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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.
### INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

**FEDERAL REGISTER, Daily Issue:**
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- Subscription problems (GPO)  202-275-3050
- "Dial a Regulation" (recorded summary of highlighted documents appearing in next day's issue):
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FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
**FEDERAL REGISTER**

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**Federal Register Pages and Dates—September**

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**Reminders**

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

**Rules Going Into Effect Today**

- **CSA**—Conduct standards for employees; reports of non-CSA interests; 41282; 8-16-77
- **DOT/FAA**—Standard instrument approach procedures; 39380; 8-4-77
- **FCC**—Hay Springs-Scottsbluff, Nebr.; table of TV assignments; 41123; 8-15-77
- **FDIC**—Insured state nonmember banks which are municipal securities dealers; regulations, forms, and instructions; 40891; 8-12-77
- **HEW/FDA**—Zirconium, aerosol drug and cosmetic products containing; 41374; 8-16-77
- **Interior/FWS**—Hunting; openings; Bombay Hook National Wildlife Refuge, Del.; 43394; 8-29-77
- **Seney National Wildlife Refuge, Mich.**; upland game; 43638; 8-30-77
- **Treasur/Cs**—Trademarks, trade names and copyrights; recordation of copyrights in sound recordings; 41278; 8-16-77
- **USDA/APHIS**—Animal Welfare Act; care, treatment, and transportation of certain animals; 31022; 8-15-77

**List of Public Laws**

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.
By the President of the United States of America

A Proclamation

The blessings of liberty which our ancestors secured for us are today, as they have always been, the birthright of every American. They have remained so because in each generation there have been men and women who have been willing to suffer the hardships and sacrifices necessary to preserve our rights for future generations.

No act of citizenship is more worthy of our respect than a willingness to serve in our armed forces and to protect and defend our ideals. There are nearly thirty million of our fellow citizens among us today who have earned that respect by their loyal and honorable service.

In recognition of the contributions our veterans have made to the cause of peace and freedom, the Congress has determined (5 U.S.C. 6103(a)) that one day each year should be set aside as a national holiday in order that all Americans may be able to take part in activities designed to show our respect for their dedication to their country.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to observe Monday, October 24, 1977, as Veterans Day in a manner that will let our Nation’s veterans know that their sacrifices are and always will be recognized and appreciated.

I urge the conduct of public ceremonies, the visible tribute of members of the business community, and the personal participation of all Americans of all ages in honoring our Nation’s veterans.

I especially encourage remembrance to those men and women who are sick and disabled and to those who are patients in our hospitals.

I call upon Federal, State and local government officials to mark Veterans Day by displaying the flag of the United States and by supporting and encouraging public involvement in appropriate exercises and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred and seventy-seven, and of the Independence of the United States of America the two hundred and second.
Providing for the Effectuation of the Department of Energy Organization Act

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Department of Energy Organization Act (Public Law 95–91; 91 Stat. 565), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Pursuant to Section 901 of the Department of Energy Organization Act, I hereby prescribe October 1, 1977, as the effective date of that Act.

SEC. 2. The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

SEC. 3. As required by Section 901 of the Department of Energy Organization Act, this Order shall be published in the Federal Register.

THE WHITE HOUSE,
September 13, 1977.

[FR Doc.77–27068 Filed 9–14–77; 10:01 am]
Title 7—Agriculture

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

[Valencia Orange Reg. 878]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 16-22, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia 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 Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation, will tend to effectuate the declared policy of the act.

(a) Order. (1) The quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(b) (1) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues good.

Average f.o.b. price was $4.51 per carton on 532 cartons for the week ended September 8, as compared with $4.47 per carton on 531 cartons the previous week. Track and rolling supplies at 288 cars were up 24 cars from last week.

(i) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(ii) Having considered the requirements and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(iii) District 1: Unlimited.

(iv) District 2: 435,000 cartons; District 3: Unlimited.

NOTICE: This notice is published pursuant to the Public Notice requirements of the Freedom of Information Act, 5 U.S.C. 552. Comments must be received on or before October 17, 1977. Comments must be received on or before October 17, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directive Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart (202-447-5177).

SUPPLEMENTARY INFORMATION: Section 1888.13 of Part 1888 of Chapter XVIII, Title 7, Subchapter G, "Miscellaneous Regulations," in the Code of Federal Regulations, is amended by striking out the provisions of the regulation until 30 days after publication in the Federal Register (5 U.S.C. 552). Because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, a reasonable time is permitted for preparation for such effective time, and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice to consider supply and market conditions for Valencia 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 during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act to make this regulation effective during the period specified. The committee meeting was held on September 13, 1977.

§ 908.873 Valencia Orange Regulation 373.

(a) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 16, 1977, through Sept. 22, 1977, are hereby fixed as follows:

(District 1: 289,000 cartons; District 2: 435,000 cartons; District 3: Unlimited.

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


CHARLES R. BRADER, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.
Federal Regulations, 42 FR 19322; 42 FR 33158; 42 FR 43965) is amended. The text of paragraph (c) of this section is amended to provide that loan funds may be used to pay initial operating and maintenance expenses attributable to short term measures necessary to augment community water facilities attributable to drought or special circumstances or hardship an examination covered by paragraphs (c) and (d) of § 1888.13 are amended to read as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused or severe problems resulting from water shortages due to the drought, including the use of loan funds for initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be examined covered by April 30, 1978. Under special circumstances or hardship an extension of completion time may be granted by the FmHA Administrator.

(d) The provisions of paragraph (b), (b)(1), and (b)(2) of § 1823.472 of this chapter as the section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused by that applicable and special circumstances or hardship an extension of completion time may be granted by the FmHA Administrator.

The Interpretations published today are in a new format in which a title page listing interpretations under a new format in which the Interpretation is an attachment to a cover letter. This style permits FEA to group in the cover letter all interpretations not published exactly in the form issued. These alterations were predicated on the issuance of Interpretations in letter format and all the Interpretations, Interpretation 1977-27 were in fact issued as letters. Beginning with Interpretation 1977-28 (the Interpretation appended hereto) FEA has issued Interpretations under a new format in which the Interpretation is an attachment to a cover letter. This style permits FEA to group in the cover letter all non-interpretable material. The FEA is inconsistent with the amended the text of paragraphs (e) and (d) of § 1888.13 as amended to read as follows:

§ 1888.13 Loans and grants to rural communities for water supply assistance.

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused by that applicable and special circumstances or hardship an extension of completion time may be granted by the FmHA Administrator.

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regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published only for general guidance in accordance with the reasons set forth in the FEA notice cited above.


ERIC J. FUXE, Acting General Counsel, Federal Energy Administration.

APPENDIX

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**INTERPRETATION 1977-28**

To: Mobil Oil Corporation.

Date: August 5, 1977.

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**RULES AND REGULATIONS**

**FACTS**

Mobile Oil Corp. ("Mobil") is the prime supplier of motor gasoline to Ace, a wholesale distributor-reseller ("Ace"). Ace contracted with Mobil to obtain under the Atlantic Richfield Co. ("ARCO") to sell wholesale to Mobil. Ace and each of the twelve purchasers were submitted to the FEA's Region IV Office for review. The agreements requested termination of the base period supplier/purchaser relationship between ARCO and the individual purchasers and the substitution by an assignment of the base period supplier obligation for the twelve accounts. The FEA granted approval of the agreements herein described on March 24, 1976. On April 2, 1976, Mobil received a reply from the FEA Regional Office on March 24, 1976. In connection with the assignment of Ace as the base period supplier of the twelve accounts, this assignment as been concluded that Mobil is the aggrieved party and has agreed to increase its supply obligations to Ace. As pointed out in your request, increases in Mobil's supply obligations could cause a disruption in the company's supply and distribution system to the detriment of all of their accounts, and possibly result in a material adverse effect on Mobil. Therefore, Mobil is within the scope of the definition of the term "aggrieved" with respect to the order described herein above. The three party agreement as described hereinabove was not in conformance with the notice requirements specified in 10 CFR 205.33(a). In connection with the assignment of Ace as the base period supplier of the twelve accounts, this section provides:

(a) Definition of a "Base Period Supplier": As indicated in your submission, Mobil contends that Ace has the base period supplier obligation for the twelve accounts. The FEA has also contended in your request that Mobil is a "new wholesale purchaser." As a result, Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the assignment. This conclusion has been reversed and vacated. See F.E.A. v. Exxon Co., U.S.A., 458 F.2d 1069, (5th Cir. 1972). In light of your submission, Mobil requests clarification of 10 CFR 211.13(c) to include in its present form the term "iner" in the context of a three-party agreement approved by the FEA as a party which would be aggrieved by the assignment. In the event of such an increase or a decrease in the base period volume reflecting all of the newly acquired accounts on June 14, 1976, Mobil certified to the FEA that it had been treated as an aggrieved party and given notice of the action. In general when FEA fails to comply with the notice requirements in issuing an assignment order, the order is subject to appeal. See F.E.A. v. Exxon Co., U.S.A., supra. As a result, Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the transfer of supply obligations because Ace was identified as a Mobil distributor in the three-party agreement submitted to the FEA. Accordingly, Mobil should have been treated as an aggrieved party and given notice of the action.

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**INTERPRETATION 1977-28**

To: Mobil Oil Corporation.

Date: August 5, 1977.

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**RULES AND REGULATIONS**

**FACTS**

Mobile Oil Corp. ("Mobil") is the prime supplier of motor gasoline to Ace, a wholesale distributor-reseller ("Ace"). Ace contracted with Mobil to obtain under the Atlantic Richfield Co. ("ARCO") to sell wholesale to Mobil. Ace and each of the twelve purchasers were submitted to the FEA's Region IV Office for review. The agreements requested termination of the base period supplier/purchaser relationship between ARCO and the individual purchasers and the substitution by an assignment of the base period supplier obligation for the twelve accounts. The FEA granted approval of the agreements herein described on March 24, 1976. On April 2, 1976, Mobil received a reply from the FEA Regional Office on March 24, 1976. In connection with the assignment of Ace as the base period supplier of the twelve accounts, this assignment as been concluded that Mobil is the aggrieved party and has agreed to increase its supply obligations to Ace. As pointed out in your request, increases in Mobil's supply obligations could cause a disruption in the company's supply and distribution system to the detriment of all of their accounts, and possibly result in a material adverse effect on Mobil. Therefore, Mobil is within the scope of the definition of the term "aggrieved" with respect to the order described herein above. The three party agreement as described hereinabove was not in conformance with the notice requirements specified in 10 CFR 205.33(a). In connection with the assignment of Ace as the base period supplier of the twelve accounts, this section provides:

(a) Definition of a "Base Period Supplier": As indicated in your submission, Mobil contends that Ace has the base period supplier obligation for the twelve accounts. The FEA has also contended in your request that Mobil is a "new wholesale purchaser." As a result, Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the assignment. This conclusion has been reversed and vacated. See F.E.A. v. Exxon Co., U.S.A., 458 F.2d 1069, (5th Cir. 1972). In light of your submission, Mobil requests clarification of 10 CFR 211.13(c) to include in its present form the term "iner" in the context of a three-party agreement approved by the FEA as a party which would be aggrieved by the assignment. In the event of such an increase or a decrease in the base period volume reflecting all of the newly acquired accounts on June 14, 1976, Mobil certified to the FEA that it had been treated as an aggrieved party and given notice of the action. In general when FEA fails to comply with the notice requirements in issuing an assignment order, the order is subject to appeal. See F.E.A. v. Exxon Co., U.S.A., supra. As a result, Mobil was also "readily identifiable" by the FEA as a party which would be aggrieved by the transfer of supply obligations because Ace was identified as a Mobil distributor in the three-party agreement submitted to the FEA. Accordingly, Mobil should have been treated as an aggrieved party and given notice of the action.

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**INTERPRETATION 1977-28**

To: Mobil Oil Corporation.

Date: August 5, 1977.
RULES AND REGULATIONS

1, 1976. It is evident that Mobil had actual notice of the submission of the three party agreements and the subsequent approval of them by FEA as early as March 1976. These party agreements would result in serious hardship or gross inequity, Mobil may file an "Application for Exception" in accordance with the procedures set forth in Subpart D of 10 CFR Part 205.

INTERPRETATION 1977-29

To: Peerless Distributing Company.

Date: August 9, 1977.

Rules Interpreted: §§ 212.31, 212.81, 212.91


FACTS

Peerless Distributing Company ("Peerless") is a Michigan company engaged in the purchase and resale of various petroleum products. It is owned 100 percent by members of the Fleischman family (the family consisting of the father, mother, son, two daughters, and their spouses, and their grandchildren) and also own 100 percent of a second firm engaged in reselling petroleum products, Petroleum Specialties, Incorporated ("Petroleum Specialties"), and two refineries, Lakeside Refining Company ("Lakeside") and Crystal Refining Company ("Crystal"). Peerless is both a purchaser from and supplier to the other Fleischman-owned companies. Peerless purchases approximately 30 percent of its product from Crystal and Lakeside. Peerless files its own federal and state income tax returns, and claims that it has traditionally operated as a completely independent basis from the other family-owned companies.

ISSUE

May Peerless be treated as a separate entity under the Mandatory Petroleum Price Regulations ("Price Regulations"), or must it be considered as part of an integrated "firm" along with Petroleum Specialties, Lakeside, and Crystal? If it must be treated as a part of a firm,” it is subject to the control regulations for refiners, 10 CFR 212.81, et seq., to be applied to its business activities?

INTERPRETATION

The definition of "firm" in 10 CFR 212.31 provides that the Federal Energy Administration ("FEA") may, in regulations and forms issued under this part (212), treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which is directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

FEA regulations provide that with regard to both refiners and resellers, a "firm" will include any consolidated or unconsolidated entities (if any which is directly or indirectly controls. For refiners, under Subpart E of Part 212, 10 CFR, "firm" is defined in §212.31, as "a parent and the consolidated and unconsolidated entities (if any) which directly or indirectly controls."

As for resellers, under Part 10 of 10 CFR, Part 2.2, FEA in an amendment to §212.92, effective May 1, 1976, expressly defined "seller" as "a parent and the consolidated and unconsolidated entities (if any) which directly or indirectly controls."

In issuing this amendment FEA pointed out that the expression define "conforms to provisions in that "seller" as used in Subpart F, is the same as 'firm' as defined in Subpart E of Part 212, i.e., a parent and the consolidated and unconsolidated entities (if any) which is directly or indirectly controls."

One of the purposes of defining a firm in this manner is to guard against the possibility that the "firm" would use its ability to pass through to its own inventories and claims to establish prices separately from the other family held companies.

Power to control a company must be inferred from 100-percent ownership and the powers of control of all of the consolidated entities must be interpreted from the common ownership within the same family. Cost of Living Council ("CLC") Phase IV and FEA regulations * * *" and with respect to its own sales. FEA must treat all four companies as one firm.

Which Subpart of Part 212 should be applicable to the "firm," which is engaged in both the refiner and retailer regulations? Section 212.81, under Subpart E, the re

INTERPRETATION

Section 211.67(d) (2) states: The volume of a refined crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section, shall be calculated for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales deduction. In that month of refined petroleum products (including aviation fuels as defined in §211.143 of this part, but not including fuel oil, including sales to a domestic purchaser which certifies the product is for export; * * *).
RULES AND REGULATIONS

Non-bonded aviation fuel uplifted in the United States for international flights departing from the United States shall not be considered as subject to the export sales deductions under Part 211.

Therefore, a purchaser's certification to the contrary notwithstanding, sales of non-bonded aviation fuel uplifted in the United States for international flights departing from the United States are not export sales, and consequently should be included in Agricultural Research Service inventories and utilized for purposes of the export sales deduction set forth in § 211.67(d)(2).

INTERPRETATION 1977-31

To: Mobil Oil Corporation.

Date: August 12, 1977.

Rules Interpreted: §§ 211.51, 211.67.

Code: GCW—AI—Crude Oil, def; Entitlements Program.

Facts

Mobil Oil Corporation ("Mobil") is planning to import liquid hydrocarbons "liquids" from a marine loading terminal. Two additional facts are necessary, however: (1) the completion of the plant facilities 600 MM SCF per day to be utilized as fuel and the excess flared.

The conclusion that the liquids recovered from the production of natural gas are first separated at 1150 pounds per square inch ("p.s.i.") and then pumped by reduction of pressure). The liquids will be recovered from the production of natural gas by conventional lease separation at the wellhead, or by a single mechanical separator ("field facility"), located centrally and serving two or more wells, is typically referred to as "lease condensate." Condensate which is separated from natural gas by conventional lease separation at the wellhead or at a location near the loading port offers the advantage of condensate recovery at the loading port does not change the basic method of recovery of liquids. In addition, the condensate facilities span an area of twenty miles does not alter the conclusion that the basic method of recovery of liquids changes.

The liquids produced at Arun in the interim operation will be derived from well head condensate which has been reduced to ambient conditions through retrograde condensation (the formation of liquids from gas by cooling). The Arun wellhead conditions are such that the gas produced is at high pressure and temperature (5,000 p.s.i., 340 F) and contains a significant volume of liquid. Due to the high pressure of the gas and in order to obtain complete recovery of the liquids, four stages of separation by retrograde condensate are necessary. The Arun wellhead gases are therefore cooled down to a temperature of approximately 350 F and a pressure of 140 p.s.i. to recover the condensate as liquid.

Additionally, they remain liquid at normal atmospheric pressure and thus fall within the definition of crude oil.

As Mobil pointed out in its request, the condensate recovery process does differ from the general method of recovery of lease condensate. The condensate recovery facilities range in size and number. The separator facilities span an area of twenty miles and the liquids are reheat in the final stage of the recovery process.

The fact that the condensate facilities span an area of twenty miles does not alter the conclusion that the basic method of recovery of lease condensate is comparable to the domestic recovery of lease condensate. After the first separation, the liquids are transported twenty miles so that further recovery can take place near the marine loading terminal. As you indicated, stabilizing the liquid at a location near the marine loading terminal offers the advantage of reduced pressure off-gas as fuel. Carrying the flash stages further reduces the volume of recovered liquid and results in stable liquids at ambient conditions.

ISSUE

Are the liquids recovered from gas production at the Arun field in Indonesia through separation by retrograde condensate at an interim facility and imported to the United States by Mobil qualify as "lease condensate" and are thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the entitlements program, 10 CFR 211.67?

Crude oil is defined in 10 CFR 211.61 as a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through the surface separating facilities.

Emphasis added.

The term "lease condensate" does not have a uniform definition in the petroleum industry. Generally, condensate refers to the heavier liquid hydrocarbon portion of natural gas in the underground reservoir which is mechanically separated from natural gas as a liquid through a process of retrograde condensation, involving pressure reduction, and is typically referred to as "lease condensate." Condensate which is separated from natural gas by conventional lease separation is referred to as "lease condensate" if it is mechanically separated from natural gas as a liquid through a process of retrograde condensation.

Rules Interpreted: §§ 211.51, 211.67.

To: Cook & Cooley, Inc.

Date: August 29, 1977.

Rules Interpreted: § 211.13(c).

Code: GCW—AI—Adjustments to Base Period Use.

Facts

Cook & Cooley, Inc., ("Cook & Cooley") is a distributor of Texaco branded motor gasoline and diesel fuel. In 1974, through an interim operation pending classification of this material as lease condensate and therefore crude oil under the definition of that term in 10 CFR 211.67(d). Part 211 lease condensate to be included in Mobil's crude oil receipts as imported crude oil for the purposes of the entitlements program. That program will receive the benefits of the material recovered. This heating process is not equivalent to a fractionation process.

For the reasons set forth below, it has been concluded that the liquids recovered from the gas production at the Arun field in Indonesia through an interim operation pending completion of a gas processing plant by Mobil qualify as "lease condensate" and are thus within the definition of crude oil in 10 CFR 211.51 and eligible for inclusion in the entitlements program, 10 CFR 211.67.

Cook & Cooley did not begin to supply several of these retail outlets until the latter part of 1972, after Texaco had terminated supply relationships with other distributors. Therefore, the base period responsibility to supply these retail outlets, under FEPA allocation regulations, was with Cook & Cooley for the latter months of 1972 and with other suppliers for the preceding months of 1972.

Prior to March 1, 1976, Cook & Cooley received notification from two of these retail outlets that they had elected to designate Cook & Cooley as their sole base period supplier in accordance with the provisions of 10 CFR 211.116. The election of these retail outlets placed an additional supply obligation of approximately 1.67 million gallons of gasoline annually on Cook & Cooley, Inc.

The issue presented for interpretation is whether Cook & Cooley, as a wholesale purchaser-reseller, is entitled to an automatic adjustment to its base period use under the provisions of 10 CFR 211.13(c) to reflect the increased supply obligation resulting from the designation of Cook & Cooley as the sole base period supplier to certain of its purchasers pursuant to 10 CFR 211.116.

