Owen, Pendleton, Powell, Rowan, Robertson, Scott, Wolfe Counties, Ky., to points in Arizona, California, Colorado, and Idaho; points in Appanoose, Boone, Clarke, Dallas, Decatur, Grundy, Greene, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Carroll, Cherokee, Clay, Dickinson, Crawford, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Pocahontas, Plymouth, Sac, Sioux, Woodbury, Adair, Adams, Audubon, Cass, Fremont, Harrison, Guthrie, Mills, Montgomery, Page, Pottawatta, Ringgold, Taylor, Union, Shelby, Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gord, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Howard, Mitchell, Hancock, Winnebago, Worth, Winneshiek, Wright Counties, Iowa; Logan, Greeley, Lane, Gove, Graham, Cheyenne, Decatur, Ellis, Wichita, Wallace, Trego, Sherman, Thomas, Sheridan, Scott, Rush, Rooks, Rawlins, Phillips, Norton, Ness Counties, Kans.; points in Minnesota and Nevada; points in Los Alamos, Sandoval, San Miguel, Santa Fe, Bernalillo, Guadalupe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos, Union, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro Counties, N. Mex.; Beaver, Cimarron, Texas Counties, Okla.; and points in South Dakota, Utah, and Wyoming.

(4) From points in Ballard, Carlisle, Caldwell, Calloway, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hishman Hopkins, Livingston, Lyon, Marshall, McLean, McCracken, Trigg, Union, Webster Counties, Ky.; Yolo Tuolumne, Sutter, Stanislaus, Solana, Sonoma, Santa Clara, Santa Cruz, Calaveras, Alpine, Amador, Alameda, San Mateo, San Joaquin, San Francisco, Sacramento, San Benito, Placer, Napa, Monterey, Mono, Merced, Mariposa, Madera, Marin, Eldorado, Contra Costa, Colusa, Mendicino, Humboldt, Lake, Glenn, Trinity, Tehama, Trinity, Sierra, Siskiyou, Yuba, Lassen, Modoc, Nevada, Butte, Plumas, Shasta Counties, Calif.; points in Idaho; points in Aitkin, Carlton, Cook, Lake, St. Louis, Tasca, Crow Wing, Douglas, Grant, Kandiyohi, Hubbard, Lac Q Parl, Meeker, Morrison, Pope, Otter Tail, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Med, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Beltrami, Clearwater, Kittson, Koochichin, Lake Woods, Mahnomen Counties, Minn.; Esmeralda, Eureka, Lander, Nye, Pershing, Storey, Washoe, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Whitepine Counties, Nev.; Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Beadle, Brookings, Brown, Clark, Codington, Day, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Brule, Buffalo, Hand, Hughes, Hyde, Jones, McPherson, Perkins, Potter, Walworth, Corson, Campbell, Dewey, Edmunda, Faulk, Harding, Bennett, Meade, Pennington, Washabaugh, Shannon, Ziebach, Butte, Custer, Fall River, Haakon, Jackson, Lawrence Counties, S. Dak.; Summit, Tooele, Utah, Weber, Wasatch, Cache, Davis, Morgan, Rich, Box Elder, Salt Lake Counties, Utah; Yellowstone National Park, Teton, Park, Natrona, Hot Spring, Fremont, Weston, Washakie, Sheridan, Johnson, Crook, Campbell, Big Horn Counties, Wyo. The purpose of the filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E155), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Ascension, Assumption, East Felician, East Baton Rouge, Iberville, Iberia, Jefferson, John Baptist, LaFourche, Livingston, Orleans, Plaquemine, Pointe Coupee, St. Tammany, St. James, St. Charles, St. Mary, St. Bernard, St. Martin, St. Helena, Tangipahoa, Terrebonne, West Baton Rouge, West Felician, Washington Parishes, La., to points in Tasca, St. Louis, Lake, Cook, Carlton, Aitkin, Kandiyohi, Yellow Meadow, Hubbard, Grant, Douglas, Crow Wing, Clay, Swift, Chippewa, Cass, Big Stone, Benton, Becker, Stevens, Stearns, Renville, Wilkin, Wadena, Traverse, Todd, Pope, Otter Tail, Meeker, Lac Q Parl, Morrison, Roseau, Marshall, Red Lake, Lake Woods, Kittson, Norman, Pennington, Polk, Mahnomen, Koochichin, Beltrami, Clearwater Counties, Minn., McCone, Phillips, Garfield, Dawson, Daniels, Valley, Roosevelt, Richland, Sheridan, Wheatland, Teton, Toole, Pondera, Petroleum, Meagher, Hill, Chouteau, Fergus, Lewis Clark, Golden Valley, Judi Basin, Liberty, Cascade, Blaine, Missoula, Sanders, Powell, Mineral, Lincoln, Lake Glacier, Flathead Counties, Mont.; points in North Dakota; and points in Mason, Jefferson, Grays Harb, Kitsap, San Juan, Clallam, Whatcom, King, Skagit, Chelan, Grant, Sonohomish, Island, Douglas, Kittitas, Spokane, Pend Oreil, Stevens, Ferry, Lincoln, Okanogan Counties, Was.; (2) from points in Acadia, Allen, Beauregard, Calacasieu, Cameron, Jeff Davis, LaFayette, Vermilion Parishes, La., to points in Aitkin, Carlton, Cook, Lake, St. Louis, Tasca, Roseau, Red Lake, Polk, Pennington, Beltrami, Clearwater, Kittson, Lake Woods, Koochichin, Mahnomen, Marshall, Norman Counties, Minn. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E156), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Tub and shower enclosures*, uncartoned, from points in Berkshire, Franklin, Hampshire, Hampden, Worcester, Essex, Middlesex, Norfolk, Suffolk Counties, Mass., to points in Winston, Walker, Tuscaloosa, Lauderdale, Lawrence, Marion, Pickens, Lamar, Franklin, Colbert, Fayette Counties, Ala. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E157), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Aitkin, Carlton, Cook, Lake, St. Louis, Tasca Counties, Minn.; to points in Alabama; points in Russell, Taylor, Washington, Wayne, Woodford, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Jackson, Knott, Knox, Laurel, Whitley, Lee, Leslie, Letcher, McCreary, Pike, Owsley, Perry, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Wolfe, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Jefferson, Henry, La Rue, Edmonson, Spencer, Hart, Todd, Hardin, Grayson, Trimble, Warren, Allen, Barren, Breckenridge, Bullitt, Butler, Christian Counties, Ky.; St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, St. Bernard, Washington, West Baton Rouge, Pointe Coupee, West Felician, Plaquemine, Orleans, Livingston, Lafourche, Jefferson, Ascension, Assumption, East Baton Rouge, East Felician, Iberia, Iberville, Vermilion, LaFayette, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jeff Davis Parishes, La.; points in Mississippi; points in Sumner, Trousdale, Williamson, Rutherford, Wilson, Smith, Robertson, Putnam, Jackson, Macon, Montgomery, Overton, Pickett, Davidson, De Kalb, Dickson, Cannon, Cheatham, Clay, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Loudon, McMinn, Marion, Franklin, Lincoln, Hamilton, Grundy, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Scott, Sevier, Grainger, Greene, Sullivan, Hawkins, Unicoi, Union, Washington, Hancock, Hamblen, Jefferson, Johnson, Knox, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Houston, Humphreys, Lawrence, Lewis,

Maury, Perry, Stewart, Henry, Wayne, Weakley, Hickman, Benton, Carroll, Decatur, Giles, Hardin, Henderson Counties, Tenn.

(2) From points in Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, Le Sueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Washington, Wasela, Winona, Wright Counties, Minn., to points in Chilton, Cherokee, Chambers, Calhoun, Talladega, St. Clair, Cullman, Coosa, Cleburne, Clay, Blount, Bibb, Autauga, Randolph, Tallapoosa, Shelby, Jefferson, Lee, Etowah, Elmore, Morgan, Marshall, Madison, Limestone, Jackson, De Kalb, Houston, Pike, Montgomery, Macon, Dale, Covington, Barbour, Russell, Henry, Geneva, Crenshaw, Coffee, Bullock, Monroe, Mobile, Marengo, Lawndes, Hale, Greene, Escambia, Dallas, Conecuh, Clarke, Choctaw, Butler, Baldwin, Wilcox, Perry, Sumter, Washington Counties, Ala., Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Adair, Anderson, Bell, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Breathitt, Clay, Wolfe, Scott, Bath, Bourbon, Boyd, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Rowan, Robertson, Boone, Bracken Counties, Ky., Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Bedford, Bledsoe, Brauley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, Marshall, McMinn, Marion, Meigs, Monroe, Washington, Johnson, Hancock, Union, Unicoi, Sullivan, Hamblen, Grainger, Claiborne, Carter, Campbell, Blount, Greene, Cocke, Anderson, Knox, Scott, Sevier, Jefferson, Hawkins Counties, Tenn.

(3) From points in Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock, Watonwan Counties, Minn., to points in Tallapoosa, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Elmore, Cullman, Coosa, Cleburne, Clay, Chilton, Cherokee, Chambers, Calhoun, Blount, Bibb, Autauga, Morgan, Marshall, Madison, Limestone, Jackson, De Kalb, Russell, Henry, Geneva, Dale, Crenshaw, Covington, Coffee, Bullock, Barbour, Pike, Montgomery, Macon, Houston Counties, Ala., Wayne, Marion, Mercer, Taylor, Woodford, Washington, Russell, Rockcastle, Pulaski, Monroe, Metcalfe, Madison, Fayette, Cumberland, Clinton, Casey, Boyle, Anderson, Adair, Lincoln, Jessamine, Green, Gerrard, Letcher, Whitley, Pike, Owsley, Perry McCreary, Knott, Jackson, Harlan, Floyd, Estill, Clay, Breathitt, Bell, Leslie, Lee, Laurel, Knox, Owen, Morgan, Montgomery, Menifee, Mason, Magoffin, Martin, Lewis, Lawrence, Kenton, Nicholas, Gallatin, Grant, Greenup, Scott, Wolfe, Rowan, Robertson, Powell, Pendleton, Harrison, Johnson, Franklin, Fleming, Elliott, Clark, Carter, Carroll, Campbell, Bracken, Boyd, Bourbon, Boone, Bath Counties, Ky., Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Davidson, Clay, Cheatham, Cannon, Putnam, Pickett, Overton, Montgomery, Macon, Jackson, Dickson, De Kalb, Moore, Polk, Morgan, White, Marion, Marshall, Meigs, Warren, Monroe, Van Buren, Sequatchie, Rhea, Roane, McMinn, Loudon, Lincoln, Hamilton, Grundy, Franklin, Fentress, Cumberland, Coffee, Bradley, Bledsoe, Bedford, Johnson, Union, Washington, Knox, Unicoi, Scott, Sevier, Sullivan, Jefferson, Hawkins, Hancock, Hamblen, Greene, Grainger, Cocke, Caliborne, Carter, Campbell, Blount, Anderson Counties, Tenn.

(4) From points in Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Q Pari, Meeker, Morrison, Otter Tail, Pope, Renville, Stevens, Stearns, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Meadow Counties, Minn., to points in Alabama; points in Adair, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Washington, Taylor, Wayne, Woodford, Anderson, Boyle, Breathitt, Clay, Floyd, Harlan, Knox, Lee Knott, Laurel, Leslie, Letcher, McCreary, Owsley, Perry, Whitley, Pike, Bell, Estill, Jackson, Robertson, Rowan, Pendleton, Powell, Owen, Nicholas, Morgan, Wolfe, Scott, Boone, Campbell, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Bath, Bourbon, Boyd, Bracken, Carroll, Carter, Clark, Elliott, Martin, Mason, Menifee, Montgomery, Kenton, Lawrence, Lewis, Magoffin, Hardin, Grayson, Hart, Henry, Muhlenberg, Sheleby, Simpson, Spencer, Allen, Barren, Breckridge, Bullitt, La Rue, Logan, Meade, Ohio, Oldham, Todd, Trimble, Warren, Butler, Christian, Edmonson, Jefferson, Nelson Counties, Ky.; St. Mary, St. Tammany, TAngipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, Jefferson, Lafourche, Livingston, Orleans, Plaquemine, Pointe Coupee, St. Bernard, St. Charles, St, Helena, St. James, John Baptist, St. Martin, Ascension, Assumption, East Baton Rouge, East Felician, Iberia, Iberville Parishes, La.; Jones, Covington, Lamar, Pearl River, Perry, Stone, Wayne, Forrest, George, Greene, Hancock, Harrison, Jackson Counties, Miss.; Davidson, De Kalb, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Cannon, Cheatham, Clay, Dickson, Jackson, Macon, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Blount, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Anderson, Campbell, Carter, Claiborne, Cocke, Grainger Counties, Tenn.

(5) From points in Beltrami, Clearwater, Kittson, Koochichin, Lake Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau Counties, Minn., to points in Alabama and Kentucky; points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, St. Bernard, Ascension, Assumption, East Baton Rouge, East Felician, Iberia, Jefferson, Iberville, Lafourche, Livingston, Orleans, Plaquemine, Pointe, Coupee, Cameron, Jeff Davis, LaFayette, Vermilion, Acadia, Allen, Beauregard, Calcasieu Parishes, La.; and points in Mississippi and Tennessee. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E158), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applican't representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Talahatchi, Washington, Warren, Yazoo Counties, Miss., to points in Shoshone, Nez Perce, Lewis, Letah, Kootenai, Idaho, Clearwater, Bonner, Boundary, Benewah Counties, Idaho; Tasca, St. Louis, Lake, Carlton, Cook, Aitkin, Roseau, Red Lake, Polk, Pennington, Norman, Marshall, Mahnomen, Lake Woods, Koochichin, Clearwater, Kittson, Beltrami Counties, Minn.; Valley, Sheridan, Roosevelt, Richland, Phillips, McCone, Dawson, Garfield, Daniels, Wheatland, Toole, Teton, Pondera, Petroleum, Meagher, Liberty, Lewis Clark, Judi Basin, Hill, Golden Valley, Fergus, Chouteau, Cascade, Blaine, Sanders, Powell, Missoula, Mineral, Lincoln, Glacier, Lake, Flathead Counties, Mont.; Traill, Steele, Nelson, Griggs, Foster, Grand Forks, Eddy, Wells, Walsh, Towner, Sheridan, Rolette, Ramsey, Pierce, Pembina, Cavalier, Benson, Stark, Slope, Sioux, Oliver, Morton, Mercer, Hettinger, Grant, Golden Valley, Emmons, Dunn, Burleigh, Billings, Bowman, Adams, Ward, Renvillee, Mountrail, McLean, McHenry, Burke, Bottineau, McKenzie, Williams, Divide Counties, N. Dak.; Yamhill, Washington, Tillamook, Polk, Marion, Multnomah, Linn, Lincoln, Lane, Columbia, Clackamas, Clatsop, Benton Counties, Ore., and points in Washington.

(2) From points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, LaFayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalo-

busha Counties, Miss., to points in Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Butte, Lassen, Modoc, Plumas, Nevada, Shasta, Sierra, Siskiyou, Yuba Counties, Calif.; Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, Idaho, Aitkin, Carlton, Cook, Lake, St. Louis, Tasca, Beltrami, Clearwater, Kittson, Koochichin, Lake, Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau Counties, Minn.; poinnts in Montana and North Dakota; points in Benton, Clackamas, Clatsop, Lane, Columbia, Lincoln, Linn, Multnomah, Marion, Polk, Tillamook, Washington, Yamhill, Curry, Douglas, Jackson, Josephine, Crook, De Shutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Baker, Grant, Morrow, Union, Umatilla, Wallowa Counties, Oreg.; Campbell, Corson, Dewey, Edmunds, Faulk, Harding, McPherson, Perkins, Potter, Walworth Counties, S. Dak.; and points in Washington; (3) from points in Attala, Clarke, Clairborne, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston Counties, Miss., to points in Shoshone, Nez Perce, Lewis, Latah, Kootenai, Idaho, Clearwater, Boundry, Bonner, Benewah Counties, Idaho; Tasca, St. Louis, Lake, Cook, Carlton, Aitkin, Roseau, Red Lake, Polk, Pennington, Marshall, Norman, Mahnomen, Lake Woods, Koochichin, Kittson, Clearwater, Beltrami Counties, Minn.; Valley, Sheridan, Roosevelt, Richland, Phillips, McCone, Garfield, Dawson, Daniels, Wheatland, Toole, Teton, Pondera, Petroleum, Meagher, Liberty, Judi Basin, Lewis Clark, Hill, Golden Valley, Fergus, Chouteau, Cascade, Blaine, Sanders, Powell, Missoula, Mineral, Lincoln, Lake, Glacier, Flathead Counties, Mont.; points in North Dakota; points in San Juan, Mason, Kitsap, Jefferson, Grays Harb, Clallam, Whatcom, Snohomish, Skagit, Kittitas, King, Island, Grant, Douglas, Chelan, Stevens, Spokane, Pend Oreil, Okanogan, Lincoln, Perry Counties, Wash.

(4) From points in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Perry, Pearl River, Stone, Wayne Counties, Miss., to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Shoshone, Nez Perce Counties, Idaho; Aitkin, Tasca, St. Louis, Lake, Cook, Carlton, Pope, Todd, Stearns, Wadena, Yellow Meadow, Traverse, Wilkin, Stevens, Swift, Morrison, Otter Tail, Renville, Becker, Meekeer, Lac Q Parl, Kandiyohi, Grant, Hubbard, Douglas, Crow Wing, Clay, Chippewa, Cass, Big Stone, Benton, Beltrami, Roseau, Red Lake, Pennington, Polk, Norman, Marshall, Mahnomen, Koochichin, Lake Woods, Kittson, Clearwater Counties, Minn.; points in Montana and North Dakota; points in Yamhill, Washington, Tillamook, Polk, Multnomah, Marion, Linn, Lincoln, Lane, Columbia, Clatsop, Clackamas, Benton Counties, Ore.; Walworth, Campbell, Potter, Perkins, McPherson, Harding, Washington; (5) from points in Adams, Amite, Franklin, Jeff Davis, Jefferson, Lawrence, Lincoln, Marion, Pike, Walthall, Winkinson Counties, Miss., to points in Lewis, Shoshone, Bonner, Benewah, Boundry, Clearwater, Idaho, Kootenai, Latah, Nez Perce Counties, Idaho; St. Louis, Lake, Cook, Carlton, Aitkin, Tasca, Roseau, Marshall, Mahnomen, Lake Woods, Koochichin, Kittson, Clearwater, Beltrami, Red Lake, Polk, Pennington, Norman Counties, Minn.; Garfield, McCone, Phillips, Roosevelt, Richland, Sheridan, Valley, Daniels, Dawson, Wheatland, Toole, Telton, Pondera, Blaine, Cascade, Chouteau, Golden Valley, Fergus, Hill, Judi Basin, Lewis Clark, Liberty, Meagher, Petroleum, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders Counties, Mont.; points in North Dakota; and points in Clallam, Jefferson, Grays Harb, Snohomish, Whatcom, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Ferry, Lincoln, Okanogan, Pend Oreil, Spokane, Stevens Counties, Wash. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E159), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Dawson, Daniels, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley Counties, Mont., to points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, St. Bernard, Orleans, Plaquemine, Pointe Coupee, Assumption, East Baton Rouge, Ascension, Livingston, Lafourche, Jefferson, Iberville, Iberia, East Felician Parishes, La., and points in Mississippi and Tennessee; (2) from points in Bighorn, Carbon, Carter, Custer, Fallon, Musselshel, Powder River, Prairie, Rosebud, Treasure, Wibaux, Yellowstone Counties, Mont., to points in Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Tate, Prentiss, Pontotoc, Panola, Oktibbeha, Monroe, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lee, Lowndes, Marshall, Lafayette, Wayne, Hancock, Harrison, Covington, Forrest, George, Greene, Jones, Lamar, Pearl River, Perry, Stone, Jackson Counties, Miss.; Williamson, Trousdale, Sumner, Smith, Robertson, Wilson, Rutherford, Montgomery, Cannon, Putnam, De Kalb, Dickson, Jackson, Macon, Overton, Pickett, Cheatham, Clay, Davidson, White, Van Buren, Sequatchie, Warren, Roane, Marshall, Rhea, Marion, Polk, Morgan, Monroe, Meigs, Moore, Bedford, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Bledsoe, Bradley, Coffee, Washington, Scott, Knox, Johnson, Sevier, Sullivan, Unicoi, Anderson, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Blount, Campbell, Carter Maury, Perry, Stewart, Wayne, Weakley, Henderson, Lewis, Hardin, Humphreys, Houston, Hickman, Henry, Giles, Decatur, Carroll, Benton, Lawrence Counties, Tenn.

(3) From points in Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judi Basin, Lewis Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland Counties, Mont., to points in St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, Iberia, Livingston, Plaquemine, Pointe Coupee, St. Bernard, St. Charles, Ascension, Assumption, East Baton Rogue, East Felician, Iberville, Jefferson, Lafourche, Orleans, St. Helena Parishes, La., and points in Mississippi and Tennessee; (4) from points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass Counties, Mont., to points in Tippah, Tishomingo, Tunila, Union, Webster, Tate, Prentiss, Pontotoc, Yalobusha, Monroe, Oktibbeha, Panola, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Alcorn, Benton, Calhoun, Wayne, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone Counties, Miss.; Wilson, Williamson, Trousdale, Sumner, Smith, Rutherford, Robertson, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Lincoln, Loudon, McMinn, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Unicoi, Sullivan, Sevier, Scott, Knox, Washington, Union, Johnson, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Maury, Perry, Stewart, Wayne, Weakley, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Benton, Carroll, Decatur Counties, Tenn.; (5) from points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders Counties, Mont., to points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, Livingston, St. Bernard, Pointe Coupee, Plaquemine, Orleans, Iberia, Iberville, Jefferson, Lafourche, Ascension, Assumption, East Baton Rouge, East Felician Parishes, La., and points in Mississippi and Tennessee. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E160), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Esmeralda, Eureka, Lander, Nye Counties, Nev., to points in Duval, Flagler, Putnam, Levy, Nassau,

Union, St. Johns, Marion, Alachua, Baker, Bradford, Clay, Seminole, Pinellas, Polk, Pasco, Orange, Osceola, Lake, Volusia, Sumter, Indian River, Brevard, Citrus, Hernando, Hillsboro, Palm Beach, St. Lucie, Monroe, Broward, Collier, Dade, Martin, Hendry, Sarasota, Okeechobee, Manatee, Lee, Highlands, Charlotte, De Soto, Glades, Hardee Counties, Fla.; Dade, Walker, Polk, Whitfield, Douglas, Floyd, Gordon, Haralson, Heard, Murry, Paulding, Bartow, Chattooga, Carroll, Catoosa, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, White, Walton, Towns, Jackson, Union, Hart, Jasper, Henry, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Banks, Barrow, Butts, Cherokee, Greene, Hancock, Jefferson, Jenkins, Johnson, Glascock, Wilkinson, Laurens, Washington, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Wilkes, Baldwin, Burke, Columbia, Emanuel, Evans, Effingham, Screven, Liberty, Bryan, Bullock, Chandler, Chatham, Charlton, Glynn, To Ware, Tattnall, Toombs, Ware, Jeff Davis, Wayne, Long, Wheeler, McIntosh, Montgomery, Pierce, Appling, Bacon, Brantley, Camden Counties, Ga.; Green, Jessamine, Lincoln, Gerrard, Cumberland, Fayette, Clinton, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Madison, Adair, Anderson, Boyle, Casey, Perry, Owsley, McCreary, Leslie, Letcher, Knox, Floyd, Knott, Harlan, Laurel, Lee, Jackson, Whitley, Pike, Bell, Breathitt, Clay, Estill, Scott, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Wolfe, Gallatin, Rowan, Grant, Robertson, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Bath, Boone, Bourbon, Boyd, Logan, Meade, Muhlenberg, Nelson, LaRue, Edmonson, Ohio, Oldham, Sheleby, Simpson, Grayson, Hardin, Hart, Henry, Jefferson, Spencer, Todd, Trimble, Warren, Butler, Christian, Allen, Barren, Breckridge, Bullitt Counties, Ky.; points in South Carolina; points in Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Wilson, Rutherford, Smith, De Kalb, Sumner, Trousdale, Williamson, Cannon, Cheatham, Clay, Davidson, Monroe, Morgan, Van Buren, Warren, White, Polk, Rhea, Franklin, Roane, Sequatchie, Grundy, Marshall, Moore, Cumberland, Meigs, Hamilton, Fentress, Lincoln, McMinn, Marion, Loudon, Bedford, Bledsoe, Brauley, Coffee, Sevier, Sullivan, Unicoi, Union, Washington, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Anderson, Blount, Campbell, Carter Counties, Tenn.

(2) From points in Clark, Lincoln Counties, Nev., to points in Clinton, Marion, Mercer, Metcalfe, Monroe, Boyle, Pulaski, Casey, Rockcastle, Russell, Cumberland, Taylor, Fayette, Washington, Wayne, Woodford, Gerrard, Green, Jessamine, Lincoln, Madison, Adair, Anderson, Owsley, Knott, Jackson, Harlan, Floyd, Estill, Leslie, Letcher, McCreary, Lee, Laurel, Knox, Clay, Whitley, Pike, Perry, Bell, Breathitt, Rowan, Robertson, Powell, Pendleton, Owen, Nicholas, Morgan, Campbell, Menifee, Carroll, Bracken, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Montgomery, Bourbon, Boyd, Scott, Wolfe, Magoffin, Martin, Mason, Bath, Boone Counties, Ky.; Spartenburg, Union, York, McCormick, Edgefield, Greenwood, Lamens, Saluda, Newberry, Cherokee, Chester, Horry, Marion, Williamsburg, Florence, Georgetown, Clarendon, Dillon Counties, S.C., Knox, Claiborne, Greene, Grainger, Cocke, Washington, Johnson, Carter, Campbell, Union, Scott, Jefferson, Unicoi, Sullivan, Sevier, Hawkins, Hamblen, Hancock, Anderson, Blount Counties, Tenn.

(3) From points in Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, Nev., to points in Union, Putnam, St. Johns, Nassau, Alachua, Bradford, Levy, Marion, Baker, Clay, Duval, Flagler, Liberty, Wakulla, Taylor, Suwannee, Madison, Gadsen, Gilchrist, Hamilton, LaFayette, Leon, Columbia, Dixie, Franklin, Jefferson, Volusia, Sumter, Seminole, Polk, Pinellas, Hillsboro, Orange, Indian River, Lake, Osceola, Pasco, Citrus, Hernando, Brevard, Broward, Collier, Dade, Martin, Monroe, Palm Beach, St. Lucie, Sarasota, De Soto, Hendry, Lee, Charlotte, Hardee, Manatee, Okeechobee, Glades, Highlands Counties, Fla.; points in Georgia; points in Marion, Wayne, Woodford, Jessamine, Lincoln, Monroe, Pulaski, Rockcastle, Madison, Russell, Taylor, Washington, Mercer, Metcalfe, Anderson, Fayette, Gerrard, Adair, Boyle, Casey, Clinton, Cumberland, Green, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Harlan, Knox, Floyd, Jackson, Bell, Clay, Estill, Knott, Breathitt, Wolfe, Elliott, Scott, Fleming, Franklin, Rowan, Robertson, Gallatin, Powell, Pendleton, Owen, Nicholas, Morgan, Montgomery, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Boone, Bath, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, LaRue, Logan, Simpson, Meade, Muhlenberg, Nelson, Ohio, Spencer, Oldham, Sheleby, Warren, Hart, Henry, Jefferson, Trimble, Todd, Grayson, Allen, Barren, Breckridge, Bullitt, Butler, Christian, Edmonson, Hardin Counties, Ky.; points in South Carolina; points in Overton, Putnam, Williamson, Robertson, Rutherford, Smith, Sumner, Wilson, Trousdale, Pickett, Cannon, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Cheatham, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Lincoln, Loudon, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Bedford, Bradley, Coffee, Fentress, Franklin, Grundy, Hamilton, Bledsoe, Cumberland, Hancock, Johnson, Jefferson, Hawkins, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Carter, Cocke, Greene, Hamblen, Claiborne, Grainger, Anderson, Blount, Campbell, Perry, Maury, Lawrence, Stewart, Wayne, Weakley, Lewis, Humphreys, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston Counties, Tenn.

(4) From points in Elko, Whitepine Counties, Nev., to points in Marion, Putnam, Nassau, Levy, Flagler, Bradford, Union, St. Johns, Duval, Clay, Baker, Alachua, Franklin, Wakulla, Seuwannee, LaFayette, Madison, Jefferson, Gadsen, Gilchrist, Liberty, Hamilton, Leon, Taylor, Dixie, Columbia, Volusia, Sumter, Seminole, Lake, Orange, Indian River, Hillsboro, Osceola, Hernando, Pasoc, Pinellas, Polk, Citrus, Brevard, Martin, Monroe, St. Lucie, Palm Beach, Dade, Collier, Broward, Glades, Okeechobee, Sarasota, Manatee, Lee, Highlands, Hendry, Hardee, De Sota, Charlotte Counties, Fla.; points in Georgia; points in Taylor, Lincoln, Casey, Wayne, Washington, Woodford, Pulaski, Fayette, Clinton, Cumberland, Gerrard, Green, Boyle, Madison, Jessamine, Marion, Mercer, Metcalfe, Monroe, Rockcastle, Russell, Anderson, Adair, Jackson, Knott, Estill, Knox, Floyd, Harlan, Pike, Perry, Owsley, Lee, Leslie, Laurel, Letcher, McCreary, Clay, Whitley, Breathitt, Bell, Bourbon Boyd, Bracken, Campbell, Carroll, Lawrence, Lewis, Scott, Wolfe, Pendleton, Powell, Robertson, Rowan, Carter, Clark, Martin, Franklin, Magoffin, Elliott, Mason, Menifee, Gallatin, Montgomery, Morgan, Nicholas, Owen, Grant, Greenup, Harrison, Johnson, Fleming, Kenton, Boone, Bath, Breckridge, Bullitt, Butler, Christian, Edmonson, Logan, Trimble, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Henry, Spencer, Hart, Todd, Grayson, Hardin, La Rue, Warren, Jefferson, Allen, Barren Counties, Ky.; points in South Carolina; points in Wilson, De Kalb, Montgomery, Overton, Pickett, Putnam, Robertson, Dickson, Jackson, Rutherford, Clay, Smith, Macon, Trousdale, Sumner, Davidson, Williamson, Cheatham, Cannon, Marion, Polk, Marshall, Roane, Sequatchie, Van Buren, Meigs, Monroe, Moore, McMinn, Loudon, Lincoln, Hamilton, Grundy, Warren, White, Morgan, Franklin, Rhea, Fentress, Cumberland, Coffee, Bradley, Bedford, Bledsoe, Cocke, Carter, Campbell, Johnson, Jefferson, Claiborne, Grainger, Knox, Scott, Greene, Sevier, Sullivan, Hamblen, Hancock, Hawkins, Union, Washington, Unicoi, Blount, Anderson Counties, Tenn. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E161), filed May 16, 1974. Applicant: North American Van Lines, Inc., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, from points in Carroll, Grafton, Coos Counties, N.H., to points in Santa Rosa, Escambia, Walton, Okaloosa, Calhoun, Washington, Jackson, Holmes, Gulf, and Bay Counties, Fla. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E162), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Bernalillo, Guadalupe, Los Alamos, Sante Fe, San Miguel, Sandoval, Torrance, Valencia Counties, N. Mex., to points in Wolfe, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Scott, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Bath, Carter, Campbell, Boone, Bourbon, Carroll, Bracken, Boyd Counties, Ky.; Vance, Wake, Forsyth, Warren, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Durham, Davie, Davidson, Cabarrus, Caswell, Chatham, Anson, Allamance, Martin, Nash, Northampton, Pamlico, Pasquotank, Hyde, Per Quiman, Pitt, Tyrrell, Washington, Halifax, Hertford, Wilson, Gates, Chowan, Camden, Beaufort, Bertie, Edgecomb, Dare, Currituck Counties, N.C., and points in Virginia; (2) from points in McKinley, Rio Arriba, San Juan Counties, N. Mex., to points in Estill, Floyd, Harlan, Jackson, Pike, Perry, McCreary, Whitley, Owsley, Lee, Knott, Leslie, Letcher, Knox, Laurel, Clay, Breathitt, Bell, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bourbon, Boone, Bath Counties, Ky.; points in North Carolina; points in Georgetown, Marion, Williamsburg, Horry, Dillon, Clarendon, Florence Counties, S.C., Claiborne, Cocke, Sullivan, Hawkins, Grainger, Greene, Hamblen, Union, Knox, Hancock, Washington, Unicoi, Carter, Jefferson, Johnson, Sevier, Scott, Campbell, Blount, Anderson Counties, Tenn.; points in Virginia.

(3) From points in Colfax, Harding, Moba, Taos, Union Counties, N. Mex., to points in Powell, Pendleton, Robertson, Rowan, Scott, Wolfe, Campbell, Owen, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Bourbon, Boyd, Bracken, Bath, Boone Counties, Ky., Montgomery, Guilford, Lee, Granville, Franklin, Wake, Vance, Union, Stokes, Stanly, Rowan, Person, Orange, Rockingham, Moore, Richmond, Randolph, Warren, Davidson, Davie, Durham, Forsyth, Caswell, Chatham, Cabarrus, Anson, Allamance, Tyrrell, Pitt, Per Quiman, Pasquotank, Pamlico, Dare, Northampton, Nash, Martin, Hyde, Halifax, Hertford, Washington, Gates, Edgecombe, Wilson Chowan, Camden, Bertie, Beaufort, Currituck, Hoke, Cumberland, Onslow, North Hanover, Lenior, Jones, Duplin, Greene, Harnett, Scotland, Robeson, Sampson, Pender, Wayne, Johnston, Columbus, Carteret, Craven, Brunswick, Bladen Counties, N.C., and points in Virginia; (4) from points in Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro Counties, N. Mex., to points in Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bourbon, Boyd, Bracken, Bath, Boone, Campbell, Carroll, Carter Counties, Ky.; Orange, Moore, Montgomery, Lee, Guilford, Granville, Franklin, Rockingham, Forsyth, Rowan, Randolph, Warren, Wake, Vance, Union, Stanly, Stokes, Richmond, Person, Anson, Cabarrus, Davidson, Davie, Durham, Allamance, Caswell, Chatham, Pitt, Tyrrell, Washington, Halifax, Wilson, Hertford, Hyde, Martin, Nash, Pamlico, Northampton, Pasquotank, Per Quiman, Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates Counties, N.C., and points in Virginia.

(5) From points in De Baca, Eddy, Lea, Chaves, Curry, Lincoln, Quay, Roosevelt Counties, N. Mex., to points in Spotsylvania, Alexandria, Stafford, Fairfax, Prince Williams, Falls Church, Fredricksburg, Westmoreland, Arlington, Caroline, Culpeper, Essex, Fairfax, King George, Orange, Warren, Shenandoah, Harrisonburg, Winchester, Greene, Loudoun, Madison, Clarke, Frederick, Page, Rapahanock, Rockingham, King Queen, King Williams, Louisa, Lunenburg, Hanover, Mecklenburg, New Kent, Goochland, Fluvanna, Nottoway, Powhatan, Prince Edward, Prince George, Charlottsville, Colonial Heights, Hopewell, Petersburg, Richmond, Henrico, Waynesboro, James Pity, Albemarle, Amelia, Brunswick, Buckingham, Charles Pity, Chesterfield, Cumberland, Dinwiddle, Virginia Beach, Suffolk, Portsmouth, Williamsburg, Norfolk, Newport News, Northampton, North Umberlan, Richmond, Southampton, Hampton, Franklin, Surry, Sussex, York, Chesapeake, Emporia, Mathews, Middlesex, Nansemond, Accomack, Gloucester, Greensville, Wight Isle, Lancaster Counties, Va. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E163), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Washington, Warren Counties, N.Y., to points in Alabama and points in Bay, Calhoun, Washington, Walton, Santa Rosa, Okaloosa, Jackson, Holmes, Escambia, Gulf Counties, Fla.; (2) from points in Chemung, Chenango, Courtland, Broome, Cayuga, Delaware, Madison, Ontario, Onondaga, Otsego, Schlyler, Schoharie, Seneca, Tioga, Tompkins, Wayne, Yates Counties, N.Y., to points in Shelby, Talladega, Tallapoosa, Clay, Chilton, Cherokee, Chambers, St. Clair, Randolph, Lee, Etowah, Jefferson, Elmore, Blount, Calhoun, Bibb, Autauga, Cullman, Coosa, Cleburne, Lawrence, Lamar, Lauderdale, Franklin, Fayette, Colbert, Winston, Walker, Tuscaloosa, Pickens, Marion, Morgan, Marshall, Madison, Limestone, Jackson, De Kalb, Wilcox, Washington, Perry, Sumter, Monroe, Mobile, Marengo, Hale, Lawndes, Greene, Dallas, Escambia, Conecuh, Clarke, Choctaw, Butler, Baldwin Counties, Ala., and Walton, Santa Rosa, Okaloosa, Jackson, Holmes, Gulf, Calhoun, Escambia, Bay, Washington Counties, Fla.; (3) from points in Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence Counties, N.Y., to points in Alabama and points in Santa Rosa, Washington, Walton, Okaloosa, Holmes, Jackson, Bay, Calhoun, Escambia, Gulf Counties, Fla.; (4) from points in Allegany, Cataraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming Counties, N.Y., to points in Walton, Bay, Calhoun, Escambia, Gulf, Washington, Holmes, Jackson, Okaloosa, Santa Rosa Counties, Fla. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E164), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Allamance, Anson, Cabarrus, Caswell, Chatham, Davie, Davidson, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Warren, Wake Counties, N.C., to points in Arizona, California, Colorado, and Iowa, and points in Doniphan, Jefferson, Johnson, Leavenworth, Miami, Nemaha, Osage, Wyandotte, Atchison, Brown, Douglas, Franklin, Jackson, Marshall, Pottawatom, Shawnee, Wabaunsee, Sumneer, Smith, Stafford, Washington, Reno, Republic, Rice, Riley, Russell, Barber, Sedgwick, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Harper, Geary, Harvey, Jewell, Kingman, Lincoln, McPherson, Marion, Mitchell, Morris, Osborne, Ottawa, Pratt, Saline, Graham, Greeley, Norton, Gove, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Decatur, Cheyenne, Ellis, Lane, Kess, Logan, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Clark, Comanche, Edwards, Finney, Ford, Grant, Hamilton, Gray, Haskell, Hodgeman, Kiowa, Kearny Counties, Kans.; Bernalillo, Guadalupe, San Miguel, Santa Fe, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos, Union, Catron, Don Ana, Grant, Hidalgo, Otero,

Luna, Sierra, Socorro Counties, N. Mex., and Beaver, Cimarron, Texas Counties, Okla.

(2) From points in Bertie, Beaufort, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Pamlico, Per Quiman, Pitt, Tyrrell, Washington, Wilson Counties, N.C., to points in Arizona, California, Colorado, Iowa, and Kansas and points in San Miguel, Santa Fe, Sandoval, Los Alamos, Guadalupe, Bernalillo, Valencia, Torrance, Rio Arriba, McKinley, San Juan, Union, Taos, Mora, Harding, Colfax, Socorro, Sierra, Otero, Luna, Hidalgo, Grant, Dona Ana, Catron Counties, N. Mex., Harmon, Harper, Greer, Ellis, Dewey, Custer, Cotton, Comanche, Caddo, Blaine, Beckham, Alfalfa, Woodward, Washita, Woods, Tillman, Roger Mill, Major, Kiowa, Jackson, Texas, Cimarron, Beaver, Ottawa, Osage, Okmulgee, Nowata, Muskogee, Mayes, McIntosh, Delaware, Craig, Cherokee, Adair, Washington, Wagoner, Tulsa, Seqroyah, Rogers Counties, Okla.; Dallam, Collingsworth, Cottle, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Cochran, Swisher, Sherman, Roberts, Randall, Potterr, Parmer, Oldham, Ochiltree, Motley, Moore, Lipscomb, Lamb, Childress, Castro, Briscoe, Carson, Bailey, Armstrong, Wilbarger, Wichita, Wheeler, Winkler, Ward, Terrell, Reeves, Presidio, Pecos, Loving, Jeff Davis, Hudspeth, El Paso, Culberson, Brewster Counties, Tex.; (3) from points in Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Jones, Johnston, Lenoir, North Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne Counties, N.C., to points in Maricopa, Pima, Pinal, Santa Cruz, Yuma, Apache, Coconino, Mohave, Navajo, Yavapai Counties, Ariz., to points in California, Colorado, and Iowa; points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Leavenworth, Johnson, Marshall, Miami, Nemaha, Osage, Pottawaton, Shawnee, Wabaunsee, Wyandotte, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington, Morris, Osborne, Ottawa, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Harper, Geary, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Pratt, Wichita, Thomas, Trego, Wallace, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Rawnee, Seward, Stanton, Stevens, Clark, Comanche Counties, Kans., and points in Rio Arriba, San Juan, McKinley, Colfax, Harding, Mora, Taos, Union Counties, N. Mex.

(4) From points in Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin Counties, N.C., to points in Pinal, Pima, Santa Cruz, Maricopa, Yuma, Yavapai, Apache, Coconino, Mohave, Navajo Counties, Ariz.; points in California, Colorado, and Iowa; points in Sherman, Wallace, Trego, Wichita, Thomas, Cheyenne, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness Counties, Kans., and McKinley, Rio Arriba, San Juan Counties, N. Mex.; (5) from points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey Counties, N.C., to points in Kern, Los Angeles, Orange, Santa Barber, Ventura, Imperial, Riverside, San Diego, Inyo, Fresno, Kings, Tulare, Tuolumne, Yolo, Santa Cruz, Santa Clara, San Mateo, San Joaquin, San Francisco, Sacramento, Stanislaus, Sutter, Solano, Sonoma, Alameda, Alpine, Amador, Calaveras, Colusa, Centra Costa, Eldorado, Mariposa, Marin, Madera, Merced, Mono, Monterey, Napa, Placer, San Benito, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Yuba, Siskiyou Counties, Calif., Teller, Larimer, Park, Pitkin, Summit, Lake, Jefferson, Jackson, Grand, Gilpin, Fremont, El Paso, Eagle, Douglas, Elbert, Denver, Chaffee, Cedar Creek, Boulder, Arapahoe, Adams, Yuma, Weld, Washington, Sedgwick, Phillips, Morgan, Logan, Kit Carson, Routt, Rio Blanco, Moffat, Mesa, Garfield Counties, Colo.; Tama, Webster, Wayne, Polk, Poweshiek, Warren, Story, Monroe, Marshall, Marion, Mahaska, Madison, Lucas, Jasper, Hamilton, Grundy, Hardin, Greene, Decatur, Dallas, Clarke, Boone, Appanoose, Pocahontas, Sac, Plymouth, Sioux, Woodbury, Palo Alto, Osceola, O'Brien, Monona, Lyon, Kossuth, Ida, Dickinson, Emmet, Humboldt, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Union, Taylor, Shelby, Ringgold, Pottawatta, Page, Harrison, Mills, Montgomery, Guthrie, Fremont, Cass, Audubon, Adams, Adair, Winneshiek, Wright, Worth, Winnebago, Mitchell, Howard, Hancock, Franklin, Floyd, Fayette, Chickasaw, Clayton, Delaware, Cerro Gord, Butler, Buchanan, Bremer, Black Hawk, Allamakee Counties, Iowa; McKinley, Rio Arriba, San Juna Counties, N. Mex. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E165), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman Counties, N. Dak., to points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Pointe Coupee, Tangipahoa, St. Bernard, West Felician, Terrebonne, West Baton Rouge, Washington, Lafourche, Livingston, Orleans, Plaquemine, Ascension, Assumption, East Baton Rouge, East Felician, Iberia, Iberville, Jefferson Parishes, La.; Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Prentiss, Pontotoc, Tate, Marshall, Monroe, Oktibbeha, Panola, LaFayette, Lee, Lowndes, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Lauderdale, Leake, Madison, Neshoba, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Wayne, Stone, Jones, Lamar, Pearl River, Perry, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Lincoln, Marion, Wilkinson, Adams, Amite, Franklin, Jefferson, Jeff Davis, Lawrence, Pike, Walthall Counties, Miss.; Sumner, Trousdale, Putnam, Robertson, Rutherford, Wilson, Smith, Williamson, Macon, Montgomery, Overton, Pickett, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, McMinn, Roane, Marion, Sequatchie, Van Buren, Warren, White, Franklin, Grundy, Hamilton, Lincoln, Loudon, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Union, Washington, Scott, Knox, Johnson, Sevier, Sullivan, Unicoi, Jefferson, Grainger, Greene, Hamblen, Hancock, Hawkins, Anderson, Blount, Campbell, Carter, Claiborne, Cooke, Perry, Lewis, Stewart, Wayne, Weakley, Maury, Henderson Henry, Hickman, Houston, Humphreys, Lawrence, Benton, Carroll, Decatur, Giles, Hardin Counties, Tenn.

(2) From points in Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill Counties, N. Dak., to points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, St. Bernard, Pointe Coupee, Lafourche, Plaquemine, Livingston, Orleans, Iberville, Jefferson, Assumption, Ascension, East Baton Rouge, East Felician, Iberia Parishes, La.; points in Mississippi; points in Overton, Trousdale, Macon, Montgomery, Pickett, Wilson, Putnam, Rutherford, Smith, Robertson, Williamson, Sumner, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Marion, Loudon, McMinn, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Grundy, Hamilton, Lincoln, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Franklin, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Johnson, Unicoi, Sullivan, Sevier, Knox, Scott, Union, Washington, Jefferson, Hawkins, Hancock, Hamblen, Green, Campbell, Carter, Claiborne, Cocke, Grainger, Anderson, Blount, Berry, Weakley, Wayne, Stewart, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry Counties, Tenn.; (3) from points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells Counties, N. Dak., to points in St. Charles, St. Helena, St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, Pointe Coupee, Plaquemine, St.

Bernard, Jefferson, Lafourche, Livingston, Orleans, Ascension, Assumption, East Baton Rouge, East Felician, Iberia, Iberville Parishes, La., and points in Mississippi and Tennessee;

(4) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark Counties, N. Dak., to points in St. James, John Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, St. Bernard, Pointe Coupee, Iberia, East Felician, East Baton Rouge, Assumption, Ascension, St. Helena, St. Charles, Plaquemine, Orleans, Livingston, Lafourche, Jefferson, Iberville Parishes, La., points in Mississippi; points in Trousdale, Williamson, Wilson, Sumner, Robertson, Macon, Jackson, Dickson, De Kalb, Davidson, Clay, Rutherford, Putnam, Pickett, Overton, Montgomery, Cheatham, Cannon, Smith, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Marion, McMinn, Loudon, Hamilton, Grundy, Franklin, Fentress, Bradley, Bedford, Meigs, Marshall, Lincoln, Cumberland, Coffee, Bledsoe, Union, Sevier, Sullivan, Washington, Unicoi, Grainger, Cocke, Blount, Anderson, Scott, Knox, Johnson, Jefferson, Hawkins, Hancock, Greene, Claiborne, Carter, Campbell, Hamblen, Wayne, Weakley, Humphreys, Houston, Hickman, Henderson, Hardin, Giles, Decatur, Carroll, Benton, Stewart, Perry, Maury, Lewis, Lawrence, Henry Counties, Tenn.; (5) from points in Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward Counties, N. Dak., to points in St. Bernard, St. Charles, St. Helena, Plaquemine, St. James, John Baptist, St. Martin, St. Mary, Orleans, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Felician, Lafourche, Livingston, Pointe Coupee, Jefferson, Iberville, West Felician, Iberia, East Baton Rouge, Assumption, Ascension Parishes, La., and points in Mississippi and Tennessee; (6) from points in Divide, McKenzie, Williams Counties, N. Dak., to points in St. Charles, St. Helena, St. James, John Baptist, Iberville, Jefferson, Orleans Lafourche, Livingston, St. Martin, St. Mary, St. Tammany, Plaquemine, Pointe Coupee, East Felician, Tangipahoa, Terrebonne, Washington, St. Bernard, West Baton Rouge, West Felician, Iberia, Assumption, Ascension, East Baton Rouge Parishes, La., and points in Mississippi and Tennessee. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E166), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Canadian, Carter, Cleveland, Creek, Garfield, Grant, Grady, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Love, Logan, Marshall, McClain, Murray, Noble, Oklahoma, Okfuskee, Osage, Payne, Pawnee, Potawatomi, Pontotoc, Seminole, Stephens Counties, Okla., to points in Fairfax, Fauquier, Essex, Culpeper, Caroline, Arlington, Fredicksburg, Falls Church, Alexandria, Fairfax, Stafford, Westmoreland, Spotsylvania, Prince William, King George, Orange, Winchester, Madison, Loudon, Greene, Harrisonburg, Shenandoah, Warren, Rockingham, Rapahanock, Page, Frederick, Clarke, Waynesboro, New Kent, Prince George, Mecklenburg, Louisa, King William, King Queen, James Pity, Henrico, Goochland, Fluvanna, Buckingham, Brunswick, Albemarle, Petersburg, Richmond, Colonial Heights, Hopewell, Charlottesville, Prince Edward, Nottoway, Powhatan, Lunenburg, Hanover, Dinwiddie, Chesterfield, Cumberland, Charles Pity, Amelia, Suffolk, Portsmouth, Hampton, Newport News, Franklin, Emporia, Richmond, North Umberland, Nansemond, Greensville, Accomack, Gloucester, Virginia Beach, Williamsburg, Norfolk, Chesapeake, Sussex, York, Surry, Northampton, Southampton, Mathews, Middlesex, Lancaster, Wight Isle Counties, Va.

(2) From points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harper, Harmon, Jackson, Kiowa, Major, Roger Mill, Tillman, Washita, Woodward, Woods Counties, Okla., to points in Wilson, Pasquotank, Per Quiman, Pitt, Tyrrell, Beaufort, Washington, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlic Counties, N.C., Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Alexandria, Fairfax, Falls Church, Fredicksburg, Arlington, Caroline, Culpeper, Essex, Fairfax, King George, Fauquier, Winchester, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rapahanock, Rockingham, Shenandoah, Warren, Harrisonburg, Prince George, Charlottsville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Powhatan, Prince Edward, Buckingham, Charles Pity, Chesterfield, Cumberland, Fluvanna, Dinwiddie, Goochland, Hanover, Henrico, James Pity, King William, King Queen, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Albemarle, Amelia, Brunswick, Suffolk, Virginia Beach, Portsmouth, Norfolk, Williamsburg, Accomack, Gloucester, Greensville, Wight Isle, Lancaster, Mathews, Middlesex, Nansemond, Northampton, North Umberland, Southampton, Richmond, Surry, Sussex, York, Chesapeake, Emporia, Franklin, Newport News, Hampton Counties, Va.