INTERPRETATION

For the reasons set forth below, it has been concluded that Cook & Cooley, as a wholesale purchaser-reseller, is not entitled to an automatic adjustment to its base period use under the provisions of 10 CFR 211.13(c) for increased supply obligations resulting from the designation of Cook & Cooley as the sole base period supplier pursuant to 10 CFR 211.116.

When initially promulgated on January 19, 1974, for the 1974-1975 entitlements program, 10 CFR 211.13(c) allowed each supplier to supply all retail outlets which purchased or obtained allocated product from that supplier under the provisions of 10 CFR 211.13(c) for increased supply obligations resulting from the designation of Cook & Cooley as the sole base period supplier pursuant to 10 CFR 211.116.

When initially promulgated on October 3, 1975, 10 CFR 211.105 was amended

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RULES AND REGULATIONS

FACTS

1. C. R. England Oil & Gas Properties ("C. R. England") is a producer of domestic crude oil subject to the Mandatory Petroleum Price Regulations of 10 CFR Part 212.

2. Trinton Oil & Gas Corporation assigned to Shell Oil Company, for the period beginning on October 4, 1975, crude oil and gas leases to Lots 20, 21, and 22 in the Samoga Field, Hardin County, Texas. As assignee, C. R. England is the "sole producer" for the purposes of this paragraph, each of Lots 20, 21, and 22 shall be considered a "property" as that term is used in 10 CFR 212.131.

3. Producers Monthly Report Forms-P-, filed by Trinton Oil & Gas Corporation and by C. R. England in accordance with the amended regulations of Texas, show that the crude oil produced and sold from Lots 20, 21, and 22 for the period June 1, 1973 through June 30, 1974 exceeded the base production control level ("BPCL") for each property.

4. C. R. England did not make a certification or certification declaration for the gasoline produced and sold from these properties during this period.

5. On November 24, 1975, Sun Oil Company ("Sun") paid C. R. England for crude oil Sun had purchased from the three lots during 1973 and 1974. This payment reflected for the first time a price in excess of FEA's "new crude oil price." According to C. R. England, Sun advised C. R. England at that time that the "new crude oil price" could not have been applied to Lots 20 and 22 because the necessary certification as to 1972 production had not been filed in Sun's behalf. C. R. England alleges that Sun asserted that it was precluded from paying the "new crude oil" price to C. R. England because such a payment might be a "retroactive price increase" barred under 10 CFR 212.1 (e) (1) of FEA regulations.

6. C. R. England takes the position that it need not be relieved of its burden of complying with the certification requirements at 10 CFR 212.131. It points out that it made a timely and diligent inquiry of Sun in October 1975 and that no written response was received from Sun. C. R. England appeals the propriety of the certification form as to the "new crude oil price" for the period June 1, 1973 through June 30, 1974.

7. C. R. England urges that the burden of compliance with certification procedures was shared by Sun. C. R. England argues that, in any event, it was not relieved of its requirement to file a certification because it did not receive from Sun the correct forms for Lots 20, 21, and 22.

ISSUE

The issue presented for consideration is whether a producer may sell volumes of crude oil as "new crude oil" as defined in 10 CFR 212.72 when that producer failed to certify that such volumes qualify as "new crude oil" as required in 10 CFR 212.131 (a) (2) (l).

INTERPRETATION

For the reasons set forth below, it has been concluded that a producer that fails to certify its "new crude oil" as required in 10 CFR 212.131 (a) (2) (l) within the consecutive two-month period immediately preceding the month in which the petroleum was first produced and sold, except when such re-certification is explicitly required or permitted by FEA order, interpretation or ruling.

10 CFR 212.131 (a) (2) (l) provides that:

(1) "With respect to each sale of crude oil from a supplier to a person to whom the producer delivered the crude oil as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels of domestic crude oil which the crude oil is produced and sold, except where it is certified as new crude oil.

10 CFR 212.131 clearly states that a producer shall certify, and that the certification shall contain certification to the purchaser, with respect to prices charged for the duration of the Mandatory Petroleum Price Regulations. Thus, it is clear that the certification requirements are not merely a formality, but are substantive in nature. The certification requirements are not simply a form of certification that the producer has the right to use in the sale of crude oil. Rather, the certification requirements are designed to ensure that the producer is not charging a retroactive price increase for the sale of crude oil.

In conclusion, the certification requirements are designed to ensure that the producer is not charging a retroactive price increase for the sale of crude oil. Therefore, a producer that fails to certify its "new crude oil" as required in 10 CFR 212.131 (a) (2) (l) within the consecutive two-month period immediately preceding the month in which the petroleum was first produced and sold, except when such re-certification is explicitly required or permitted by FEA order, interpretation or ruling, is in violation of the certification requirements.
within the two month period following the month of production and sale (41 FR 37339, September 19, 1976). This prior to March 23, 1975, FEA price regulations contained no explicit time restrictions on the certification of first sales of crude oil. This was therefore the first time that this restriction was imposed. It is noted that for crude oil produced and sold in January 1976 or thereafter, certificates of FEA regulations. See Carlos R. Leffler, 2 FEA § 80,640 (July 18, 1975); Belco Petroleum Corp., 3 FEA § 83,136 (May 12, 1976). C. R. England has an affirmative obligation to be cognizant of, and conform to, the requirements of FEA regulations. See Carlos R. Leffler, 2 FEA § 80,640 (July 18, 1975); Belco Petroleum Corp., 3 FEA § 83,136 (May 12, 1976). Since C. R. England failed to certify the volumes of crude oil produced and sold within the two-month period specified in the regulations, the crude oil does not qualify as "new crude oil." It is an established principle of law that a firm’s ignorance of its obligations under federal law does not constitute a justification for nonconformance with such laws. C. R. England has an affirmative obligation to be cognizant of, and conform to, the requirements of FEA regulations. See Carlos R. Leffler, 2 FEA § 80,640 (July 18, 1975); Belco Petroleum Corp., 3 FEA § 83,136 (May 12, 1976). The definition of "new crude oil" (10 CFR 212.23) does permit, as noted above, the recertification as new and released crude oil of volumes of crude oil initially certified as old crude oil, where such recertification is required or permitted by FEA order, interpretation, or regulations. This provision is intended to provide for the possibility that certain volumes of crude oil treated as old oil may subsequently become eligible for new or released crude oil by virtue of later administrative action. This provision is not applicable in the circumstances presented here because the recertification of the crude oil as "old crude oil" is the result of the failure of C. R. England to act as required by FEA regulations, and not the result of administrative action.

C. R. England contends in its request that the reason for its failure to file the certification and send it to the producer is the crash of the petroleums' control level crude oil production is because Sun, the purchaser of old crude oil, did not require the certification. The regulation, however, expressly requires certification by the producer. The following passage from the regulations: "By August 26, 1975, the certification and send it to the producer. FEA has no objection to this practice to the extent that it permits any large purchaser to help to relieve the certification burden on a small producer. However, the certification responsibility must rest ultimately with the producer. This is not to say that in every case preset to the Board of Directors, September 9, 1977.

PART 220—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 221—CREDIT BY BANKS FOR THE PURCHASE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks: Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction of List of OTC Margin Stocks.

SUMMARY: This document corrects the List of OTC Margin Stocks published in the Federal Register on August 18, 1977, at page 41604.

EFFECTIVE DATE: The List of OTC Margin Stocks was effective on August 18, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

In the List of OTC Margin Stocks, FR Doc. 77-23790, appearing at page 41604 in the Federal Register of August 18, 1977, following corrections are made:

1. The description of the stocks of CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY, at page 41608, the third column, is corrected to read: "Class A, $.83% par common."

2. The description of the stocks of Krueger, W. A. Company, at page 41614, the second column, is corrected to read: "$2.50 par common."


THEODORE E. ALLISON, Secretary of the Board.

[FR Doc.77-26656 Filed 9-14-77; 8:45 am]

CHAPTER II—FEDERAL RESERVE SYSTEM SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reges. G, T, U, and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURCHASE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks: Corrections

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction of List of OTC Margin Stocks.

SUMMARY: This document corrects the List of OTC Margin Stocks published in the Federal Register on August 18, 1977, at page 41604.

EFFECTIVE DATE: The List of OTC Margin Stocks was effective on August 13, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

In the List of OTC Margin Stocks, FR Doc. 77-23790, appearing at page 41604 in the Federal Register of August 18, 1977, following corrections are made:

1. The description of the stocks of CHICAGO & NORTH WESTERN TRANSPORTATION COMPANY, at page 41608, the third column, is corrected to read: "Class A, $.83% par common."

2. The description of the stocks of Krueger, W. A. Company, at page 41614, the second column, is corrected to read: "$2.50 par common."


THEODORE E. ALLISON, Secretary of the Board.

[FR Doc.77-26779 Filed 9-14-77; 8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 343—INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Postponement of Effective Date

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Change in Effective Date of Part 343 of FDIC’s Regulations.

SUMMARY: On August 8, 1977 FDIC’s Board of Directors adopted a new Part 343 of FDIC’s Rules and Regulations. The new part, appearing at 42 FR 40891 (1977), Friday, August 12, 1977, concerned insured state nonmember banks which are municipal securities dealers and contained an effective date of September 15, 1977. For administrative convenience and in the interest of coordinating with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency, the effective date of the Regulation will be postponed until October 31, 1977.

FOR FURTHER INFORMATION CONTACT:


By order of the Board of Directors, September 9, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION.

ALAN R. MILLER, Executive Secretary.

[FR Doc.77-26779 Filed 9-14-77; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Doct No. 77-GL-3; Amdt. 39-3083]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Model D2A34C58-(), F2A34-C58-(), and D2A34C98-(), Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires periodic inspection of the McCauley D2A34C58-(), F2A34-C58-(), and D2A34C98-() series propellers. The AD is needed to detect cracks and prevent failures of hubs which could result in the separation of the blade(s). Since this condition is likely to exist or develop in other propellers of the same design, the Airworthiness Directive requires periodic inspection of the propeller hubs for fatigue cracking, until replaced by McCauley oil-filled hubs containing a dried oil crack detection system.


ADDRESS: Information relating to the service documents referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417.

Copies of the service information incorporated by reference in this AD may be obtained from the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.
FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

RULING AND REGULATIONS

FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, Great Lakes Region, and J. T. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

**McCaulley Propellers.** Appplies to the following Model D2A34C58— , P2A34C58— , and D2A43C8— series propellers installed on the following models of aircraft:

- D2A34C58
- D2A34C58—A
- D2A34C58—B, -BM, -BNM, or -BNM
- D2A34C58—C, -CM, or -CMN
- D2A34C58—J, -JM, or -JMN
- D2A34C58—K, -KM, or -KMN
- D2A34C8—L, -LM, or -LMM
- D2A34C8—M or -MN
- D2A34C8—N

Compliance required as indicated, unless already accomplished. To detect propeller hub cracks and prevent possible failure, accomplish the following:

(a) Propeller hubs with less than 500 hours time in service, inspect in accordance with paragraph (d) (2) every 100 hours time in service from last inspection.

(b) Propeller hubs with 500 or more but less than 1,200 hours in service, inspect in accordance with paragraph (d) (2) within the 25 hours time in service after the effective date of this AD, and inspect in accordance with paragraph (d) (2) every 100 hours time in service from last inspection.

(c) All Models and Series listed above except D2A34C58 and D2A34C58—A. Propeller hubs with 1,200 or more hours time in service, or whose total time in service is unknown, inspect in accordance with paragraph (d) (3) within the 25 hours time in service from the effective date of this AD, unless already accomplished within the last 300 hours time in service and reinspect in accordance with paragraph (d) (3) every 300 hours time in service from the last inspection.

(d) Required Action: (1) Remove propeller from the aircraft, disassemble, inspect components and replace hub with a Model D2A34C58—BMNO—CMNO—JMNO—LMNO—MNO—NO, or -O oil-filled series hub as applicable in accordance with McCaulley Service Bulletin No. 122 dated February 15, 1977, and Service Manual No. 720415, or later Federal Aviation Administration approved revisions.

(2) Inspect all external surfaces of propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with a McCaulley oil-filled series hub as in paragraph (d) (1):

(e) Exemption. The foregoing inspections may be discontinued after replacement of Model D2A34C58— , P2A34C58— , or D2A43C8— series propellers with McCaulley oil-filled hubs as in paragraph (d) (1)

McCaulley Service Bulletin No. 88 and Cessna Service Letters SE77—4 and SE77—12 also pertain to this subject.

The manufacturer’s specifications and procedures identified in this Directive are incorporated herein and made part hereof pursuant to 14 U.S.C. 1652 (a) (4). All persons affected by the Directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCaulley Propeller Division, Cessna Aircraft Co., Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2200 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this Airworthiness Directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective: September 16, 1977.

(Secs. 313 (a), 601, and 603, Federal Aviation Act of 1958, as amended (40 U.S.C. 1394 (a), 1421, and 1423); sec. 6 (c), Department of Transportation Act (49 U.S.C. 10906 (c)), and 14 CFR 118.98.)

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Final Regulatory Impact Statement under Executive Order 11592, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 31, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

For FURTHER INFORMATION CONTACT:

Dwayne E. Hillard, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, AVE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3406.

SUPPLEMENTARY INFORMATION: Under City of Moberly, Missouri, is installing a Non-Directional Radio Bea-
The principal authors of this document are Dwayne E. Hilland, Operations, Procedures and Airspace Branch; Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

**DISCUSSION OF COMMENTS**

On pages 13303 and 13304 of the Federal Register dated March 10, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Moberly, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as reprinted on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t., December 1, 1977, by amending the following transition area to read:

**MOBERLY, MISSOURI**

That airspace extending upward from 700 feet above the surface within a 0.5 mile radius of the Omar N. Bradley Airport (Latitude 39°27'30" N, Longitude 92°23'30" W); and 3 miles either side of the 315° bearing from the airport extending from the 0.5 mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 0.5 mile radius to 8 miles southeast of the airport.

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

**SUPPLEMENTARY INFORMATION**

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Montague, Calif., transition area to provide controlled airspace for aircraft transiting the revised NDB-A instrument approach procedure to the Siskiyou County Airport.

**EFFECTIVE DATE:** December 1, 1977.

**ADDRESS:** Copies of this final rule may be obtained from:

Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

**FOR FURTHER INFORMATION CONTACT:**


The change in bearing reference of 4° is so minimal as to impose no additional burden on any person and thus notice and public procedure hereon are unnecessary.

**DRAFTING INFORMATION**

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

**ADOPTION OF THE AMENDMENT**

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 1, 1977, as hereinafter set forth.

In Subpart G § 71.181 (42 FR 440) the Montague, Calif., transition area is amended so as to delete the reference to the 360° bearing and insert in lieu thereof “356° bearing.”

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

**Alteration of Transition Area, Ukiah, California**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the Ukiah, Calif., transition area by establishing additional controlled airspace west of V-27 and east of V-27W between Ukiah and Fortuna, California VORTAC’s. This additional airspace will be used for radar vectoring of aircraft between the main and alternate airways.

**EFFECTIVE DATE:** December 1, 1977.

**ADDRESS:** Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

**FOR FURTHER INFORMATION CONTACT:**

Interested persons were afforded an opportunity to participate in the rule-making through submission of comments. All comments received were favorable.

**Drafting Information**

The principal authors of this document are Thomas W. Binckan, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

§ 71.181 [Amended]

**Urbana, California**

Following "* * * Fortuna VORTAC 110° radial.* Add: "* * * "and that airspace extending upward from 5,900 feet MSL bounded on the east by the southwest edge of V-37 and on the west by the east/southeast edge of V-27W."

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

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 12181, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 1, 1977.

Herman C. Bliss, Acting Deputy Director, Western Region.

[FR Doc.77-26544 Filed 9-14-77; 8:45 am]

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

**Designation of Transition Area—Clarion, Iowa**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of this federal action is to designate a transition area at Clarion, Iowa to provide controlled airspace for aircraft executing instrument approach procedures to the Clarion Municipal Airport which are based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

**EFFECTIVE DATE:** December 1, 1977.

**FOR FURTHER INFORMATION CONTACT:**


**SUPPLEMENTARY INFORMATION:**

The City of Clarion, Iowa is installing a Non-Directional Radio Beacon (NDB) on the Clarion Municipal Airport. This navigational aid will provide new navigational information to aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet MSL bounded on the east by the east/southeast edge of V-27W and on the west by the west/southwest edge of V-27 and on the west by the east/southeast edge of V-27W. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedures at the Clarion Municipal Airport.

**Drafting Information**

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

**DISCUSSION OF COMMENTS**

On pages 20384 and 20385 of the Federal Register dated April 21, 1977, as extended in the Federal Register of May 31, 1977, at page 20635 of the Federal Register, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Clarion, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 GMT, December 1, 1977, by adding the following new transition area:

**Clarion, Iowa**

That airspace extending upward from 700' above the surface within a 5 mile radius of the Clarion Municipal Airport (latitude 42°44'30" N., longitude 93°45'30" W.) and within 3 miles each side of the 911° bearing from the Clarion Municipal Airport, extending from the 5 mile radius to 8.5 miles north/west of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)).

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 12181, and OMB Circular A-107.

Issued in Kansas City, Missouri on September 6, 1977.

C. R. McVeigh, Jr., Director, Central Region.

[FR Doc.77-26544 Filed 9-14-77; 8:45 am]
change of geographical location has no effect on qualifications to exercise the privileges of an I.A. Others stated that the holder of an I.A. should not be denied the use of his authorization when going outside the jurisdiction of his local FAA District Office or terminating inspection activity at, or changing the location of, his fixed base. This proposal was withdrawn.

Proposed § 65.34 would have required the holder of an I.A. to keep, and make available for inspection by the Administrator, a current record of inspections performed by him under § 65.95 (a). While a predecessor of commentators favored this proposal, some contended that it would impose an undue economic burden and others felt that it would not be beneficial to anyone. In light of the economic burden that this requiring provision may impose, the FAA has decided to further evaluate the impact of proposed § 65.91. Accordingly, that proposed section is withdrawn.

Proposed § 65.92 (c) (1) was intended to clarify a current section by requiring that an applicant for an I.A. have to hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective for not less than three years. Moreover, under proposed § 65.92 (a), the holder of an I.A. could exercise the privileges of the authorization only while he holds a currently effective certificate and ratings. While those proposed sections specified that the applicant for, or holder of, an I.A. must have a currently effective mechanic certificate, they did not expressly provide that the holder of the certificate must be rated in powerplants. This requirement was added to make this clear. These requirements will ensure that the applicant for an I.A. is qualified in not only the privileges in the authorization and remains qualified while he holds the authorization.

Paragraph (d) of current § 65.91 provides that an inspection authorization expires on March 31 of each year. That paragraph is revoked by this amendment since the provision contained therein is included in new § 65.92 (a).

A review of comments received in response to the notice indicates that proponents appear to have been misinterpreted by the FAA.

The purpose of this proposal was merely to require that a person desiring to renew his I.A. must present the evidence currently required by that section at the local FAA District Office having jurisdiction over the area in which his fixed base of operation is located. The proposal was designed to relax the current requirement to submit that evidence at a more distant General Aviation District Office or International Field Office. However, as part of its Operations Review Program, the FAA is considering extensive revisions to current § 65.93, including a revision similar to that set forth in Notice 73-24. In light of this, the FAA concludes that it would be appropriate to consider all revisions to that section during the Operations Review, rather than implementing a single revision at the present time.

The FAA has conducted a preliminary evaluation of the impacts of the provisions adopted in this amendment. Based on that evaluation, it has been determined that the impacts of those provisions will be limited to an in-depth evaluation under the policy of the Secretary of Transportation and the Administrator (41 FR 16200; April 16, 1976) as required.

The principal authors of this document are Irving Birnbaum, Flight Standards Service, and3151; E. Long, Office of the Chief Counsel.

Accordingly, Part 65 of the Federal Aviation Regulations, as amended, effective October 17, 1977, as follows:

1. By amending § 65.91 by revising paragraph (c) (1), and by revoking and reserving paragraph (d) as follows:

§ 65.91 Inspection authorization.

(c) To be eligible for an inspection authorization, an applicant must:

(1) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective for not less than three years.

(2) Hold a currently effective mechanic certificate, as adopted, make this certain. These requirements will ensure that the applicant for an I.A. is qualified in not only the privileges in the authorization and remains qualified while he holds the authorization.

(3) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective for not less than three years.

(4) The holder of an inspection authorization that is suspended or revoked shall, upon the Administrator’s request, return it to the Administrator.

(Secs. 313 (a) and 601, Federal Aviation Act of 1958, as amended, U.S.C. 1454 (a) and 1421) Sec. 6(c), Department of Transportation Act (49 U.S.C. 1505 (e)).

Note-The Federal Aviation Administration has determined that this document does not contain a major proposed rule requiring preparation of an Economic Impact Statement under Executive Order 11281, as amended by Executive Order 11949, and OMB Circular A-167.

Issued in Washington, D.C. on September 8, 1977.

Langhorn Bond, Administrator.

[FR Doc. 77-20941 Filed 9-14-77; 8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17137, Amtd. No. 95-274]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) Altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum altitude must be prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribe new, amended, suspended, or revoked IFR altitudes and changeover points for certain Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and a free flow of aircraft.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment one at a time before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and im-
mediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: October 6, 1977.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1054(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order F 8 P 1100.1, as amended March 9, 1973.)

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

Issued in Washington, D.C. on September 6, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
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Resin, Calif. W/P 112
Leafs, Calif. W/P 28000 45000

J966R is amended by adding:
Resin, Calif. W/P 112
Leafs, Calif. W/P 28000 45000
### RULES AND REGULATIONS

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| **J967R** is amended to delete:  
Fruit, Calif. W/P | 122 | 036/216 to Merle | 2900 | 45000 |
| Merle, Calif. W/P | | | | |
| **J967R** is amended by adding:  
Clak, Calif. W/P | 122 | 036/216 to Merle | 2900 | 45000 |
| Merle, Calif. W/P | | | | |

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- Palis, Calif. W/P 080/260 to Palis

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FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
§95.7079 JET ROUTE NO. 79 is amended to read in part:

FROM Norfolk, Va. VOR/FEDEX
& 219 M rad Snow Hill VORTAC
TO MIA

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

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By amending Sub-part D as follows:

§§95.2323 VOR/VOR/ DME SIAPs identified as follows:

1. By amending §97.23 VOR/VOR/ DME SIAPs identified as follows:

   - Kailua-Kona, HI—Ke-ahole, VOR/DME Rwy 17 (TAC) Orlg.
   - Holland, MI—Tulip City, VOR-A, Amdt. 5.
   - Holland, MI—Park Township, VOR-C, Amdt. 4.
   - Belmar-Farmingdale, NJ—Monmouth County, VOR A, Amdt. 1.

2. By amending §97.25 SDF-LOC-LDA SIAPs identified as follows:

   - Augusta, ME—Augusta State, LOC Rwy 17, Original.
   - By amending §97.27 NDB/ADF SIAPs identified as follows:

   - Holland, MI—Park Township, NDB-B, Amdt. 3.


Selma, AL—Selfield, NDB Rwy 30, Amdt. 1
Anahuac, TX—Chambers County, NDB Rwy 30, Amdt. 1

Note—The FAA published an amendment in Docket No. 17063, Amdt. No. 1084 to Part 97 of the Federal Aviation Regulations (42 FR 38881, August 4, 1977) under section 97.27 effective October 8, 1977, which is hereby amended as follows:

Mitchumina, AK—Mitchumina, NDB Rwy 2, Amdt. 1 is effective October 8, 1977.
Title 16—Commercial Practices
CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION
PART 1401—SELF PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS: REQUIREMENTS TO PROVIDE THE COMMISSION WITH PERFORMANCE AND TECHNICAL DATA; REQUIREMENTS TO NOTIFY CONSUMERS AT POINT OF PURCHASE OF PERFORMANCE AND TECHNICAL DATA
Self-Pressurized Consumer Products Containing Chlorofluorocarbon Propellants: Labeling and Data Submission Requirements

CORRECTION
In FR Doc. 77-26832 at page 42762, in the issue for Wednesday, August 24, 1977, the date given as "February 20, 1976" should be changed to "February 19, 1978" in the following paragraphs:

(1) On page 42761, first column, in the last line of the first full paragraph;
(2) On page 42764, middle column, in the 7th line of §1401.4(a); and
(3) Also on page 42764, third column, in the 7th line of §1401.5(a).

Title 26—Internal Revenue
CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES
(T.D. 7498 (CC:LM-1614))

PART 53—FOUNDATION EXCISE TAXES
Taxes on Excess Business Holdings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of full text of final regulations.

SUMMARY: This document sets forth the full text of previously adopted final regulations (42 FR 34499, July 6, 1977) related to taxes on the excess business holdings of private foundations.

EFFECTIVE DATE: The regulations are effective for taxable years beginning after December 31, 1969.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

On January 3, 1973, the Federal Register published a notice of proposed rulemaking containing proposed amendments to the Foundation Excise Tax Regulations (26 CFR Part 53) pursuant to section 943 of the Internal Revenue Code of 1964, 38 FR 32. The amendments were proposed to conform the regulations to section 101(b) of the Tax Reform Act of 1969 (Pub. L. 91-172). A public hearing was held on March 29, 1973. After consideration of all comments regarding the proposed amendments, those amendments were adopted, as revised, by T.D. 7496, published in the Federal Register for July 6, 1977 (42 FR 34499). In addition, T.D. 7496 superseded §143.6 (i)(ii) of the Temporary Excise Tax Regulations under the Tax Reform Act of 1969 (26 CFR Part 143). However, T.D. 7496 as published in the Federal Register contained only the changes to the notice of proposed rulemaking published on January 3, 1973, rather than the full text of the final regulations. This document sets forth the full text of the final regulations.

Accordingly, the full text of the final regulations adopted by T.D. 7496 is as follows.

Robert A. Bley, Director, Legislation and Regulations Division.

Subpart D of 26 CFR Part 53 is inserted in its appropriate place to read as follows:

§53.4943-1 General rule; purpose

Generally, under section 4943, the combined holdings of a private foundation and all disqualified persons (as defined in section 4946(a)) in any corporation conducting a business which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of the foundation are limited to 20 percent of the voting stock in such corporation. In addition, the combined holdings of a private foundation and all disqualified persons in any unincorporated business (other than a sole proprietorship) which is not substantially related (aside from the need of the foundation for income or funds or the use it makes of the profits derived) to the exempt purposes of such foundation are limited to 20 percent of the beneficial or profits interest in such business. In the case of a sole proprietorship which is not substantially related (within the meaning of the preceding sentence), section 4943 provides that a private foundation shall have no preference in the transfer of its interest in such business. The provisions of section 4943 apply only if they are not inconsistent with special provisions which will be described in following sections.

§53.4943-2 Imposition of tax on excess business holdings of private foundations.

(a) Imposition of initial tax—(1) In general—(i) Section 4943(a) (1) imposes an initial excise tax (the "initial tax") on the excess business holdings of a private foundation for each taxable year of the foundation which ends during the taxable period defined in section 4943(c)(2). The amount of such tax is equal to 5 percent of the total value of all the private foundation's excess business holdings in each of its taxable years during such period except that if the foundation and its disqualified persons have created excess business holdings within 90 days of a taxable year of the foundation, the excess business holdings subject to tax for such taxable year shall not be included in the calculation of the initial tax.

(ii) Disposition of certain excess business holdings within ninety days. In any case in which a private foundation acquires excess business holdings, other than by a purchase of all the business enterprises. In determining the value of the excess business holdings of the foundation subject to tax under section 4943(a)(2), the value of such excess business holdings shall be treated as owning such interest in the enterprise but imposes any material restrictions or conditions that prevent the transferee from freely and effectively using or disposing of the transferred interest, then the transferor foundation will be treated as owning such interest until all such restrictions or conditions have been removed.

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are eliminated (regardless of whether the transferee is treated for other purposes of the Code as owning such interest from the date of the transfer). However, a restriction or condition imposed in compliance with federal or state securities laws, or in accordance with the terms or conditions of the gift or bequest through which such interest was acquired by the foundation, shall not be considered a material restriction or condition imposed by a private foundation.

(v) Foundation knowledge of acquisitions made by disqualified persons. (A) For purposes of paragraphs (a)(1)(i) of this section, whether a private foundation will be treated as knowing, or having reason to know, of the acquisition of holdings by a disqualified person will depend on the facts and circumstances of each case. The facts and circumstances relevant to a determination that a private foundation did not know or had no reason to know of an acquisition are: the fact that it did not discover acquisition; the source of the information acquired through the use of procedures reasonably calculated to discover such holdings; the diversity of foundation holdings; and the existence of large numbers of disqualified persons who have little or no contact with the foundation or its managers.

(B) The provisions of paragraph (a)(1)(ii) of this section may be illustrated by the following example:

Example. By the fifteenth day of the fifth month after the close of each taxable year, the F Foundation sends to each foundation manager, substantial contributor, person holding more than a 20% interest (as described in section 4946(a)(1)(C)) in any business enterprise, substantial contributor, and foundation described in section 4946(a)(1)(H), a questionnaire as owning such interest from the date of the transfer). However, a disqualified person owning less than 2% of a mutual fund's shares on the last day of the taxable year, the disqualified person, or a disqualified person, shall not be required by the foundation, or a disqualified person, to have disposed of such excess business holdings, X sells 70 shares of M common stock for $120 per share (the five remaining shares, on the same date to A, an individual who is not a disqualified person within the meaning of section 4946(a) and § 53.4943-9). The fair market value between January 1 and February 20, 1972, X disposes of no more stock in M for the remainder of calendar year 1972, the fair market value of each share of M common stock is $80. X calculates the value of its excess business holdings in M for 1972 as follows:

100 shares of M common stock times $120 fair market value per share $12,000
$12,000 multiplied by rate of tax (percent) 5
Amount of tax on X foundation's excess business holdings for 1972 $600

Example (2). Assume the same facts as in Example (2) except that the sale of X to A occurs on January 7, 1971, when the fair market value of each share of M corporation common stock is $80. A value of $120 per share is the highest fair market value of the M common stock between January 1 and February 20, 1972. X does not discover this information until February 20, the first time X has excess business holdings in N corporation in the form of 200 shares of N common stock. The value per share of N common stock on May 9, 1973, equals $250. X makes no disposition of the N common stock during 1973, and the value of each share of N common stock as of December 31, 1973, equals $250 (the highest value of N common stock during 1973). X calculates its tax on its excess business holdings in both M and N for 1973 as follows:

100 shares of M common stock times $100 fair market value per share $10,000
$10,000 multiplied by rate of tax (percent) 5
Amount of tax on X foundation's excess business holdings for 1973 $500

(b) Additional tax. In any case in which the initial tax is imposed under section 4943(a)(1) and (2), a disqualified person (as described in section 4943(d)(1) and § 53.4943-9) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the correction period (as defined in section 4943(b)(3) and § 53.4943-9) the re-
enterprise to be permitted holdings (as defined in paragraphs (b) and (c) of this section). If a private foundation is required by section 4943 and the regulations thereunder to dispose of certain shares of a class of stock in a particular period of time, it is treated as holding one-fifth of the shares of such class in a shorter period of time, any stock disposed of shall be charged first against those dispositions which must be made in such shorter period.

(2) Example. The provisions of this paragraph may be illustrated by the following example:

Example. Corporation X has outstanding 100 shares of voting stock, with each share entitled the holder thereof to one vote. If, a private foundation, possesses 20 shares of X voting stock representing 20 percent of the voting power in X. Assume that the permitted holdings of F in X under paragraph (b) (1) of this section are 11 percent of the voting stock in X. F, therefore, possesses voting stock representing a percentage of voting stock in excess of the percentage permitted by such paragraph. Such excess percentage of the voting stock in X, determined by subtracting the percentage of voting stock representing the permitted holdings of F in X from the percentage of voting stock held by F in X (i.e., 20 percent). (20% ~ 11% = 9%). The excess business holdings of F in X are an amount of voting stock representing such excess percentage, or 9 shares of X voting stock (9 percent of 100).

(b) Permitted holdings in an incorporated business enterprise—(1) In general. Permitted holdings defined. Except as otherwise provided in section 4943(c) (2) and (4), the permitted holdings of any private foundation in an incorporated business enterprise (including a real estate investment trust, as defined in section 856) are:

(A) 20 percent of the voting stock in such enterprise reduced (but not below zero) by:

(B) The percentage of voting stock in the enterprise constructively owned by all disqualified persons.

(ii) Voting stock. For purposes of this section, the percentage of voting stock held by any person in a corporation is normally determined by reference to the power of that holder to vote for the election of directors, with treasury stock and stock which is authorized but unissued being disregarded. Thus, for example, if private foundation holds 20 percent of the shares of one class of stock in a corporation, which class is entitled to elect three directors, and such foundation holds no stock in the other class of stock, which is entitled to elect five directors, such foundation shall be treated as holding 7.5 percent of the voting stock because the class of stock it holds has 37.5 percent of such voting power, by reason of being able to elect three of the eight directors, and the foundation holds one-fifth of the shares of such class (20 percent of 37.5 percent is 7.5 percent). The fact that extraordinary corporate action (e.g., charter or by-law amendments) may render the holder unable to vote may not invalid the right to vote of more than a majority of the directors, or of the outstanding voting stock, of such corporation shall not alter the determination of voting power of stock in such corporation in accordance with the two preceding sentences.

(2) Nonvoting stock as permitted holdings—(i) In general. In addition to those holdings permitted by paragraph (b) (1) of this section, the permitted holdings of a private foundation in an incorporated business enterprise shall include any share of nonvoting stock in such enterprise held by the foundation during any period in which all disqualified persons hold, actually or constructively, no more than 20 percent (35 percent where third persons have effective control as defined in paragraph (b) (3) (i) of this section) of the voting stock in such enterprise. All equity interests which do not have voting power attributable to them shall, for purposes of section 4943, be classified as nonvoting stock. For this purpose, evidences of indebtedness (including convertible indebtedness), and warrants and other options or rights to acquire stock shall not be considered equity interests.

(ii) Stock with contingent voting rights—(A) Nonvoting stock. Stock carried voting rights which will vest only when conditions, the occurrence of which are indeterminate, have been met, such as preferred stock which gains such voting rights only if no dividends are paid thereon, will be treated as nonvoting stock until the conditions have occurred which cause the rights to vest. When such rights vest, the stock will be treated as voting stock that was acquired other than by purchase, but only if the private foundation or disqualified persons had no control over whether the conditions would occur. Similarly, nonvoting stock which may be converted into voting stock will not be treated as voting stock until such conversion occurs. For special rules where stock is acquired other than by purchase, see paragraphs (c) (6) and the regulations thereunder.

(iii) Example. The provisions of this paragraph (2) may be illustrated by the following example:

Example. Assume that F, a private foundation, owns 20 shares of X nonvoting stock in X, which is exercisable. Thus, where a private foundation, together with all other private foundations which are described in section 4943(a) (1) (ii), actually or constructively owns more than 2 percent of the voting stock of an enterprise, all the stock in such business enterprise shall be considered to be excess business holdings under section 4943 as excess business holdings under section 4943. For purposes of applying section 101(C) (2) (C), a private foundation is treated as having excess business holdings in any enterprise in which it (together with all other private foundations (including trusts described in paragraph (b) (3) (ii) of this section) of the business enterprise to be permitted holdings (as de
(2) None of the stock in X owned by F is treated as excess business holdings.

Example (2). Assume the facts as stated in Example (1), except that F owns 3 percent of the outstanding stock of X, under section 4943(c)(2)(C). Therefore, none of the stock in X owned by either F or T is treated as excess business holdings.

Example (3). Assume the facts as stated in Example (1), except that F owns 3 percent of the voting stock in X, 2 percent of which is treated as held by P, a disqualified person of F. In addition, section 4943(c)(2)(C) is not inapplicable. Since F and T together own no more than 2 percent of the voting stock and no more than 2 percent in value of all outstanding stock, none of the stock in X, under section 4943(c)(2)(C), none of the stock in X owned by either F or T is treated as excess business holdings.

(ii) Trusts. For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in a trust shall be determined as provided in paragraph (b) of § 53.4943-3.

(iii) Other unincorporated business enterprises. For purposes of section 4943, the beneficial interest of a private foundation or any disqualified person in an unincorporated business enterprise (other than a trust or an unincorporated business enterprise which is not described in this subparagraph) shall be determined by dividing the amount of all equity investments or contributions to the capital of the enterprise made or obligated to be made by such foundation (or such disqualified person) by the amount of all equity investments or contributions to capital made or obligated to be made by all participants in the enterprise.

(d) Examples. The provisions of this section may be illustrated by the following examples:

Example (1). Corporation X has outstanding 100 shares of voting stock, with each share entitled to one vote. Corporation X, a private foundation, possesses 30 shares of X voting stock, and that A and B, the only disqualified persons with respect to F, together own 10 shares of X voting stock. The excess business holdings of F in X are 20 shares of X voting stock, determined as follows:

(i) Determination of voting stock percentages:

(a) Total number of outstanding votes in X: 100

(b) Total number of votes in X held by A and B: 30

(c) Percentage of voting stock in X held by A and B: 30 percent

(ii) Determination of permitted holdings of voting stock:

(a) Percentage of voting stock in X held by A and B: 30 percent

(b) Permitted holdings of voting stock by F in X: 20 percent less item (a)

(c) Excess business holdings of F in X: 20 shares of X voting stock equivalent to that in item (c) (shares)

Example (2). F, a private foundation, is a partner in P, a partnership. In addition, A and B, the only disqualified persons with respect to F, are partners in P. Assuming that P contains no provisions regarding the sharing of profits by, and the respective capital interests of, the partners, a partner's share of the profits shall be determined in the manner of its distributive share of partnership taxable income. See section 704(b) (relating to the determination of the distributive share of the income or loss ratio) and the regulations thereunder. In the absence of a provision in the partnership agreement, the capital interest of such foundation (or other disqualified person) in a partnership shall be determined on the basis of its interest in the assets of the partnership which would be distributable to such foundation (or such disqualified person) upon withdrawal by such foundation (or such disqualified person) on liquidation of such partnership, or upon liquidation of the partnership, whichever is the greater.

(3) Sole proprietorship. For purposes of section 4943, a private foundation shall have no permitted holdings in a sole proprietorship. In the case of a transfer by a private foundation of a portion of a sole proprietorship, see paragraph (c) (2) of this section (relating to permitted holdings in partnerships). For the treatment of a private foundation's ownership of a sole proprietorship prior to May 26, 1969, see § 53.4943-4.
section 4943(c) prescribes transition rules for a private foundation which, for such paragraph, would have excess business holdings on May 26, 1969. Section 4943(c)(4) provides such a foundation with protection from the initial tax on excess business holdings in two ways. First, the entire interest of such a foundation in any business enterprise in which such a foundation, but for section 4943(c)(4), would have had excess business holdings on May 26, 1969, is treated under section 4943(c)(4)(B) as held by disqualified persons for a certain period of time (the “first phase”). The effect of such treatment is to prevent a private foundation from being subject to the initial tax with respect to its May 26, 1969, interest during the first phase holding period and also to prevent the foundation from purchasing any additional business holdings in such business enterprise during such period (unless the combined holdings of the foundation and all disqualified persons fall below the 20 percent (or 35 percent, if applicable) figure prescribed by section 4943(c)(2)).

Second, section 4943(c)(4)(A)(i) initially increases the percentage of permitted holdings of such a foundation to a percentage equal to the difference between—

(A) The percentage of combined holdings of the foundation and all disqualified persons in such business enterprise on May 26, 1969, subject to a 50 percent maximum, and

(B) The percentage of holdings of all disqualified persons.

The percentage referred to in paragraph (A) (1) (A) of this section is referred to in this section as the “substituted level”. This “substituted level” is then reduced by the “downward ratchet rule” prescribed by section 4943(c)(4)(A)(ii) and paragraph (d) (3) of this section for certain dispositions such as by sale or by death. The primary purpose of the substituted level is to indicate what the permitted holdings in such business enterprise will be immediately after the expiration of the first phase holding period. The combined holdings of a private foundation itself are further limited to a maximum 25 percent interest in such business enterprise by section 4943(c)(4)(C) as soon as the combined holdings of all disqualified persons in such business enterprise exceed 2 percent (of the voting stock). If the combined holdings of all disqualified persons at any time exceed 2 percent (of the voting stock) during the 5 years following the first phase (the “second phase”), then the substituted level is reduced to a 5 percent maximum under section 4943(c)(4)(C).

Paraph 3 section 4943(c) may be illustrated by the following example:

Example. On May 26, 1969, private foundation P held a 5 percent interest in corporation X (voting stock and value). On May 26, 1969, 35 percent of the voting stock and value of X was held by P and disqualified persons. P's substituted level is zero (20%–21%) and its permitted holdings are zero (21%–21%). P's excess business holdings in X, because during the 10-year period P is not treated as holding its interest in X at May 26, 1969. P's interest in X occurs on January 2, 1972, when P disposes of 2 percent of its interest in X to A an unrelated disqualified person. P’s substituted level is reduced to 20 percent (20%–19%) on such date. Therefore, if the other interests in X do not change, P will not have excess business holdings if P purchases no more than an additional 1 percent interest in X.