(3) From points in Beaver, Cimarron, and Texas Counties, Okla., to points in Rockingham, Caswell, Rowan, Stanly, Stokes, Union, Chatham, Vance, Wake, Davidson, Warren, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Montgomery, Moore, Lee, Orange, Person, Randolph, Richmond, Allamance, Anson, Cabarrus, Martin, Hyde, Hertford, Halifax, Gates, Northampton, Edgecombe, Dare, Washington, Pamlico, Wilson, Per Quiman, Pitt, Pasquotank, Chowan, Currituck, Tyrrell, Nash, Camden, Beaufort, Bertie Counties, N.C., and points in Virginia; (4) from points in Adair, Cherokee, Craig, Delaware, Mayes, McIntosh, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Seqroyah, Tulsa, Washington, Wagoner Counties, Okla., to points in Pitt, Tyrrell, Washington, Wilson, Per Quiman, Bertie, Camden, Chowan, Currituck, Edgecombe, Dare, Gates, Martin, Nash, Northampton, Pamlico, Pasquotank, Halifax, Hertford, Hyde, Beaufort Counties, N.C., Fredericksburg, Falls Church, Fairfax, Alexandria, Stafford, Westmoreland, Spotslyvania, Prince William, Orange, King George, Fauquier, Fairfax, Essex, Culpeper, Arlington, Caroline, Greene, Frederick, Clarke, Page, Loudoun, Madison, Winchester, Harrisonburg, Warren, Shenandoah, Rockingham, Rapahanock, Lunenburg, Mecklenburg, New Kent, Prince George, Nottoway, Charlottsville, Powhatan, Colonial Heights, Prince Edward, Hopewell, Petersburg, Richmond, Waynesboro, James Pity, Henrico, Hanover, Goochland, Dinwiddie, Fluvanna, Cumberland, Chesterfield, Amelia, Albemarle, Charles Pity, Buckingham, Brunswick, Louisa, King William, King Queen, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Chesapeake, York, Sussex, Surry, Richmond, Southampton, North Umberland, Northampton, Nansemond, Middlesex, Mathews, Lancaster, Wight Isle, Greensville, Accomack, Gloucester Counties, Va. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E167), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Benton, Clatsop, Clackamas, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill Counties, Ore., to points in Alabama and Florida; points in Warren, Washington, Yazoo, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Talahatchi, Bolivar, Coahoma, Carroll, Grenada, Holmes, Humphreys, Issaquena, Tippah, Tishomingo, Panola, Pontotoc, Prentiss, Tunila, Union, Tate, Webster, Yalobusha, Okitbbeha, Lafayette, Calhoun, Marshall, Chickasaw, Choctaw, Clay, DeSoto, Lee, Itawamba, Lowndes, Monroe, Alcorn, Benton, Covington, Hancock, Harrison, Jones, Lamar, Pearl River, Perry, Wayne, Stone, Forrest, George, Greene, Jackson Counties, Miss.; and points in Tennessee; (2) from points in Coos, Curry, Douglas, Jackson, Josephine Counties, Ore., to points in Chilton, Clay, Talladega, Tallapoosa, Cleburne, Coosa, Cullman, Cherokee, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Bibb, Blount, Calhoun, Chambers, Autauga, Pickens, Tuscaloosa, Walker, Winston, Lawrence, Marion, Colbert, Fayette, Franklin, Lamar, Lauderdale, Morgan, De Kalb, Jackson,

Limestone, Madison, Marshall, Houston, Dale, Henry, Macon, Russell, Montgomery, Pike, Geneva, Covington, Crenshaw, Barbour, Bullock, Coffee Counties, Ala.; St. Johns, Putnam, Marion, Levy, Flagler, Nassau, Union, Alachua, Baker, Bradford, Clay, Duval, Wakulla, Taylor, Suwannee, Madison, Liberty, Leon, Hamilton, Jefferson, Lafayette, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter Volusia, Brevard, Citrus, Hernando, Hillsboro, Indian River, St. Lucie, Palm Beach, Collier, Dade, Martin, Monroe, Broward, Okeechobee, Manatee, Highlands, Lee, Sarasota, Charlotte, De Soto, Glades, Hardee, Hendry Counties, Fla.; Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Monroe, Oktibbeha, Panola, Lee, Pontotoc, Lowndes, Prentiss, Marshall, Tate, Clay, DeSoto, Itawamba, Lafayette, Calhoun, Chickasaw, Choctaw, Alcorn, Benton Counties, Miss.; Dickson, Jackson, Macon, Montgomery, Overton, Robertson, Rutherford, Pickett, Putnam, Wilson, Trousdale, Sumner, Williamson, Smith, Cannon, Cheatham, Clay, Davidson, De Kalb, Marshall, Meigs, Monroe, Moore, Lincoln, Loudon, McMinn, Fentress, Morgan, Franklin, Grundy, Polk, Rhea, Marion, Roane, Sequatchie, Van Buren, Warren, White, Hamilton, Coffee, Cumberland, Bedford, Bledsoe, Bradley, Union, Washington, Sullivan, Cocke, Grainger, Unicoi, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Anderson, Blount, Campbell, Carter, Claiborne, Wayne, Stewart, Henderson, Henry, Lawrence, Lewis, Hickman, Weakley, Houston, Maury, Perry, Humphreys, Giles, Hardin, Benton, Carroll Decatur Counties, Tenn.

(3) From points in Crook, De Shutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler Counties, Ore., to points in Alabama and Florida; points in Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Lafayette, Lee, Lowndes, Panola, Marshall, Monroe, Tate, Oktibbeha, Prentiss, Pontotoc, Chickasaw, Choctaw, Clay, Itawamba, Alcorn, Benton, Calhoun, DeSoto Counties, Miss., Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Loudon, McMinn, Hamilton, Lincoln, Marion, Fentress, Bedford, Coffee, Cumberland, Franklin, Grundy, Bledsoe, Bradley, Unicoi, Johnson, Sullivan, Union, Washington, Sevier, Hamblen, Jefferson, Hancock, Knox, Hawkins, Scott, Anderson, Blount, Campbell, Cocke, Grainger, Greene, Carter, Claiborne, Houston, Humphreys, Lawrence, Lewis, Perry, Stewart, Wayne, Weakley, Maury, Henderson, Henry, Hickman, Benton, Carroll, Decatur, Giles, Hardin Counties, Tenn.; (4) from points in Harney, Klamath, Lake, Malheur Counties, Ore., to points in De Kalb, Trousdale, Williamson, Dickson, Wilson, Jackson, Macon, Montgomery, Overton, Sumner, Pickett, Putnam, Robertson, Rutherford, Smith, Davidson, Clay, Cheatham, Cannon, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, Marion, McMinn, Bedford, Coffee, Bradley, Bledsoe, Union, Washington, Sullivan, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Unicoi, Scott, Sevier, Blount, Anderson, Carter, Campbell, Maury, Lewis, Perry, Lawrence, Hickman, Houston, Hardin, Henderson, Henry, Weakley, Wayne, Stewart, Humphreys, Giles, Decatur, Carroll, Benton Counties, Tenn.

(5) From points in Baker, Grant, Morrow, Umatilla, Union, Wallowa Counties, Ore., to points in Alabama and Florida; points in Tippah, Tishomingo, Tunila, Union, Pontotoc, Webster, Yalobusha, Prentiss, Tate, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Calhoun, Benton, Alcorn, Clay, Choctaw, Chickasaw Counties, Miss., Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, De Kalb, Davidson, Clay, Cheatham, Cannon, Dickson, Lincoln, Marshall, Loudon, McMinn, Marion, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Grundy, Sequatchie, Hamilton, Van Buren, Franklin, Warren, White, Cumberland, Bledsoe, Bedford, Fentress, Coffee, Bradley, Union, Washington, Grainger, Greene, Hamblen, Hancock, Hawkins, Sevier, Jefferson, Sullivan, Johnson, Knox, Scott, Unicoi, Blount, Anderson, Cocke, Claiborne, Carter, Campbell, Maury, Lawrence, Lewis, Perry, Stewart, Humphreys, Wayne, Henry, Weakley, Hickman, Houston, Giles, Decatur, Carroll, Benton, Henderson, Hardin Counties, Tenn. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E168), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, from points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren Counties, Pa., to points in Alabama and points in Taylor, Wakulla, Columbia, Dixie, Gadsen, Gilchrist, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Franklin, Hamilton, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Bay Counties, Fla. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E169), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lexington, Lee, Marlboro, Richland, Sumter Counties, S.C., to points in Inyo, Fresno, Kings, Tulare, Tuolumne, Yolo, Stanislaus, Sutter, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Monterey, Napa, Placer, San Benito, Sacramento, Solano, Sonoma, San Francisco, Alameda, Alpine, Amador, Calaveras, Colusa, Centra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Humboldt, Lake, Tehama, Glenn, Mendicino, Trinity, Plumas, Shasta, Sierra, Siskiyou, Yuba, Butte, Lassen, Modoc, Nevada Counties, Calif.; Grand, Jackson, Teller, Summit, Lake, Jefferson, Pitkin, Larimer, Park, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Adams, Arapahoe, Boulder, Cedar Creek, Logan, Morgan, Weld, Yuma, Kit Carson, Phillips, Sedgwick, Washington, San Juan, San Miguel, Saguache, Rio Grande, Dolores, Gunnison, Hinsdale, LaPlata, Mineral, Montezuma, Montrose, Quray, Alamosa, Archuleta, Conejos, Delta, Rio Blanco, Garfield, Mesa, Moffat, Routt Counties, Colo.; Webster, Wayne, Warren, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Appanoose, Madison, Boone, Clarke, Dallas, Monona, O'Brien, Plymouth, Sac, Sioux, Woodbury, Osceola, Palo Alto, Pocahontas, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Buena Vista, Lyon, Calhoun, Carroll, Cherokee, Shelby, Union, Taylor, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawatta, Ringgold, Adair, Adams, Audubon, Cass, Worth, Hancock, Wright, Howard, Mitchell, Winnebago, Winneshiek, Butler, Cerro Gord, Chickasaw, Clayton, Delaware, Fayette, Floyd, Allamakee, Franklin, Black Hawk, Bremer, Buchanan Counties, Iowa; Esmeralda, Eureka, Lander, Nye, Mineral, Ormsby, Pershing, Storey, Washoe, Churchill, Douglas, Humboldt, Lyon, Elko, Whitepine Counties, Nev.

(2) From points in Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartenburg, Union Counties, S.C., to points in Kern, Los Angeles, Orange, Santa Barber, Ventura, Inyo, Fresno, Kings, Tulare, San Francisco, Sonoma, Santa Cruz, Solano, Santa Clara, Tuolumne, Yolo, San Mateo, San Joaquin, Stanislaus, Sacramento, San Benito, Placer, Napa, Monterey, Mono, Sutter, Madera, Marin, Mariposa, Merced, Alameda, Alpine, Amador, Calaveras, Colusa, Centra Costa, Eldorado, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Shasta, Sierra, Siskiyou, Yuba, Butte, Lassen, Modoc, Nevada, Plumas Counties, Calif.; Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Arapahoe, Adams, Boulder, Eagle, Elbert, El Paso, Fremont, Cedar Creek, Chaffee, Denver, Douglas, Phillips, Sedgwick, Washington, Weld, Yuma, Kit Carson, Logan, Morgan, San Miquel, San Juan, Quray, Rio Grande, Saquache, Delta,

Conejos, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Alamosa, Archuleta, Moffat, Mesa, Rio Blanco, Routt, Garfield Counties, Colo.; Madison, Webster, Wayne, Tama, Poweshiek, Mahaska, Polk, Marshall, Warren, Story, Monroe, Marion, Jasper, Lucas, Hardin, Hamilton, Grundy, Greene, Decatur, Dallas, Clarke, Boone, Appanoose, O'Brien, Sioux, Woodbury, Lyon, Plymouth, Palo Alto, Osceola, Sac, Monona, Pocahontas, Ida, Kossuth, Humboldt, Emmet, Dickinson, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Shelby, Taylor, Union, Ringgold, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawatta, Franklin, Winnebago, Howard, Mitchell, Winneshiek, Worth, Wright, Hancock, Floyd, Allamakee, Fayette, Delaware, Clayton, Chickasaw, Cerro Gord, Butler, Buchanan, Bremer, Black Hawk Counties, Iowa and points in Nevada; (3) from points in Allendale, Barnwell, Bamberg, Berkeley, Beaufort, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg Counties, S.C., to points in Fresno, Inyo, Kings, Tulare, San Mateo, San Joaquin, Stanislaus, Placer, Tuolumne, Yolo, Sutter, Sonoma, Santa Cruz, Solano, San Francisco, Napa, Monterey, Sacramento, Santa Clara, San Benito, Mono, Merced, Alameda, Alpine, Amador, Calaveras, Colusa, Centra Costa, Eldorado, Madera, Marin, Mariposa, Glenn, Humboldt, Mendicino, Lake, Tehama, Trinity, Lassen, Butte, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba Counties, Calif.; Larimer, Lake, Jefferson, Pitkin, Gilpin, Park, Summit, Grand, Jackson, Teller, Adams, El Paso, Fremont, Elbert, Eagle, Douglas, Denver, Chaffee, Cedar Creek, Boulder, Arapahoe, Kit Carson, Yuma, Weld, Washington, Sedgwick, Phillips, Morgan, Logan, Rio Blanco, Routt, Moffat, Mesa Counties, Colo.; points in Iowa; points in Esmeralda, Nye, Lander, Eureka, Churchill, Storey, Washoe, Pershing, Ormsby, Mineral, Lyon, Humboldt, Douglas, Whitepine, Elko Counties, Nev.

(4) From points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, S.C., to points in California, Colorado, Iowa, and Nevada, and points in San Juan, Rio Arriba, McKinley Counties, N. Mex.; (5) from points in Abbeville, Anderson, Greenville, Ocomee, Pickens Counties, S.C., to points in Inyo, Fresno, Kings, Tulare, Tuolumne, Yolo, Sutter, Sonoma, Solano, Centra Costa, Placer, Eldorado, Madera, Santa Cruz, San Benito, Marin, Mariposa, Sacramento, San Francisco, Merced, Mono, Santa Clara, Monterey, Napa, San Joaquin, San Mateo, Stanislaus, Alameda, Alpine, Amador, Calaveras, Colusa, Trinity, Mendicino, Tehama, Glenn, Humboldt, Lake, Siskiyou, Yuba, Sierra, Shasta, Butte, Lassen, Modoc, Nevada, Plumas Counties, Calif.; Pitkin, Summit, Eagle, Elbert, Park, Larimer, Jackson, Denver, Douglas, Gilpin, Grand, El Paso, Teller, Lake, Jefferson, Fremont, Chaffee, Cedar Creek, Boulder, Arapahoe, Washington, Yuma, Weld, Sedgwick, Kit Carson, Logan, Morgan, Phillips, Montezuma, San Juan, Montrose, Quray, Mineral, LaPlata, San Miguel, Gunnison, Rio Grande, Hinsdale, Saquache, Conejos, Delta, Dolores, Alamosa, Archuleta, Garfield, Mesa, Moffat, Rio Blanco, Routt Counties, Colo.; Webster, Wayne, Warren, Tama, Story, Poweshiek, Mahaska, Marion, Marshall, Grundy, Monroe, Greene, Hamilton, Madison, Jasper, Polk, Hardin, Lucas, Decatur, Dallas, Clarke, Boone, Appanoose, Dickinson, Emmet, Palo Alto, Woodbury, Monona, Humboldt, Kossuth, O'Brien, Lyon, Plymouth, Ida, Pocahontas, Sac, Osceola, Sioux, Crawford, Clay, Cherokee, Carroll, Calhoun, Buena Vista, Montgomery, Page, Pottawatta, Ringgold, Shelby, Harrison, Taylor, Mills, Guthrie, Union, Adair, Fremont, Cass, Audubon, Adams, Chickasaw, Delaware, Wright, Mitchell, Clayton, Winnebago, Fayette, Franklin, Hancock, Howard, Winneshiek, Floyd, Worth, Cerro Gord, Bremer, Black Hawk, Allamakee, Butler, Buchanan Counties, Iowa; Nye, Esmeralda, Eureka, Lander Pershing, Storey, Ormsby, Washoe, Douglas, Humboldt, Lyon, Mineral, Churchill, Elko, Whitepine Counties, Nev. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 107012 (Sub-No. E170), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New tub and shower enclosures*, uncartoned, (1) from points in Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Minnehaha, Miner, Moody, Sanborn, Turner, Union, Yankton Counties, S. Dak., to points in Jefferson, Etowah, Cooas, Cleburne, Clay, Chilton, Cherokee, Chambers, Calhoun, Bount, Bibb, Autauga, Tallapoosa, Shelby, Talladega, St. Clair, Randolph, Lee, Elmore, Cullman, Morgan, Marshall, Madison, Jackson, Limestone, De Kalb, Pike, Montgomery, Macon, Houston, Henry, Coffee, Bullock, Barbour, Russell, Geneva, Dale, Crenshaw, Covington Counties, Ala.; Putnam, Nassau, Marion, Levy, Flagler, Duval, Baker, Alachua, Union, St. Johns, Clay, Bradford, Jefferson, Hamilton, Gilchrist, Gadsden, Franklin, Dixie, Columbia, Wakulla, Taylor, Suwanee, Madison, Liberty, Leon, Lafayette, Osceola, Orange, Lake, Indian River, Hillsboro, Hernando, Citrus, Brevard, Volusia, Sumter, Seminole, Polk, Pinellas, Pasco, St. Lucie, Palm Beach, Monroe, Martin, Dade, Collier, Broward, Sarasota, Okeechobee, Manatee, Lee, Highlands, Hendry, Hardee, Glades, De Soto, Charlotte Counties, Fla.; Wayne, Washington, Woodford, Clinton, Boyle, Anderson, Adair, Russell, Rockcastle, Pulaski, Monroe, Metcalfe, Mercer, Marion, Madison, Lincoln, Jessamine, Green, Gerrard, Taylor, Fayette, Cumberland, Casey, Knott, Jackson, Harlan, Floyd, Estill, Clay, Breathitt, Bell, Whitley, Pike, Perry, Owsley, McCreary, Letcher, Leslie, Lee, Laurel, Knox, Pendleton, Rowan, Scott, Robertson, Wolfe, Powell, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Lewis, Fleming, Elliott, Clark, Carter, Carroll, Campbell, Bracken, Boyd, Bourbon, Boone, Bath, Lawrence, Johnson, Kenton, Harrison, Greenup, Grant, Gallatin, Franklin Counties, Ky.; White, Warren, Roane, Sequatchie, Van Buren, Rhea, Morgan, Marshall, Marion, McMinn, Loudon, Lincoln, Hamilton, Grundy, Bradley, Bledsoe, Bedford, Polk, Monroe, Moore, Meigs, Franklin, Fentress, Cumberland, Coffee, Washington, Campbell, Blount, Anderson, Union, Unicoi, Sullivan, Sevier, Scott, Knox, Johnson, Jefferson, Hawkins, Hamblen, Hancock, Greene, Grainger, Cocke, Claiborne, Carter Counties, Tenn.

(2) From points in Beadle, Brown, Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, S. Dak., to points in Alabama and Florida; points in Taylor, Washington, Russell, Rockcastle, Monroe, Pulaski, Mercer, Woodford, Metcalfe, Wayne, Adair, Boyle, Anderson, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, McCreary, Pike, Owsley, Whitley, Perry, Clay, Laurel, Lee, Leslie, Letcher, Bell, Breathitt, Estill, Floyd, Harlan, Jackson, Knott, Knox, Wolfe, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Clark, Elliott, Fleming, Franklin, Gallatin, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Christian, Hart, Henry, Jefferson, LaRue, Allen, Barren, Breckridge, Bullitt, Butler, Edmonson, Grayson, Hardin Counties, Ky.; Trousdale, Williamson, Wilson, Sumner, Smith, Rutherford, Cannon, Davidson, Clay, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Cheatham, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Bledsoe, Coffee, Bradley, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Bedford, Union, Washington, Sullivan, Unicoi, Sevier, Knox, Scott, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson Counties, Tenn.

(3) From points in Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp Counties, S. Dak., to points in Tallapoosa, Talladega, Shelby, St. Clair, Lee, Randolph, Jefferson, Etowah, Cullman, Coosa, Cleburne, Clay, Chilton, Blount, Bibb, Autauga, Elmore, Cherokee, Chambers, Calhoun, De Kalb, Morgan, Marshall, Madison, Limestone, Jackson, Russell, Bullock, Barbour, Pike, Montgomery, Macon, Houston, Henry, Geneva, Dale, Crenshaw, Covington, Coffee Counties, Ala.; points in Florida; points in Wood-

ford, Wayne, Washington, Taylor, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Clinton, Casey, Boyle, Adair, Madison, Lincoln, Jessamine, Green, Gerrard, Fayette, Cumberland, Anderson, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Floyd, Estill, Clay, Breathitt, Bell, Leslie, Lee, Laurel, Knox, Knott, Jackson, Harlan, Rowan, Scott, Wolfe, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Campbell, Bracken, Boyd, Bourbon, Boone, Bath, Franklin, Fleming, Elliott, Clark, Carter, Carroll, Ohio, Logan, Muhlenberg, Nelson, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Meade, Warren, LaRue, Edmonson, Christian, Butler, Bullitt, Breckridge, Barren, Allen, Jefferson, Henry, Hart, Hardin, Grayson Counties, Ky., Robertson, Rutherford, Wilson, Williamson, Smith, Sumner, Trousdale, Putnam, Jackson, Dickson, De Kalb, Davidson, Clay, Cheatham, Cannon, Pickett, Overton, Montgomery, Macon, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Marion, Lincoln, Hamilton, Franklin, Fentress, Coffee, Bradley, Bledsoe, Bedford, McMinn, Loudon, Grundy, Cumberland, Union, Washington, Sullivan, Sevier, Scott, Knox, Unicoi, Johnson, Greene, Grainger, Cocke, Claiborne, Carter, Campbell, Blount, Anderson, Jefferson, Hawkins, Hancock, Hamblen Counties, Tenn.

(4) From points in Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth Counties, S. Dak., to points in Alabama, Florida, and Kentucky; points in Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Clay, Choctaw, Chickasaw, Calhoun, Benton, Alcorn, Lee, Lafayette, Itawamba, DeSoto, Perry, Stone, Wayne, Jones, Jackson, Harrison, Hancock, Greene, George, Forrest, Covington, Pearl River, Lamar Counties, Miss.; Rutherford, Trousdale, Robertson, Putnam, Pickett, Wilson, Williamson, Sumner, Smith, Overton, Montgomery, Macon, Jackson, Dickson, De Kalb, Davidson, Clay, Cheatham, Cannon, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Loudon, McMinn, Marion, Lincoln, Hamilton, Grundy, Franklin, Fentress, Cumberland, Coffee, Bradley, Bledsoe, Bedford, Union, Washington, Knox, Scott, Sevier, Sullivan, Unicoi, Hawkins, Jefferson, Johnson, Blount, Anderson, Hancock, Hamblen, Greene, Grainger, Cocke, Claiborne, Carter, Campbell, Stewart, Wayne, Weakley, Lawrence, Lewis, Maury, Perry, Carroll, Benton, Humphreys, Houston, Hickman, Henry, Henderson, Hardin, Giles, Decatur Counties, Tenn.

(5) From points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach Counties, S. Dak., to points in Talladega, Tallapoosa, Shelby, St. Clair, Randolph, Lee, Jefferson, Etowah, Clay, Chilton, Elmore, Cullman, Coosa, Cleburne, Cherokee, Chambers, Calhoun, Bount, Bibb, Autauga, Morgan, Marshall, Madison, Limestone, Jackson, De Kalb, Russell, Montgomery, Macon, Henry, Geneva, Dale, Crenshaw, Covington, Coffee, Bullock, Barbour, Pike, Houston Counties, Ala.; points in Florida; points in Wayne, Woodford, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Casey, Clinton, Cumberland, Fayette, Gerrard, Madison, Adair, Anderson, Boyle, Green, Jessamine, Lincoln, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Knox, Laurel, Lee, Leslie, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Pendleton, Powell, Robertson, Wolfe, Rowan, Scott, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Fleming, Franklin, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, LaRue, Warren, Allen, Barren, Breckridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson Counties, Ky.; Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Marion, Roane, Sequatchie, Van Buren, Warren, White, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Union, Washington, Johnson, Sullivan, Unicoi, Knox, Scott, Sevier, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson Counties, Tenn. The purpose of this filing is to eliminate the gateway of Bremer, Ind.

No. MC 115523 (Sub-No. E2), filed June 5, 1974. Applicant: CLARK TANK LINES CO., INC., P.O. Box 1895, Salt Lake City, Utah 84410. Applicant's representative: H. D. Strattford (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt*, from the plantsite of Morton Salt Company near Saltair, Utah, to points in California, Oregon and Washington (points in Nevada located within 10 miles of Silsbee, Utah)*. (2) *Potash*, which is dry fertilizer, dry fertilizer ingredients, or dry fertilizer compounds used in the manufacture of fertilizers, in bulk, from the plantsite of Kaiser Aluminum and Chemical Company near Wendover, Utah, to points in Washington and Oregon (except points in Lake County, and points in Malhuer and Harney counties south of U.S. Highway 20) (points in Idaho*). (3) *Dry fertilizer, dry fertilizer ingredients and dry fertilizer compounds* used in the manufacture of fertilizer, in bulk, from Finley, Wash., and points within three miles thereof, to points in Malhuer County, Oreg. (points in Idaho south of the southern boundary of Idaho county*). (4) *Dry fertilizer and dry fertilizer ingredients*, in bulk, when not intended for use as an explosive or an explosive agent, from points in California, in and south of Sierra, Yuba, Sutter, Yolo, Napa, Colusa and Sonoma Counties, to points in Beaverhead County, Mont. (Idaho Falls, Idaho*). (5) *Dry superphosphate and dry ammonium phosphate* which are dry fertilizers, dry fertilizer ingredients or dry fertilizer compounds used in the manufacture of fertilizer, from points in Power and Bannock Counties, Idaho, to points in Kansas, Nebraska, South Dakota and Wyoming (plantsite of El Paso Natural Gas Company near Conda, Idaho*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

By the Commission.

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

[FR Doc.76-4764 Filed 2-18-76;8:45 am]

[Notice No. 13]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 13, 1976.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) Grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 C.F.R. § 1100.250.

Protests to the granting of the requested authority must be filed with the Commission on or before March 22, 1976 (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's general rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon,

but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The originial and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) or section 240(c)(4) of the special rules, and shall include the certification required therein.

No. MC 115524 (Sub-No. 30) (Republication), filed January 10, 1975, and published in the FEDERAL REGISTER issue of February 20, 1975, and republished this issue. Applicant: BRUSCH TRUCKING, INC. doing business as ROADRUNNER TRUCKING, INC., 415 Rankin Road, N.E., Albuquerque, N. Mex. 87107. Applicant's representative: Don F. Jones (same address as applicant). An Order of the Commission, Review Board Number 1, dated January 27, 1976, and served February 4, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of: (1) *lumber, molding, and particleboard* from points in New Mexico to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming, (2) *lumber* from points in Arizona and Colorado to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming, (3) *lumber* from points in Utah to points in Arkansas, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, and (4) *lumber and molding* from El Paso, Tex. to points in Arizona, under a continuing contract with Duke City Lumber Company, Inc., of Albuquerque, N. Mex., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include Oklahoma as a destination point in part (3) above. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced. Pleadings may be tendered with respect to the modification(s) of applicant's grant of authority indicated by the purpose of this republication.

No. MC 116763 (Sub-No. 311) (Republication), filed March 27, 1975 and published in the FEDERAL REGISTER issue of April 17, 1975, and republished this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). An order of the Commission, Division 1, Acting as an Appellate Division, dated January 26, 1976, and served February 4, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *frozen foods and prepared flour*, from the facilities of Roman Meal Company, at or near Decatur, Ind., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to the transportation of shipments originating at the named facilities and destined to the named destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the broadening of applicant's commodity description to include prepared flour. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced. Pleadings may be tendered with respect to the modification(s) of applicant's grant of authority indicated by the purpose for this republication.

No. MC 121724 (Sub-No. 1) (Republication) filed September 12, 1974, and published in the FEDERAL REGISTER issue of October 2, 1974, and republished this isue. Applicant: ACME DRAYAGE, 360 B Shaw Road, South San Francisco, Calif. 94080. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, Calif. 94102. An Order of the Commission, Review Board Number 4, dated January 28, 1976, and served February 4, 1976, finds that the present and future public convenience and necessity require operations by applicant in intrastate commerce, as a *common carrier* by motor vehicle, under a Certificate of Registration in the transportation of *general commodities:* (1) Between all points and places in the San Francisco Territory as described in Note A herein. (2) From all points and places on U.S. Highway 101 between San Francisco and San Jose inclusive on the one hand to all points and places on or within a 15 mile lateral of the following routes on the other hand. (a) From San Francisco to Rocklin inclusive via Interstate Highway 80 and Taylor Road (formerly U.S. Highway 40). (b) From San Francisco to Folsom inclusive via Interstate Highways 580 and 5, U.S. Highway 50 and Folsom Road. (c) From Pinole to Stockton inclusive via State Highway 4. (d) From Woodland to Fresno via Interstate Highway 5, and State Highway 99. (e) From Stockton to the intersection of Interstate Highway 5 and State Highway 152 west of Los Banos inclusive, via Interstate Highway 5.

(f) From Vallejo to San Jose inclusive via Interstate Highway 680. (g) From San Rafael to Soledad inclusive via U.S. Highway 101. (h) From San Rafael to Santa Cruz, inclusive via State Highway 17. (i) From Santa Cruz to Carmel inclusive via State Highway 1. (j) From Watsonville to intersection of State Highway 152 and State Highway 99 inclusive via State Highway 152. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap, or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (4) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit.

(7) Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle. (8) Logs. (9) Articles of extraordinary value. (10) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. (11) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. (12) Explosives subject to U.S. Department of Transportation Regulations governing the Transportation of Hazardous

Materials. (13) Fresh Fruits or Vegetables. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

NOTE A.—San Francisco Territory: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and parelleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road; including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road;

Southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

The purpose of this republication is to indicate the grant of authority in (2) (a) through (j) above, in addition to the authority previously noticed in California State Docket No. 85123 in the FEDERAL REGISTER issue of October 2, 1974. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prjudiced. Pleadings may be tendered with respect to the modification(s) of applicant's grant of authority indicated by the purpose for this republication.

No. MC 106603 (Sub-No. 116) (Notice of filing of petition for reopening of certificate), filed December 15, 1975. Petitioner: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, Mich. 49508. Petitioner's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Petitioner holds a motor *common carrier* certificate in No. MC 106603 (Sub-No. 116), issued October 26, 1972, authorizing transportation, over irregular routes, of: (a) *Roofing and building materials and materials* used in the installation and application of such commodities (except iron and steel, portland cement and commodies in bulk), from the plant site of Certain-teed Products Corporation at Avery, Ohio, to points in New Jersey, Delaware, Maryland, Virginia, and the District of Columbia, points in that part of New York east of Wayne, Seneca, Schuyler, and Chemung Counties, points in that part of Pennsylvania east of Tioga, Potter, Cameron, Clearfield, Cambria, and Somerset Counties; and (b) *materials, equipment and supplies* used in the manufacture, installation or application of roofing or building materials (except comodities in bulk), from points in New Jersey, Delaware, Maryland, Virginia, and the District of Columbia, and points in that part of Pennsylvania east of Tioga, Potter, Cameron, Clearfield, Cambria, and Somerset Counties, to the plant site of Certain-teed Products Corporation at Avery, Ohio.

By the instant petition, petitioner seeks to reopen this matter for the purpose of adding points in that part of New York east of Wayne, Seneca, Schuyler, and Chemung Counties in part (b) of the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before March 22, 1976.

No. MC 116816 (Sub-No. 10) (Notice of filing of petition to substitute contracting shippers), filed January 9, 1976. Petitioner: MERIT SERVICE INDUSTRIES, INC., 849 Harrison Ave., Kearny, N.J. 07032. Petitioner's representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Petitioner holds a motor *contract carrier* permit in No. MC 116816 (Sub-No. 10), issued July 22, 1975, authorizing transportation, over irregular routes, of: (1) (a) *Household appliances, air conditioning equipment, water heaters, central home heating and cooling units, radio, recorder, phonograph, and television sets, and parts and equipment therefor*, from site of carrier's warehouse at Kearny, N.J., to New York, N.Y., points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., and Fairfield County, Conn.; and (b) *returned shipments* of the above-specified commodities, from the above-specified destination points to site of carrier's warehouse at Kearny, N.J., under a continuing contract, or contracts, with the following shippers: General Electric Co., Inc., of Portsmouth, Va.; L & P Distributors of New Jersey, of Maspeth, N.Y.; Philco Distributors, Inc., of New York, N.Y.; Motorola Metro, Inc., of Franklin Park, Ill.; Bruno-New York, Inc., of New York, N.Y.; Admiral Corp., of East Rutherford, N.J.; Zenith Radio Corp., of Cranford, N.J.; (2) (a) *Household appliances, air conditioning equipment, radios, phonograph and television sets, and* (b) *parts and equipment* for the commodities in (a) above, from the site of carrier's warehouse at Kearny, N.J., to points in Dutchess, Orange, Putnam, Sullivan, and Ulster Counties, N.Y., and Middlesex and New Haven Counties, Conn.; and (c) *returned shipments* of the commodities in (a) and (b) above, from the above-specified destination points to the site of carrier's warehouse at Kearney, N.J., under a continuing contract, or contracts, with Philco Distributors, Inc., Bruno-New York, Inc., and Admiral Corp., of East Rutherford, N.J.

By the instant petition, petitioner seeks to delete General Electric Co., Inc., of Portsmouth, Va., and Admiral Corp., of East Rutherford, N.J., as contract shippers in the above authority, and to substitute in lieu thereof, Morse Electro Products Corp., of Brooklyn, N.Y., and Hitachi Sales Corp., of America, Inc., of Compton, Calif.

NOTE.—Petitioner also has a petition pending to delete L & P Distributors of New Jersey, of Maspeth, N.Y.; Philco Distributors, Inc., of New York, N.Y.; and Zenith Radio Corp., of Cranford, N.J., as contract shippers and to substitute in lieu thereof, Sunbeam Appliance Co., of Oakbrook, Ill., Fedders Corporation, of South Hackensack, N.J., and Evergreen Industries, Inc., of New York, N.Y. Both restrictions will read the same when amended. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 134385 (Notice of filing of Petition for modification of Permit), filed December 19, 1975. Petitioner: ERNEST TEUFFER, P.O. Box 1749, Calexico, Calif. 92231. Petitioner's representative: Jerry Solmon Berger, 433 N. Camden Drive, 6th Floor, Beverly Hills, Calif. 90210. Petitioner holds a motor *contract* carrier permit in No. MC 134385, issued November 13, 1970, authorizing transportation, over irregular routes, of: (1) *Iron and steel articles* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, *aluminum articles, plastic articles, building materials, hardware, lumber, and farm machinery or parts thereof*, between points in Los Angeles,

Orange, San Bernardino, and Riverside Counties, Calif., and San Francisco, Oakland, and Bakersfield, Calif. on the one hand, and, on the other, ports of entry on the United States-Mexico Boundary line located at Calexico and Tecate, Calif.; and (2) *Scrap iron and steel, and scrap nonferrous metals*, from points in Arizona, to ports of entry on the United States-Mexico Boundary line located at San Luis, Ariz. and Calexico, Calif., under a continuing contract, or contracts, with Metales Peninsulares, S. A., and Almacenes De Mayareo De Baha California, S. A., of Mexicali, B. C., Mexico.

By the instant petition, petitioner seeks (1) to add an additional commodity description to the above authority, and (2) to include Rohr Industries, Inc., as a contract shipper so as to read, *Machinery component parts, and materials, supplies and equipment* used in the manufacture and distribution of machinery component parts, between the plantsite of Rohr Industries, Inc., located at or near Chula Vista, Calif., on the one hand, and, on the other, ports of entry on the International Boundary Line between the United States and Mexico, located at Calexico and Tecate, Calif., under a continuing contract, or contracts, with Rohr Industries, Inc. Any interested person or persons desiring to participate may file an original and six copies of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 138807 (Notice of filing of petition to add destination points), filed January 9, 1976. Petitioner: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Petitioner's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Petitioner holds a motor *contract carrier* permit in No. MC 138807, issued October 17, 1974, authorizing transportation, over irregular routes, of *Cleaning compounds and toiletries* (except commodities in bulk), from Jackson, Miss., to points in Washington, Arizona, California, Nevada, Oregon, Utah, Colorado, and New Mexico, under a continuing contract, or contracts, with American Cyanamid Company, of Wayne, N.J., solely on behalf of the Household Products Department of its Consumer Products Division.

By the instant petition, petitioner seeks to add Oklahoma and Texas as additional destination points in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representatives, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-12530. (Amendment) (BUSH MOTOR FREIGHT, INC.—PURCHASE (PORTION) — INTEROCEAN SERVICE CORPORATION); No. MC-F-12531. (Amendment) (CROUCH FREIGHT SYSTEMS, INC. — PURCHASE (PORTION) — INTEROCEAN SERVICE CORPORATION), published in the FEDERAL REGISTER on May 29, 1975. On February 9, 1976, Bush Motor Freight, Inc., and Crouch Freight System, Inc. (Vendees) filed a petition seeking removal of a commodity restriction in the certificate they seek to buy from Interocean Service Corporation (Vendor). Vendor holds two operating authorities—one a certificate, MC 17006, the other a permit, MC3582. The commodity description of the certificate, in pertinent part, reads: Irregular routes: General commodities, except those of unusual value, classes A and B explosives, rags, skids, paper and paper products, machinery, materials, and supplies used in the manufacture of paper and paper products, * * * The commodity description of the permit, in pertinent part, reads: Irregular routes: Paper Products * * * rags, skids, paper ad paper products, machinery, materials and supplies used in the manufacture of paper and paper products, * * *

The vendees are general commodity common carriers and desire to remain so. Accordingly, the instant petition was filed the purpose of which is to remove from the certificate of the vendor the commodity exceptions "rags, skids, paper and paper products, machinery, materials and supplies used in the manufacture of paper and paper products." Upon grant of the petition, vendees propose that the Commission cancel the permit in No. MC 3582.

No. MC-F-12530 and MC-F-12531 have been consolidated and are set for hearing at Washington, D.C., on March 29, 1976.

No. MC-F-12761. (Correction) (PEPSICO, INC. — CONTROL — LEE Way MOTOR FREIGHT, INC.), published in the February 4, 1976, issue of the FEDERAL REGISTER. Prior notice should have been listed under the heading "Motor Carriers of Property" the word "Santonio" should read "San Antonio" and a notation to include "dual operations may be involved."

No. MC-F-12767. Authority sought for merger by CONTINENTAL BUS SYSTEM, INC., doing business as CONTINENTAL TRAILWAYS, 315 Continental Ave., Dallas, TX 75207, of the operating rights and property of DENVER-SALT LAKE-PACIFIC STAGES, INC., doing business as CONTINENTAL TRAILWAYS, 2450 Curtis St., Denver, CO 80205, and for acquisition by CONTINENTAL TRAILWAYS, INC., 315 Continental Ave., Dallas, TX 75207, and TCO INDUSTRIES, INC., 1500 Jackson St., Dallas, TX 75201, of control of such rights and property through the transaction. Applicants' attorneys: D. Paul Stafford and Gayla L. Campbell, 315 Continental Ave., Dallas, TX 75207. Operating rights sought to be merged: Passengers and their baggage, and newspapers and express in the same vehicle with passengers, etc., as a common carrier over regular routes, between Denver, Colo., and Salt Lake City, Utah, between Rangely, and Artesia, Colo., between junction U.S. Highway 40 and Colorado Highway 84, and junction U.S. Highway 40 and Colorado Highway 131, serving all intermediate points; over one alternate route for operating convenience only. CONTINENTAL BUS SYSTEM, INC., is authorized to operate as a *common carrier* in Colorado, Utah, Texas, and New Mexico. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Transferee, a motor carrier, is a wholly owned subsidiary of Continental Trailways, Inc., a motor carrier, which is in turn controlled by TCO Industries.

No. MC-F-12768. Authority sought for purchase by SCHNEIDER TANK LINES, INC., 200 W. Cecil Street, Neenah, WI. 54956, of a portion of the operating rights of LOBUE, INCORPORATED, 344 E. 16th Street, Chicago Heights, IL. 60411, and for acquisition by AL J. SCHNEIDER, DONALD J. SCHNEIDER, and AMERICAN NATIONAL CORPORATION all of 2661 So. Broadway, Green Bay, WI 54306, of control of such rights through the purchase. Applicants' attorney: Charles W. Singer, 2440 East Commercial Boulevard, Fort Lauderdale, FL. 33308. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC 120917 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming. Application has not been filed for temporary authority under section 210a(b). MC 110988, Sub No. 330, is a directly related matter.

No. MC-F-12769. Authority sought for purchase by RED STAR EXPRESS LINES OF AUBURN, INC., 24-50 Wright Ave., Auburn, NY 13201, of the operating rights of RED STAR EXPRESS LINES OF QUEBEC, LTD., also of Auburn, NY 13201, and for acquisition by JOHN BISGROVE, 264 E. Genesee St., Auburn, NY of control of such rights through the purchase. Applicants' attorney: Leonard A. Jaskiewicz, 1730 M St. NW., Washington, DC 20036. Operating rights sought to be transferred: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, material, and supplies*, used in the conduct of such business, as a *common carrier* over regular routes, between Plattsburgh, and Malone, N.Y., serving all intermediate, points, and the off-route points of St. Regis Falls and Bombay, N.Y., between Plattsburgh and Tupper Lake, N.Y., serving all intermediate points, and the off-route point of Faust, N.Y., between Plattsburgh and Ticonderoga,

N.Y., serving all intermediate points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Plattsburgh, N.Y., on the one hand, and, on the other, points in Warren, Franklin, St. Lawrence, Clinton, and Essex Counties, N.Y. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12770. Authority sought for purchase by M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67119, of a portion of the operating rights of CENTRAL DISPATCH, INC., 2302 Guinotte, Kansas City, MO 64120, and for acquisition by J. DOUGLAS STONE AND UNION NATIONAL BANK OF WICHITA, Executors of the Estate of MAURICE DIX BRUENGER, Deceased, KSB&T Bldg., Wichita, KS 67202, and ARK VALLEY PRODUCE CO., INC., 123 S. Rock Island, Wichita, KS 67202, of control of such rights through the purchase. Applicants' attorney: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Operating rights sought to be transferred: *Meats, meat products, meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), as a *common carrier* over irregular routes, from the plant site and storage facilities of Aristo Kansas Meat Packers, at or near Holton, Kans., to points in Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Michigan, Mississippi, Missouri, Ohio and Pennsylvania, with restriction. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC–F–12771. Authority sought for purchase by LAKELAND BUS LINES, INC., 425 E. Blackwell St., Dover, NJ 07801, of a portion of the operating rights of MAPLEWOOD EQUIPMENT COMPANY, 419 Anderson Avenue, Fairview, NJ 07022, and for acquisition by BERNARD F. FLYNN, JR., AND GEORGE J. YORK, both of 405 E. Blackwell St., Dover, NJ 07801, of control of such rights through the purchase. Applicants' attorney: Edward F. Bowes, 744 Broad St., Newark, N.J. 07102. Operating rights sought to be transferred: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, as a common carrier over regular routes, between West Milford and Culvers Lake, N.J., between Sparta, and West Milford, N.J., between Franklin, and Frankford, N.J., between Hamburg, and McAfee, N.J., serving all intermediate points. Vendee is authorized to operate as a common carrier in New Jersey, and New York. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12772. Authority sought for control by THOMAS J. HOLT, 701 North Broadway, Gloucester City, NJ 08030, of MODERN TRANSFER CO., INC., 1300 Hanover Ave., Allentown, PA 18001. Applicants' attorney: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Pennsylvania, New York, New Jersey, Maryland, Connecticut, Delaware, Massachusets, Rhode Island, Virginia, Ohio, West Virginia, Indiana, Illinois, Iowa, Michigan, Minnesota, Wisconsin, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, over one alternate route for operating convenience only, as more specifically described in Docket No. MC 35469 and Sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. THOMAS J. HOLT, holds no authority from this Commission. However, it is affiliated with HOLT MOTOR EXPRESS, INC., 701 North Broadway, Gloucester City, NJ 08030, which is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, Delaware, Maryland, New York, Virginia, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12773. Authority sought for purchase by MICHIGAN EXPRESS, INC., 34200 Mound Rd., Sterling Heights, MI 48077, of a portion of the operating rights of CHECKER EXPRESS CO., 6801 South 13th St., Milwaukee, WI 53221, and for acquisition by M. J. MOROUN, T. J. MOROUN, and CENTRAL TRANSPORT, INC., all of Sterling Heights, MI 48077, of control of such rights through the purchase. Applicants' attorney: Jack Goodman, 39 South LaSalle St., Chicago, IL 60603. Operating rights sought to be transferred: General commodities, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a common carrier over regular routes, between Paris, and Chicago, Ill., serving all intermediate points except those in Iroquois County north of U.S. Highway 24, with restriction. Vendee is authorized to operate as a *common carrier* in all States in the Continental United States. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12775. Authority sought for purchase by NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137, of the operating rights of MINUTEMAN EXPRESS, INC., Lexington, NE 68850, and for acquisition by LANNY N. FAUSS, also of Omaha, NE 68137, of control of such rights through the purchase. Applicants' attorney: Frederick J. Coffman, P.O. Box 81849, Lincoln, NE 68501. Operating rights sought to be transferred: *Meats, meat products, and meat byproducts, and articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, as a *contract carrier* over irregular routes, from Lexington, Nebr., to points in Colorado, Connecticut, Florida, Georgia, Illinois (except Chicago and Rockford), Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, Wisconsin, and the District of Columbia. Vendee is authorized to operate as a *contract carrier* in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

NOTICE

THE CHESAPEAKE AND OHIO RAILWAY COMPANY (C&O) AND WESTERN MARYLAND RAILWAY COMPANY (WM), 2 North Charles Street, Baltimore, Maryland 21201, represented by Mr. René J. Gunning, Attorney for Applicants, 2 North Charles Street, Baltimore, Maryland 21201, hereby give notice that, on the 4th day of February, 1976, they filed with the Interstate Commerce Commission in Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the WM to lease and operate a portion of C&O's line of railroad, which application was assigned Finance Docket No. 28109.

The name of the proposed transaction is the lease and operation by WM of a portion of C&O's line of railroad. The line of railroad which WM proposes to lease and operate is a 2.84 mile portion of C&O's Greenbrier Branch located between Valuation Station 5021+22, at or near Durbin, West Virginia, and Valuation Station 5171+06 at end of the line, at or near Bartown, West Virginia, all in Pocahontas County, West Virginia.

In the opinion of the applicants, the granting of the authority sought will not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), *supra*, Part (b) (1)–(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearing unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before March 22, 1976.

By the Commission.

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

[FR Doc.76-4763 Filed 2-18-76;8:45 am]

[AB 33 (Sub-No. 10)]

UNION PACIFIC RAILROAD

Abandonment—of its Greeley Branch—Near Gill in Weld County, Colorado

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Weld County, Colo., on or before March 1, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 9th day of February 1976.

By the Commission, Commissioner Brown.

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

[AB 33 (Sub-No. 10)]

UNION PACIFIC RAILROAD

ABANDONMENT—OF ITS GREELEY BRANCH—NEAR GILL IN WELD COUNTY, COLORADO

The Interstate Commerce Commission hereby gives notice that by order dated February 9, 1976, it has been determined that the proposed abandonment of the terminal segment of the Greeley Branch of the Union Pacific Railroad Company northeast of Gill, a distance of 3.31 miles, all in Weld County, Colo., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are considered insignificant because (1) there has been no traffic on this line since 1966, (2) no land use plans are dependent on the continuation of the subject line, and (3) no historic sites would be altered. Furthermore, the abandonment is consistent with local plans to utilize the right-of-way for the construction of a segment of a new county road.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 16, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.76-4762 Filed 2-18-76;8:45 am]

[AB 19 (Sub-No. 21)]

BALTIMORE AND OHIO RAILROAD CO.

Abandonment Portion Sandusky Branch Between Willard and Wilmer, in Huron and Erie Counties, Ohio

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Huron and Erie Counties, Ohio on or before March 1, 1976 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 9th day of February 1976.

By the Commission, Commissioner Brown.

[AB 19 (Sub-No. 21)]

BALTIMORE AND OHIO RAILROAD CO.

ABANDONMENT PORTION SANDUSKY BRANCH BETWEEN WILLARD AND WILMER, IN HURON AND ERIE COUNTIES, OHIO

The Interstate Commerce Commission hereby gives notice that by order dated February 9, 1976, it has been determined that the proposed abandonment by the Baltimore and Ohio Railroad Company of a portion of its Sandusky Branch extending 24.17 miles between Willard and Wilmer in Huron and Erie if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded among other things, that traffic volume on the section of the branch proposed for abandonment is low and since most of the traffic generated by the primary shippers already moves by motor carrier, the additional traffic permanently diverted to truck would have a minimal impact on the environment. Moreover, no industrial development is occurring in the area which could be affected by the subject action and alternate rail lines exist which could accommodate some of the traffic generated on the subject line. The rest of the Sandusky Branch will continue to be

served by the applicant either via a trackage righst agreement over the nearby N&W line or its own trains with switching occurring with N&W at Sandusky.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 16, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–4761 Filed 2–18–76;8:45 am]

[Ex Parte No. MC–67; Sub-No. 2]

STATE REGISTRATION OF EMERGENCY TEMPORARY AND TEMPORARY AUTHORITY

Reinstating the Effective Date of Order [1]

FEBRUARY 12, 1976.

Upon consideration of the record in the above-entitled proceeding, including the order of the Commission entered May 24, 1974, which postponed the effective date of the Commission's order entered December 17, 1973 (119 M.C.C. 327), as affirmed by the order entered February 22, 1974, until further order of the Commission; and

It appearing, That the United States District Court for the District of Columbia sustained the Commission's order of December 17, 1973, by its decision entered June 9, 1975, in *National Association of Regulatory Utility Commissioners* v. *United States and Interstate Commerce Commission* (397 F. Supp. 591), and that the United States Supreme Court affirmed the district court's decision on January 12, 1976; and good cause appearing therefor;

It is ordered, That the effective date of the order of the Commission entered December 17, 1973 (119 M.C.C. 327), as affirmed by the order entered February 22, 1974, and postponed by the order entered May 24, 1974, be, and it is hereby, reinstated, as of the thirtieth day after the date of service of this order.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the director, Office of the Federal Register.

Dated at Washington, D.C., this 6th day of February, 1976.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–4619 Filed 2–18–76;8:45 am]

[1] Order not published in the FEDERAL REGISTER.

federal register

THURSDAY, FEBRUARY 19, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

■

PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

Effluent Guidelines and Standards

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 489-3]

PART 430—PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

Notice of Interim Final Rule Making

Notice is hereby given that effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available as set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). On May 29, 1974, EPA promulgated a regulation adding Part 430 to Title 40 of the Code of Federal Regulations (39 FR 18742). That regulation with subsequent amendments established effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources for the pulp, paper, and paperboard point source category. The regulation set forth below will amend 40 CFR 430-pulp, paper, and paperboard point source category and will be applicable to existing sources for the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); NI tissue (FWP) subcategory (Subpart T); high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category pursuant to sections 301, 304 (b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 86 Stat. 816 et seq.; P.L. 92-500) (the Act). Simultaneously, the Agency is publishing in proposed form effluent limitations and guidelines for existing sources to be achieved by the application of best available technology economically achievable, standards of performance for new point sources, and pretreatment standards for existing sources and for new sources.

(a) Legal authority. (1) Existing point sources. Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achieveable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(2) New sources. Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306 also requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306 of the Act. At page 7685 of this issue, regulations are proposed which set forth the standards of performance applicable to new sources for the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. In another section of the FEDERAL REGISTER regulations are proposed in fulfillment of these requirements.

(b) Summary and basis of interim final effluent limitations and guidelines for existing sources, proposed effluent limitations and guidelines for existing sources to be achieved by the application of the best available technology economically achievable, proposed standards of performance for new sources, and proposed pretreatment standards for both new and existing sources.

(1) General methodology. The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations were appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors required development of separate limitations for different segments of the point source category.

The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each subcategory. It also included an identification, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, of the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of conclusions with respect to dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the ground wood-chemi-mechanical subcategory (Subpart L); the groundwood - thermo - mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

(i) Categorization. For the purpose of studying waste treatment and effluent limitations, the bleached kraft, groundwood, sulfite, soda, deink and non-integrated paper mills segment of the pulp, paper and paperboard manufacturing industry category was divided into seventeen discrete subcategories, primarily based on a consideration of the raw materials utilized, production processes employed, products produced, size and age of mills, waste water characteristics and treatability, and geographical location as outlined in the report entitled, "Development Document for Interim Final and Proposed Rulemaking for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink and Non-Integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category."

(1) Subpart F—Dissolving Kraft Subcategory. This subcategory includes mills which produce a highly bleached pulp by a "full cook" process, utilizing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. Included in the manufacturing process is a "pre-cook" operation termed pre-hydrolysis. The principal product made by this process is a highly bleached and purified dissolving pulp used principally for the manufacture of rayon and other products requiring the virtual absence of lignin and a very high alpha cellulose content.

(2) Subpart G—Market Bleached Kraft Subcategory. This subcategory includes mills which produce a bleached pulp by a "full cook" process utilizing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The product made by this process is papergrade market pulp.

(3) Subpart H—BCT Bleached Kraft Subcategory. This subcategory includes integrated pulp and paper mills which produce a bleached pulp by a "full cook" process utilizing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The principal product made by this process is paper of low filler content including paperboard (B), coarse papers (C), and tissue papers (T).

(4) Subpart I—Fine Bleached Kraft Subcategory. This subcategory includes integrated pulp and paper mills which produce a bleached pulp by a "full cook" process utilizing a highly alkaline sodium hydroxide and sodium sulfide cooking liquor. The principal products made by this process are fine papers which include business, writing, and printing papers.