(2) Interaction of provisions of section 4943(c)(4), (5), and (6). During the first phase, a private foundation may acquire additional interests in a business enterprise, other than business holdings, which are entitled to be treated as held by disqualified persons for varying holding periods. Therefore, section 4943(c)(5) provides that the substituted level is reduced by the “downward ratchet rule” of section 4943(c)(4) on such date. Therefore, if the other interests in X do not change, P will not have excess business holdings if P purchases no more than an additional 1 percent interest in X.

(a) Present holdings in general. (1) Section 4943(c)(4)(B) provides that any interest in a business enterprise held by a private foundation on May 26, 1969, if the foundation on such date has excess business holdings (determined without regard to section 4943(c)(4)) shall be treated as held by a disqualified person during a first phase. Therefore, no interest of a private foundation shall be treated as held by a disqualified person under section 4943(c)(4)(B) and this section unless:

(i) The private foundation was an entity (not including a revocable trust) in existence on May 26, 1969. See §§ 52.4943-5 and 53.4943-6.

(ii) Except as provided in paragraph (c) (1) (i) of this section, the 15-year period to dispose of certain interests acquired by a private foundation or any disqualified person shall not be affected by any interest acquired by the private foundation or any disqualified person in the business enterprise after May 26, 1969. In addition, the amount of permitted holdings in such business enterprise is prescribed by paragraph (d) (1) of this section. An interest constructively held by a private foundation (or a disqualified person) on May 26, 1969, shall not cease to be an interest constructively held by such foundation (or to such disqualified person). Nor shall an interest directly held by a private foundation (or disqualified person) on May 26, 1969, cease to be an interest constructively held by such foundation (or to such disqualified person) on May 26, 1969, unless such interest is sold or otherwise disposed of during the 15-year period beginning May 26, 1969. In addition, the amount of permitted holdings in such business enterprise is prescribed by paragraph (d) (1) of this section.

(b) Failure of conditions. (i) The private foundation was not an entity (not including a revocable trust) in existence on May 26, 1969. See §§ 52.4943-5 and 53.4943-6.

(ii) The provisions of this paragraph may be illustrated by the following example:

on such date, more than 75 percent of the voting stock (or more than a 75 percent profit or beneficial interest in the case of any unincorporated enterprise) or 75 percent of the value of all outstanding shares of all classes of stock in such enterprise (or more than a 75 percent profit and capital interest in the case of a partnership or joint venture); or (ii) The 10-year period beginning on May 26, 1969, in any case not described in paragraph (c)(1)(i) or (1)(ii) of this section.

The 20-year, 15-year, or 10-year period described in this subdivision (whichever applies) shall, for purposes of section 4943 and this section, be known as the "first phase".

(2) Sole proprietorships. The 20-year, 15-year, or 10-year period described in paragraph (c)(1) of this section shall apply with respect to any interest which a private foundation holds in a sole proprietorship on May 26, 1969. See paragraph (b) of this section for the purpose of converting such an enterprise to a corporate, partnership, or other form.

(3) Suspension of first-phase periods. The 20-year, 15-year, or 10-year period described in paragraph (c)(1) of this section shall be suspended during the pendency of any judicial proceeding which is brought and diligently litigated by the private foundation and which is necessary to reform, or to excuse the foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to allow disposition of all excess business holdings held by the foundation on May 26, 1969.

(4) Election to shorten the period during which certain holdings of private foundations are treated as held by disqualified persons. If, on May 26, 1969, the combined holdings of a private foundation and all disqualified persons in any one business enterprise are such as to make applicable the 15-year period referred to in paragraph (c)(1)(i) or (ii) of this section, and if, on such date, the foundation's holdings do not exceed 95 percent of the voting stock of such entity, then such 15-year period shall be suspended after up to such date. See section 4943 and §53.4943-3 for the effect of suspending such a period.

(iii) The term "disqualified person voting level" on any given date means the percentage of the total value of all outstanding shares of all classes of stock in a business enterprise held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).

(ii) The term "disqualified person voting level" on any given date means the percentage of the total value of all outstanding shares of all classes of stock in a business enterprise held by all disqualified persons together on such date (including stock deemed held by such a person by reason of section 4943(c)(4), (5), or (6)).
regard to section 4943(c)(4)(B) in a business enterprise on May 26, 1969, and at all times thereafter up to such date. See section 4943(c)(5) and §53.4943-5 for the effect of interests acquired pursuant to the terms of certain wills or in trusts in effect on May 26, 1969.

(v) The term "substituted combined voting level" means the lowest percentage to which the sum of the foundation voting level plus the disqualified person voting level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and §53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vi) The term "substituted combined value level" means the lowest percentage to which the sum of the foundation value level plus the disqualified person value level has been reduced since May 26, 1969, by paragraph (d)(4) of this section (the "downward ratchet rule"), subject to the following modifications:

(A) In no event shall such substituted level exceed 50 percent; and

(B) Such substituted level shall be increased (but not above 50 percent) in accordance with section 4943(c)(5) and §53.4943-5 for certain interests acquired by such foundation pursuant to the terms of a will or trust in effect on May 26, 1969.

(vii) In the case of an interest in a partnership or joint venture, definitions (I) through (IV) of this subparagraph shall be applied by substituting "profit interests" for "voting stock" and "all partnership interests" for "all outstanding shares of all classes of stock.

(ix) Each level defined in paragraph (d)(2)(i), (ii), (iii), (iv), and (VI) as of any date shall be carried over to the subsequent date subject to any adjustments prescribed for such level.

(3) Permitted holdings—First phase. Subsequent to the first phase the substituted combined voting level generally does not exceed the disqualified person voting level, and the substituted combined value level generally does not exceed the disqualified person value level, the permitted holdings during the first phase are generally equal to zero. The permitted holdings during the first phase exceed zero only where the 20 percent (or §53.4943(c)(6)) limitation on the downward ratchet rule contained in paragraph (d)(4)(i) and (B) of this section applies.

(4) Downward ratchet rule—(i) In general. As provided in paragraph (d)(4)(ii) of this section and section 4943(c)(5)—

(A) Scope of rule. In general, when the percentage of the holdings in a business enterprise held by a private foundation, and such foundation and all disqualified persons together have holdings in a business enterprise equal to 50 percent, on such date the substituted combined voting level and the disqualified person voting level shall be decreased so that it equals such sum. For example, if on May 26, 1969, a foundation and all disqualified persons together have holdings in a business enterprise held by a private foundation, such sum shall be decreased so that the substituted combined voting level is 48 percent. Thus, in the last preceding example, the substituted combined voting level shall be decreased to 48 percent, but the foundation voting level will be decreased to 38 percent (remaining at 10%).

(B) Levels affected. Under the downward ratchet rule any decrease after May 26, 1969, in the percentage of holdings comprising either the substituted combined voting level, the substituted combined value level or the combined voting level shall cause the respective level to be decreased to such decreased percentage for purposes of determining the foundation's permitted holdings.

(C) Implementation of reductions. Thus, if at any time the sum of the foundation voting level and the disqualified person voting level is less than the immediately preceding combined combined voting level, the substituted level shall be decreased so that it equals such sum. For example, if the foundation voting level is 50 percent, the disqualified person voting level is 38 percent, and the substituted level is 40 percent, the substituted combined voting level shall be decreased so that it equals 38 percent (remaining at 10%).

(iv) The substituted combined voting level and the disqualified person voting level are correspondingly increased, not being limited to interest held since May 26, 1969.

In addition, a transfer of May 26, 1969, holdings from one disqualified person to another, for example, by bequest, shall not reduce the substituted combined voting level or the substituted combined value level.

(ii) Exceptions—(A) One percent de minimus rule. If after May 26, 1969, any transfer of holdings comprising any of the four levels referred to in paragraph (d)(4)(i) of this section during any taxable year of a private foundation, and if such decreases are attributable to issuances of stock (or such issuances coupled with redemptions), then, unless the aggregate of such decreases equals or exceeds 1 percent, the determination of whether there is a decrease in such level for purposes of this paragraph (d)(4) shall be made only at the close of such taxable year. If, however, the aggregate of such decreases equals or exceeds 1 percent, the substituted combined voting level and the substituted combined value level shall be decreased at that time as if the previous sentence had never applied.

(B) Twenty percent (or 35 percent) floor. In no event shall the downward ratchet rule contained in paragraph (d)(4)(i) and (B) of this section apply such that the substituted combined voting level or the substituted combined value level below 20 percent, or, for purposes of section 4943(c)(2)(B), below 35 percent.
(iii) Special rules—(A) Change of foundation manager. In the case of a foundation manager (as defined in section 4946(b)) who on May 26, 1969, owns holdings in a business enterprise and who is replaced by another foundation manager, the determinations of the substituted combined voting or value levels shall be limited to the excess, if any, of the departing foundation manager’s holdings over his successor’s holdings.

(B) Disregarded foundation status under section 507. If an organization gives the notification described in section 507(b)(1) and (2) of the commencement of a 60-month termination period and fails to meet the requirements of section 509(a), (1), (2) or (3) for the entire period, then such organization will be treated as a private foundation during the entire 60-month period for purposes of this paragraph (d) (4) and section 4946(a) (1) (H). For example, X, a private foundation gives notification of the commencement of a 60-month termination commencing on January 1, 1972, and the organization is not treated as a private foundation, are effectively controlled by the same persons within the meaning of section 4946(a) (1) (H). X and Y hold 25 percent each of the voting stock of Z corporation on May 26, 1969, so that the substituted combined voting level for X or Y is 50 percent on such date. If X meets the requirements of section 509(a) (1), (2), or (3) for the entire 60-month period, the substituted combined voting level for Y is decreased by 25 percent. On the other hand, if X meets the requirements of section 509(a) (2) for its taxable years 1972 and 1973, but fails to meet the requirements of section 509(a) (1), (2), or (3) in 1974, 1975, and 1976, then solely for purposes of section 4943 (c) (4) (A) (ii) and this paragraph (d) (4), X will be treated as a disqualified person with respect to Y, and Y will be treated as a disqualified person with respect to X, for purposes of section 4946 (a) (1) (H). Thus, for purposes of section 4943 (c) (4) (A) (ii), the substituted combined voting level for X or Y will not be decreased by reason of the fact that X was attempting to terminate under section 509(b) (1) (B), and assuming no other transactions, such level will remain at 50 percent.

(b) Examples. The provisions of this paragraph (d) (4) may be illustrated by the following examples:

Example (1). P, a private foundation, owns on May 26, 1969, 50 shares of voting stock in corporation X representing 50 percent of the voting stock in X and 25 percent of the foundation voting value. The corporation owned 10 shares of nonvoting stock in a private foundation, aquatic Y, representing 50 percent of the voting stock in aquatic Y and 25 percent of the foundation voting value. On February 1, 1972, X sells to C, an unrelated person, 30 shares of voting stock in X. The aggregate of the decreases occurring on February 1, June 1, and October 1, of 1973 exceeds 1 percent, the determination whether there is a decrease in the substituted combined voting level for purposes of the downward ratchet rule shall not be made before January 1, 1974, since the aggregate of the decreases occurring on February 1 and June 1 of 1973 is less than 1 percent (0.3% + 0.5%). Therefore, the substituted combined voting level of X is 26 percent (40% — 0.3% — 0.5%).

Example (2). Assume the facts as stated in Example (1), except that on October 1, 1973, a stock issuance by Y causes the combined holdings of voting power by P, C, and D in Y to decrease by 0.5 percent after the expiration of the first phase, the permitted holdings shall not thereafter exceed 25 percent of the voting stock of Z or 25 percent of the combined voting level in any subsequent phase. For example, the substituted combined voting level shall be reduced to 23 percent after the expiration of the first phase, and, if no other transactions occur during the year, the permitted holdings shall not thereafter exceed 25 percent of the voting stock of Z or 25 percent of the combined voting level in any subsequent phase.

Example (3). Assume the facts as stated in Example (1), except that on October 1, 1973, a stock issuance by Y causes the combined holdings of voting power by P, C, and D in Y to decrease by 0.5 percent. Since the aggregate of the decreases occurring on February 1, June 1, and October 1, of 1973 exceeds 1 percent, the determination whether there is a decrease in the substituted combined voting level for purposes of the downward ratchet rule shall be made as of October 1, 1973. At that time the substituted combined voting level in X is reduced to 29.2 percent (40% — 0.3% — 0.5%).

(5) Permitted holdings—Second phase—(1) In general.—For purposes of this section, the term "second phase" means the 15-year period immediately following the first phase. Upon the expiration of the first phase with respect to an interest in a business enterprise, such interest shall no longer be treated as held by a disqualified person under section 4943 (c) (4) (B). During the second phase, the manner of determining the permitted holdings of a private foundation to which section 4943 (c) (4) applies shall be the same as applicable to the first phase, except that the determination shall apply under certain conditions specified in paragraph (d) (5) (I) of this section. For these purposes the substituted combined voting level and the substituted combined value level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined after the expiration of the first phase, if any, of the substituted combined voting level and the substituted combined value level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase. The substituted combined voting level shall be determined in effect for the foundation at the end of the first phase shall be carried over to the second phase.
as a result of the holdings of such a trust.

(6) Permitted holdings—Third phase. For purposes of section 4943 and this section, the term "third phase" means the period after the second phase. During the third phase the manner of determining the permitted holdings of a private foundation to which section 4943(e)(4) applies shall be the same as that for the second phase. For purposes of paragraph (d)(5) of this section (including the carryover of levels from the earlier phase). However, if the 25 percent limit of paragraph (d)(5)(i) of this section never applied during the second phase, the substituted combined voting level and the substituted combined value level each shall not exceed 35 percent during the third phase.

(7) Examples. The provisions of this paragraph may be illustrated by the following examples:

Example (1). F, a private foundation, owns on May 26, 1969, 30 shares of voting stock in corporation Z representing 30 percent of the voting power in Z and 15 percent of the value of all outstanding shares of all classes of stock in Z. Since the disqualified person voting level decreases to 28 percent (40% — 12%), the substituted combined voting level (40% — 35%) and the excess of the substituted combined voting level (40% — 35%) indicate how much stock F may acquire without incurring a tax. F’s permitted holdings on such date are 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined value level minus 3% (33% permitted holdings under section 4943(c) (2)) of the voting power). Since section 4943(c)(2) and this paragraph apply, and a disqualified person is treated as holding F’s shares of both voting and nonvoting stock in Y for the 10-year period following May 26, 1969, during the first phase the permitted holdings by F in Y of both the voting stock and of value are zero, because such percentage is equal to the excess of the substituted combined voting level over the disqualified person voting level (9%).

Example (3). Assume the facts as stated in Example (2), except that E and O acquire on February 1, 1970, 10 shares of Z voting stock representing 10% of the voting power in Z and 5 percent of the value of all outstanding shares of all classes of stock in Z. Since the substituted combined voting level and the substituted combined value level remain 35 and 35 percent, respectively, because such levels may not be increased by acquisitions by disqualified persons. However, in accordance with the downward ratchet rule, F’s permitted holdings on such date are 35 percent of the voting power (35% — 0%) and 40 percent of the value (40% — 0%). Assume that on February 1, 1981, A, a disqualified person, acquires 6 percent of the voting stock in Y representing 3 percent of the value of all outstanding shares of all classes of stock in Y. The permitted holdings by F in Z on February 1, 1981, are thus reduced to 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock). But see paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

Example (5). Assume the same facts as in Example (4) except that A does not acquire the 6 shares of voting stock until February 1, 1981. Thus, F’s permitted holdings in Y would remain at 35 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) during the second phase, which expired on May 25, 1994. Assume that on May 25, 1994, the last day of the second phase, F disposes of 10 shares of nonvoting stock representing 6 percent of the value of all outstanding shares in Y to meet the 35 percent third phase limit. In accordance with the downward ratchet rule, the substituted combined value level and F’s permitted holdings in Y would be reduced to 25 percent of the value. On February 1, 1995, F’s permitted holdings in Y would be reduced to 25 percent of the voting stock (the lesser of the separate 25% third phase limitation or 29% (25% third phase limitation minus 4% (21% permitted holdings under section 4943(c) (2)) of the voting power). See paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

(8) Special rule where all holdings are permitted under section 4943(c)(2). (1) Since section 4943(c)(4) and this paragraph provide transitional rules for foundations which would otherwise have had excess business holdings on May 26, 1969, no holdings shall cease to be permitted holdings under this paragraph where such holdings would be permitted holdings under section 4943(c)(4) and § 33.4943-3. Thus, for example, where the substituted combined voting level has been reduced to 20 percent, the provisions of § 33.4943-3(b)(2) concerning the 25 percent nonvoting stock as permitted holdings generally apply.

(1) The provisions of this paragraph (d)(8) may be illustrated by the following example:

Example: F, a private foundation, owns on May 26, 1969, 30 shares of voting stock in corporation Y representing 30 percent of the voting power in Y and 17.5 percent of the value of all classes of stock in Y, and owns on such date 45 shares of nonvoting stock representing 3 percent of the voting power and 12.5 percent of the value of all outstanding shares of all classes of stock in Y. Since the disqualified person voting level decreases to 23 percent (35% — 12%), the substituted combined voting level is 28 percent (35% — 7%), and the substituted combined value level is 27 percent (35% — 8%). Thus, F may acquire during the second phase 28 percent of the voting power (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) and 27 percent of the value (the lesser of the separate 25% second phase limitation or 36% (35% substituted combined value level minus 3% (33% permitted holdings under section 4943(c) (2)) of the voting power) of the voting stock of Y without incurring a tax. F’s permitted holdings on February 1, 1981, of the voting stock and of value are thus reduced to 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) of the voting stock). But see paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

Example (4). F, a private foundation, owns on May 26, 1969, 30 shares of voting stock in corporation Y representing 30 percent of the value of all classes of stock in Y and 17.5 percent of the value of all classes of stock in Y, and owns on such date 45 shares of nonvoting stock representing 3 percent of the voting power and 12.5 percent of the value of all outstanding shares of all classes of stock in Y. Since the disqualified person voting level decreases to 23 percent (35% — 12%), the substituted combined voting level is 28 percent (35% — 7%), and the substituted combined value level is 27 percent (35% — 8%). Thus, F may acquire during the second phase 28 percent of the voting power (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) and 27 percent of the value (the lesser of the separate 25% second phase limitation or 36% (35% substituted combined value level minus 3% (33% permitted holdings under section 4943(c) (2)) of the voting power) of the voting stock of Y without incurring a tax. F’s permitted holdings on February 1, 1981, of the voting stock and of value are thus reduced to 25 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) of the voting stock). But see paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

Example (5). Assume the same facts as in Example (4) except that A does not acquire the 6 shares of voting stock until February 1, 1981. Thus, F’s permitted holdings in Y would remain at 35 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) during the second phase, which expired on May 25, 1994. Assume that on May 25, 1994, the last day of the second phase, F disposes of 10 shares of nonvoting stock representing 6 percent of the value of all outstanding shares in Y to meet the 35 percent third phase limit. In accordance with the downward ratchet rule, the substituted combined value level and F’s permitted holdings in Y would be reduced to 25 percent of the value. On February 1, 1995, F’s permitted holdings in Y would be reduced to 25 percent of the voting stock (the lesser of the separate 25% third phase limitation or 29% (25% third phase limitation minus 4% (21% permitted holdings under section 4943(c) (2)) of the voting power). See paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.

Example (6). Assume the same facts as in Example (4) except that A does not acquire the 6 shares of voting stock until February 1, 1981. Thus, F’s permitted holdings in Y would remain at 35 percent of the value (the lesser of the separate 25% second phase limitation or 37% (35% substituted combined voting level minus 2% (33% permitted holdings under section 4943(c) (2)) of the voting stock) during the second phase, which expired on May 25, 1994. Assume that on May 25, 1994, the last day of the second phase, F disposes of 10 shares of nonvoting stock representing 6 percent of the value of all outstanding shares in Y to meet the 35 percent third phase limit. In accordance with the downward ratchet rule, the substituted combined value level and F’s permitted holdings in Y would be reduced to 25 percent of the value. On February 1, 1995, F’s permitted holdings in Y would be reduced to 25 percent of the voting stock (the lesser of the separate 25% third phase limitation or 29% (25% third phase limitation minus 4% (21% permitted holdings under section 4943(c) (2)) of the voting power). See paragraph (d)(8) of this section for limitations on restrictions with respect to nonvoting stock.
Example. (A) F, a private foundation, owns, on May 26, 1969, 40 shares of voting stock in corporation X representing 49 percent of the voting stock in X and 50 percent of the outstanding stock of all classes of stock in X, and owns, on such date, 60 shares of nonvoting stock in X, representing 30 percent of the outstanding shares of all classes of stock in X. A, the only disqualified person with respect to F, owns, on such date, 10 shares of voting stock in X and 5 percent of the value of all outstanding stock of all classes of stock in X.

(B) Assume that the only transaction in X stock during the first phase is the disposition of 60 shares of voting stock by F on May 1, 1975. The voting stock held by F is permitted holdings under §53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(C) Assume that on May 1, 1975, F had disposed of only 15 shares of voting stock and all 60 shares of nonvoting stock. On May 26, 1975, the voting stock held by F is permitted holdings under §53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(D) Assume that in connection with the disposition of 40 shares of voting stock on May 1, 1975, F disposed of 20 shares of nonvoting stock on May 26, 1975. If the shares of nonvoting stock disposed of on May 26, 1975 are disposed of by a disqualified person during a first phase holding period, then for purposes of the last sentence of paragraph (d) (1) through (5) of this section, permitted holdings of any disqualified person shall be disregarded as held by such disqualified person for purposes of such paragraph (d) (1) through (5).

(E) Assume that the only transaction in X stock during the first phase is the disposition of 40 shares of voting stock by F on May 1, 1975. The voting stock held by F is permitted holdings under §53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(F) Assume that on May 1, 1975, F had disposed of only 15 shares of voting stock and all 60 shares of nonvoting stock. On May 26, 1975, the voting stock held by F is permitted holdings under §53.4943-3 and under such section since all disqualified persons together do not own more than 20 percent of the voting stock in X, all nonvoting stock held by F shall also be treated as permitted holdings. Therefore, all the stock held by F is permitted holdings.

(G) Assume that in connection with the disposition of 40 shares of voting stock on May 1, 1975, F disposed of 20 shares of nonvoting stock on May 26, 1975. If the shares of nonvoting stock disposed of on May 26, 1975 are disposed of by a disqualified person during a first phase holding period, then for purposes of the last sentence of paragraph (d) (1) through (5) of this section, permitted holdings of any disqualified person shall be disregarded as held by such disqualified person for purposes of such paragraph (d) (1) through (5).
senting 10 percent of X voting power and value shall be treated as held by a disqualified person through July 5, 1983.

Example (2). Assume the facts as stated in Example (1), except that the sole purpose of the codicil was to change the executor of the will. Under paragraph (b)(4)(i) of this section, such codicil will not prevent the determination of the substituted qualified person's phase holders as of May 26, 1969, from being treated as held by a disqualified person through July 5, 1983.

(b) Holding periods—(1) In general. An interest to which section 4943(c)(5) applies shall be entitled to a 15-year holding period starting on the date of distribution only if the interests actually or constructively owned by a private foundation and all disqualified persons on May 26, 1969, in a business enterprise with which it has an interest in a business enterprise to which section 4943(c)(5) applies shall be determined in accordance with the rules of paragraph (d) of §33.4943-4. The levels referred to in such paragraph shall be adjusted to take into account the acquisition of such an interest as if it were treated as held by a disqualified person from May 26, 1969, until the date of acquisition. See also §33.4943-6(b) (2) for the special rule for interests held by a private foundation at the time it acquires a section 4943(c)(5) interest from a nonqualified person. Thus, for example, if on June 30, 1975, the disqualified person voting level and the substituted combined voting level in corporation X with respect to foundation F are 45 percent and 6 percent, respectively, on July 1, 1975. However, if such interest had been acquired from a person who was a disqualified person on May 26, 1969, rather than from a nonqualified person, such phases would have taken place on July 1, 1975. In such a case, though, at the beginning of the second phase on July 1, 1986, the foundation voting level would be increased by 10 percent, and the disqualified person voting level decreased by 10 percent (assuming that none of the acquired stock had been disposed of prior to such date).

(2) Separate phases. The phases for each interest to which section 4943(c)(5) applies start independently from those for any other interest of the foundation in the same enterprise to which section 4943(c)(4) or (5) applies. Therefore, until an interest enters its own second phase, the 25 percent limit described in paragraph (d)(5) of §33.4943-4 shall not apply to such interest since such interest (and any subsequently acquired section 4943(c)(5) interest in the first phase) is still treated as held by a disqualified person for purposes of that 25 percent limit.

Example (3). The provisions of this paragraph may be illustrated by the following examples: (After each example is a chart setting forth the chronological changes in the various levels referred to in paragraph (d) of §33.4943-4.)

Example (1). On May 26, 1969, F, a private foundation, owns no stock in M Corporation, and A, a disqualified person owns 40 percent of the voting stock (voting power and value) in M. A dies on May 1, 1971, leaving 30 percent of the voting stock in M to F and leaving 10 percent of the voting stock to a qualified person. Distribution is made on June 1, 1972, and foundation F is treated as having acquired a 30 percent interest in M, as determined under §3.4943-6(b) (2) (the special rule for interests held by a private foundation at the time it acquires a section 4943(c)(5) interest from a nonqualified person). Thus, for example, if on June 30, 1975, the disqualified person voting level and the substituted combined voting level in corporation X with respect to foundation F are 45 percent and 6 percent, respectively, on July 1, 1975. In such a case, though, at the beginning of the second phase on July 1, 1986, the foundation voting level would be increased by 10 percent, and the disqualified person voting level decreased by 10 percent (assuming that none of the acquired stock had been disposed of prior to such date).

Example (2). Assume the facts as stated in Example (1), except that the sole purpose of the codicil was to change the executor of the will. Under paragraph (b)(4)(i) of this section, such codicil will not prevent the determination of the substituted qualified person's phase holders as of May 26, 1969, from being treated as held by a disqualified person through July 5, 1983.
Example (2). (i) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock of N Corporation (voting power and value) and disqualified persons own 20 percent of the voting stock of N Corporation. On May 1, 1971, B, a disqualified person, dies leaving 15 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c)(6) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting levels are each 50 percent and the permitted holdings are 0 percent (50% - 50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982.

(ii) On July 1, 1978, F sells 6 percent of the P stock to a nondisqualified person, thereby reducing the disqualified person voting level and the substituted combined voting level to 44 percent (50% - 6%). On May 26, 1979, at the beginning of the second phase for F's 1969 holdings, the foundation voting level is 24 percent (30% - 6%), the substituted combined voting level is still 44 percent (50% - 6%), and the disqualified person voting level is 30 percent (44% - 14%). Since as of such date F's entire holdings of 29 percent (24% - 5%) applies to the 30 percent interest prior to June 1, 1982, F would have had excess business holdings of 14 percent (29% - 15%).

Example (3). (i) On May 26, 1969, F, a private foundation, owns 8 percent of the voting stock of O Corporation (voting power and value), and disqualified persons own 45 percent of the voting stock. C, a disqualified person, dies on May 1, 1971, and leaves 41 percent of the voting stock of O to F. Assume that distribution is made on June 1, 1972, and that section 4943(c)(6) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are 50 percent and the permitted holdings are 0 percent (50% - 50%). On May 1, 1971, and June 1, 1972, the various levels remain unchanged. On May 1, 1971, the 41 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, at the beginning of the second phase for F's 1969 holdings of 5 percent, the 5 percent is no longer treated as held by a disqualified person, the foundation voting level is 24 percent, the disqualified person voting level is reduced to 28 percent (44% - 16%), and reducing the substituted combined voting level to 28 percent (44% - 16%). The disqualified person voting level remains at 20 percent. On June 1, 1982, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level is still 28 percent, the foundation voting level is 23 percent (50% - 27%), and the permitted holdings is 23 percent (28% - 5%).

(ii) On August 1, 1981, F sells 22 percent of O's stock to a nondisqualified person, thereby reducing the foundation voting level to 9 percent. Since the reductions are first applied to the 1969 holdings of 17 percent (22% - 5%), F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)), or 39 percent (44% - 5%). Since as of such date F's entire holdings of 29 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (29% - 15%).

(iii) If F had not disposed of the 6 percent on July 1, 1978, then on May 26, 1979, at the beginning of the second phase for F's 1969 holdings, F's permitted holdings would have been 25 percent, the lesser of 25 percent (under section 4943(c)(4)(D)(i)), or 39 percent (44% - 5%). Since as of such date F's entire holdings of 29 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (29% - 15%).
A period extending through May 31, 1982.

On May 26, 1979, the foundation voting level treated as held by a disqualified person for 4943(c)(5) applies. On May 26, 1969, the disqualified person voting level are each 50 substituted combined voting level and the person, dies leaving 43 percent of the voting percent. On May 1, 1971, E, a disqualified private foundation, owns 5 percent of the voting stock in Q Corporation (voting power June 1, 1997... 32 14 18

May 26, 1979... 49 30 18 49 49 0 50 50 0 0 C dies. Distribution

June 1, 1982... 48 30 18 48 2 24 50 50 0 0 F sells 22 pct.

Example (4). (1) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in P Corporation (voting power and value), and disqualified persons own 20 percent. On May 1, 1971, D, a disqualified person, dies leaving 18 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c) (6) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50% - 50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 18 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level increases to 20 percent, the substituted combined voting level to 34 percent (50% - 16%), and reducing the permitted holdings to 32 percent (34% - 2%). If F had not disposed of 16 percent of the stock in P prior to May 26, 1964, on such date, under section 4943(c) (4) (D) (i), F's substituted combined voting level for its 1969 holdings would have been 35 percent, and the permitted holdings would have been 33 percent (50% - 17%). Since none of F's holdings of 48 percent would have been treated as held by a disqualified person on such date (the beginning of the third phase for F's 1969 holdings), F would have had excess business holdings of 15 percent, the lesser of 30 percent (F's 1969 holdings in the third phase), or 15 percent (the excess of F's 48 percent holdings over the permitted holdings of 33 percent).

Example (5). (1) On May 26, 1969, F, a private foundation, owns 30 percent of the voting stock in Q Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1971, E, a disqualified person, dies leaving 43 percent of the voting stock to F. Assume that distribution was made on June 1, 1972, and that section 4943(c) (5) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent and the permitted holdings are 0 percent (50% - 50%). On May 1, 1971, and June 1, 1972, these levels remain unchanged. On May 1, 1971, the 43 percent interest is treated as held by a disqualified person for a period extending through May 31, 1982. On May 26, 1979, the foundation voting level increases to 8 percent, the disqualified person voting level decreases to 45 percent, and the permitted holdings are 5 percent (50% - 45%). On June 1, 1982, the foundation voting level increases to 48 percent, the disqualified person voting level decreases to 2 percent, and the permitted holdings are 48 percent (50% - 2%). At no time during the second phase for F's 1969 holdings did all disqualified persons together have holdings in excess of 2 percent of the voting stock of P. The 25 percent limitation of section 4943(c) (4) (D) (i) did not apply to F's 1969 holdings.

(ii) On April 1, 1971, F sells 5 percent of the stock in Q to a nonqualified person. This reduces the substituted combined voting level to 44 percent and reduces the permitted holdings to 42 percent (44% - 2%). If F had
not disposed of the 6 percent of the stock in 1993, on May 26, 1994, at the beginning of the third phase for F's 1999 holdings, F would have had 8 percent excess business holdings. The excess business holdings are 8 percent because although the excess business holdings computed for the third phase are 15 percent (the excess of F's actual holdings over the permitted holdings of 33 percent (35% — 2%)), only 5 percent of the holdings are in this phase and subject to the 35 percent combined holdings limitation.

Example (6). (i) On May 26, 1969, F, a disqualified person, owns 30 percent of the voting stock in R Corporation (voting power and value), and disqualified persons own 20 percent. On August 1, 1978, F disposes of 6 percent of the stock to a nondisqualified person, and the substituted person dies leaving 15 percent of the voting stock to F. Assume that distribution was made June 1, 1982, and that section 4943(c) (1) (ii) applies. On May 26, 1969, the substituted combined voting level and the disqualified person voting level are each 50 percent, and the foundation voting level is 20 percent. On August 1, 1978, these levels decrease to 44 percent (50% — 6%), the foundation voting level increases to 24 percent (20%+6%), the disqualified person voting level decreases to 20 percent (44% — 24%), and the permitted holdings remain at 24 percent (44% — 20%). If F had not disposed of the 6 percent of the stock prior to May 26, 1973, on May 26, 1979, the dilemma would have been as of such date, F would have had excess business holdings of 5 percent (30% — 25%).

(ii) On May 1, 1981, and June 1, 1983 (assuming F had disposed of the 6 percent holdings), the foundation voting level, the disqualified person voting level, the substituted combined voting level and permitted holdings remain respectively 24 percent, 20 percent, 44 percent and 24 percent. On May 1, 1981, the 15 percent interest is treated as held by a disqualified person for a period extending through May 31, 1992. On July 1, 1991, F sells 18 percent of the voting stock in R to a nondisqualified person, thereby reducing the substituted combined voting level to 28 percent (44% — 16%), and reducing the foundation voting level to 8 percent (24% — 16%). The disqualified person voting level remains at 20 percent. On June 1, 1992, at the beginning of the second phase for F's holdings acquired by will, the substituted combined voting level remains at 28 percent, the foundation voting level increases to 23 percent (8%+15%), and the foundation voting level decreases to 3 percent (20% — 17%). The permitted holdings on such date are 23 percent (28% — 5%), if F had not disposed of the 15 percent interest prior to June 1, 1992. F's permitted holdings would have been 23 percent, the lesser of 25 percent (under section 4943(c) (4) (D) (1)) or 33 percent (44% — 5%). Since as of such date, F's entire holdings of 39 percent would no longer have been treated as held by a disqualified person, F would have had excess business holdings of 14 percent (39% — 25%).

<table>
<thead>
<tr>
<th>Date</th>
<th>F's holdings (percent)</th>
<th>Interest treated as held by disqualified person (percent)</th>
<th>Foundation voting level (percent)</th>
<th>Substituted combined voting level (percent)</th>
<th>Permitted holdings (percent)</th>
<th>Comments</th>
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<td>May 26, 1969</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>9</td>
<td>F dies</td>
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<tr>
<td>Do</td>
<td></td>
<td></td>
<td></td>
<td>50</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>May 26, 1979</td>
<td></td>
<td></td>
<td></td>
<td>44</td>
<td>44</td>
<td>16</td>
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<tr>
<td>Do</td>
<td></td>
<td></td>
<td></td>
<td>50</td>
<td>44</td>
<td>0</td>
</tr>
<tr>
<td>Do</td>
<td></td>
<td></td>
<td></td>
<td>44</td>
<td>44</td>
<td>0</td>
</tr>
<tr>
<td>Do</td>
<td></td>
<td></td>
<td></td>
<td>44</td>
<td>44</td>
<td>0</td>
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<tr>
<td>June 15, 1983</td>
<td></td>
<td></td>
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<tr>
<td>Do</td>
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<td>FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977</td>
<td></td>
<td></td>
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</table>
Example (7). On May 26, 1969, F, a private foundation, owns 5 percent of the voting stock in 8 Corporation (voting power and value), and disqualified persons own 45 percent. On May 1, 1968, H, a disqualified person, dies leaving 41 percent of the voting stock to F. Assume that in 1968, the voting stock of X Corporation was acquired by a disqualified person at a price of $40 per share. If and as soon as any holdings in such enterprise become excess business holdings during such period (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to F's interest in such enterprise)), such holdings shall not be treated as held by a disqualified person under this section, but shall constitute excess business holdings subject to the initial tax. In applying the preceding sentence, if holdings of the foundation which (but for such change in holdings in such enterprise (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to F's interest in such enterprise))), would have been treated as subject to such percentage limitation for purposes of determining excess business holdings. For example, if a private foundation in 1978 has present holdings of 29 percent in a business enterprise (determined without regard to section 4943(c) (c), (5), or (8)) immediately prior to a change in holdings described in paragraph (a) (1) (i) of this section. In such a case, the interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) during the five-year period beginning on the date of such change in holdings in such enterprise (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to the foundation's interest in such enterprise)). In such a case, the entire interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) during the five-year period beginning on the date of such change in holdings in such enterprise (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to the foundation's interest in such enterprise)).

Example (3). On February 1, 1980, F, a private foundation, owns 15 percent of the voting stock of X Corporation, and disqualified persons own 4 percent of the voting stock of X Corporation. On February 15, 1980, B, a nondisqualified person, contributes 8 percent of the voting stock of X to F in a private foundation, of 200 shares of X Corporation common stock. Assume that F had 28 percent (28% — 4%) of the voting stock of X on February 15, 1980. If prior to February 2, 1985, no disqualified person (including F) owned less than 20 percent of the voting stock of X and F had 28 percent of the voting stock of X on February 15, 1980. If prior to February 2, 1985, no disqualified person (including F) owned less than 20 percent of the voting stock of X, F would have excess business holdings of 23 percent (28% — 5%) within the five-year period beginning on the date of such contribution. Accordingly, under section 4943(c) (c) (D) and paragraph (a) of this section, all 29 percent (9% — 20%) of the stock held by F on March 1, 1964, will be treated as held by a disqualified person (rather than by the foundation) during the five-year period beginning on the date of such change in holdings in such enterprise (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to the foundation's interest in such enterprise)). In such a case, the entire interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than the foundation) during the five-year period beginning on the date of such change in holdings in such enterprise (determined without regard to such change (and the resulting application of section 4943(c) (c) (D) to the foundation's interest in such enterprise)).
the five-year period described in section 4943(c)(6) shall be treated as held by a disqualified person beginning from the date of distribution of such holdings from the estate or trust to the foundation occurs. See §53.4943-5(b)(1) for rules relating to the determination of the date of distribution of such holdings. For purposes of section 4943, any stock or other interest owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries except as otherwise provided in paragraphs (b), (c) and (d) of this section. Any interest in a business enterprise actually or constructively owned by a shareholder of a corporation, a partner of a partnership, or a beneficiary of an estate or trust shall not be considered as constructively held by the corporation, partnership, trust or estate. Further, if any corporation, partnership, estate or trust has a warrant or option to acquire an interest in a business enterprise, such interest is not deemed to be constructively owned by such entity until the option is exercised. See paragraphs (b) and (c) of this section for rules that options are not stock for purposes of determining excess business holdings.

(2) Powers of appointment. Any interest in a business enterprise over which a corporation, partnership, or other entity whose holdings are treated as constructively owned by a disqualified person shall be considered owned by the corporation, partnership, trust or estate.

(3) The purchase of additional holdings by an entity as part of a business enterprise during the five-year period beginning on the date of such change, e.g., to maintain control of such enterprise, shall be treated as caused in part by the purchase of such additional holdings.

(c) Exceptions. (1) Section 4943(c)(6) and this section shall not apply to the stock of corporation A. See paragraph (a) (2) of this section for rules relating to certain actual or constructive holdings of a foundation be-
§ 53.4943-9 Business holdings; certain periods.

(a) Taxable period.—(i) In general. For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period ending on the 90th day after the date on which the foundation knows or has reason to know of the acquisition, provided that at the end of such period the foundation has disposed of such excess holdings.

(ii) Special rule. Where a notice of deficiency referred to in subparagraph (i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(b) Correction period.—(i) In general. For purposes of section 4943, the correction period shall begin on the first day on which the private foundation has excess business holdings solely because of the acquisition of an interest in a business enterprise to which either a corporation, partnership, estate, or trust in which the private foundation has excess business holdings as made when no interest in the enterprise held by the foundation is classified as excess business holdings under section 4943(c)(1). In any case where the private foundation has excess business holdings which are constructively held for it under section 4943(c)(1), correction shall be considered made when either a corporation, partnership, estate, or trust in which holdings in each enterprise are constructively held for the foundation or a disqualified person; the foundation itself; or a disqualified person possesses a sufficient interest in the enterprise so that no interest in the enterprise held by the foundation is classified as excess business holdings under section 4943(c)(1).

(3) Suspension of taxable period for extension of correction period. The tax imposed by section 4943(a) is paid and is accompanied by a statement of the taxpayer's intent to disinvest and profit-sharing plans) shall not be considered as owned by its beneficiaries, unless disqualified persons (within the meaning of section 4946) control the investment of the trust assets.

(4) Revocable trusts. An interest in a business enterprise owned by a revocable trust shall be treated as owned by the grantor of such trust.