(5) Subpart J—Papergrade Sulfite Subcategory. This subcategory includes pulp and paper mills which produce pulp, usually bleached, by a "full cook" process using an acidic cooking liquor of bisulfites of calcium, magnesium, ammonia, or sodium containing an excess of free sulfite dioxide. The principal products made by this process are tissue and fine papers.

(6) Subpart K—Low Alpha Dissolving Pulp Subcategory. This subcategory includes mills which produce a highly bleached and purified pulp by a "full cook" process using very strong solutions of bisulfiates of calcium, magnesium, ammonia, or sodium containing an excess of free sulfur dioxide. The pulps produced by this process are viscose, nitration, or cellophane grades and are used principally for the manufacture of rayon and other products requiring the virtual absence of lignin.

(7) Subpart L—Groundwood—Chemi-Mechanical Subcategory. This subcategory includes pulp and paper mills which produce a pulp, with or without brightening, utilizing a chemical cooking liquor to partially cook the wood followed by mechanical defibration by refining at atmospheric pressure. The principal products made by this process are fine papers, newsprint, and molded fiber products.

(8) Subpart M—Groundwood—Thermo-Mechanical Subcategory. This subcategory includes pulp and paper mills which produce a pulp, with or without brightening, by a brief cook utilizing steam, with or without the addition of cooking chemicals such as sodium sulfite, followed by mechanical defibration by refiner which are under pressure. The principal products of this process are fine papers, newsprint, and tissue papers.

(g) Subpart N—Groundwood—CMN Papers Subcategory. This subcategory includes mills which produce pulp, with or without brightening, utilizing only mechanical defibration by either stone grinders or refiners. The principal products made by this process are pulp and papers of low filler content including coarse papers (C), molden fiber products (M), and newsprint (N).

(10) Subpart O—Groundwood—Fine Papers Subcategory. This subcategory includes pulp and paper mills which produce pulp, with or without brightening, utilizing only mechanical defibration by either stone grinders or refiners. The principal products made by this process are fine papers which includes business, writing, and printing papers.

(11) Subpart P—Soda Subcategory. This subcategory includes mills which produce a bleached pulp by a "full cook" process utilizing a highly alkaline sodium hydroxide cooking liquor. The principal products made by this process are printing, writing, and business papers.

(12) Subpart Q—Deink Subcategory. This subcategory includes mills which produce a pulp usually brightened or bleached from waste papers in which an alkaline treatment is utilized to remove contaminants such as ink and coating pigments. The principal products of this process are printing, writing and business papers, tissue papers, and newsprint.

(13) Subpart R—NI Fine Papers Subcategory. This subcategory includes non-integrated (NI) mills which produce fine papers from wood pulp or deinked pulp prepared at another site. The principal products of this process are printing, writing, business, and technical papers.

(14) Subpart S—NI Tissue Papers Subcategory. This subcategory includes non-integrated (NI) mills which produce tissue papers from wood pulp or deinked pulp prepared at another site. The prin-

cipal products of this process include facial and toilet papers, glassine, paper diapers, and paper towels.

(15) Subpart T—NI Tissue (FWP) Subcategory. This subcategory includes non-integrated (NI) mills which produce tissue papers from waste papers (FWP) without deinking. The principal products made by this process include facial and toilet papers, glassine, paper diapers, and paper towels.

(16) Subpart U—High Alpha Dissolving Sulfite Pulp Subcategory. This subcategory includes mills which produce a highly bleached and purified pulp by a "full cook" process using very strong solutions of bisulfites of calcium, magnesium, ammonia, or sodium containing an excess of free sulfur dioxide. The pulp produced by this process is principally acetate grade and the principal uses are for the manufacture of rayon and other products requiring the virtual absence of lignin.

(17) Subpart V—Papergrade Sulfite Market Pulp Subcategory. This subcategory includes mills which produce pulp, usually bleached, by a "full cook" process using an acidic cooking liquor of bsisulfites of calcium, magnesium, ammonia, or sodium containing an excess of free sulfur dioxide. The principal product made by this process is papergrade market pulp.

(ii) Waste characteristics. The significant pollutant parameters in waste waters resulting from the dissolving kraft subcategory, market bleached kraft subcategory, BCT bleached kraft subcategory, fine bleached kraft subcategory, papergrade sulfite subcategory, low alpha dissolving sulfite pulp subcategory, groundwood-chemi-mechanical subcategory, groundwood-thermo-mechanical subcategory, groundwood-CMN papers subcategory, groundwood-fine papers subcategory, soda subcategory, deink subcategory, NI fine papers subcategory, NI tissue papers subcategory, NI tissue (FWP) subcategory, high alpha dissolving sulfite pulp subcategory, and the papergrade sulfite market pulp subcategory of the pulp, paper and paperboard manufacturing category includes five day biochemical oxygen demand (BOD5), total suspended solids (TSS), pH, color (for bleached kraft and soda subcategories) and zinc (for groundwood subcategories).

Interim final effluent limitations and guidelines are established below to control each of the above pollutants. No limitations have been established for several waste water pollutants because (a) available data has indicated these pollutants are normally removed when BOD5 or TSS are removed, (b) they occur in insignificant quantities, or (c) technology is not available to control the pollutant discharges.

(iii) Origin of waste water pollutants. The origin of waste water pollutants in the dissolving kraft, market bleached kraft, BCT bleached kraft, fine bleached kraft, papergrade sulfite, low alpha dissolving sulfite pulp, groundwood chemi-mechanical, groundwood-thermo-mechanical, groundwood-CMN papers, groundwood-fine papers, soda, deink, NI fine papers, NI tissue papers, NI tissue (FWP), high alpha dissolving sulfite pulp, and the papergrade sulfite market pulp subcategories result from the following applicable operations: woodyard, digestion and pulp washing, chemical recovery, cooking liquor preparation, pulp screening, bleaching, and papermaking. The primary continuous sources of waste water pollutants are the white water from the paper machine, evaporator and digester condensates, pulp washing and screening operations, and bleaching operations. Major intermittent sources of waste water pollutants are spills of spent cooking liquor, evaporator boilouts and carryover of spent liquor, spills in pulp screening and bleaching areas due to process imbalances, and papermaking system imbalances and wash-ups.

(iv) Treatment and control technology.

Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is the best practicable control technology currently available. For all subcategories, the best practicable control technology currently available includes (1) in-plant control technologies which are in common use and (2) end-of-pipe pollution control technologies.

In-plant wastewater procedures to control pollution include strict management control over housekeeping and water use practices, minimization of the intake of water by reuse, and recirculation of waste waters.

End-of-pipe pollution control technologies include preliminary screening, primary sedimentation, and biological treatment. The most commonly employed biological treatment systems presently used by mills within all of the subcategories are aerated stabilization basins and activated sludge treatment systems.

Pulp and paper mills subject to the regulations set forth below can achieve the effluent limitations through the use of the best practicable control technology currently available.

Best practicable control technology as known today, requires disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to insure long-term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (e.g. impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(v) Cost estimates for control of waste water pollutants.

Pollution control cost based on best practicable control technology currently available (BPCTCA) have been estimated for model mills within each subcategory for one to four mill sizes. Both aerated stabilization basins (ASB) and activated sludge treatment systems (A) were examined. Costs for the largest model mill in each subcategory are presented as cumulative costs as follow:

BPCTCA

[In millions of dollars]

Mill	Total investment costs		Total annual costs	
	ASB	A	ASB	A
Dissolving Kraft 907 kkg/d	21.6	27.2	5.0	6.2
Market Kraft 635 kkg/d	14.7	18.3	3.2	4.0
BCT Kraft 1,179 kkg/d	21.2	26.1	4.4	5.5
Fine Kraft 1,179 kkg/d	19.0	22.9	4.2	5.1
Papergrade sulfite 481 kkg/d	18.1	21.9	3.5	4.3
Low alpha dissolving sulfite 499 kkg/d	17.6	21.6	4.1	5.0
GW chem-mechanical 544 kkg/d	10.0	11.6	2.1	2.6
GW thermo-mechanical 544 kkg/d	7.5	8.9	1.6	2.0
GW CMN papers 454 kkg/d	8.5	9.9	1.8	2.1
GW fine papers 499 kkg/d	8.8	10.1	1.8	2.1
Soda 635 kkg/d	15.0	17.5	3.3	3.9
Deink 454 kkg/d	11.6	13.5	2.7	3.0
NI fine papers 254 kkg/d	3.0	3.0	.6	.6
NI tissue papers 408 kkg/d	5.2	5.2	1.0	1.0
NI tissue (FWP) 408 kkg/d	7.2	9.1	1.5	1.8
High alpha dissolving sulfite 499 kkg/d	17.6	12.6	4.1	5.0
Papergrade sulfite market 481 kkg/d	18.1	21.9	3.5	4.3

(vi) Energy requirements and nonwater quality environmental impacts.

The energy requirements and the nonwater quality environmental impacts associated with the pollution control technologies have been considered. Energy requirements to achieve the effluent limitations are relatively low: power required to operate the internal controls and the mechanically aerated biological systems will increase consumption an average of 2.5 percent. Solid wastes from treatment sludges and some odor from treatment systems are encountered, but no substantial impact can be identified.

The proper management of solid wastes resulting from pollution control systems must be practiced. Pollution control technologies generate many different amounts and types of solid wastes and liquid concentrates through the removal of pollutants. These substances vary greatly in their chemical and physical composition and may be either hazardous or non-hazardous. A variety of techniques may be employed to dispose of these substances depending on the degree of hazard.

If thermal processing (incineration) is the choice for disposal, provisions must be made to ensure against entry of hazardous pollutants into the atmosphere. Consideration should also be given to recovery of materials of value in the wastes.

For those waste materials considered to be non-hazardous where land disposal is the choice for disposal, practices similar to proper sanitary landfill technology may be followed. The principles set forth in the EPA's Land Disposal of Solid Wastes Guidelines 40 CFR 241 may be used as guidance for acceptable land disposal techniques.

For those waste materials considered to be hazardous, disposal will require special precautions. In order to ensure long-term protection of public health and the environment, special preparation and pretreatment may be required prior to disposal. If land disposal is to be practiced, these sites must not allow movement of pollutants to either ground or surface waters. Sites should be selected that have natural soil and geological conditions to prevent such contamination or, if such conditions do not exist, artificial means (e.g. liners) must be provided to ensure long-term protection of the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

A discussion of energy requirements, solid wastes, and other non-water quality aspects of these regulations is included in Section VIII of the Development Document.

(vii) Economic impact analysis.

The results of the economic impact analysis do not indicate significant price increases for either 1977 or 1983. Prices on individual product lines should rise by only about 1 to 4% in 1977, and cumulatively, should be 3 to 7% in 1983. Econometric analysis of product sectors shows demand to be relatively inelastic permitting most firms to pass on the additional pollution control costs. No supply shortages leading to upward pressure on prices are expected to occur in the next several years.

A total of 8 mills or a maximum of 3% of industry capacity in any specific product sector is expected to close in 1977 and an additional 15 mils or 4.4% of capacity by 1983. In general, it appears that most mills vulnerable to closure due to the 1977 effluent limitations have already closed. The sulfite subcategories are expected to be the most heavily impacted in 1977 in terms of absolute tonnage closed as a result of the effluent limitations. The mills in question are small and have no secondary treatment and only partial chemical recovery.

Foreign trade is relatively unimportant to most plants except newsprint, dissolving pulp, and market pulp. The fact that pollution control regulations in foreign countries are generally comparable to our own indicates that foreign trade effects will be minimal.

Executive order 11821 and OMB circular A–107 establish criteria identifying major regulatory actions which require preparation and certification of inflationary impact statements. The Administrator has directed that all regulatory actions which are likely to result in annualized costs including capital charges which exceed $100 million in any calendar year require certification. Since the estimated total capital investment by 1977 for this segment of the pulp and paper industry is $1.5 billion, an inflationary impact statement is required and has been prepared.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

The report entitled "Development Document for Interim Final and Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink and Non-Integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Point Source Category" details the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., SW., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by this regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Washington, D.C. 20460. Attention: Distribution Officer, WH–552.

When this regulation is promulgated in final rather than interim form, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, VA 22151.

(c) Summary of public participation.

Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations, guidelines and standards proposed for the pulp, paper, and paperboard category. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. These comments were reviewed with a result that numerous significant changes were made to the draft regulations. A second draft of the Development Document entitled "Development Document for Advanced Notice of Proposed or Promulgated Rule Making for Effluent Limitations Guidelines and New Source Performance Standards for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink, and Non-Integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Mills Point Source Category" (August 1975) was also distributed for comments. The Advance Notice of Proposed or Promulgated Rulemaking was published in the FEDERAL REGISTER on September 5, 1975. The Agency published the Advance Notice rather than proposed the regulations in order to meet the court imposed deadline of January 30, 1976, while allowing the maximum possible participation of interested parties prior to promulgation of the effluent limitations as interim final. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) other public agencies, interest groups, and associations; (4) U.S. Department of the Interior; (5) U.S. Department of Health, Education and Welfare; (6) Environmental Defense Fund, Inc.; (7) Natural Resources Defense Council; (8) Water Pollution Control Federation; (9) National Wildlife Federation; (10) U.S. Department of Transportation; (11) Tennessee Valley Authority; (12) U.S. Department of Housing and Urban Development; (13) U.S. Department of Agriculture; (14) U.S. Nuclear Regulatory Commission; (15) U.S. Department of Defense; (16) U.S. Internal Revenue Service; (17) U.S. Federal Power Commission; (18) National Commission on Water Quality; (19) U.S. Federal Energy Administration; (20) Water Resources Council; (21) Office of Management and Budget; (22) Council on Environmental Quality; (23) U.S. Department of Treasury; (24) National Council for Air and Stream Improvement, Inc., Technical Association of the Pulp and Paper Industry; (25) American Paper Institute; (26) The American Society of Mechanical Engineers; (27) Businessman for the Public Interest; (28) The American Society of Civil Engineers; and (29) the Izaak Walton League.

The following responded with comments on the Advance Notice of Proposed Rulemaking: Ketchikan Pulp Co.; Alaska Lumber and Pulp Co., Inc.; Louisiana-Pacific Corp.; Kimberly-Clark Corp.; Potlatch Corp.; State of Florida; Hammermill Paper Co.; Nekoosa Edwards Paper Co., Inc.; Boise-Cascade Corp.; Crown Zellerbach Corp.; St. Regis Paper Co.; Niagara of Wisconsin Paper Corp.; State of Wisconsin; Flambeau Paper Co.; Union Camp Corp.; Bowater Inc.; The Proctor & Gamble Co.; Georgia-Pacific Corp.; Mead Corp.; American Paper Institute; Wasau Papers Corp.; P. H. Gladfelter Co.; National Council for Air and Stream Improvement, Inc.; Continental Can Co.; Scott Paper Co.; Connecticut Valley Coalition; Engineering Experiment Station, Georgia Institute of Technology; Illinois Environmental Protection Agency; Environmental Management Corp.; Weyherhauser Corp.; U.S. Dept. of Interior; U.S. Dept. of Health, Education, and Welfare; and Greater Portland Council of Governments.

The primary issues raised in the development of the interim final effluent limitations and guidelines and the treat-

ment of these issues herein are as follows:

(1) One comment was received that stated that the allowances for wet woodyard operations were realistic but that the added waste loads generated by the wet woodyard operations were not included in the costs of achieving BPCTCA.

The costs for a model mill within each subcategory to achieve BPCTCA were used in determining the overall economic impact. Since very few mills have wet woodyards and since the raw waste load from wet woodyards is relatively small when compared to the overall raw waste load, the effect on the cost of treatment of the mill's waste and the economic impact are minimal.

(2) Several commenters stated that the date base resulting from the mill surveys was biased, because the Agency selected those mills which utilized biological treatment facilities as the primary criterion for onsite surveys.

The Agency conducted two extensive efforts in collecting data and information. The primary criterion for mill selection for survey during the first effort was the existence of biological treatment facilities at the mill. The primary criterion during the second effort was mills with only primary treatment or less. The criteria for mill selection are more fully explained in the Development Document. As a result of this two year effort, an extensive and repersentative data base has been accumulated. For example, the raw waste load of the mills presently achieving the effluent limitations is generally about the same as for all other mills in any given subcategory.

(3) One commenter stated that the papergrade sulfite subcategory raw waste load was low because the mill used purchased chips as its raw material and therefore did not have a wet woodyard.

As explained in the Development Document, mills with wet woodyards receive an additional allowance in the regulation for BOD5 and TSS because of the higher waste loads. Therefore, further subcategorization to provide for wet woodyard raw waste load is unnecessary.

(4) One comment was received that questioned the basis for using purchased pulp as part of their furnish, the BOD5 load for integrated mills.

For integrated mills using purchased pulp as part of their furnish, the BOD5 loads were adjusted using raw waste loads from non-integrated fine and tissue mills. The discussion in the Development Document has been expanded and a sample calculation is shown.

(5) Several commenters stated that the zinc limitations for the four groundwood subcategories should be limited to only those mills within the subcategories that use zinc hydrosulfite as a bleaching agent. In addition, the commenters felt that the present zinc limitations were based upon inaccurate data. Data on zinc in effluents from mills using zinc hydrosulfite were provided.

The zinc limitations were carefully reviewed with the data provided and the regulations were revised so that the zinc limitations are applicable only to those mills within the four groundwood subcategories that use zinc hydrosulfite as a bleaching agent. The zinc limitations can be achieved by these groundwood mills by using sodium hydrosulfite as the bleaching agent and does not involve any major process change.

(6) Several comments were received that pointed out apparent typographical errors, inconsistencies, and inaccuracies in the Federal Register Notice, as well as in the Development Document.

The Agency has carefully reviewed each of the comments and made appropriate changes to the regulation and Development Document. It should be pointed out that none of the apparent inconsistencies or inaccuracies had any effect on the effluent limitations.

(7) One commenter stated that removal of sludges from aerated stabilization basins (ASB) may take months and that during the cleaning process, the TSS requirements will not be maintained as the TSS levels will increase greatly.

The cleaning of ASB's is an infrequent occurrence and should be conducted in a manner which will avoid treatment system upsets. If the cleaning operation cannot be accomplished without high TSS levels, the question of relief shall be determined by the NPDES permit issuing authority.

(8) A number of comments were received that stated that the 1977 TSS effluent limitations were overly stringent and should be revised upwards.

The TSS effluent limitations for many subcategories have been adjusted upwards as a result of extensive analysis. The TSS levels now required are no more stringent than the average of the TSS levels being achieved by mills using biological treatment facilities representative of BPCTCA.

(9) One commenter stated that the 1977 effluent limitations were excessively liberal and that the 1983 color limitations were especially liberal. Another commenter stated that the 1977 effluent limitations can be met by application of BPCTCA and that NPDES permits are generally more stringent that the 1977 effluent limitations.

Data available to the Agency indicate that the effluent limitations are appropriate. The 1977 limitations are based upon effluent levels from mills using treatment technologies representative of BPCTCA and a number of mills are presently achieving the limitations. It is to be anticipated that mills located in water quality limited situations will receive NPDES permits more stringent than the 1977 limitations if water quality standards would not be achieved with the effluent limitations set forth in the regulation.

Information available to the Agency at this time indicates that the 1983 color limitations are appropriate. However, the Agency is presently soliciting information and data regarding color reduction technologies and the color raw waste loads. Prior to promulgation of the 1983 color limitations, any data collected during these efforts will be considered in conjunction with the available data in making final determinations on the proposed limitations.

(10) One commenter recommended that non-integrated specialty paper mills should be considered on a mill by mill basis.

Non-integrated specialty paper mills have been omitted from these regulations because additional data are required. However, the Agency expects to collect and analyze additional information and data and develop effluent limitations for these mills in the near future.

(11) Several commenters stated that the papergrade sulfite raw waste load used as a basis for 1983 effluent limitations was too low.

The 1983 papergrade sulfite raw waste load was based upon a mill using BATEA in-plant controls as discussed in the Development Document. The Agency does not specify the technology that must be used to achieve the effluent limitations, and each mill can determine the appropriate technology for its individual situation. In this regard, the Development Document presents data for a mill with a raw waste load which is about 45% higher than the BATEA raw waste load yet achieves through external treatment a final effluent BOD5 level which is well below the BATEA limitations.

(12) Two commenters felt that the disposal of sludge from primary and secondary treatment was not given proper recognition in the Development Document. In addition, the commenters stated that land disposal of sludge was not always available and that the Agency should have included sludge incineration in the costs presented in the Development Document.

The Agency recognizes that sludge disposal is a sometimes difficult and expensive task. In view of this there is added material in the Development Document addressing sludge disposal as well as a short discussion of reuse of primary sludges in the manufacturing process. The Agency also recognizes that sludge disposal by incineration will be necessary at some mills because of a lack of available landfill sites, and cost of sludge incineration as well as land disposal are presented in the Development Document.

(13) Several comments were received that pointed out apparent inconsistencies in the effluent limitations for the groundwood—chemi - mechanical (GW – CMP) and the groundwood—thermo-mechanical (GW–TMP) subcategory in relation to the other two groundwood subcategories. The commenters observed that even though the GW–CMP and GW–TMP subcategories had raw waste loads higher than the other two groundwood subcategories, the effluent limitations were more stringent.

The Agency has closely examined the available data for these subcategories and has revised the effluent limitations accordingly. Because of the limited number of mills with external treatment facilities in these subcategories, the revised limitations are based upon the capabil-

ities of the treatment facilities representative of BPCTCA in the other groundwood subcategories.

(14) One comment was received that stated that mills using both bleached kraft and groundwood pulping on the same site should receive an additional color allowance for the color contributed by the groundwood operation.

The 1983 color effluent limitations are based upon bleached graft mills, and it is expected that the color contribution of the groundwood operation would be accounted for in the NPDES permit.

(15) One comment was received that stated that the woodyard allowance should be based upon the pulping process (i.e., yield). Another commenter felt that the season of harvest and the type of wood should be considered in developing the woodyard allowance.

The Agency recognizes that different processes and wood types result in different yields and that the wood species and season of harvest may affect the water extractables beneath the bark. However, available data shows that the relative contribution of the woodyard to the overall raw waste load is minor, and that the effect of these factors (season, yields, species) on the woodyard raw waste load is also relatively minor. Thus, these factors play an insignificant role in their contribution to the total raw waste load. These facts, in conjunction with a liberal woodyard allowance representing the maximum 30 consecutive days of discharge from mills using wet woodyards, resulted in an allowance which more than adequately allows for the variations in woodyard operations.

(16) Two commenters felt that non-integrated paper mills producing glassine paper should not be included in the non-integrated tissue papers subcategory.

Several mills producing glassine papers were included in the data base upon which the effluent limitations for the non-integrated tissue papers subcategory were based. There were no significant differences between raw waste loads generated by mills producing tissue papers and mills producing glassine papers. Therefore, the inclusion of non-integrated paper mills producing glassine papers in the non-integrated tissue papers subcategory is reasonable.

(17) One comment was received that stated that the daily maximum effluent limitations were too stringent for the non-integrated paper mill subcategories and that the daily maximum should be established which is four times the 30 day maximum limitations.

The daily maximum effluent limitations for the non-integrated paper mill subcategories were based upon use of long term and daily data from representative mills in each of the subcategories. The ratio of maximum day to the annual average was used to determine a variability factor which was utilized to set the daily maximum limitation. This methodology adequately accounts for variability in treatment plant performance and sets realistic effluent limitations.

(18) Two commenters stated that the number of paper machines at a mill directly affected the raw waste load and additional subcategorization was warranted.

The Agency has closely examined the raw waste load and the number of paper machines at mills covered by these regulations and does not feel that further subcategorization is warranted. The data shows that mills with a large number of paper machines frequently achieve lower raw waste loads than mills with only a few paper machines.

(19) Several commenters stated that the costs presented in the Development Document were low, and examples were provided comparing their own cost estimates with those in the Development Document.

The costs presented in the Development Document were prepared for model mills within each of the subcategories. For these models, costs were derived as incremental to assumed in-place controls, and incorporated an additional assumption that only primary end-of-pipe treatment systems were in-place. In comparison with existing situations, the latter assumption is considered conservative since many plants have already installed more complete biological treatment. An engineering consulting firm reviewed the costs for the American Paper Institute and submitted comments to the Agency in which it was pointed out that the Agency costs were higher or comparable to their own estimates. The Agency cost estimates were used in the economic impact analysis, and the general approach involved use of "worst case" engineering designs of the appropriate technology in order to determine the maximum economic impact that could be expected. Thus, the EPA costs and impact would be expected to be higher than will actually be incurred. An example of this approach was in the Agency's selection of a 14-day detention time aerated stabilization basin (ASB) on which to base the costs of achieving the limitations; a number of mills are achieving the limitations using ASB's with only eight days detention time.

(20) A number of comments were received that stated that effluent limitations for the sulfite subcategories should not be based upon data from the bleached kraft subcategories as the treatabilities of the waste are different. Several of the commenters felt that the sulfite mills with biological treatment systems should be recognized by the Agency as representative of BPCTCA.

The effluent limitations for the sulfite subcategories have been revised and were derived from data from full scale and pilot plant biological treatment facilities at sulfite mills. Data was used from recent pilot plant operations at sulfite mills because the biological treatment systems referenced by the commenters are not representative of BPCTCA. The effluent limitations are appropriate and can be achieved by proper application of technology. Reference to effluent levels being achieved at bleached kraft mills was made as an example of proper application of technology.

(21) A number of commenters stated that the selection of pollutant parameters should be based upon the class of receiving waters. The commenters stated that BOD5, TSS and pH should not be regulated at mills discharging into marine waters.

The class of receiving waters is an impermissible basis upon which to establish effluent limitations. To set effluent limitations and NSPS under Sections 301, 304(b), and 306 of the Act based upon receiving water quality either through variations in the numerical limitations or through variations in parameters utilized in the limitations would violate the clear intent of Congress that similar plants regardless of their location or the nature of the receiving waters into which they discharge meet similar technologically based effluent limitations and standards of performance.

(22) A number of comments were received that stated that mixed media filtration of biological treatment effluents should not be required as part of BATEA. The commenters felt that the biological solids were not a significant pollutant and did not justify the large expenditure and energy consumption associated with the filtration technology. In addition, data was provided from a filtration pilot plant at a mill covered by these regulations with the conclusion that the 1983 TSS limitations cannot be achieved by the filtration technology.