(5) Estates. For purposes of applying section 4943(d)(1) to estates, the term "beneficiary" includes any person (including a private foundation) entitled to receive property of a decedent pursuant to a will or pursuant to laws of descent and distribution. However, a person shall no longer be considered a beneficiary of an estate when all the property to which he is entitled has been received by him, when he no longer has a claim against the estate and when there is only a remote possibility that it will be necessary for the estate to seek the return of property or to seek payment from him by contribution or otherwise to satisfy claims against the estate or expenses of administration. When pursuant to the preceding sentence a person (including a private foundation) ceases to be a beneficiary, stock or another interest in a business enterprise owned by the estate shall not thereafter be considered owned by such person. It shall be considered that the constructive owner of an interest in a business enterprise actually held by an estate, the date of death of the testator or decedent intestate shall be the first day on which such person shall be considered a constructive owner of such interest. See § 53.4943-5 for rules relating to wills executed on or before May 26, 1969.

(c) Corporation actively engaged in a trade or business. [Reserved]

(d) Partnerships. [Reserved]

§ 53.4943-10 Business enterprise; definition.

(a) General. (1) Except as provided in paragraph (b) or (c) of this section, under section 4943(d)(4) the term "busi-
(b) Special transitional rule. In the case of any acquisition of excess holdings prior to February 2, 1973, section 4943 (a)(1) shall not apply if correction occurs (within the meaning of paragraph (c) of § 53.4943-9) within the period ending 90 days after July 5, 1977 extended (prior to the expiration of the original period) by any period which the Commissioner determines is reasonable and necessary (within the meaning of paragraph (b) of § 53.4943-9) to bring about such correction.
in the Federal Register (42 FR 914–915) a notice of proposed rulemaking setting forth the proposed regulations. Interested parties were given the opportunity to submit written comments, suggestions, or objections, on or before February 3, 1977. This date was later extended to April 3, 1977.

As a result of comments received there has been an addition in §§ 17.3 and 17.8 to assure that no conveyance is made without first complying with the requirements of Executive Order 11593, Section 2(b), and assuring that such land is surveyed for National Register properties and appropriate action taken.

Therefore, title 36 of the Code of Federal Regulations, Chapter I is amended by adding a new Part 17 to read as set forth below.

WILLIAM J. WHALEN,  
Director, National Park Service.

SEPTEMBER 2, 1977.

§ 17.1 Authority.

Sec.
17.2 Definitions.
17.3 Lands subject to disposition.
17.4 Notice.
17.5 Bids.
17.6 Action at close of bidding.
17.7 Preference rights.
17.8 General provisions.


§ 17.1 Authority.

Section 5(a) of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601–22(a), authorizes the Secretary of the Interior, under specified conditions, to convey a leasehold or freehold interest on Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System except national parks and those national monuments of scientific significance. No leasehold or freehold conveyance shall be made except as to lands which the General Management Plan for the particular unit of the National Park System has designated as a Special Use Zone for which the Secretary determines to conduct the sale or lease of that property. No leasehold or freehold conveyance shall be made unless the lands have been surveyed for natural, historical, and cultural values and a determination made by the Secretary that such leasehold or freehold conveyance will not be inconsistent with any natural, historical, or cultural values found on the land.

§ 17.2 Definitions.

As used in the regulations in this part:
(a) "Secretary" shall mean Secretary of the Interior and his authorized representatives.
(b) "Authorized officer" shall mean an officer or employee of the National Park Service designated to conduct the sale or lease and delegated authority to execute all necessary documents, including deeds and leases.
(c) The term "unit" of the National Park System means any area of land or water administered by the Secretary of the Interior through the National Park Service for park, monument, historic, plant, animal, recreational, or other purposes.
(d) The term "national park" means any unit of the National Park System the organic act of which declares it to be a National Park.
(e) The term "national monument of scientific significance" means a unit of the National Park System designated as a national monument by statute or proclamation for the purpose of preserving landmarks, structures, or objects of scientific interest.

(1) The term "person" includes but is not necessarily limited to an individual, partnership, corporation, or association.
(g) The term "leasehold interest" means an estate in real property for a fixed term of years or an estate from month to month or year to year.
(h) The term "freehold market value" means the appraised value as set forth in an approved appraisal made for the Secretary for the interest to be sold or leased.

§ 17.3 Lands subject to disposition.

The Act is applicable to any Federally owned real property acquired by the Secretary from non-federal sources within any unit of the National Park System other than national parks and those national monuments of scientific significance. No leasehold or freehold conveyance shall be made except as to lands which the General Management Plan for the particular unit of the National Park System has designated as a Special Use Zone for which the Secretary determines to conduct the sale or lease of that property. No leasehold or freehold conveyance shall be made unless the lands have been surveyed for natural, historical, and cultural values and a determination made by the Secretary that such leasehold or freehold conveyance will not be inconsistent with any natural, historical, or cultural values found on the land.

§ 17.4 Notice.

(a) When the Secretary has determined in accordance with these regulations that a leasehold or freehold interest will be offered, he will have a notice published in the Federal Register and, subsequently, once weekly for five consecutive weeks in a newspaper of general circulation in the vicinity of the property. Publication of the notice shall be completed not less than 30 nor more than 120 days of the date for bid opening. The notice shall contain, at a minimum, (1) a legal description of the land by public lands subdivisions, metes-and-bounds, or other suitable method, (2) a statement of the intention to be conveyed, including restrictions to be placed on the use of the property, (3) a statement of the fair market value of the interest as determined by the Secretary below which the interest will not be conveyed, together with information as to where the Government’s appraisal may be inspected, (4) information as to any preference rights of former owners to acquire the interest upon matching the highest bid, (5) an outline of bid procedure and a designation of the time and place for submitting bids, and (6) an outline of conveyance procedures, requirements, and time schedule.

(b) If the property has been in Federal ownership less than two years, the last owner or owners of record shall be sent a notice by certified mail to their present or last known address providing the information in the published notice and advising them of their right under section 5(a) of the act to acquire the interest upon payment or agreement to pay an amount equal to the highest bid price.

§ 17.5 Bids.

Bids may be made by the principal or his agent, either personally or by mail. Bids will be considered only if received at the place and prior to the hour fixed in the notice. No particular form is specified for bids. However, a bid must be in writing, clearly identify the bidder, be signed by the bidder or his designated agent, state the amount of the bid, and refer to the notice. Bids conditioned in ways not provided for by the notice will not be considered. Bids must be accompanied by certified checks, post office money orders, bank drafts, or cashier’s checks made payable to the United States of America for the amount of the bid in federal funds. Preference rights as described below will be considered only if received within 30 days of the bid opening.

§ 17.6 Action at close of bidding.

The person who is declared by the authorized officer to be the highest bidder shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer. The declared high bidder on property for which a preference right exists shall be conditionally accepted subject to the exercise of the preference as described below.

§ 17.7 Preference rights.

On any property which has been in Federal ownership less than two years, the Secretary, in addition to the notice specified in § 17.4, shall inform the last owner or owners of record by certified mail at their present or last known address of the highest bid on the property and advise them of their right to acquire the interest for an amount equal to the highest bid price. In the event the highest bids exceed the fair market value of the interest, the Secretary shall notify the Secretary of their desire to do so and make payment or agree to make payment of an amount equal to that specified in § 17.5.

If within 30 days of mailing of such notice, the former owner or owners do not indicate a desire to acquire...
Conveyance of a leasehold or freehold interest shall be by lease or deed, as appropriate, at the highest bid price, but not less than fair market value. All conveyances shall be consummated within the established time period the declared high bidder shall be permitted, but not required, to consummate the transaction. If the declared high bidder does not choose to consummate the transaction in this circumstance, the entire transaction will be canceled, and, if appropriate, a new bidding procedure instituted.

§ 178 Conveyance.

Conveyance of a leasehold or freehold interest shall be by lease or deed, as appropriate, at the highest bid price, but not less than fair market value. All conveyances shall be consummated within the established time period the declared high bidder shall be permitted, but not required, to consummate the transaction. If the declared high bidder does not choose to consummate the transaction in this circumstance, the entire transaction will be canceled, and, if appropriate, a new bidding procedure instituted.

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<th>Commodity</th>
<th>Tolerance</th>
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<td>Beets, sugar, roots</td>
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</tr>
<tr>
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<td>Hay (clover)</td>
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<tr>
<td>Peas (dry)</td>
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<tr>
<td>Peas (wet)</td>
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</table>

**EFFECTIVE DATE:** September 15, 1977.

**FOR FURTHER INFORMATION, CONTACT:**


**SUPPLEMENTARY INFORMATION:**

On July 8, 1977, the EPA published a notice of proposed rulemaking in the Federal Register (42 FR 33172) proposing that (1) section 180.215 be reformed, (2) section 180.319 be amended to delete all interim tolerances for naled and (3) section 180.215 be amended to update and clarify the tolerances and to eliminate a contradiction in the tolerances. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendments to 46 CFR Parts 152 and 190.319 should be adopted without change, and it has been determined that these regulations will protect the public health.

Any person adversely affected by these regulations may, on or before October 17, 1977, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M St. SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulations deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the date the hearing is to be held. A decision will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.


(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(e)).)
the substance naled and corresponding

tion, from use of the pesticide for area
pest (mosquito and fly) control.

SUMMARY: This document corrects a
error in the final rule that appeared at page 40909 in the issue of Friday, August 12, 1977, the section number in the third col-
um on page 40910 is changed from $180.66$ to $180.359$.

Dated: September 8, 1977.

Ewen L. Johnson,

Deputy Assistant Administrator
for Pesticide Programs.

EPA, 401 M St. SW., Washington, D.C.

20460 (202-755-2196).

Title 41—Public Contracts and Property

Management

Chapter 101—FEDERAL PROPERTY

MANAGEMENT REGULATIONS

Subchapter H—UTILIZATION AND DISPOSAL

Part 101—47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Subpart 101-47—Surplus Real Property Disposal

Property for Public Airports

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth the basis for approval of disposals of surplus real property for public airports. The basis has not previously been published. Publication is intended to clarify the basis for approval.

EFFECTIVE DATE: This rule is effective on September 15, 1977.

FOR FURTHER INFORMATION CONTACT:


Section 101-47-3 is revised as follows:

Direct Change

§ 101-47-3 Surplus Real Property Disposal

§ 101-47-3 Surplus Real Property Disposal

A tolerance of 0.5 part per million is established for the pesticide naled in or on all raw agricultural commodities, except those otherwise listed in this section, from the use of the pesticide for area pest (mosquito and fly) control.

§ 180.319 [Amended]

Section 180.319 is amended by deleting the substance naled and corresponding tabular material from the regulation.

[FR Doc.77-26729 Filed 9-14-77;8:46 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCE REGULATIONS APPLICABLE TO PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Norfurazon; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

SUMMARY: This document corrects a final rule that appeared at page 40969 in the Federal Register of Friday, August 12, 1977 (FR Doc. 77-23352).

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry Jacoby, Product Manager (PM) 24, Registration Division (WH-

567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C.

20460 (202-755-2196).

SUPPLEMENTARY INFORMATION:

In FR Doc. 77-23352, appearing at page 40909 in the issue of Friday, August 12, 1977, the section number in the third col-
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Dated: September 8, 1977.

Ewen L. Johnson,

Deputy Assistant Administrator
for Pesticide Programs.

EPA, 401 M St. SW., Washington, D.C.

20460 (202-755-2196).

Title 41—Public Contracts and Property

Management

Chapter 101—FEDERAL PROPERTY

MANAGEMENT REGULATIONS

Subchapter H—UTILIZATION AND DISPOSAL

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AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

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EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:


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Dated: September 8, 1977.

Ewen L. Johnson,

Deputy Assistant Administrator
for Pesticide Programs.

EPA, 401 M St. SW., Washington, D.C.

20460 (202-755-2196).
amendment of Section 73.806(b) of the Commission’s Rules, the Television Table of Assignments, by assigning and reserving for noncommercial educational use Channel *38 at Fort Madison, Iowa; Channel *44 at Keokuk, Iowa, Channel *54 at Keosauqua, Iowa, Channel *25 at Rock Rapids, Iowa and Channel *33 at Sibley, Iowa. Further, it was proposed that Channel *57 be assigned and the unoccupied and unapplied for Channel *58 be deleted at Burlington, Iowa, in order that the requested assignment at Keokuk can be made. Also, the assignment of Channel 44 to Keokuk would require a change in the offset designation of the unoccupied co-channel Winona, Minn. assignee (from plus to minus).

The Board is presently the licensee of four noncommercial educational television stations in Iowa, and the permittee of four others, all of which form the Iowa Educational Broadcasting Network. The proposed assignments were requested to enable the Board to extend noncommercial educational television service, by means of translators, to persons residing in and around the specified communities. The only comment received in response to the Notice was a reiteration of intentions by petitioner to construct a television translator station on these channels, and when such authority is granted, construct these stations.

3. The Notice indicated that the proposed assignments meet the Commission’s separation requirements and other technical criteria. In view of the above, and the fact that it would make possible providing an educational TV service to significant populations not now having such service, the Commission believes that the public interest would be served by adopting the amendments proposed.

4. Accordingly, it is ordered, That effective October 20, 1977, the Television Table of Assignments (Section 73.606 of the Commission’s Rules) is amended with regard to the following communities:

5. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 202(a) of the Commission’s Rules.

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

1 KDKN-TV, Des Moines, Iowa; KIIN-TV, Iowa City, Iowa; KRIN, Waterloo, Iowa; and KGIN, Sioux City, Iowa.

William J. Driscoll, Assistant General Counsel for Operations and Legal Counsel.

[FR Doc.77-26789 Filed 9-14-77; 8:45 am]

Title 49—Transportation

PART 1—ORGANIZATION AND DELEGATIONS OF POWERS AND DUTIES

| Delegations to the Commandant of the U.S. Coast Guard |

ACTION: Final rule.

SUMMARY: As a result of a series of serious railroad accidents involving certain uninsulated pressure tank cars transporting hazardous materials these amendments are issued in the interest of safety.

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane are required to have both thermal and tank head protection. Newly built cars are to be so equipped starting on January 1, 1978, while existing cars are to be retrofitted over a four-year period ending on December 31, 1981.

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia are required to have tank head protection (such as a head shield) installed. Cars built after December 31, 1977, must be so equipped. Previously built cars are to be retrofitted with tank head protection over a four-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars, regardless of the hazardous loading being transported, are to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers are to be installed on cars built after December 31, 1977 and retrofitted on all previously built cars by July 1, 1979.

EFFECTIVE DATE: These regulations become effective on October 19, 1977.

ADDRESS: All written comments relating to the joint efforts of the Federal Railroad Administration (FRA) and the Materials Transportation Bureau (the Bureau). In accordance with internal DOT procedures, the FRA has developed the substantive provisions of these amendments.
for review and issuance by the Bureau. Accordingly, further information concerning substantive provisions of these amendments may be obtained from the above contact.

BACKGROUND INFORMATION

On November 19, 1976, as a result of a series of serious railroad accidents involving uninsulated pressure tank cars (built to specifications 112 and 114) transporting hazardous materials the Materials Transportation Bureau issued a Notice of Proposed Rulemaking, Docket No. HM-144; Notice No. 76-12 (41 FR 52924). The purpose of that Notice was to elicit public comment on a proposed rule to improve the design and construction of new and existing 112 and 114 tank cars. Specifically, the Notice proposed that a new Section 179.103 entitled "Special Requirements for Specification 112 and 114 Tank Cars" be added to Part 179 of the regulations. This section would prescribe new specifications for improving the safety of these cars. The Notice concluded that all newly built 112 and 114 tank cars, be equipped with "shelf couplers," a tank head puncture resistance system, a thermal protection system and a safety relief valve of adequate capacity to protect each thermally insulated tank. Also, the Notice proposed that existing 112 and 114 tank cars be retrofitted according to the following schedule:

1. Either shelf couplers or a tank head puncture resistance system be installed within one year after the effective date of the rule;
2. Notwithstanding "1," shelf couplers be installed within two years after the effective date of the rule; and
3. Thermal protection and tank head puncture resistance systems with adequate safety relief valve capacity be installed within four years after the effective date of the rule.

In order to assure compliance with the requirements for thermal protection and tank head puncture resistance within the four year period, an annual completion schedule was also proposed.

The reasons for these proposed changes were discussed in considerable detail in the Notice. Interested persons were invited to participate in the rulemaking proceeding through the submission of written comments. Fifty-three submissions were received and have been fully considered by the Bureau in the development of these amendments.

Subsequent to the issuance of the Notice, three serious railroad accidents occurred involving 112 and 114 tank cars.

On November 28, 1976, at Belt, Montana, the Burlington Northern, Inc., had a train derailment. Two persons were killed, six persons were seriously injured and fifteen others were treated for injuries when twenty-four freight cars derailed. The total damage was estimated to be $3,500,000. CGTX 64141, loaded with butane was subjected to the fire environment. Approximately two hours after the accident this tank car ruptured from the heat exposure.

On February 20, 1977, in Dallas, Tex., an Atchison, Topeka and Santa Fe Railway freight train derailed. In the derailment, UTLX 38355, a 112A tank car loaded with 32,437 gallons of propane, sustained a tank head puncture near the base of the tank. The escaping propylene ignited and the resulting torching flame impinged upon and heated GATX 97359, another 112A tank car, which contained 30,221 gallons of isobutane. After about forty minutes of fire impingement, GATX 97359 exploded violently. The tank separated into three major parts. Fortunately, no injuries resulted from this accident, but the estimated third-party damage has been set at $3,500,000.

On March 16, 1977, at Love, Ariz., an Atchison, Topeka and Santa Fe Railway train derailed. Eight propane laden tank cars were involved:

- ACFX 17355—112A340W.
- ACFX 17356—112A340W.
- ACFX 17358—112A340W.
- RTMX 3487—105A300W.
- RTMX 3487—112A300W.
- RTMX 3487—112A340W.
- RTMX 3487—112A360W.
- RTMX 3492—112A300W.

All RTMX tank cars had ½-inch jacket heads, and insulation. ACFX 17355 sustained a puncture in the "belly" of the tank. The spilled contents burned. ACFX 17355 ruptured as a result of flame impingement. RTMX 3487 sustained a puncture caused by a wheel cutting through the jacket head and the tank head. The contents ignited and burned. ACFX 17358 sustained a small head puncture. The contents spilled out through this hole and burned; also burning of contents occurred at the safety relief valves. RTMX 3487 which was exposed to fire impingement burned its contents at the safety relief valves. RTMX 3492 which did not rupture; the contents were released through the safety relief valve. The remaining three tank cars, RTMX 3526, 3532 and 3492 sustained no appreciable fire damage.

In the opinion of the Bureau, the tank head punctures sustained by CGTX 64226 at Belt, Montana, and UTLX 38355 at Dallas, Tex., would have been prevented had these cars been equipped with a puncture resistance system. If neither tank car tank head had been punctured, there would have been no spill of product, no fire, and no resulting tank ruptures. No loss of life, nor serious injury would have occurred at Belt, Mont., and very little third-party property damage would have ensued at Dallas, Tex.

The Love, Ariz., accident is more difficult to analyze. The estimated speed at the time of the derailment was 48 miles per hour. The tank tear in ACFX 17359 occurred in the tank shell; tank head protection would not have prevented this tank puncture. ACFX 17355 ruptured due to heat exposure while RTMX 3487 did not rupture. It released its contents through its safety relief valve. Insulation appears to have assisted RTMX 3487 in resisting the adverse effects of fire exposure. Although RTMX 3515 was operating at approximately 200 psi, it sustained a tank head puncture. The high derailing speed of 48 miles per hour appears to have given sufficient energy to a car wheel so that it could puncture both the ½-inch jacket head and the tank head. However, since much of the wheel's energy was dissipated in penetrating the jacket head, it is the Bureau's opinion that the ½-inch steel jacket kept the tank head hole to a minimum. This reduced the amount of fire in the area of this car.

As a result of analyzing comments received, two significant changes have been made in the final rule.

1. Specification 112 and 114 tank cars used to transport hazardous liquids (such as flammable or poisonous liquids) and nonflammable gases other than anhydrous ammonia (such as "fluorocarbon" gases), need only be equipped with shelf couplers. Such cars will continue to be designated as 112A/114A tank cars.

2. Specification 112 and 114 tank cars used to transport hazardous liquids need only be retrofitted (or retrofitted) with a tank head puncture resistance system and shelf couplers; thermal protection is not required. Such cars will be designated as 112A/114A tank cars. Several other changes have been made in the final rule. These changes and comments are discussed in the "Section by Section Analysis" which follows.

SECTION BY SECTION ANALYSIS

SECTION 173.1 QUALIFICATION, MAINTENANCE, AND USE OF TANK CARS

The purpose of amending paragraph (a)(3) is to authorize the use of classes DOT-112T and 112S tank cars having equal or higher marked test pressures when classes DOT-112A and 112S are prescribed, and similarly to authorize the use of classes DOT-114T and 114S tank cars having equal or higher marked test pressures when classes DOT-114A and 114S are prescribed. No specific comments on this change were received; the amendment is being adopted as proposed.