The Agency believes that the TSS in the effluents from the biological treatment systems at the mills covered by these regulations are a significant pollutant parameter and the benefits of removal of the TSS justify the costs and energy consumption. It should be pointed out that removal of the biological TSS by filtration technologies generally results in concurrent removal of a portion of the remaining BOD5 in the waste water. The costs and energy consumption associated with the achievement of the 1983 limitations are shown in Section VII of the Development Document. The Agency has developed the 1983 TSS limitations based upon full scale applications of the filtration technology in other industry categories. The Agency believes that the required BATEA TSS levels are warranted for the pulp and paper industry and that technologies such as filtration are available which can achieve the effluent limitations.

The Agency is presently soliciting data and information regarding the capabilities of TSS removal technologies, such as filtration technologies and chemical coagulation and clarification technologies. Any data collected during these efforts will be considered in conjunction with presently available data in making final determinations on the TSS 1983 limitations and NSPS prior to promulgation.

(23) One comment was received that stated that the Agency should identify the biological treatment system at mill 110 in the Development Document as better than BPCTCA. The commenter recommended that the Agency recog-

nize the effects of climatic changes on biological treatment efficiencies in the regulations.

The Agency has shown in the Development Document that biological treatment facilities can be designed in order to minimize climatic effects (i.e. extreme cold temperatures) upon biological treatment efficiencies. Mill 110 is located where winters are extreme, and the treatment facilities at mill 110 include a 12 to 13 day ASB followed by a clarifier. This length of detention results in decreased waste water temperatures, decreased biological oxidation rates, and higher effluent levels during the winter months and therefore, is not representative of BPCTCA for this location. In order to achieve the effluent limitations, the treatment system at mill 110 should be upgraded to minimize the impacts of temperature on the effluent reduction capabilities of the present treatment facilities. Normally, BPCTCA for this location would be shorter detention time biological treatment facilities, such as activated sludge, which would minimize the impact of ambient temperatures on the waste water temperatures and thereby lessen the impact on the biological treatment effectiveness. The Agency recognizes that effective design and operation of biological treatment facilities minimizes the effects of climate on effluent qualities but does not necessarily eliminate the effects. These effects are accounted for in the regulations because the limitations are based upon the maximum 30 consecutive days of pollutant discharged from mills located throughout the country and using systems representative of BPCTCA.

(24) One commenter stated that the treatment facility at mill 152 in the Development Document should be recognized as BPCTCA and that the effluent limitations should be adjusted accordingly.

The treatment facility at mill 152 has an ASB with only five days detention time whereas mills with eight to 14 day ASB's are commonly utilized and can normally achieve the effluent limitations. It should be pointed out that the exception to this is in locations where extreme climatical conditions would adversely impact biological treatment effectiveness (i.e., comment No. 23). The effluent limitations for the soda subcategory were based upon the operation of external treatment facilities in the bleached kraft subcategories, because the manufacturing process and the raw waste loads are similar between soda and bleached kraft pulp and paper mills.

(25) Several commenters stated that BATEA has not been fully demonstrated and thus the 1983 effluent limitations should be deferred until a later date.

The 1983 limitations fully meet the statutory requirements and are based on the best available technology economically achievable. In every case, this technology has been demonstrated to be available by 1983 either on the basis of pilot plant or full scale operation. Rulemaking is being pursued at this time to provide the industry the maximum opportunity to plan for and implement the technology to meet the 1983 effluent limitations.

(26) A number of comments were received that stated small mills should be subcategorized or given an additional allowance because the costs of achieving the effluent limitations were more per ton of product than for a large mill.

The economic impact analysis which focused both upon small mills and large mills showed no significant impact upon the subcategories covered by these regulations. (See also comment No. 57.)

(27) Several comments were received that stated that if water quality standards were being achieved in 1977 then any additional treatment to achieve 1983 effluent limitations would be treatment for treatment's sake. It was recommended that 1983 limitations be deferred until application of BATEA can be shown to have value to the environment.

The Act provides no authority to exempt dischargers from BATEA requirements based upon water quality. In any event, attainment by 1977 of the water quality standards is only one element of the overall effort to clean up the Nation's waters. BATEA will result in removal of significant quantities of pollutants and move the Nation closer to the expressed goal of Congress to eliminate the discharge of pollutants by 1985.

(28) A number of commenters stated that mills located in Alaska should be subcategorized separately because of the higher costs of treatment and because of energy effects, non-water quality impacts, and the limited space available for biological treatment.

The dissolving sulfite subcategory which includes the only two pulp mills in Alaska has been further subcategorized based upon process and product considerations. The low alpha dissolving sulfite pulp subcategory includes a total of three mills, two in Alaska and one in the State of Washington. The mill in Washington produces both dissolving and papergrade pulp and thereby will be subject to effluent limitations based upon the aggregate of production attributed to each subcategory. Thus, the two Alaskan mills are the only mills which will be entirely subject to the effluent limitations for the low alpha dissolving sulfite pulp subcategory. Moreover, the economic impact analysis did not show any significant impact on the two Alaskan mills.

(29) Several commenters asserted that the Agency should provide a range of effluent limitations instead of a single limitation, as the range would allow the Regional Administrators to determine the appropriate limitations for each mill depending upon the specific conditions at the mill.

The Agency considers that the limitations already represent ranges taking into account differences in processes used and other factors. The 28 industries noted in Section 306 of the Act have already broken some of the broad industrial groups into subgroups such as the chemical industry into inorganic chemicals, organic chemicals, plastics and synthetics, petrochemicals, soaps and detergents, fertilizers, and rubber. The pulp and paper industry has been broken into 5 initial subcategories in the first segment of the industry and 17 additional subcategories which are covered by these regulations. This is in addition to separate regulations for builders papers and board mills and timber products. Subcategorization has been used to take all appropriate factors into account with different limitations for each subcategory. Factors other than those which affected subcategorization were considered but the data base clearly indicates that these factors are not significant. The numerical limitation represent an average 30 day value plus maximum daily values which in themselves represent a range.

(30) Several comments were received that stated that subcategories should be established for mills discharging into marine waters. These commenters felt that BPCTCA for these mills is no treatment other than primary treatment and discharge through diffuser outfall pipes. Several other commenters stated that BPCTCA for mills discharging to large water bodies (rivers, lakes, oceans) should also be diffusers.

As stated in the Conference Report (S. Rept. 92–1236), "The Administrator is expected to be precise in his guidelines under subsection (b) of this section (304), so as to assure that similar point sources with similar characteristics, regardless of their location or the nature of the waters into which the discharge is made, will meet similar effluent limitations."

The discharge of untreated or partially treated waste waters to the marine environment through diffuser type outfalls would also undermine another important Congressional objective. As stated in the Conference Report, "The Conference substitute specifically bans pollution dilution as an alternative to waste treatment." (Leg. Hist. at 284). In fact, the result would be diametrically opposed to the finding of the Senate Committee on Public Works that "The use of any river, lake, stream, or ocean as a waste treatment system is unacceptable." (Leg. Hist. at 1425).

(31) Several comments were received that stated that the sulfite subcategories should be further subcategorized to recognize the effects of age, cooking liquor, product, size, bleaching, and geographical location upon raw waste load. Data were provided showing the effects of product on raw waste load in the dissolving sulfite subcategory and suggestions were made relative to providing an allowance for calcium base papergrade mills. It was recommended that the definitions of the sulfite subcategories be more precise.

The Agency has carefully reviewed the data submitted along with all of the other available data. Both the dissolving sulfite subcategory and the papergrade sulfite subcategory were further subcategorized into two subcategories each.

Process and product considerations were the primary bases for subcategorization. The Agency thoroughly evaluated all possible factors, such as the effects of age, cooking liquor, product, size, bleaching, and geographical location, upon raw waste loads from sulfite mills. Any variations in raw waste load relating to the above factors are taken into account in the four subcategories. The discussion in Section IV and V of the Development Document has been expanded to thoroughly explain the relationships (or lack of) between the above factors and raw waste loads. In addition, the definitions of the subcategories have been made more precise where appropriate.

(32) Several comments were received that stated that the methodology used in determining the 1977 effluent limitations was inadequate because the influent raw waste concentration was not considered in the development of the limitations. The commenters stated that the use of flow and effluent concentrations from separate mills led to inconsistencies in treatment efficiencies necessary to achieve the effluent limitations in several subcategories.

The discussion in the Development Document has been expanded to more precisely explain the methodology utilized in development of the effluent limitations. The raw waste concentrations were carefully considered in relation to the final effluent concentrations in determination of the effluent limitations. The effluent limitations were appropriately determined by using average subcategory flows and effluent concentrations shown to be achievable based upon the analyses of influent and effluent concentrations for mills within the subcategories. The Agency reexamined the basis for the effluent limitations of the subcategories in question and changes in the limitations were made where appropriate.

(33) Several commenters stated that the Agency should not base the 1977 limitations on mills operating treatment facilities discharging into water quality limited receiving waters. One commenter stated that the BPCTCA should only be based on mills operating treatment systems prior to passage of the FWPCA of 1972 and not located on water quality limited receiving waters.

Congress required EPA to set requirements for 1977 based upon "the average of the best" mills in the applicable industry category in terms of treatment performance. This requirement makes no exception for mills achieving this performance due to water quality requirements. Congress' intent was that the limitations be based on the average of the best *existing* mills, which means all mills which commenced construction prior to proposal of NSPS (See Section 306(a)(2) of the Act) (i.e. the date of the NSPS notice).

(34) A number of comments were received that stated that the Agency has not examined the total cost in relation to the effluent reduction benefits. The commenters also stated that the effluent reduction efficiencies of the treatment technologies were not specified by the Agency.

The Agency has closely examined the total costs in relation to the effluent reduction benefits as fully shown in the Development Document. Section VIII of the Development Document presents total costs of achieving the effluent limitations and standards of performance whereas effluent reduction benefits are shown in Section VII through IX. The Agency has carefully examined and described the technologies that can achieve the effluent limitations and standards of performance and these are discussed in Section VII of the Development Document. Most of the technologies identified as capable of achieving the limitations are used in treatment trains, and it is most appropriate to specify the effluent reduction capabilities of the treatment train rather than the individual unit operations. The effluent reductions of the identified treatment trains are shown in Sections VIII, IX, X, and XI of the Development Document. It should be pointed out that Agency did specify effluent reduction capabilities for those treatment technologies which are generally used as an incremental step in treatment, such as filtration technologies in BATEA.

(35) Several commenters stated that the methodology used to determine 1983 limitations should be revised because the Agency made unsupported judgments concerning raw waste load reduction at the best mills. The commenters also stated that the Agency did not use representative mills to determine the 1983 limitations and the methodology of using raw waste flows and final effluent concentrations discourages water reuse practices within the mills.

The 1983 limitations were based upon the best mill in each subcategory that was demonstrating extensive inplant controls and highly efficient external treatment performance. The Agency carefully examined each mill selected to assure that it was representative of the subcategory. Estimates were made of further reduction of the raw waste load which could be achieved by the best mills by installation of BATEA in-plant controls not presently used. These raw waste loads representative of the best mills in each subcategory were used together with the performance of the BATEA external control technologies to determine the limitations. As shown in the Development Document, the installation of BATEA in-plant controls results in substantially reduced raw waste loads in most subcategories. Use of raw waste flow data from the best mills and final effluent concentrations does not discourage water reuse practices. The discussion of BATEA limitations development has been expanded in the Development Document to more fully explain the methodology used.

The Agency is presently soliciting additional information and data regarding the pollution reduction capabilities of BATEA inplant control technologies. Any information and data collected during these efforts will be considered in conjunction with available data in making any appropriate revisions to the proposed 1983 limitations and NSPS prior to promulgation.

(36) One commenter stated that the papergrade sulfite limitations were overly stringent and that two of the three sulfite mills that he operated would have to close if the mills had to achieve the limitations.

The Agency has carefully reviewed the effluent limitations established for the sulfite subcategories. In addition to the establishment of additional subcategories, the Agency has examined the treatment technologies presently in use by sulfite mills and in some cases has revised the effluent limitations to reflect actual treatment system performance. Costs are assessed to achieve the effluent limitations upon a subcategory basis and not on a mill by mill basis. The economic impact analysis shows no significant overall impact upon the sulfite subcategories.

(37) A number of comments were received concerning the variability analysis and the variability factors used to determine the effluent limitations and standards of performance. Several commenters felt that the Agency should use log normal distribution on which to base the analysis and to develop variability factors for each subcategory. In addition, comments were received that stated that the Agency should include more activated sludge systems in the variability analysis as the analysis was based primarily upon aerated stabilization basins. Also, the commenters felt that the Agency should evaluate the effects of raw waste load variability on final effluent variability.

The variability analysis was revised as a result of the comments received and the revised analysis is discussed in Section VII of the Development Document. Briefly, the Agency has developed variability factors for each subcategory, as appropriate, based upon log normal distributions. The factors are based upon mills within each of the subcategories which operate external treatment systems representative of BPCTCA. The most commonly used type of biological treatment facilities are ASB's, and many are therefore included in the variability analysis. However, a number of activated sludge systems are included in the variability analysis, and the final determination of the variability factors for each subcategory took into account the variability experienced by both aerated stabilization basins and activated sludge systems. The Agency recognizes that raw waste load variability has some effect upon final effluent variability and the effects are taken into account through the variability analysis. The discussion in the Development Document has been expanded to more fully explain the variability analysis.

(38) Two comments are received that stated that the standards of performance for new sources (NSPS) would require filtration in order for mills to achieve the required TSS levels.

The TSS NSPS can be achieved through the use of inplant control technologies, primary treatment, and biological treatment followed by chemical coagulation and clarification. The available data shows that the NSPS can be achieved without the use of filtration technologies.

The Agency is presently soliciting information and data regarding the effluent reduction capabilities of chemical coagulation and clarification technologies. Any information and data collected during those efforts will be considered in conjunction with available data in making appropriate revisions to the proposed NSPS prior to promulgation.

(39) One commenter stated that the variability analysis should include sulfite mills because the variability of effluents from sulfiite mills is different than kraft mills. The commenter recommended that a separate variability factor be established for sulfite mills.

The Agency has expanded the variability analysis and has included several sulfite mills with biological treatment systems in the analysis. Separate variability factors have been established for the sulfite subcategories, and these are shown in the Development Document. However, it should be pointed out that the variability factors used in determining the effluent limitations were based upon the bleached kraft variability factors. Analysis of the six sulfite mills with biological treatment facilities showed less variability of final effluent qualities than the analysis of 24 bleached Kraft mills with biological treatment facilities. Use of the bleached kraft variability factors in determining the sulfite effluent limitations actually results in less stringent limitations and was considered appropriate for the following reasons: (1) the analyses showed that final effluent variability is frequently more related to the characteristics of the biological treatment facilities than to the characteristics of the raw waste load, and (2) the statistical reliability of the analysis was greater for the bleached kraft analysis than for the sulfite analysis because of the number of mills in the analysis.

(40) A number of comments were received that stated that the Agency did not consider many of the non-water quality impacts of the regulations, such as upon air pollution, solid waste generation and disposal, and energy consumption.

The impact of these regulations upon non-water quality aspects of the environment have been seriously considered, and the discussion in the Development Document concerning impacts upon air pollution, solid waste, and energy consumption has been expanded to provide the reader with a more thorough understanding of any impacts associated with the implementation of the regulations.

(41) One commenter stated that the variance procedure was inadequate because it did not consider costs.

The exclusion of economic factors from the variance provision is required by the Act and its legislative history. Section 301(c) provides the exclusive mechanism for modification of effluent limitations based upon individual economic hardship. The intent was that the Agency examine the economic impact of achieving the 1977 effluent limitations on a class or category of plants basis and that individual relief was only made available with respect to the 1983 effluent limitations.

(42) One comment was received that stated that the Agency obscured the cost of spent sulfite liquor (SSL) recovery at sulfite mills by including the cost in a footnote in the cost tables in the Development Document. The commenter recommended that the Agency include the costs of SSL recovery in the main part of the table.

Separation of the SSL recovery costs into a separate figure from the costs of other in-plant controls and external treatment costs allows the reviewer to determine the incremental costs of the treatment. In addition, it would be inappriate to include the total cost of SSL recovery systems with the costs of the other in-plant and external control technologies since many mills (25 of 28 sulfite mills) already have SSL recovery systems.

(43) Two commenters stated that the limitations for sulfite subcategories required higher percentage removals of BOD5 by external treatment systems than for kraft mills. The commenters recommended that the sulfite limitations be revised upwards in order to provide more equitable treatment requirements.

The Agency has determined that percentage removal rates is not an appropriate measurement among subcategories since higher percentage removals can generally be achieved by treatment of higher raw waste loads.

(44) A number of comments were received that stated that the energy requirements shown in the Development Document for achieving the effluent limitations were low. Data was provided for individual mill situations to support their contention.

The energy requirements presented in the Development Document were prepared for model mills within each of the subcategories in order to assess overall energy and cost impacts. The data provided to the Agency was incorporated into the Development Document where appropriate

(45) One comment was received that stated that mills cannot afford to install SSL recovery and biological treatment simultaneously.

The economic impact analysis has shown that mills can achieve the 1977 effluent limitations which are based upon SSL recovery and biological treatment and still remain economically competitive.

(46) Several comments were received that stated that the Agency should determine its effluent limitations based upon cost equity and not upon raw waste loads and final effluent qualities.

The Agency has established effluent limitations in the manner which was required by Congress. Sections 301 and 304 of the Act require that costs are to be assessed for the class of plants and not on an individual mill basis. See S. Rept. 92-1236 (Conf. Rept.).

(47) One commenter felt that the 1977 effluent limitations for the bleached kraft fine papers subcategory were too stringent and not realistic.

The 1977 effluent limitations for the bleached kraft fine papers subcategory were based upon the average performance of the best mills in the subcategory operating treatment facilities representative of BPCTCA. A number of plants are already achieving the limitations. However, the Agency has made the TSS limitations less stringent following further analysis of the TSS levels presently being achieved by the external treatment technologies presently in use by the best mills.

(48) Several commenters stated that mills which have biological treatment facilities and must discharge at controlled rates to comply with water quality limits should not be required to meet the 30 day and maximum daily limitations set forth in this regulation.

The Agency recognizes that the use of biological treatment systems followed by long term storage with controlled short term release is a treatment mechanism to meet NPDES permit requirements. It is expected that these mills will receive NPDES permits which require pollutant limitations which are equivalent to or more stringent, where required under other sections of the Act, than the effluent limitations set forth below.

(49) Two comments were received that questioned the validity of TSS measurements using the standard method analytical technique. The commenters stated that measurements of TSS involving effluents from biological treatment systems were not reproducible and the commenters recommended that the TSS effluent limitations be deferred until an accurate analytical technique is available.

The TSS effluent limitations were based upon information and data received from mills using treatment facilities representative of BPCTCA. The Agency conducted thorough evaluations of the analytical techniques used for determining the TSS levels at those mills to assure that proper testing procedures were followed. The Agency thereby believes the data used in determining the effluent limitations were valid. Moreover, the standard method analytical technique for TSS measurement has been in use by tens of thousands of industrial as well as municipal dischargers for many years, and numerous pollution control facilities have been designed and installed on the basis of historical TSS data determined by the standard method analytical procedure. Therefore, the Agency believes that deferance of the TSS limitations would be inappropriate. The comment has been referred to the appropriate Agency programs which continually review analytical techniques.

(50) One commenter stated that current market conditions have forced interruptions in normal production. The commenter requested that the effects of intermittent production upon treatment plant performance be considered in the determination of the effluent limitations. It was suggested that an additional variability factor be developed which would allow for treatment plant upsets as a result of intermittent production schedules.

The Agency recognizes that production interruptions can have detrimental effects upon treatment plant performance. The existing data base includes these effects as produced by the normally practiced holiday shutdowns. The increased frequency of production interruptions currently experienced is a short-term situation and cannot be considered as typical requiring the imposition of an additional allowance. Skillful operation of the treatment facility and the cooperation of the production plant will minimize the effects of intermittent production upon treatment efficiency.

(51) Several comments were received that stated that production should be defined as the "highest average level sustained for seven consecutive days of normal production" rather than the "annual average." The commenters expressed concern that the base year chosen could limit production below actual capacity.

The Agency believes that using the annual average production for determination of effluent limitations is appropriate. Selection of the base year used in the permit writing process would not be appropriate in these regulations because the NPDES authority should have flexibility in determining a base year which reflects demonstrated production capacity or committed growth.

(52) One commenter stated that the Agency should make a detailed appraisal as to the effects the treatment technologies identified would have on quantities of solid waste produced and on the potentially detrimental environmental consequences of their disposal.

Consideration of solid waste generation and disposal has been closely examined by the Agency. The Agency recognizes that solid waste generated by the treatment facilities represents a potentially detrimental impact upon the environment if not disposed of properly. Disposal of solid waste can be accomplished without detrimental environmental impacts but this task requires conscientious efforts and some expenditures. The cost of solid waste disposal are included in the costs of achieving the effluent limitations and are presented in Section VIII of the Development Document. Solid waste and its potential nonwater quality impacts are also discussed in the Development Document in Section VIII.

(53) Several commenters indicated that the Agency has inappropriately selected BOD5 as a significant pollutant parameter.

BOD5, as noted in the Development Document, does not in itself cause direct harm to a water system but it does exert an indirect effect by depressing the oxygen content of the water. Obvously this is not the only reason for selecting BOD5 as a pollutant parameter. Historically BOD5 has been used as an indicator of other pollutants in organic waste streams which either cannot be accurately determined by present test methods or cannot be measured with tests that are uncomplicated enough to be of general use. One of these pollutants is the total organic matter which may exert an oxygen demand over a longer period of time than the five days of the test. It has been shown that pulp and paper wastes may contain long term BOD far in excess of the 5 day BOD.

Compounds contributing to the total organic waste load from pulp and paper mills include terpenes, resin acids, fatty acids, phenols, formic acid, acetic acid, saccharinic acids and other organic acids. These compounds also contribute to the toxicity of pulp and paper mill waste waters. A recent publication demonstrates that biological treatment systems are successful in reducing several of the above compounds from kraft mill waste waters. Resin acids, fatty acids, terpenes, hydrocarbons, and phenols were found to be reduced to the same extent as the overall BOD removal efficiency.

The available tests for toxicity are quite expensive, complicated and subject to variabilities for many reasons. However, data shows that pulp and paper mill waste waters are highly toxic, and considerable data exists to show that toxicity of pulp mill waste can be reduced along with appropriate reductions of BOD in the waste.

Oil and grease in a pulp and paper waste is not readily discernible by the normal test methods because of interferences from lignins and other wood products. Foam is a parameter that is generaly considered unacceptable in a receiving water. Again, these parameters can be reuced to acceptable levels with appropriate reductions of BOD5.

(54) A large number of comments were recieved that stated that special allowances should be established for mills subject to climatological extremes (i.e. temperature).

The effects of temperature upon biological treatment efficiencies should be accounted for in the design and operation of biological treatment systems (i.e., short term detention time biological treatment systems such as activated sludge are much less affected by climatic conditions than are long term detention time systems such as aerated stabilization basins). See the Development Document (Section VIII).

(55) Several commenters suggested an approach to developing BPCTCA limitations. Essentially, the approach involved determining average BOD5 raw waste loads for the industry and applying 85% reduction which was said to be representative of biological treatment.

The BPCTCA limitations are based upon mills which treat their waste waters by technologies representing BPCTCA. Thus, mill operating data are the bases for the limitations and not the application of an assumed pollutant reduction efficiency.

(56) Several comments were received which stated that the total suspended solids concentrations resulting from testing methods utilizing filter paper (nonstandard methods) should be accounted for in the development of the effluent limitations and standards. A conversion factor for nonstandard methods to standard methods of 3 to 1 was suggested for use in the evaluation of data.

The TSS analytical measurement techniques are discussed in the Development Document, and data for mills utilizing nonstandard methods were not used in development of the limitations. Conversion factors for nonstandard methods to standard methods range from less than 1 to more than 10 depending upon the effluent stream sampled. Thus, the Agency feels that use of a conversion factor is not applicable. The TSS data determined by nonstandard methods is presented in the appropriate tables in the Development Document.

(57) One commenter felt that additional subcategories should be added for small mills. Suggestiones were provided for what constitutes a small mill and how the limitations should be increased for small mills.

In developing the subcategories, many factors were evaluated as possible bases for establishing subcategories. One of these factors was the size of mills. The Agency concluded that size of mills was not a significant factor for subcategorization because the waste water characteristics and control technologies are independent of plant size. A number of figures are presented in Section IV in the Development Document which confirm the independence of plant size and raw waste load. (See also comment No. 26 regarding economic impact on small mills.)

(58) Several commenters stated that the limitations for TSS should be removed or replaced by a settleable solids limitation as the suspended solids in the final effluent from pulp and paper mill biological treatment systems are biological organisms generated during treatment for the removal of BOD and not the fibrous materials contained in mill raw wastes. It was argued that the fibrous materials in the raw waste are removed by primary treatment and that the biological suspended solids in the final effluent from the biological treatment system characteristically do not settle. It was stated that the biological solids do not settle and cause problems of sludge beds in receiving waters and that no harm is caused to the environment other than an exertion of BOD which is regulated by the BOD5 limitations.

The Agency believes that the TSS in final effluents from pulp and paper mill biological treatment systems are harmful to aquatic environments. The Agency concurs that the fibrous materials in the raw waste should settle out in a well designed and operated primary treatment system. As discussed in Section VI of the Development Document, the Agency believes that the TSS from pulp and paper mill biological treatment sys-

tems have the following detrimental effects upon receiving water environments: (1) increases in the turbidity of the receiving water resulting in reduced light transmission and accompanying effects, such as reduced photosynthesis, (2) aesthetic effects, (3) settling of suspended solids to the bottom of receiving waters, and (4) exertion of BOD by the biological suspended solids. Limiting just settleable solids would exclude a portion of the total suspended solids which should be controlled, and therefore the TSS limitation was not removed from the regulation.

(59) Comments were received that stated that BPCTCA limitations will require mills to install both internal and external controls. It was argued that, in effect, this pushes the 1983 limitations up to 1977 because the intent of the Act was to emphasize external treatment to meet the 1977 limitations and to emphasize internal controls in 1983. It was also suggested that since the 1983 internal technologies are essentially being required in 1977, the costs of achieving BPCTCA limitations will be substantially higher and the economic impact may be significant.

It is the opinion of the Agency that the Act does not preclude considering some in-plant control changes as part of BPCTCA. Section 304(b)(1)(B) includes consideration of "the process employed" and "process changes" as part of the determination of BPCTCA. Where an in-plant change can be implemented by 1977 and meets the other requirements of Section 304(b)(1), there is no reason to differentiate such control measure from any other control measure or practice imposed as part of BPCTCA. The in-plant changes which have been identified as available in 1977 are practices which are in common use in the industry.

(60) It was suggested by several commenters that the color limitation should be removed from the regulations because color has not been established as a pollutant and its inclusion for BATEA is not justified.

As discussed in Section VI of the Development Document, the Agency believes that color is a major pollutant parameter and has the following detrimental effects: (1) color in receiving waters retards sunlight transmission and interferes with photosynthesis thereby reducing productivity of the aquatic community; (2) color alters the natural stream color and is thereby aesthetically displeasing; (3) color has a detrimental effect upon downstream municipal and industrial water users, as color, even when not visually apparent (i.e. turbid streams), must be removed before use in municipal and industrial water supplies; (4) color bodies complex with metal ions, such as iron or copper, forming tar-like residues which remove metals from the stock available to stream organisms for normal metabolism, and the complexes can have direct inhibitory effects on some of the lower scale organisms in the aquatic community; (5) color is an indicator of toxic compounds discharged to the aquatic environment; and (6) color in receiving waters affects fish productivity and fish movements.

(61) One commenter felt that the limitations and standards for bleached kraft mills producing market pulp should be more stringent than for bleached kraft mills producing paper products.

The available data show that raw waste loads generated by bleached kraft market pulp mills are generally higher than bleached kraft mills producing paper products. This apparent anomaly can be attributed to the higher degree of cooking, bleaching, and washing which is usually practiced by bleached kraft market pulp mills. Effluent limitations and standards for bleached kraft market pulp mills are therefore less stringent than for bleached kraft mills producing paper products.

(62) Several commenters felt that the exclusion of some of the higher data points in the data analysis was not justified and had the effect of lowering the effluent limitations and standards.

Analysis of mill waste water data sometimes showed excursions in the data which were not considered to be normal operation of a particular plant. These data points were only excluded after extensive investigations into the cause of the excursion. The Agency believes that normal variability should be included in the data base upon which effluent limitations and standards are based; however, conditions not representative of normal practice or BPCTCA should not be included as part of the data base.

(63) Several comments were received that stated that BPCTCA for the sulfite subcategory should include (1) spent sulfite liquor (SSL) recovery, (2) secondary (aerated stabilization basins or activated sludge) treatment, and (3) reasonable in-plant pollution control measures.

The Agency agrees with these comments and the effluent limitations for 1977 for sulfite mills have been developed based upon (1) SSL recovery, (2) biological treatment, and (3) in-plant control measures as normally practiced within the industry.

(64) A number of commenters stated that the TSS in biological treatment system effluents are not related to the mill raw waste TSS and should be recognized as biological TSS in the Development Document.

The three general types of TSS occurring in biological treatment system effluents include (1) cellulose fiber, (2) mineral materials, and (3) biological TSS. Fibers and, for many mills, mineral type TSS are lost during the manufacturing process into the process waste waters. Most of the raw waste load TSS should be removed by primary treatment with most of the remaining TSS removed by secondary treatment. The majority of the TSS in the final effluents from well designed and operated secondary treatment systems should be biological TSS which were created in oxidizing the soluble BOD5 in the waste water. Mills with inadequately designed or operated primary treatment facilities generally have high TSS levels in the effluent from their secondary treatment facilities. The relative proportions of the fiber, mineral, and biological TSS in secondary treatment effluents can be considered as an indicator of the design and operation of the primary treatment as well as the secondary treatment facilities. Thus, effluents from well designed and operated primary and secondary treatment facilities should contain mostly biological TSS with only some fiber and mineral TSS. The Development Document was revised to reflect that the TSS in secondary treatment effluents are mostly biological TSS and as such are more related to the raw waste BOD5 than the raw waste TSS. The harmful effects of biological TSS are discussed in the Development Document.

(65) Two comments were received that stated that the raw waste load used in establishing BPCTA effluent limitations for sulfite mills should be the raw waste load generated prior to SSL recovery. The rationale presented by the commenters was that SSL recovery is not economical as is liquor recovery in kraft mills.

The BPCTCA effluent limitations for sulfite mills were based upon raw waste loads from mills practicing SSL recovery. SSL recovery is an internal pollution control measure and since it is commonly practiced by the large majority of sulfite mills (25 of 28 sulfite mills have SSL recovery systems), it is included in BPCTCA. SSL recovery may not be economical at the present time, but internal pollution control measures are not necessarily economical. Internal measures which control pollution and have a net return on the investment are normally considered to be integral parts of the manufacturing process, such as liquor recovery by kraft mills. Thus, BPCTCA for sulfite mills includes commonly used internal controls (i.e. SSL recovery) and secondary treatment (i.e. biological treatment).

(66) Several comments were received that stated that the underlying data were not available and that they were thereby unable to formulate complete comments.

The entire data base used in developing the effluent limitations and all other pertinent information is available to the public at the Agency headquarters in Washington, D.C., during regular business hours, Monday through Friday. Moreover, this information has been available for some time and requests by interested persons for access have been promptly handled.

(67) Several comments were received that stated that pH should not be included as a pollutant parameter and should only be limited by the specific water quality requirements at each mill. Other commenters felt that the pH range should be expanded to 5.0 to 9.0 because recent data have shown that TSS removal efficiencies by BPCTCA were enhanced at pH levels between 5.0 and 6.0.

The harmful effects of pH levels are thoroughly discussed in Section VI of the Development Document and is an

appropriate pollutant parameter for regulation. As discussed previously, the class of receiving waters is an impermissible basis upon to base effluent limitations. The Agency has carefully reviewed the data submitted and has expanded the pH range to 5.0 to 9.0. The data showed that pH levels between 5.0 and 6.0 enhanced the TSS levels in effluents from the biological treatment facilities. It appears that there may be an optimum pH level for each specific biological treatment system treating pulp and paper mill waste waters which is between 5.0 to above 7.0 which will result in low levels of TSS as well as BOD5 in the final effluents. The data also showed substantial reductions in the numbers of coliforms in the effluents when the pH was between 5.0 and 6.0.

(68) Questions have been raised concerning the availability of standards or guidelines applicable to the disposal of solid wastes resulting from the operation of pollution control systems.

The principles set forth in "Land Disposal of Solid Wastes Guidelines" (40 CFR 241) may be used as guidance for acceptable land disposal techniques. Potentially hazardous wastes may require special considerations to ensure their proper disposal. Additionally, state and local guidelines and regulations should be considered wherever applicable.

(69) One comment was received that stated that a separate subcategory should be established for sulfite mills with continuous digesters. Information and data were provided.

The information and data have been reviewed by the Agency and no determination has been made at this time. The Agency is continuing to evaluate the appropriateness of making separate provisions for sulfite mills with continuous digesters.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council* v. *Train* et. al. (Cv. No. 1609–73) which requires the promulgation of regulations for this industry category no later than January 30, 1976. This order also requires that such regulations become effective immediately upon publication.

The Agency has distributed and received comments upon a draft development document as well as the Advance Notice Development Document and has considered these comments, made appropriate changes to the regulation and made responses to the comments received in the preamble. However, due to the time constraints imposed by the court order referred to above, no formal proposal of the effluent regulations has been published. The Agency has determined pursuant to 5 USC § 553(b) that formal notice and comment on the interim final regulations prior to promulgation would be impracticable and contrary to the public interest. Good cause is also found for these regulations to become effective immediately upon publication.

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Distribution Officer, WH–552. Comments on all aspects of the regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing an effluent limitation or guideline EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301 and 304(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before March 22, 1976, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202). In the event that the final regulation differs substantially from the interim final regulation set forth herein the Agency will consider petitions for reconsideration of any permits issued in accordance with these interim final regulation.

In consideration of the foregoing, 40 CFR Part 430 is amended as set forth below.

Dated: February 2, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 430 is amended by adding Subparts F through U to read as follows:

Subpart F—Dissolving Kraft Subcategory

Sec.
430.60 Applicability; description of the dissolving kraft subcategory.
430.61 Specialized definitions.
430.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart G—Market Bleached Kraft Subcategory

430.70 Applicability; description of the market bleached kraft subcategory.
430.71 Specialized definitions.
430.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart H—BCT Bleached Kraft Subcategory

Sec.
430.80 Applicability; description of the BCT bleached kraft subcategory.
430.81 Specialized definitions.
430.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart I—Fine Bleached Kraft Subcategory

430.90 Applicability; description of the fine bleached kraft subcategory.
430.91 Specialized definitions.
430.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart J—Papergrade Sulfite Subcategory

430.100 Applicability; description of the papergrade sulfite subcategory.
430.101 Specialized definitions.
430.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart K—Low Alpha Dissolving Sulfite Pulp Subcategory

430.110 Applicability; description of the low alpha dissolving sulfite pulp subcategory.
430.111 Specialized definitions.
430.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart L—Groundwood-Chemi-Mechanical Subcategory

430.120 Applicability; description of the groundwood - chemi - mechanical subcategory.
430.121 Specialized definitions.
430.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart M—Groundwood-Thermo-Mechanical Subcategory

430.130 Applicability; description of the groundwood - thermo-mechanical subcategory.
430.131 Specialized definitions.
430.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart N—Groundwood-CMN Papers Subcategory

430.140 Applicability; description of the groundwood-CMN papers subcategory.
430.141 Specialized definitions.
430.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart O—Groundwood-Fine Papers Subcategory

Sec.
430.150 Applicability; description of the groundwood-fine papers subcategory.
430.151 Specialized definitions.
430.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart P—Soda Subcategory

430.160 Applicability; description of the soda subcategory.
430.161 Specialized definitions.
430.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart Q—Deink Subcategory

430.170 Applicability; description of the deink subcategory.
430.171 Specialized definitions.
430.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart R—NI Fine Papers Subcategory

430.180 Applicability; description of the NI fine papers subcategory.
430.181 Specialized definitions.
430.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart S—NI Tissue Papers Subcategory

430.190 Applicability; description of the NI tissue papers subcategory.
430.191 Specialized definitions.
430.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart T—NI Tissue (FWP) Subcategory

430.200 Applicability; description of the NI tissue (FWP) subcategory.
430.201 Specialized definitions.
430.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart U—High Alpha Dissolving Sulfite Pulp Subcategory

430.210 Applicability; description of the high alpha dissolving sulfite pulp subcategory.
430.211 Secialized definitions.
430.212 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart V—Papergrade Sulfite Market Pulp Subcategory

430.220 Applicability; description of the papergrade sulfite market pulp subcategory.
430.221 Specialized definitions.
Sec.
430.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart F—Dissolving Kraft Subcategory

§ 430.60 Applicability; description of the dissolving kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of dissolving pulp by kraft mills.

§ 430.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	25.65	13.35
TSS	35.85	19.3
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD_5	51.3	26.7
TSS	71.7	38.6
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD_5	2.2	1.1
TSS	3.1	1.7

Subpart G—Market Bleached Kraft Subcategory

§ 430.70 Applicability; description of the market bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of market pulp by bleached kraft mills.

§ 430.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and

methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	15.2	7.9
TSS	29.4	15.85
pH	Within the range 5.0 to 9.0.	
(English units (pounds per ton of product)		
BOD5	30.4	15.8
TSS	58.8	37.7
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart H—BCT Bleached Kraft Subcategory

§ 430.80 Applicability; description of the BCT bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of paper board, coarse paper, and tissue paper by integrated bleached kraft mills.

§ 430.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

(d) Intergrated bleached kraft mills are those in which all or part of the bleached kraft pulp is processed into paper at the same mill.

§ 430.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	13.35	6.95
TSS	28.05	15.1
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	26.7	13.9
TSS	56.1	30.2
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills productin due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart I—Fine Bleached Kraft Subcategory

§ 430.90 Applicability; description of the fine bleached kraft subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and fine paper by integrated bleached kraft mills.

§ 430.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

(d) Integrated bleached kraft mills are those in which all or part of the bleached kraft pulp is processed into paper at the same mill.

§ 430.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	10.95	5.7
TSS	23.0	12.4
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	21.9	11.4
TSS	46.0	24.8
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart J—Papergrade Sulfite Subcategory

§ 430.100 Applicability; description of the papergrade sulfite subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by integrated papergrade sulfite mills.

§ 430.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

(d) Integrated sulfite mills are those in which all or part of the sulfite pulp is processed into paper at the same mill.

§ 430.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State

has the authority to issue NPDES permits) that the factors relating to the equipment or facilities involved, the process applied, or other such factors relate to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other vailable information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent that the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitaitons, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	37.6	19.6
TSS	44.6	24.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	75.2	39.2
TSS	89.2	48.0
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart K—Low Alpha Dissolving Sulfite Pulp Subcategory

§ 430.110 Applicability; description of the low alpha dissolving sulfite pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp by low alpha dissolving sulfite mills.

§ 430.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	42.9	22.35
TSS	50.85	27.4
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	85.8	44.7
TSS	101.7	54.8
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart L—Groundwood-Chemi-Mechanical Subcategory

§ 430.120 Applicability; description of the groundwood-chemi-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by groundwood chemi-mechanical mills.

§ 430.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment of facilities involved, the process applied, or other such factors related to such discharger are fundamentaly different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	13.5	7.05
TSS	1945	10.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD_5	27.0	14.1
TSS	38.9	20.9
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD_5	2.2	1.1
TSS	3.1	1.7

(c) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

Subpart M—Groundwood-Thermo-Mechanical Subcategory

§ 430.130 Applicability; description of the groundwood-thermo-mechanical subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by groundwood-thermo-mechanical mills.

§ 430.131 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	9.6	5.0
TSS	17.05	9.2
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	19.2	10.0
TSS	34.1	18.4
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

(c) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.07	0.035
English units (pounds per ton of product)		
Zinc	0.14	0.07

Subpart N—Groundwood-CMN Papers Subcategory

§ 430.140 Applicability; description of the groundwood-CMN papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and coarse paper, molded pulp products, and newspaper by groundwood mills.

§ 430.141 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing: (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	8.55	4.45
TSS	14.7	7.9
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	17.1	8.9
TSS	29.4	15.8
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

(c) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.11	0.055
English units (pounds per ton of product)		
Zinc	0.22	0.11

Subpart O—Groundwood-Fine Papers Subcategory

§ 430.150 Applicability; description of the groundwood-fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and fine paper by groundwood mills.

§ 430.151 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.152 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, ESPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	7.7	4.0
TSS	13.5	7.3
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	15.4	8.0
TSS	27.0	14.6
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.4

(c) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

Subpart P—Soda Subcategory

§ 430.160 Applicability; description of the soda subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by soda mills.

§ 430.161 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a

point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	13.85	7.2
TSS	24.85	13.4
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	27.7	14.4
TSS	49.7	26.8
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that portion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

Subpart Q—Deink Subcategory

§ 430.170 Applicability; description of the deink subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp and paper by deink mills.

§ 430.171 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all informations it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the dicharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations much be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other liimtations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	18.15	9.45
TSS	26.35	14.2
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	36.3	18.9
TSS	52.7	28.4
pH	Within the range 5.0 9.0.	

Subpart R—NI Fine Papers Subcategory

§ 430.180 Applicability; description of the NI fine papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fine paper by non-integrated mills.

§ 430.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.182 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	8.2	4.25
TSS	11.0	5.9
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	16.4	8.5
TSS	22.0	11.8
pH	Within the range 5.0 to 9.0.	

Subpart S—NI Tissue Papers Subcategory

§ 430.190 Applicability; description of the NI tissue papers subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue papers by non-integrated mills.

§ 430.191 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.192 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise thes regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	11.4	6.25
TSS	10.25	5.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	22.8	12.5
TSS	20.5	10.0
pH	Within the range 5.0 to 9.0.	

Subpart T—NI Tissue (FWP) Subcategory

§ 430.200 Applicability; description of the NI tissue (FWP) subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tissue paper from waste paper by non-integrated mills.

§ 430.201 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

§ 430.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	12.3	6.4
TSS	17.6	9.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	24.6	12.8
TSS	35.2	18.9
pH	Within the range 5.0 to 9.0.	

Subpart U—High Alpha Dissolving Sulfite Pulp Subcategory

§ 430.210 Applicability; description of the high alpha dissolving sulfite pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp by high alpha dissolving sulfite mills.

§ 430.211 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.212 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	52.3	26.3
TSS	62.5	33.65
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD_5	104.6	52.6
TSS	125.0	67.3
pH	Within the range 5.0 to 9.0.	

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs from wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD_5	2.2	1.1
TSS	3.1	1.7

Subpart V—Papergrade Sulfite Market Pulp Subcategory

§ 430.220 Applicability; description of the papergrade sulfite market pulp subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of pulp by papergrade sulfite market mills.

§ 430.221 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) Production shall be defined as the annual average off the machine (air-dry tons).

(c) Wet woodyard operations shall mean: (1) Log ponds used for defreezing logs prior to processing; (2) log transport and defreeze flumes; (3) log washing; and (4) wet debarking.

§ 430.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	1.1	0.55
TSS	1.55	.85
English units (pounds per ton of product)		
BOD5	2.2	1.1
TSS	3.1	1.7

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to that proportion of the total mills production due to the use of logs and wet woodyard operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the limitations set forth by paragraph (a) of this section:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	40.0	20.85
TSS	49.5	26.65
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	80.0	41.7
TSS	99.0	53.3
pH	Within the range 5.0 to 9.0.	

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 430]

[FRL 489-4]

PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

Proposed Effluent Guidelines and Standards for Existing Sources, Standards of Performance for New Sources, and Pretreatment Standards for Existing and for New Sources

Notice is hereby given that effluent limitations for existing sources, standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources set forth in tentative form below are proproposed by the Environmental Protection Agency (EPA). On May 29, 1974, EPA promulgated a regulation adding Part 430 to Chapter 40 of the Code of Federal Regulations (39 FR 18742). That regulation with subsequent amendments established effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources for the pulp, paper, and paperboard manufacturing point source category. The regulation proposed below will amend 40 CFR 430—pulp, paper, and paperboard point source category by adding sections 430.64, 430.65 and 430.66 to the dissolving kraft subcategory (Subpart F) sections 430.74, 430.75 and 430.76 to the market bleached kraft subcategory (Subpart G), sections 430.84, 430.85 and 430.86 to the BCT bleached kraft subcategory (Subpart H, sections 430.94, 430.95 and 430.96 to the fine bleached kraft subcategory (Subpart I), sections 430.104, 430.105 and 430.106 to the papergrade sulfite subcategory (Subpart J), sections 430.114, 430.115 and 430.116 to the low alpha dissolving sulfite pulp subcategory (Subpart K), sections 430.124, 430.125 and 430.126 to the groundwood-chemi-mechanical subcategory (Subpart L), sections 430.-134, 430.135 and 430.136 to the groundwood-thermo-mechanical subcategory (Subpart M), sections 430.144, 430.145 and 430.146 to the groundwood-CMN papers subcategory (Subpart N), sections 430.154, 430.155 and 430.156 to the groundwood fine papers subcategory (Subpart O), sections 430.164, 430.165 and 430.166 to the soda subcategory (Subpart P), sections 430.174, 430.175 and 430.176 to the deink subcategory (Subpart Q), sections 430.184, 430.185 and 430.186 to the NI fine papers subcategory (Subpart R), sections 430.194, 430.195 and 430.196 to the NI tissue papers subcategory (Subpart S), sections 430.204, 430.205 and 430.206 to the NI tissue (FWP) subcategory (Subpart T), §§ 430.214, 430.215 and 430.216 to the high alpha dissolving sulfite pulp subcategory (Subpart U), and §§ 430.224, 430.225 and 430.226 to the papergrade sulfite market pulp subcategory (Subpart V) pursuant to sections 306(b) and 307(b) and (c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously with this proposed rule making EPA is promulgating at page 7662 of this issue interim final regulations which establish the above listed subparts.

(a) Legal authority.

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of 27 source categories, including the pulp, paper, and paperboard category. The regulations proposed herein set forth the standards of performance applicable to new sources for dissolving kraft subcategory (Subpart F); the market bleached graft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); the NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 430.66, 430.76, 430.86, 430.96, 430.106, 430.116, 430.126, 430.136, 430.146, 430.156, 430.166, 430.176, 430.186, 430.196, 430.206, 430.216, and 430.226 proposed below, provide pretreatment standards for new sources within the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); the NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at

the time effluent limitations are established for point source discharges. Sections 430.64, 430.74 and 430.84, 430.94, 430.104, 430.114, 430.124, 430.134, 430.144, 430.154, 430.164, 430.174, 430.184, 430.194, 430.204, 430.214, and 430.224 proposed below provide pretreatment standards for existing sources within the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcategory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); the NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) of the pulp, paper, and paperboard point source category.

(b) Summary and basis of proposed standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources.

The general methodology and summary of conclusions are discussed in considerable detail in the preamble of the interim final regulations for the dissolving kraft subcategory (Subpart F); the market bleached kraft subcategory (Subpart G); the BCT bleached kraft subcatgory (Subpart H); the fine bleached kraft subcategory (Subpart I); the papergrade sulfite subcategory (Subpart J); the low alpha dissolving sulfite pulp subcategory (Subpart K); the groundwood-chemi-mechanical subcategory (Subpart L); the groundwood-thermo-mechanical subcategory (Subpart M); the groundwood-CMN papers subcategory (Subpart N); the groundwood-fine papers subcategory (Subpart O); the soda subcategory (Subpart P); the deink subcategory (Subpart Q); the NI fine papers subcategory (Subpart R); the NI tissue papers subcategory (Subpart S); the NI tissue (FWP) subcategory (Subpart T); the high alpha dissolving sulfite pulp subcategory (Subpart U); and the papergrade sulfite market pulp subcategory (Subpart V) which are being promulgated by EPA simultaneously with publication of this proposed regulation. The information contained in the preamble to the interim final regulation is incorporated herein by reference. The proposed regulation set forth below proposes pretreatment standards for pollutants introduced into publicly owned treatment works. The proposal will establish for each subpart the extent of application of effluent limitations to existing sources and to new sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards for existing sources set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982). The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the limitations and standards apply. However, the proposed pretreatment regulation applies to the introduction of pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to specific numerical pretreatment standards. However, 40 CFR 128.131 (prohibited wastes) may be applicable to compatible pollutants. Additionally, local pretreatment requirements may apply (See 40 CFR 128.110). Incompatible pollutants are subject generally to pretreatment standards as provided in 40 CFR 128.133. Sections 430.64, 430.74 and 430.84, 430.94, 430.104, 430.114, 430.124, 430.134, 430.144, 430.154, 430.164, 430.174, 430.184, 430.194, 430.204, 430.214, and 430.224 of the regulation proposed below are intended to implement the intent of section 128.133, by setting forth specific numeric limitations for particular pollutants subject to pretreatment requirements.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations and guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

The report entitled "Development Document for Interim Final and Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink and Non-Integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category" details the analysis undertaken in support of the regulation being proposed herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 F.R. 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia 22151.

(c) Summary of public participation

A full listing of participants and discussion of comments and responses is included in the preamble of the interim final regulation for the dissolving kraft, market bleached kraft, BCT bleached kraft, fine bleached kraft, papergrade sulfite, low alpha dissolving sulfite pulp, groundwood-chemi-mechanical, groundwood-thermo-mechanical, groundwood-CMN papers, groundwood-fine papers, soda, deink, NI fine papers, NI tissue papers, NI tissue (FWP), high alpha dissolving sulfite pulp, and papergrade sulfite market pulp subcategories being simultaneously promulgated by EPA and are incorporated herein by reference.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing an effluent limitation, a standard of performance, or a pretreatment standard, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of section 301, 304, 306, and 307(b) and (c) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, SW., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before March 22, 1976, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: February 2, 1976.

RUSSELL E. TRAIN,
Administrator.

PART 430—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE BLEACHED KRAFT, GROUNDWOOD, SULFITE, SODA, DEINK, AND NON-INTEGRATED PAPER MILLS SEGMENT OF THE PULP, PAPER AND PAPERBOARD POINT SOURCE CATEGORY

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430.224 Pretreatment standards for existing sources.
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Subpart F—Dissolving Kraft Subcategory

§ 430.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this sec-

tion, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	11.15	5.8
TSS	7.35	3.95
Color	250.0	125.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	22.3	11.6
TSS	14.7	7.9
Color	500.0	250.0
pH	Within the range 5.0 to 9.0.	

§ 430.64 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the dissolving kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitations.
TSS	Do.
pH	Do.

§ 430.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	11.75	6.1
TSS	15.5	8.35
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	23.5	12.2
TSS	31.0	16.7
pH	Within the range 5.0 to 9.0.	

§ 430.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dissolving kraft subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart G—Market Bleached Kraft Subcategory

§ 430.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	6.8	3.55
TSS	4.8	2.6
Color	190	95.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	13.6	7.1
TSS	9.6	5.2
Color	380	190.0
pH	Within the range 5.0 to 9.0.	

§ 430.74 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the market bleached kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.8	2.0
TSS	5.35	2.9
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	7.6	4.0
TSS	10.7	5.8
pH	Within the range 5.0 to 9.0.	

§ 430.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the market bleached kraft subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart H—BCT Bleached Kraft Subcategory

§ 430.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of polutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	5.8	3.0
TSS	3.8	2.05
Color	130	65.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	11.6	6.0
TSS	7.6	4.0
Color	260	130.0
pH	Within the range 5.0 to 9.0.	

§ 430.84 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the BCT bleached kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	7.05	3.7
TSS	9.3	5.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	14.1	7.4
TSS	18.6	10.0
pH	Within the range 5.0 to 9.0.	

§ 403.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the BCT bleached kraft subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart I—Fine Bleached Kraft Subcategory

§ 430.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or

pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.95	2.55
TSS	3.25	1.75
Color	130	65.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	9.9	5.1
TSS	6.5	3.5
Color	260	130.0
pH	Within the range 5.0 to 9.0.	

§ 430.94 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the fine bleached kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.95 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.95	2.55
TSS	6.5	3.5
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	9.9	5.1
TSS	13.0	7.0
pH	Within the range 5.0 to 9.0.	

§ 430.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(b) of the Act for a source within fine bleached kraft subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality or pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart J—Papergrade Sulfite Subategory

§ 430.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	17.1	8.9
TSS	5.6	3.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	34.2	17.8
TSS	11.2	6.0
pH	Within the range 5.0 to 9.0.	