In the notice of proposed rulemaking, §§ 179.105-3(a) and 179.105-3(c)(1) and (2) would require that each newly built 112 and 114 tank car be equipped with a coupler restraint system. Furthermore, the Notice proposed that such a system be retrofitted within one year on cars not equipped with tank head puncture resistance systems and within two years on all other 112 and 114 car tank cars.

The requirement for retrofitting existing cars has been placed in a new paragraph (a)(5) of § 173.31 so as to clearly indicate that it applies to all 112 and 114 tank cars no matter how used. While newly built tank car requirements remain in § 179.105-3(a) and (c).
Several comments were received indicating that it appeared that under the proposal most 112 and 114 tank cars would have to be retrofitted with a coupler restraint system within one year and that it was doubtful that the application of approximately 40,000 shelf couplers (two per tank car) could be accomplished in one year. The Bureau agrees and the retrofit period has been extended to June 30, 1979.

Section 179.114 requirements for compressed gases in tank cars

Currently, note 23 to the table in paragraph (c) states:

specification 112A or 114A tank cars used for transportation of compressed gases must be equipped with protective head shields after December 31, 1977. See §179.100-23 for head shield specification.

Note 23 appears in the Table after specifications 112 and 114 for anhydrous ammonia and flammable gases (such as butadiene, LPG, vinyl chloride, etc.). The notice proposed to change this requirement to:

** either protective head shields or shelf couplers (one year after effective date); shelf couplers after (two years after effective date); and thermal protection and tank head puncture resistance systems after (four years after effective date) ** *

The final rule separates the requirements for 112 and 114 tank cars used to transport flammable compressed gases from those used to transport anhydrous ammonia. These requirements are being placed in two notes. Note 23 requires specification 112 and 114 tank cars used for the transportation of flammable compressed gases to be equipped with thermal protection and tank head puncture resistance systems by January 1, 1982.

Note 24 covers anhydrous ammonia. Many commenters indicated that specifying shelf couplers was not appropriate to control tank head punctures. The Bureau has decided to establish three categories of shelf couplers (two per tank car) and shelf couplers with head shields. Categories 1 and 2 could be accomplished in one year. The Bureau agrees and the retrofit period has been extended to June 30, 1979.

### Section 179.105-1 General

This new section sets forth three requirements:

1. Tanks built under specification 112 and 114 must meet the requirements of §§ 179.100, 179.101 and when applicable §§ 179.102 and 179.103.
2. AAR approval is not required for changes in or additions to specifications 112 and 114 tank cars necessary to comply with §179.105.
3. 112 and 114 tank cars built to specifications 112 and 114 must meet the requirements of §179.105.

### Section 179.105-2 New Cars

The notice proposed that all 12 and 114 tank cars built after six months after the effective date be equipped with:

1. A thermal protection system (§ 179.105-4).
2. A tank head puncture resistance system §179.105-5.
3. A safety relief valve meeting the requirements of §§ 179.105-7 and 179.105-8.
4. A coupler restraint system (§179.105-6).

Based upon comments received, the Bureau has decided to establish three types of 112 and 114 tank cars.
RULES AND REGULATIONS

In the notice of proposed rulemaking, the Bureau proposed that previously built (existing) 112 and 114 tank cars be covered during the year 1978 by applying a thermal protection system and a tank head puncture resistance system. Based upon comments received, the Bureau has modified this requirement. The regulation requires a tank head puncture resistance system to be retrofitted installed on 112S, 112T, 112J, 114S, 114T and 114J tanks cars, but this system is not required on 112A and 114A tank cars. Likewise, thermal protection must be retrofitted installed on 112T, 112J, 114T and 114J tank cars, but it is not required on 112A, 112B, 114A and 114B tank cars.

As proposed in the Notice, a coupler restraint system is required to be retrofitted installed on all 112 and 114 tank cars by July 1, 1979; for clarity this requirement is stated in § 173.31(a) (5) as well as § 173.165-3(a).

An owner is required to install thermal protection and tank head puncture resistance systems in conformance to the following schedule:

3. Fifty percent of cars owned by January 1, 1980.
4. Eighty percent of cars owned by January 1, 1981.
5. All cars owned by January 1, 1982.

Many commenters said that they believed that this schedule did not provide adequate time to perform a retrofit installation program of this magnitude. Several requested a six-month “lead time;” essentially this has been granted. Several requested a retrofit schedule of a five, or six-year time period, in lieu of the proposed four-year period. This extended retrofit time period was carefully considered by the Bureau. However, due to the serious catastrophic consequences which can result from a single accident involving unshielded, non-head shielded tank cars transporting flammable compressed gases, or involving non-head shielded tank cars transporting anhydrous ammonia, the Bureau believes that it is imperative to have retrofit installation completed as soon as is practical.

Other factors evaluated by the Bureau in making this decision were:

1. Current regulations contained in § 173.31(a)(4) require head shield installation be retrofitted installed on 112T, 112J, 114T and 114J. This requirement is now being phased in over an additional 4-year period.
2. Anhydrous ammonia cars (112S and 114S) will not require thermal protection, thus reducing the magnitude of the retrofit program.
3. Cars for “fluorocarbon gases” and hazardous liquids (112A and 114A) will not require thermal protection nor tank head protection, thus likewise reducing the magnitude of the retrofit program.

For these reasons, the 4-year schedule has been retained.

SECTION 175.105-4 THERMAL PROTECTION

The purpose of this section is to establish performance standards and also testing procedures to verify compliance with these performance standards for thermal protection systems. The Bureau recognizes that additional fire testing can always be said to provide additional data, but it does not concur in the need for additional testing in this case. The Bureau believes that the extensive series of fire tests conducted by FRA and RPI/AAR demonstrate not only the utility and practicality of a thermal shield system, but also provide sufficient data for reliable cost projections. Further, the Bureau believes that the successful in-service use of thermal shields to protect aerospace hardware and stationary compressed gas tanks, in addition to considerable railroad tank car experience, demonstrate the reliability of several competitive types of thermal shields. The Accelerated Life Test (ALT) program, being conducted by FRA, RPI/AAR, and several shippers, has provided adequate data to show that at least four reliable thermal shield systems are readily available (see discussion below). The Bureau has sought to achieve a condition of adequate protection at minimum cost and sees no reason why additional thermal shield systems cannot be developed.

Most commenters indicated that the extensive testing programs conducted by FRA and RPI/AAR were beneficial in analyzing the problems encountered with uninsulated pressure tank cars and developing solutions to these problems. However, one commenter offered the opinion that DOT sponsored tank car tests were not run to gather information regarding a wreck environment, but were designed to make the tank car look bad in support of some preconceived theories. This commenter used as an example the White Sands Missile Range fire tests which were purported to be “about as far from a wreck environment as could be devised.” The extensive series of fire tests conducted by FRA and RPI/AAR have been beneficial.

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A similar comment was that the two full-scale fire tests conducted at White Sands were run under controlled conditions and yet variables were not controlled. Several instances were cited. The commenter stated that in the non-insulated test, the Bureau has analyzed more propane than the car in the insulated test. The commenter stated that in the non-insulated test the car contained 3,200 gallons of gasoline and that the initial propane temperature was lower in the thermally coated test than in the uninsulated test. The commenter has analyzed these differences and has concluded that they did not significantly affect the test results and that the differences were partially compensating. For example, a greater quantity of vapor was produced in the thermally coated test; would have increased the time to rupture and conversely, a higher initial propane temperature would have decreased the time to rupture. The Bureau has reviewed the data and has concluded that the propane composition was not reported for the thermally coated test. On the basis of the temperature-pressure data at the start of each test, the Bureau has concluded that there was no significant difference in the propane used in the two tests. Also, the "commercial propane" used in both tests was supplied from the same source. The commenter noted that in the uninsulated test, the temperature and pressures reported do not match the temperatures and pressures expected. The Bureau has reviewed the temperature-pressure data from the uninsulated test and has concluded that the reported temperature and pressure relationships were used to estimate missing data ignoring important factors of superheat, supercooling, compressibility, and the influence of impurities that were not mentioned and has concluded that the procedures used in both tests were adequate.

One commenter criticized the quality of some of the work referred to in Appendix A of Notice No. HM-144. To support his position, the commenter used several quotes from "Reference 9" of the Notice. The Bureau does not concur with the assessment of the commenter and believes that the quotes used are taken out of context. For example, the commenter used the following quote from "Reference 9", page 39, first paragraph under B: "Unfortunately, no useful liquid level data were recorded." This quote only referred to direct liquid level measurements. This report also described an indirect method that was used to measure liquid level. Another misleading quote was from "Reference 9", page 39, third paragraph under VLA: "One or more sign reversals occurred in the recorded sensed test data that the reader should note are not reliable." This latter quote was only in reference to a particular, small group of thermocouples. The majority of thermocouples did not experience any sign reversals and were reliable.

Paragraph (b) in the Notice established the method of verifying by testing that the thermal protection system meets the performance standard. Several commenters noted that the Bureau did not identify thermal systems which are deemed acceptable and do not require further testing. Three commenters recommended that either a list of approved thermal systems be presented or sufficient time be allowed for the testing of new systems. The Bureau believes there is merit to both ideas. Accordingly, the following list specifies thermal protection systems that do not require test verifications under §179.105-4(b) based upon successful simulation testing conducted by FRA. This list is not intended to be all inclusive, and systems that may be submitted to the Bureau in the future and which are shown to meet the test specifications in §179.105-4 will also be considered the test verification. Information concerning the systems listed below as well as any which may be excepted from verification in the future, is available for inspection in the Transportation Test Center facility. The test facility is not unique; it uses standard components and technology. Thus, it is the Bureau's belief that the test facility and the test procedures themselves can be readily duplicated.

One commenter requested a reduction in the pool fire time criteria on the basis of the test conducted at a temperature of 1050°F but fall at a higher temperature. In addition, some commenters contend that the 100-minute figure for pool fires is not theoretically consistent with the 30-minute figure for the torch fire environment. In setting forth performance standards for thermal protection systems in terms of both pool fire and torch fire exposure criteria, the Bureau intended for the thermal protection system would retain the required thermal capacity with a safety factor over the range of exposures encountered. The pool fire environment, which involves interactive safety relief valve action and more extensive exposure of the tank car exterior, is considered the prime performance requirement. The 100-minute figure for the pool fire environment is consistent with the pool fire time specifications. Both full scale and simulated pool fire tests have shown that there are available thermal protection systems which can meet this pool fire exposure. Given the fundamental pool fire and torch fire exposure criteria, the thermal protection system would retain the required thermal capacity with a safety factor over the range of exposures encountered. The pool fire environment, which involves interactive safety relief valve action and more extensive exposure of the tank car exterior, is considered the prime performance requirement. The pool fire environment is considered the prime safety requirement. Both full scale and simulated pool fire tests have shown that there are available thermal protection systems which can meet this pool fire environment. Given the fundamental pool fire and torch fire exposure criteria, the thermal protection system would retain the required thermal capacity with a safety factor over the range of exposures encountered. The pool fire environment, which involves interactive safety relief valve action and more extensive exposure of the tank car exterior, is considered the prime performance requirement. The 100-minute figure for the pool fire environment is considered the prime performance requirement.
why it should preclude how a jacketed and a nonjacketed system might differ, and accordingly the specifications treat all systems equally. Each must successfully withstand the same environment and accordingly the specifications treat and a nonjacketed system might differ, why it should prejudge how a jacketed

ties, heat paths due to attachment require­ments, etc., are minimized.

Paragraph (c) requires that the entire tank car surface be analyzed to ensure that those portions of the tank car shell that are not covered by the thermal protection system do not pose an unacceptable safety hazard. In other words, the thermal shield system must be equivalent to the thermal resistance in these areas. In calculating the thermal resistance in these areas, the structural strength of the tank and attachments may be used to demonstrate adequate thermal resistance.

One commenter recommended that the requirement in § 179.101-1(a), Note 4, for white paint on specifications 112 and 114 compressed gas tank cars be eliminated if thermal protection systems are installed. The Bureau agrees. Paragraph (g) has been added to § 179.105-4 and it states that 112 and 114 tank cars equipped with thermal protection need not be painted white.

SECTION 179.105-5 TANK HEAD SHIELD SPECIFICATIONS

The purpose of this section is to establish performance criteria and testing standards to verify compliance with the performance criteria for tank head puncture resistance systems to be applied to 112B, 112T, 113, 114S, 114T and 114J tank cars. The section consists of three paragraphs:

(a) Performance standard;
(b) Test verification; and
(c) Tank head puncture resistance test.

Paragraph (a) in the notice proposed a requirement that each tank car be capable of withstanding without loss of contents, coupler-to-tank head impacts within the area of the tank head described in § 179.100-23 (approximately the lower half of the head) at relative car speeds of 18 miles per hour. These test conditions were developed as a result of analyzing accident data compiled by the Federal Railroad Administration which was used in promul­
gating MTB Docket HM-109, Tank Head Shields. Also, data derived from coupler impact tests at the Transportation Test Center were used in verifying the specific test criteria.

Several commenters stated that they questioned the need for tank head protection on shelf-coupler-equipped tank cars. The Bureau does not concur; its reasons have been set forth under the discussion of § 179.105-4 on page 46222. Paragraph (a) requires test verification by full-scale testing to the perfor­mance standard or by use of the “alternate test procedures” set forth in (c). However, test verification is not required if the car owner elects to install:

1. Protective head shields (§ 179.100-23); or
2. Full tank head jackets of at least 1/4-inch steel.

One commenter discussed MTB Docket HM-109; notice 5-3, which proposed to permit a hand brake bracket to pass through a hole in the head shield so that the bracket could be mounted on the tank head rather than on the head shield. The Bureau stated in the notice on the basis of comments indicating that the requirement for adding a 1/4-inch thick steel plate on the tank head to support the bracket would be costly and the bracket reinforcement would locally rigidize the area. This could cause poor tank steel impact resistance. The Bureau has not re-opened this matter in this docket since it was disposed of in Docket HM-109.

Likewise, commenters suggested certain changes to the specific head shield specifications contained in § 179.100-23. The Bureau believes that these suggestions, which were raised in one form or another under proceedings in HM-109, were adequately handled in that docket.

Paragraph (c) describes the test protocol to be followed in verifying a tank car meets the performance standard. One commenter questioned the requirement that the coupler of the ram car be per­pendicular to the impacted car upon impact. This commenter contended that in reality, the coupler would use­fully be at a lesser angle to the impacted car in actual impacts. However, impacts may occur and indeed have been observed in the FRA/RPI/AAR Switchyard Impact Program in which the ram car coupler is perpendicular to the impacted car. Since the perpendicular impact is the most severe situation, the Bureau believes it should be used in the test procedure. Also, having the ram car coupler strike the impacted car at some other angle would unduly complicate both conducting the test and interpreting the data.

SECTION 179.105-6 COUPLER VERTICAL RESTRAINT SYSTEM

In the notice, § 179.105-6 proposed standards and specifications for coupler vertical restraint systems. The purpose of such systems is to resist vertical dis­engagement of coupled couplers so as to reduce tank head puncture. The section has been somewhat reorganized in this rule from the way that the paragraphs were published in the notice, but the content remains the same. These paragraphs are captioned:

(a) Performance standard;
(b) Test certification and approval (en­titled test verification in the notice);
coupler vertical restraint tests (pro­posed as paragraph (d) in the notice); and
d) Listing of approved couplers (pro­posed as paragraph (c) in the notice).

Most commenters endorsed the proposal to apply a coupler restraint system to 112 and 114 tank cars. Several sug­gested that § 179.14 entitled Tank Car Couplers be revised to include “E-shell” and “F-shelf” couplers in the list of couplers approved by the Federal Rail­road Administrator. Since the notice did not address couplers on all tank cars (§ 179.34) but rather was limited to couplers on 112 and 114 tank cars, this question was not being addressed in this proceeding. However, it is being con­sidered by the FRA and the Bureau and may be adopted in the future.

Some commenters questioned the use of coupler-posting guidance, which was used in verifying the specific head shield system, including attach­ments, heat paths due to attachment require­ments, etc., are minimized.

The Bureau is satisfied that the lower limit buff load of 1,500 pounds applied to the required vertical load testing will produce adequate vertical strength. The intent to insure that introduction of potentially higher levels of vertical loads in combination with the range of feasible buff loads did not produce other undesirable failures. The 2,000-pound buff load was meant to provide full buff en­gagement of the couplers while the vertical strength was tested. The intent of the specified 725,000-pound buff application with vertical loading was to in­sure that the coupler would not fail as a result of the combined loads. The Bureau is satisfied that the lower level buff load will adequately test the vertical restraint system and see no reason to enter into testing re­quirements of other portions of the coupler system in this specification, particularly in view of the difficulty in applying the higher levels of buff loading in conjunction with the vertical loads testing. Accordingly, paragraphs 179.105-6(a) and (c) have been revised.

In accordance with information fur­nished by the AAR, F-top shelf couplers designated SF15CHT and SF15CHTE in this amendment.

SECTION 179.105-7 SAFETY RELIEF VALVES

Section 179.105-7 in the notice pro­posed to require that relieving or dis­charge capacity of safety relief valves on thermally protected cars be at least the same as on non-insulated tank cars. The effect of this proposal would have been to permit existing safety relief valves to be retained on cars retrofitted with thermal protection and to require
the same safety relief valve capacity on newly built 112 and 114 thermally protected tank cars.

Several commenters recommended the development of a formula which takes into account the insulating effect of the tank car shell. Other commenters either thought that the valve size could be reduced with increases in thermal protection or wanted an explanation of the Bureau's thinking to assist in design engineers.

The Bureau, after a thorough reexamination, has confirmed that the proposed safety relief valve requirement is correct for the minimum thermal protection requirements of the specification. This safety relief valve requirement is consistent with the 100-minute, 600°F pool fire performance standard and other overall system considerations in protecting the tank car from premature rupture. In response to the commenter concerns, the Bureau is permitting a modified sizing equation to be used in calculating the area of additional insulation or higher thermal insulation properties of the cars covered under this specification. The application of a modifying factor to the established uninsulated tank equations is prescribed in section A8.01 of Appendix A of the "AAR Specifications for Tank Cars," supports the previously published result at the minimum required thermal insulation level, and further discussion on appropriately reduced safety relief capacities at higher than minimum levels of thermal protection.

Thus, the rule permits a reduction in the safety relief valve capacity on a thermally insulated car in proportion to the total number of minutes the tank is protected in the pool-fir test as related to the new standard. However, owners may continue to use the current safety relief valves on retrofitted and newly built cars if they so desire.

SECTION 179.105-8 STENCILING

Mandatory stenciling reflecting the installation of tank head puncture resistance and thermal protection systems is prescribed in §179.105-8. The rule differs from the notice in that the provision for 112S and 114S tank cars, e.g., 112 and 114 tank cars equipped with a tank head puncture resistance system, but not equipped with a thermal protection system.

Several commenters suggested that instead of using alternative letters in place of the "A" in the specification (in other words instead of using 112A in lieu of 112), include a 112 car that is jacketed thermal insulation), the Bureau uses new specification numbers such as 122A and 124A. The Bureau has not adopted this suggestion. Since head shield equipped cars were required for 112T/J and 114T/J cars, the Bureau believes that continuation of this system to include the thermal protection systems is logical. New specification numbers would necessitate additional regulatory wording in § 173.31 as well as in other sections of Part 179, for example, § 179.23. The use of differing letters indicating specific applied systems will accomplish the same identification function in an easier manner.

Some commenters stated that the "A" is a "space" and persons do not expect to obtain information from this letter. Tank car specification 103 and proposed specification 113 use letters to denote information. For example, a DOT103CW tank car has a stainless steel tank and a proposed DOT113C120W tank car is designed to be capable of handling cold temperature product leadings such as encountered with liquefied natural gas.

For these reasons, the stenciling system proposed in the notice is being retained along with the current requirement for 112S and 114S stenciling.

DISCUSSION OF OTHER COMMENTS

SPECIFICATION 103 TANK CARS

Several commenters mentioned that many DOT specification 103 tank cars are used to transport the same products as are transported in 112 and 114 tank cars. The commenters believe that the 103 tank car may not have as good thermal and tank head puncture resistance protection as is being specified for the 112T/J and 114T/J cars. This matter is beyond the scope of this docket. Therefore, the Bureau will consider the matter of safety standards for specification 103 tank cars and may initiate rulemaking in the future.