§ 430.104 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the papergrade sulfite subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	18.15	9.45
TSS	12.0	6.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	36.3	18.9
TSS	24.0	12.9
pH	Within the range 5.0 to 9.0.	

§ 430.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the papergrade sulfite subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart K—Low Alpha Dissolving Sulfite Pulp Subcategory

§ 430.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quanity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	21.9	11.4
TSS	6.25	3.35
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	43.8	22.8
TSS	12.5	6.7
pH	Within the range 5.0 to 9.0.	

§ 430.114 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the low alpha dissolving sulfite pulp subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutants properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation
TSS	Do.
pH	Do.

§ 430.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	23.75	12.35
TSS	16.75	9.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	47.5	24.7
TSS	33.5	18.0
pH	Within the range 5.0 to 9.0.	

§ 430.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the low alpha dissolving sulfite pulp subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart L—Groundwood-Chemi-Mechanical Subcategory

§ 430.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or

pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.15	1.65
TSS	3.1	1.65
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	6.3	3.3
TSS	6.2	3.3
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

§ 430.124 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the groundwood-chemi-mechanical subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standards: Maximum for any 1 day	Pretreatment standards: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

§ 430.125 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.15	1.65
TSS	6.15	3.3
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	6.3	3.3
TSS	12.3	6.6
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

§ 430.126 Pretreatment standards for new sources.

(a) The pretreatment standards under section 307(c) of the Act for a source within the groundwood-chemi-mechanical subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standard: Maximum for any 1 day	Pretreatment standard: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

Subpart M—Groundwood-Thermo-Mechanical Subcategory

§ 430.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.05	2.1
TSS	2.65	1.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product		
BOD5	8.1	4.2
TSS	5.3	2.9
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.07	0.035
English units (pounds per ton of product)		
Zinc	0.14	0.07

§ 430.134 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the groundwood-thermo-mechanical subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of his section, 40 CFR 128.121, 128.122, 128.132, and 128.133 shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

(b) For those mills using zince hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standards: Maximum for any 1 day	Pretreatment standards: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.07	0.035
English units (pounds per ton of product)		
Zinc	0.14	0.07

§ 430.135 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.45	2.3
TSS	5.85	3.15
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	8.9	4.6
TSS	11.7	6.3
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.07	0.035
English units (pounds per ton of product)		
Zinc	0.14	0.07

§ 430.136 Pretreatment standards for new sources.

(a) The pretreatment standards under section 307(c) of the Act for a source within the groundwood-thermo-mechanical subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standard: Maximum for any 1 day	Pretreatment standard: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.07	0.035
English units (pounds per ton of product)		
Zinc	0.14	0.07

Subpart N—Groundwood-CMN Papers Subcategory

§ 430.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	3.55	1.85
TSS	2.65	1.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD_5	7.1	3.7
TSS	5.3	2.9
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.11	0.055
English units (pounds per ton of product)		
Zinc	0.22	0.11

§ 430.144 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the groundwood-CMN papers subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD_5	No limitation.
TSS	Do.
pH	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standards: Maximum for any 1 day	Pretreatment standards: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.11	0.055
English units (pounds per ton of product)		
Zinc	0.22	0.11

§ 430.145 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	3.85	2.0
TSS	5.85	3.15
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD_5	7.7	4.0
TSS	11.7	6.3
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.11	0.055
English units (pounds per ton of product)		
Zinc	0.22	0.11

§ 430.146 Pretreatment standards for new sources.

(a) The pretreatment standards under section 307(c) of the Act for a source within the groundwood—CMN papers subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of polutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD_5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD_5	No limitation	No limitations.
TSS	do	Do.
pH	do	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standards: Maximum for any 1 day	Pretreatment standards: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.11	0.55
English units (pounds per ton of product)		
Zinc	0.22	0.11

Subpart O—Groundwood-Fine Papers Subcategory

§ 430.153 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.35	1.75
TSS	2.55	1.35
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	6.7	3.5
TSS	5.1	2.7
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

§ 430.154 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the groundwood fine papers subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply.

(a) The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standard: Maximum for any 1 day	Pretreatment standard: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.9

§ 430.155 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.7	1.9
TSS	5.6	3.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	7.4	3.8
TSS	11.2	6.0
pH	Within the range 5.0 to 9.0.	

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

§ 430.156 Pretreatment standards for new sources.

(a) The pretreatment standards under section 307(c) of the Act for a source within the groundwood fine papers subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

(b) For those mills using zinc hydrosulfite as a bleaching agent in the manufacturing process, the following effluent limitations are to be added to the base limitations set forth in paragraph (a):

Pollutant or pollutant property	Pretreatment standards: Maximum for any 1 day	Pretreatment standards: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Zinc	0.09	0.045
English units (pounds per ton of product)		
Zinc	0.18	0.09

Subpart P—Soda Subcategory

§ 430.163 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.95	2.55
TSS	3.25	1.75
Color	130	65.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	9.9	5.1
TSS	6.5	3.5
Color	260	130
pH	Within the range 5.0 to 9.0.	

§ 430.164 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the soda subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.165 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	6.0	3.15
TSS	7.05	4.3
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	12.0	6.3
TSS	15.9	8.6
pH	Within the range 5.0 to 9.0.	

§ 430.166 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the soda subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart Q—Deink Subcategory

§ 430.173 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	5.05	2.6
TSS	4.95	2.7
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	10.1	5.2
TSS	9.9	5.4
pH	Within the range 5.0 to 9.0.	

§ 430.174 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the deink subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.175 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	7.5	3.9
TSS	7.45	4.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	15.0	7.8
TSS	14.9	8.0
pH	Within the range 5.0 to 9.0.	

§ 430.176 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the deink subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment

works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart R—NI Fine Papers Subcategory

§ 430.183 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	2.6	1.35
TSS	1.3	.7
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	5.2	2.7
TSS	2.6	1.4
pH	Within the range 5.0 to 9.0.	

§ 430.184 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the NI fine papers subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged by a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.185 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	2.6	1.35
TSS	2.6	1.4
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	5.2	2.7
TSS	5.2	2.8
pH	Within the range 5.0 to 9.0.	

§ 430.186 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the NI fine papers subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart S—NI Tissue Papers Subcategory

§ 430.193 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.015	2.15
TSS	2.05	1.1
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	8.3	4.3
TSS	4.1	2.2
pH	Within the range 5.0 to 9.0.	

§ 430.194 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the NI tissue papers subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.222, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.195 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	4.15	2.15
TSS	4.1	2.2
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	8.3	4.3
TSS	8.2	4.4
pH	Within the range 5.0 to 9.0.	

§ 430.196 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the NI tissue subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or polutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric uuits (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart T—NI Tissue (FWP) Subcategory

§ 430.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.7	1.9
TSS	1.85	1.0
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	7.4	3.8
TSS	3.7	2.0
pH	Within the range 5.0 to 9.0.	

§ 430.204 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the NI tissue (FWP) subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.205 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	3.7	1.9
TSS	3.65	1.95
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	7.4	3.8
TSS	7.3	3.9
pH	Within the range 5.0 to 9.0.	

§ 430.206 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the NI tissue (FWP) subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart U—High Alpha Dissolving Sulfite Pulp Subcategory

§ 430.213 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	26.5	13.8
TSS	8.8	4.75
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	53.0	27.6
TSS	17.6	9.5
pH	Within the range 5.0 to 9.0.	

§430.214 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the high alpha dissolving sulfite pulp subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.215 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 grams of product)		
BOD5	26.5	13.8
TSS	17.6	9.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	53.0	27.6
TSS	35.2	18.9
pH	Within the range 5.0 to 9.0.	

§ 430.216 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the high alpha dissolving sulfite pulp subcategory, which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

Subpart V—Papergrade Sulfite Market Pulp Subcategory

§ 430.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	19.3	10.05
TSS	6.4	3.45
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	38.6	20.1
TSS	12.8	6.9
pH	Within the range 5.0 to 9.0.	

§ 430.224 Pretreatment standard for existing sources.

The pretreatment standard under section 307(b) of the Act for a source within the papergrade sulfite market pulp subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
pH	Do.

§ 430.225 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	19.3	10.05
TSS	12.7	6.85
pH	Within the range 5.0 to 9.0.	
English units (pounds per ton of product)		
BOD5	38.6	20.1
TSS	25.4	13.7
pH	Within the range 5.0 to 9.0.	

§ 430.226 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the papergrade sulfite market pulp subcategory, which is a user of a

publicly owned treatment works and a major contributing industry as defined in 40 CFR 128, for existing sources (and which would be a new point source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. In addition to the prohibitions set out in 40 CFR 128.131, the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new point source subject to the provisions of this subpart.

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.
English units (pounds per ton of product)		
BOD5	No limitation	No limitation.
TSS	do	Do.
pH	do	Do.

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THURSDAY, FEBRUARY 19, 1976



PART III:

THE PRESIDENT

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UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

Executive Order 11905

CIA-RDP96-00789R002700020001-6

Title 3—The President

Executive Order 11905 • February 18, 1976

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

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Section 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government.

Sec. 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

(a) Intelligence means:

(1) Foreign intelligence which means information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations or their agents; and

(2) Foreign counterintelligence which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism.

(b) Intelligence Community refers to the following organizations:

(1) Central Intelligence Agency;

(2) National Security Agency;

(3) Defense Intelligence Agency;

(4) Special offices within the Department of of Defense for the collection of specialized intelligence through reconnaissance programs;

(5) Intelligence elements of the military services;

(6) Intelligence element of the Federal Bureau of Investigation;

(7) Intelligence element of the Department of State;

(8) Intelligence element of the Department of the Treasury; and

(9) Intelligence element of the Energy Research and Development Administration.

(c) Special activities in support of national foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(d) National Foreign Intelligence Program means the programs of the Central Intelligence Agency and the special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs, the Consolidated Cryptologic Program, and those elements of the General Defense Intelligence Program and other programs of the departments and agencies, not including tactical intelligence, designated by the Committee on Foreign Intelligence as part of the Program.

Sec. 3. Control and Direction of National Intelligence Organizations.

(a) National Security Council.

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) Among its responsibilities, the National Security Council shall provide guidance and direction to the development and formulation of national intelligence activities.

(3) The National Security Council shall conduct a semi-annual review of intelligence policies and of ongoing special activities in support of national Foreign policy objectives. These reviews shall consider the needs of users of intelligence and the timeliness and quality of intelligence products and the continued appropriateness of special activities in support of national Foreign policy objectives. The National Security Council shall consult with the Secretary of the Treasury and such other users of intelligence as designated by the President as part of these reviews.

(b) Committee on Foreign Intelligence.

(1) There is established the Committee on Foreign Intelligence (hereinafter referred to as the CFI), which shall be composed of the Director of Central Intelligence, hereinafter referred to as the DCI, who shall be the Chairman; the Deputy Secretary of Defense for Intelligence; and the Deputy Assistant to the President for National Security Affairs. The CFI shall report directly to the National Security Council.

(2) The CFI shall (i) control budget preparation and resource allocation for the National Foreign Intelligence Program.

(A) The CFI shall, prior to submission to the Office of Management and Budget, review, and amend as it deems appropriate, the budget for the National Foreign Intelligence Program.

(B) The CFI shall also adopt rules governing the reprogramming of funds within this budget. Such rules may require that reprogrammings of certain types or amounts be given prior approval by the CFI.

(ii) Establish policy priorities for the collection and production of national intelligence.

(iii) Establish policy for the management of the National Foreign Intelligence Program.

(iv) Provide guidance on the relationship between tactical and national intelligence; however, neither the DCI nor the CFI shall have responsibility for tactical intelligence.

(v) Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the NSC.

(3) The CFI shall be supported by the Intelligence Community staff headed by the Deputy to the Director of Central Intelligence for the Intelligence Community.

(4) The CFI shall establish such subcommittees as it deems appropriate to ensure consultation with members of the Intelligence Community on policies and guidance issued by the CFI.

(5) Decisions of the CFI may be reviewed by the National Security Council upon appeal by the Director of Central Intelligence or any member of the National Security Council.

(c) The Operations Advisory Group.

(1) There is established the Operations Advisory Group (hereinafter referred to as the Operations Group), which shall be composed of the Assistant to the President for National Security Affairs; the Secretaries of State and Defense; the Chairman of the Joint Chiefs of Staff; and the Director of Central Intelligence. The Chairman shall be designated by the President. The Attorney General and the Director

of the Office of Management and Budget or their representatives, and others who may be designated by the President, shall attend all meetings as observers.

(2) The Operations Group shall (i) consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity in support of national foreign policy objectives.

(ii) Conduct periodic reviews of programs previously considered by the Operations Group.

(iii) Give approval for specific sensitive intelligence collection operations as designated by the Operations Group.

(iv) Conduct periodic reviews of ongoing sensitive intelligence collection operations.

(3) The Operations Group shall discharge the responsibilities assigned by subparagraphs (c)(2)(i) and (c)(2)(iii) of this section only after consideration in a formal meeting attended by all members and observers; or, in unusual circumstances when any member or observer is unavailable, when a designated representative of the member or observer attends.

(4) The staff of the National Security Council shall provide support to the Operations Group.

(d) Director of Central Intelligence.

(1) The Director of Central Intelligence,

pursuant to the National Security Act of 1947, shall be responsible directly to the National Security Council and the President. He shall:

(i) Chair the CFI.

(ii) Act as executive head of the CIA and Intelligence Community staff.

(iii) Ensure the development and submission of a budget for the National Foreign Intelligence Program to the CFI.

(iv) Act as the President's primary adviser on foreign intelligence and provide him and other officials in the Executive branch with foreign intelligence, including National Intelligence Estimates; develop national intelligence requirements and priorities; and supervise production and dissemination of national intelligence.

(v) Ensure appropriate implementation of special activities in support of national foreign policy objectives.

(vi) Establish procedures to ensure the propriety of requests, and responses thereto, from the White House Staff or other Executive departments and agencies to the Intelligence Community.

(vii) Ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures. His responsibility within the United States shall be limited to:

(A) Protection by lawful means against disclosure by present or former employees of the Central Intelligence Agency or persons, or employees of persons or organizations, presently or formerly under contract with the Agency;

(B) providing leadership, guidance and technical assistance to other government departments and agencies performing foreign intelligence activities; and

(C) in cases involving serious or continuing security violations, recommending to the Attorney General that the case be referred to the Federal Bureau of Investigation for further investigation.

(viii) Establish a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with Executive Order No. 11652.

(ix) Ensure the existence of strong Inspector General capabilities in all elements of the Intelligence Community and that each Inspector General submits quarterly to the Intelligence Oversight Board a report which sets forth any questionable activities in which that intelligence organization has engaged or is engaged.

(x) Ensure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto.

(xi) Act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of foreign intelligence products by Congress.

(xii) Promote the development and maintenance by the Central Intelligence Agency of services of common concern to the Intelligence Community organizations, including multi-discipline analysis, national level intelligence products, and a national level current intelligence publication.

(xiii) Establish uniform criteria for the identification, selection, and designation of relative priorities for the transmission of critical intelligence, and provide the Secretary of Defense with continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence.

(xiv) Establish such committees of collectors, producers and users of intelligence to assist in his conduct of his responsibilities as he deems appropriate.

(xv) Consult with users and producers of intelligence, including the Departments of State, Treasury, and Defense, the military services, the Federal Bureau of Investigation, the Energy Research and Development Administration, and the Council of Economic Advisors, to ensure the timeliness, relevancy and quality of the intelligence product.

(2) To assist the Director of Central Intelligence in the supervision and direction of the Intelligence Community, the position of Deputy to the Director of Central Intelligence for the Intelligence Community is hereby established (Committee on Foreign Intelligence).

(3) To assist the Director of Central Intelligence in the supervision and direction of the Central Intelligence Agency, the Director of Central Intelligence shall, to the extent consistent with his statutory responsibilities, delegate the day-to-day operation of the Central Intelligence Agency to the Deputy Director of Central Intelligence (50 U.S.C. 403(a)).

(4) To assist the DCI in the fulfillment of his responsibilities, the heads of all departments and agencies shall give him access to all information relevant to the foreign intelligence needs of the United States. Relevant information requested by the DCI shall be provided, and the DCI shall take appropriate steps to maintain its confidentiality.

Sec. 4. Responsibilities and Duties of the Intelligence Community. Purpose. The rules of operation prescribed by this section of the Order relate to the activities of our foreign intelligence agencies. In some instances, detailed implementation of this Executive order will be contained in classified documents because of the sensitivity of the information and its relation

to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified within this section, its provisions apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law-enforcement responsibility of any department or agency.

(a) Senior Officials of the Intelligence Community. The senior officials of the CIA, Departments of State, Treasury and Defense, ERDA and the FBI shall ensure that, in discharging the duties and responsibilities enumerated for their organizations which relate to foreign intelligence, they are responsive to the needs of the President, the National Security Council and other elements of the Government. In carrying out their duties and responsibilities, senior officials shall ensure that all policies and directives relating to intelligence activities are carried out in accordance with law and this Order, including Section 5, and shall:

(1) Make appropriate use of the capabilities of the other elements of the Intelligence Community in order to achieve maximum efficiency.

(2) Contribute in areas of his responsibility to the national intelligence products produced under auspices of the Director of Central Intelligence.

(3) Establish internal policies and guidelines governing employee conduct and ensuring that such are made known to, and acknowledged by, each employee.

(4) Provide for a strong and independent organization for identification and inspection of, and reporting on, unauthorized activity.

(5) Report to the Attorney General that information which relates to detection or prevention of possible violations of law by any person, including an employee of the senior official's department or agency.

(6) Furnish to the Director of Central Intelligence, the CFI, the Operations Group, the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board all of the information required for the performance of their respective duties.

(7) Participate, as appropriate, in the provision of services of common concern as directed by the Director of Central Intelligence and provide other departments and agencies with such mutual assistance as may be within his capabilities and as may be required in the interests of the Intelligence Community for reasons of economy, effectiveness, or operational necessity.

(8) Protect intelligence and intelligence sources and methods within his department or agency, consistent with policies and guidance of the Director of Central Intelligence.

(9) Conduct a continuing review of all classified material originating within his organization and promptly declassifying such material consistent with Executive Order No. 11652, as amended.

(10) Provide administrative and support functions required by his department or agency.

(b) The Central Intelligence Agency. All duties and responsibilities of the Central Intelligence Agency shall be related to the foreign intelligence functions outlined below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations, and directives, the Central Intelligence Agency shall:

(1) Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, sociological, and geographic intelligence, to meet the needs of the President, the National Security Council, and other elements of the United States Government.

(2) Develop and conduct programs to collect political, economic, scientific, technical, military, geographic, and sociological information, not otherwise

obtainable, relating to foreign intelligence, in accordance with directives of the National Security Council.

(3) Collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics.

(4) Conduct foreign counterintelligence activities outside the United States and when in the United States in coordination with the FBI subject to the approval of the Attorney General.

(5) Carry out such other special activities in support of national foreign policy objectives as may be directed by the President or the National Security Council and which are within the limits of applicable law.

(6) Conduct, for the Intelligence Community, services of common concern as directed by the National Security Council, such as monitoring of foreign public radio and television broadcasts and foreign press services, collection of foreign intelligence information from cooperating sources in the United States, acquisition and translation of foreign publications and photographic interpretation.

(7) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized in this subsection.

(8) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(9) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (8) above, including procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel, financial and medical services; development of essential cover and proprietary arrangements; entering into contracts and arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(c) The Department of State. The Secretary of State shall:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.

(2) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of his responsibilities and in support of policy-makers involved in foreign relations within the United States Government.

(3) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(4) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(5) Transmit reporting requirements of the Intelligence Community to our Chiefs of Missions abroad and provide guidance for their collection effort.

(6) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(7) Support Chiefs of Missions in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.

(d) The Department of the Treasury. The Secretary of the Treasury shall:

(1) Collect, overtly, foreign financial and monetary information.

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information acquired.

(e) Department of Defense.

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

(ii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to his responsibilities.

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the CFI.

(iv) Direct, fund and operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

(v) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the CFI.

(vi) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government.

(2) In carrying out these assigned responsibilities, the Secretary of Defense is authorized to utilize the following:

(i) The Defense Intelligence Agency (whose functions, authorities and responsibilities are currently publicly assigned by Department of Defense Directive No. 5105.21) to:

(A) Produce or provide military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordinate all Department of Defense intelligence collection requirements and manage the Defense Attache system.

(C) Establish substantive intelligence priority goals and objectives for the Department of Defense and provide guidance on substantive intelligence matters to all major Defense intelligence activities.

(D) Review and maintain cognizance over all plans, policies and procedures for noncryptologic intelligence functions of the Department of Defense.

(E) Provide intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) Establishment and operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) Collection, processing and dissemination of signals intelligence in accordance with objectives, requirements, and priorities established by the Director of Central Intelligence.

(D) Dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services, as requested.

(E) Serving under the Secretary of Defense as the central communications security authority of the United States Government.

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs, whose functions, authorities, and responsibilities shall include:

(A) Carrying out consolidated programs for reconnaissance.

(B) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operations and control of designated means of collection.

(iv) Such other offices within the Department of Defense as shall be deemed appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.

(f) Energy Research and Development Administration. The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of his responsibilities and the mission of the Energy Research and Development Administration, hereinafter referred to as ERDA, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations and be responsive to the guidance of the Director of Central Intelligence and the Committee on Foreign Intelligence.

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where its special technical expertise can contribute to such collection requirements.

(g) The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(1) Detect and prevent espionage, sabotage, subversion, and other unlawful activities by or on behalf of foreign powers through such lawful counterintelligence operations within the United States, including electronic surveillance, as are necessary or useful for such purposes.

(2) Conduct within the United States and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other intelligence agencies.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested by officials of the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and counterintelligence information which it acquires to appropriate Federal agencies, State and local law enforcement agencies and cooperating foreign governments.

(5) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Sec. 5. Restrictions on Intelligence Activities. Information about the capabilities, intentions and activities of other governments is essential to informed decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. This section of this Order does not authorize any activity not previously authorized

and does not provide exemption from any restrictions otherwise applicable. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

(a) Definitions. As used in this section of this Order, the following terms shall have the meanings ascribed to them below:

(1) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

(2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

(3) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.

(5) "Foreign intelligence" means information concerning the capabilities, intentions and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counter-intelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.

(7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

(8) "Physical surveillance" means continuing visual observation by any means; or acquisition of a non-public communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.

(9) "United States person" means United States citizens, aliens admitted to the United States for permanent residence and corporations or other organizations incorporated or organized in the United States.

(b) Restrictions on Collection. Foreign intelligence agencies shall not engage in any of the following activities:

(1) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency and directed against any of the following:

(i) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf

of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General; provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities

or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(ii) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(iii) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

(iv) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 5(b)(2); or foreign intelligence acquired from cooperating sources in the United States.

(v) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.

(vi) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided, that such information is retained only by the foreign intelligence agency threatened and that proper coordination with the Federal Bureau of Investigation is accomplished.

(c) Dissemination and Storage. Nothing in this section of this Order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in Section 5(b)(7).

(d) Restrictions on Experimentation. Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(e) Assistance to Law Enforcement Authorities.

(1) No foreign intelligence agency shall, except as expressly authorized by law (i) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States or (ii) participate in or fund any law enforcement activity within the United States.

(2) These prohibitions shall not, however, preclude: (i) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (ii) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

(f) Assignment of Personnel. An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(g) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(h) Implementation.

(1) This section of this Order shall be effective on March 1, 1976. Each department and agency affected by this section of this Order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counterintelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this Order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Sec. 6. Oversight of Intelligence Organizations.

(a) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the Oversight Board.

(1) The Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969). No member of the Oversight Board shall have any personal contractual relationship with any agency or department of the Intelligence Community.

(2) One member of the Oversight Board shall be designated by the President as its Chairman.

(3) The Oversight Board shall:

(i) Receive and consider reports by Inspectors General and General Counsels of the Intelligence Community concerning activities that raise questions of legality or propriety.

(ii) Review periodically the practices and procedures of the Inspectors General and General Counsels of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(iii) Review periodically with each member of the Intelligence Community their internal guidelines to ensure their adequacy.

(iv) Report periodically, at least quarterly, to the Attorney General and the President on its findings.

(v) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality.

(vi) Report in a timely manner to the President any activities that raise serious questions about propriety.

(b) Inspectors General and General Counsels within the Intelligence Community shall:

(1) Transmit to the Oversight Board reports of any activities that come to their attention that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the Oversight Board on its findings concerning questionable activities, if any.

(3) Provide to the Oversight Board all information requested about activities within their respective departments or agencies.

(4) Report to the Oversight Board any occasion on which they were directed not to report any activity to the Oversight Board by their agency or department heads.

(5) Formulate practices and procedures designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(c) Heads of intelligence agencies or departments shall:

(1) Report periodically to the Oversight Board on any activities of their organizations that raise questions of legality or propreity.

(2) Instruct their employees to cooperate fully with the Oversight Board.

(3) Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties assigned by paragraph (4) of this section.

(d) The Attorney General shall:

(1) Receive and consider reports from the Oversight Board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the Intelligence Community, if any, which raise questions of legality.

(e) The Oversight Board shall receive staff support. No person who serves on the staff of the Oversight Board shall have any contractual or employment relationship with any department or agency in the Intelligence Community.

(f) The President's Foreign Intelligence Advisory Board established by Executive Order No. 11460 of March 20, 1969, remains in effect.

Sec. 7. Secrecy Protection.

(a) In order to improve the protection of sources

and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.

Sec. 8. Enabling Data.

(a) The Committee on Foreign Intelligence and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order within ninety days of its effective date.

(c) This Order shall supersede the Presidential Memorandum of November 5, 1971, on the "Organization and Management of the U.S. Foreign Intelligence Community."

(d) Heads of departments and agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order within ninety days of its effective date.

(e) This Order will be implemented within current manning authorizations of the Intelligence Community. To this end, the Director of the Office of Management and Budget will facilitate the required realignment of personnel positions. The Director of the Office of Management and Budget will also assist in the allocation of appropriate facilities.

Gerald R. Ford

THE WHITE HOUSE,
February 18, 1976.

[FR Doc.76-5010 Filed 2-18-76;12:36 pm]

EDITORIAL NOTE: For the President's remarks at his news conference of February 17, 1976, announcing a reorganization of the intelligence community, see the Weekly Compilation of Presidential Documents (vol. 12, no. 17).

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