TANK CAR STEEL

One commenter stated that a report by Dr. W. S. Pellini entitled, "Fracture Properties of Tank Car Steels—Characterization and Analysis" was not part of the references cited in the notice of proposed rulemaking. The report was not included because the report was not available to the Bureau at the time of the publication of the notice. However, the views of Dr. Pellini were known to the Bureau. Also, Battelle Columbus Laboratories, and Dr. Pellini has discussed his views on tank car steels with DOT staff members. Based upon the work conducted by the National Bureau of Standards, the Battelle Columbus Laboratories, and Dr. Pellini, the Bureau concluded that existing tank car steels are adequate. Accordingly, the Bureau is not proposing any change to existing tank car steel specifications in this proceeding.

DOCKET HM—125

As was indicated in the notice, with the promulgation of standards and specifications upgrading existing specification 112 and 114 so as to improve design and construction, the Bureau will withdraw notice No. 75-4, under Docket HM—125.

ECONOMIC IMPACT

Several commenters took exception to the estimated cost projections stated in the notice. The principal objection was that the use of minimum imposed costs rather than maximum possible costs. The use of minimum costs is considered to be the only practicable means for calculation of the economic impact of a rule. Any other calculations would be based on the anticipated decisions of car owners as to the options they choose to comply with the rule. However, the costs for protective head shields are included as suggested by several commenters even though they were required by an earlier rule (Amendment No. 179-15, 39 FR 27572, July 30, 1974). Also, updated information on the costs for couplers and the purging of cars has been used in the revised maximum possible costs. Adjustments have also been made to take into account that certain of the requirements proposed in the notice are not included in this rule.

The implementation of this rule will require a cash outlay of $107.9 million in 1976 dollars.

The following summarizes the per unit tank car investment costs of the rule and the number of tank cars thought to be affected.

<table>
<thead>
<tr>
<th>Car type and utilization</th>
<th>Additional protection</th>
<th>Minimum cost</th>
<th>Number of tank cars</th>
</tr>
</thead>
<tbody>
<tr>
<td>(127T, 147T) flammable gases, anhydrous ammonia, nonflammable gases, hazardous liquids.</td>
<td>Thermal, head, and couplers</td>
<td>$4,900</td>
<td>15,300</td>
</tr>
<tr>
<td>(115A, 114B) anhydrous ammonia, nonflammable gases, hazardous liquids.</td>
<td>Head and couplers</td>
<td>1,900</td>
<td>2,700</td>
</tr>
<tr>
<td>(116A, 1144) nonflammable gases, hazardous liquids</td>
<td>Couplers</td>
<td>500</td>
<td>2,000</td>
</tr>
</tbody>
</table>

The Bureau believes that the foregoing costs will be offset not only by reductions in the number of accidents involving property loss and damage, but also by the magnitude of dollar losses sustained. This does not take into account the social benefits—and to the extent they can be quantified, the economic benefits—public safety that will be derived by significantly reducing the number of deaths, injuries and evacuations that have characterized the accident experience of 112 and 114 tank cars. Since 1969, more than 500 of these tank cars have been involved in derailments of which more than 170 of these cars lost some or all of their lading. These occurrences resulted in 20 deaths, 853 injuries, and 46 major fires involving more than 44,000 persons. Four of these accidents resulted in estimated losses of more than $100,000,000.

The Bureau considers that the requirements set forth in this rule represent a cost-effective solution to the safety problems presented by 112 and 114 tank cars over the past several years.

In addition to the substantive matters discussed above, the Bureau has also made several editorial changes to certain
regulatory language proposed in the Notice for the purpose of clarity. These changes in language, unless discussed as part of a substantive provision, do not alter the requirements of any proposal made in the Notice and adopted herein.

Primary drafters of this document are: William F. Black, Leavitt A. Peterson, Edward F. Conway, Jr. (Chief Counsel’s Office) of the Federal Railroad Administration, Alan I. Roberts and Joseph S. Nalevanko of the Materials Transportation Bureau, and George W. Tenley, Jr. of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, Parts 173 and 179 of Title 49 Code of Federal Regulations are amended as follows:

1. In §173.31 paragraph (a) (3) is revised; paragraph (a) (5) is added to read as follows:

§173.31 Qualification, maintenance, and use of tank cars.
(a) * * * *(3) Unless otherwise specifically provided in this Part—
(i) When class DOT-105A, 105AL, 106A, 106A-AL, 110A, 111A, 112A, 112B, 112T, 112J, 114A, 114S, 114T, or 114J tank cars are prescribed, the same class tanks having higher marked test pressures than those prescribed may also be used.
(ii) When class DOT-111AW1 tank car tanks are prescribed, class 111A3W tank cars may also be used.
(iii) When class DOT-112A tank car tanks are prescribed, classes DOT-112S, 112T, and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.
(iv) When class DOT-112S tank car tanks are prescribed, classes DOT-112T and 112J tanks having equal or higher marked test pressures than those prescribed may also be used.
(v) When class DOT-114A tank car tanks are prescribed, classes DOT-114S, 114T, and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.
(vi) When class DOT-114S tank car tanks are prescribed, classes DOT-114T and 114J tanks having equal or higher marked test pressures than those prescribed may also be used.

(5) After June 30, 1979, each specification 112 and 114 tank car built before January 1, 1978, must be equipped with shelf couplers in accordance with §179.105-6 of this subchapter.

2. In §173.314 paragraph (c) Table Note 23 is revised and reference thereto in Column 3 opposite Anhydrous ammonia is deleted; Note 24 is added and reference thereto is made in Column 3 opposite Anhydrous ammonia in the space provided by the deletion of Note 23 as follows:

§173.314 Requirements for compressed gases in tank cars.
(c) * * * *

<table>
<thead>
<tr>
<th>Kind of gas</th>
<th>Maximum permitted filling density</th>
<th>Required tank car</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anhydrous ammonia</td>
<td>50.0 DOT-106A/50-X, note 7</td>
<td>114A340-W, notes 10 and 24</td>
</tr>
<tr>
<td>DOT-106A/50-Y</td>
<td>114A340-W, notes 10 and 24</td>
<td></td>
</tr>
<tr>
<td>DOT-106A/50-F</td>
<td>114A340-W, notes 10 and 24</td>
<td></td>
</tr>
<tr>
<td>DOT-106A/50-P</td>
<td>114A340-W, notes 10 and 24</td>
<td></td>
</tr>
</tbody>
</table>

Note 23—After Dec. 31, 1961, each specification 112 and 111 tank car built before Jan. 1, 1973, used for the transportation of anhydrous ammonia must be equipped with thermal protection and tank head puncture resistance systems in accordance with sec. 179.105 of this subchapter.

Note 24—After Dec. 31, 1961, each specification 112J and 114J tank car built before Jan. 1, 1973, used for the transportation of anhydrous ammonia must be equipped with a tank head puncture resistance system in accordance with sec. 179.105 of this subchapter.

3. Section 179.105-6 is added immediately following §179.106 to read as follows:

§179.105 Special requirements for Specifications 112 and 114 tank cars.
§179.105-1 General.
(a) In addition to the requirements of this section, each tank car built under specification 112 and 114 must meet the applicable requirements of §§179.100, 179.102, and 179.103.
(b) Notwithstanding the provisions of paragraphs (b) and (c) of this section, each tank car built after December 31, 1977, each specification 112 and 114 tank car built before January 1, 1978, required to meet specifica-
tions 112T, 112J, 114T, and 114J, shall:
(1) Be equipped with a thermal protective system that meets the requirements of §179.105-4.
(2) Be equipped with a tank head puncture resistance system that meets the requirements of §179.105-5.
(3) Be equipped with a safety relief valve that meets the requirements of §179.105-7.
(4) Comply with paragraph (d) of this section.

§179.105-2 New cars.
(a) Each specification 112A and 114A tank car built after December 31, 1977, shall be equipped with a coupler restraint system that meets the requirements of §179.105-6.
(b) Each specification 112S and 114S tank car built after December 31, 1977, shall be equipped with:
(1) A coupler restraint system that meets the requirements of §179.105-6; and
(2) A tank head puncture resistance system that meets the requirements of §179.105-5.

(c) Each specification 112T, 112J, 114T, and 114J tank car built after December 31, 1977, shall be equipped with:
(1) A coupler restraint system that meets the requirements of §179.105-6; and
(2) A thermal protection system that meets the requirements of §179.105-5.
(3) A thermal protection system that meets the requirements of §179.105-5; and
(4) A safety relief valve that meets the requirements of §179.105-5.
(d) Each specification 112 and 114 tank car shall be stenciled as prescribed in §179.105-3.

§179.105-3 Previously built cars.
(a) After June 30, 1978, each specification 112 and 114 tank car built before January 1, 1978, shall be equipped with a coupler restraint system that meets the requirements of §179.105-6.
(b) Each tank car built before January 1, 1978, required to meet specification 1125 and 1145, shall be equipped with a tank head puncture resistance system in accordance with the requirements of paragraph (d) of this section and §179.105-5, and he stenciled as prescribed in §179.105-8.
(c) Each tank car built before January 1, 1978, required to meet specification 112T, 112J, 114T, and 114T, shall:
(1) Be equipped with a thermal protective system that meets the requirements of §179.105-4.
(2) Be equipped with a tank head puncture resistance system that meets the requirements of §179.105-5.
(3) Be equipped with a safety relief valve that meets the requirements of §179.105-7.
(4) Comply with paragraph (d) of this section.
(5) Be stenciled as prescribed in §179.105-8.
(d) Each tank car owner shall equip its tank cars which are subject to paragraphs (b) and (c) of this section in accordance with the following schedule:
(1) At least 20 percent of those cars owned on January 1, 1978, must be so equipped by that date;
(2) At least 50 percent of those cars owned on January 1, 1980, must be so equipped by that date;
(3) At least 80 percent of those cars owned on January 1, 1981, must be so equipped by that date; and
(4) All of those cars owned on January 1, 1982, must be so equipped by that date.

§179.105-4 Thermal protection.
(a) Performance standard. Each specification 112T, 112J, 114T, and 114J tank car shall be equipped with a thermal protection system that prevents the release of any of the car’s contents except through the safety relief valve when subjected to:
(1) A pool fire for 100 minutes; and
(2) A torch fire for 30 minutes.
(b) Test verification. Except as provided in paragraph (c) of this section,
compliance with the requirements of paragraph a of this section shall be verified by testing and analyzing the thermal protection system in accordance with paragraphs d, e, and f of this section. A complete record of each test verification shall be made, retained and, upon request, made available for inspection and copying by authorized representatives of the Department.

Exception The Department maintains a list of thermal protection systems which comply with the requirements of paragraphs d and e of this section and which are accepted from the test verification requirement of paragraph b of this section. Information necessary to equip tank cars with one of these systems is available in the Section of Dockets, Room 6500, Transportation Building, 2100 Second Street, SW, Washington, D.C. 20590.

Simulated pool fire test 1. A pool fire environment shall be simulated in the following manner:

1. The source of the simulated pool fire shall be a hydrocarbon fuel. The flame temperature from the simulated pool fire shall be at 1,600° F plus-or-minus 100° F throughout the duration of the test.

2. An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used. The plate dimensions shall be not less than one foot by one foot by nominal 5/8-inch thick.

3. The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate. The thermocouples shall be attached to the surface not exposed to the simulated pool fire, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

4. The pool fire simulator shall be constructed in a manner that results in total flame engulfment of the front surface of the bare plate. The apex of the flame shall be directed at the center of the plate.

5. The steel plate holder shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths.

6. Before the plate is exposed to the simulation pool fire, none of the temperature recording devices shall indicate the plate temperature in excess of 100° F nor less than 32° F.

7. A minimum of two thermocouples devices shall indicate 800° F after not less than 15 minutes nor more than 14 minutes of simulated pool fire exposure.

8. A thermal insulation system shall be tested in the simulated pool fire environment described in paragraph d of this section in the following manner:

1. The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a pool fire. Paragraph d, e, and f of this section shall be verified by testing and analyzing the thermal protection system in accordance with paragraph e, f, and g of this section.

2. The uninsulated side of the steel plate shall be instrumented with not less than nine thermocouples placed as described in paragraph e of this section to record the thermal response of the steel plate.

3. Before exposure to the pool fire simulation, none of the thermocouples on the thermal insulation system shall indicate a plate temperature in excess of 100° F nor less than 32° F.

4. The entire insulated surface of the thermal insulation system shall be exposed to the simulated pool fire environment.

5. The source of the simulated torch shall run for a minimum of 100 minutes. The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 100° F.

6. A minimum of three consecutive successful simulation fire tests shall be performed for each thermal insulation system.

Simulated torch fire test 1. A torch fire environment shall be simulated in the following manner:

1. The source of the simulated torch shall be 2,200° F plus-or-minus 100° F throughout the duration of the test.

2. An uninsulated square steel plate with thermal properties equivalent to tank car steel shall be used. The plate dimensions shall be not less than four feet by four feet by nominal 5/8-inch thick.

3. The plate shall be instrumented with not less than nine thermocouples to record the thermal response of the plate. The thermocouples shall be attached to the surface not exposed to the simulated torch, and shall be divided into nine equal squares with a thermocouple placed in the center of each square.

4. The pool fire simulator shall be constructed in such a manner that the only heat transfer to the back side of the plate is by heat conduction through the plate and not by other heat paths.

5. Before exposure to the simulated torch, none of the temperature recording devices shall indicate a plate temperature in excess of 100° F nor less than 32° F.

6. A minimum of two thermocouples shall indicate 800° F in a time of 4.0 plus-or-minus 0.8 minutes of torch simulation exposure.

7. A thermal insulation system shall be tested in the simulated torch fire environment described in paragraph e of this section in the following manner:

1. The thermal insulation system shall cover one side of a steel plate identical to that used to simulate a torch fire under paragraph e of this section.

2. The back of the steel plate shall be instrumented with not less than nine thermocouples placed as described in paragraph e of this section to record the thermal response of the steel plate.

3. Before exposure to the simulated torch, none of the thermocouples on the thermal insulation system shall indicate a plate temperature in excess of 100° F nor less than 32° F.

4. The entire insulated surface of the thermal insulation system shall be exposed to the simulated torch fire environment.

5. A torch simulation test shall be run for a minimum of 30 minutes. The thermal insulation system shall retard the heat flow to the steel plate so that none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 800° F.

6. A minimum of three consecutive successful torch simulation tests shall be performed for each thermal insulation system.

Analysis The analysis required by paragraph b of this section must verify that the entire surface of the tank car, including discontinuous structures (e.g., stub sills, protective housings, etc.) complies with the requirements of paragraph e of this section:

1. Exterior tank color. Notwithstanding the provisions of §179.101-11, Table 4, each specification 112 and 114 tank car equipped with thermal protection and the hand brakes are applied on the first car.

2. The impacted tank car is pressurized to at least 100 psi.

3. The impacted tank car is pressurized to at least 100 psi.

4. Test verification. Compliance with the requirements of paragraph a of this section shall be verified by full scale testing or by the alternate test procedures prescribed in paragraph f of this section. However, protective head shields that meet the requirements of §179.100-23 or full tank head jackets that are at least 1/2-inch thick and made from steel specified in §179.100-23(a) need not be verified by testing.

Tank head puncture resistance test A tank head resistance system shall be tested under the following conditions:

1. The tank car used shall weigh at least 263,000 pounds, be equipped with a conventional draft sill including the draft yoke and draft gear. The coupling shall protrude from the end of the ram.
car so that it is the leading location of perpendicular contact with the standing tank car.

(2) The impacted test car shall be loaded with water at six percent outage with internal pressure of at least 100 psf and coupled to one or more "backup" cars which have a total weight of 480,000 pounds with hand brakes applied on the first car.

(3) At least two separate tests shall be conducted with the coupler on the vertical centerline of the ram car. One test shall be conducted with the coupler at a height of 21 inches, plus-or-minus one-inch, above the top of the sill; the other test shall be conducted with the coupler height at 21 inches, plus-or-minus one-inch above the top of the sill. If the combined thickness of the tank head and any additional shielding material at any position over the area described in §179.100-23 is less than the combined thickness on the vertical centerline of the car, a third test shall be conducted with the coupler positioned so as to strike the thinnest point.

(4) One of the following test procedures shall be applied:

<table>
<thead>
<tr>
<th>Minimum Weight of Ram Car Plus Attached Cars (in pounds)</th>
<th>Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>0—200,000</td>
<td></td>
</tr>
<tr>
<td>201,000—480,000</td>
<td></td>
</tr>
<tr>
<td>481,000—686,000</td>
<td></td>
</tr>
<tr>
<td>687,000—973,000</td>
<td></td>
</tr>
<tr>
<td>974,000—1,259,000</td>
<td></td>
</tr>
</tbody>
</table>

(5) A test is successful if there is no visible leak from the standing tank car within one hour after impact.

§179.105-6 Coupler vertical restraint system.

(a) Performance standard. Each specified 112 and 114 tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds applied in upward and downward directions in combination with buff loads of 2,000 pounds, when coupled to cars equipped with couplers that do have this vertical restraint capability, and cars equipped with couplers that do not have this vertical restraint capability.

(b) Test procedure. Except as provided in paragraphs (d) and (e) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section, and approval of the Federal Railroad Administrator.

(c) Coupler vertical restraint tests. A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with:

(a) A mating coupler (or simulated coupler) having only frictional vertical force resistance at the mating interface; a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section.

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with car or coupler failure or otherwise inhibit failure due to force applications and reactions.

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds vertical downward load shall be applied continuously for at least five minutes to the test coupler head simultaneously with the application of a nominal 2,000-pound buff load.

(ii) The procedures prescribed in paragraph (c)(1) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds.

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c) 3(i) and (c)(3)(ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during any of the prescribed load combinations.

(d) Listing of approved couplers. The following classes of couplers have been approved by the Federal Railroad Administrator and need not be verified by the testing requirements of paragraph (c) of this section:

(1) E top and bottom shelf couplers designated by the Association of American Railroads' Catalog No. SE06CHT or SE06CHTS or SE06CHTT or SE06CHTTS or SE06CHTTTS.

(2) F top shelf couplers designated by the Association of American Railroads' Catalog No. SF07CHT or SF07CHTS or SF07CHTT.
The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

David C. McGlauchlin, Refuge Manager, Audubon National Wildlife Refuge, Coleharbor, N. Dak.

September 8, 1977.

[FR Doc.77-26765 Filed 9-14-77:8:45 am]

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Nebr., to Muzzleloader Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to muzzleloader hunting on DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 17, 1977, through December 21, 1977, both dates inclusive.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R-1, Box 114, Missouri Valley, Iowa 51555. Telephone AC 712-642-4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Muzzleloader hunting of deer on the DeSoto National Wildlife Refuge, Nebr., is permitted only on the area designated by signs as being open to hunting. This area contains approximately 3,350 acres.

All hunting shall be accordance with applicable state regulations subject to the following conditions:

1. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid permit will be allowed to enter the open area.

2. Muzzleloader rifles are the only weapons allowed and deer are the only legal wildlife species that may be taken during the hunt.

3. Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way, is prohibited.

4. Parking is restricted to designated parking areas and road shoulders of unpaved roads. Parking on shoulders of paved roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

Dated: September 8, 1977.

Michael J. Long, Refuge Manager.

[FR Doc.77-26765 Filed 9-14-77:8:45 am]

PART 32—HUNTING

Opening of Flint Hills National Wildlife Refuge, Kans., to Sport Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport hunting on Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Hunting seasons as determined by applicable State and Federal laws.

FOR FURTHER INFORMATION CONTACT:

Michael J. Long, P.O. Box 128, Hartford, Kans. 66654. Telephone No. 316-304-8381.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of mourning doves, rails, woodcock, and Wilson's snipe, on the Flint Hills National Wildlife Refuge, Kans., is permitted only on the area designated by signs as being open to hunting. This open area is delineated on maps available at refuge headquarters, Hartford, Kans., and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Mo. 64106. Hunting seasons are in accordance with Kansas State regulations, and all applicable State and Federal hunting laws and regulations apply.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

Dated: September 8, 1977.

George E. Gage, Refuge Manager.

[FR Doc.77-26857 Filed 9-14-77:8:45 am]

PART 32—HUNTING

Opening of Loxahatchee National Wildlife Refuge, Boynton Beach, Fla., to Duck and Coot Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public duck and coot hunting on Loxahatchee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: See State regulations.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Martin, Refuge Manager, South Florida Complex, Rt. 1, Box 278, Boynton Beach, Fla. 33437. Telephone 305-732-5684.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; big game; for individual wildlife refuge areas.

Public duck and coot hunting is permitted on Loxahatchee National Wildlife Refuge, Fla., only on the areas designated by signs as being open to public hunting. These areas comprising 29,000 acres are delineated on maps available at the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE, Atlanta, Ga. 30339. Duck and coot hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:


Note.—Only ducks and coots may be taken on the refuge.

2. Open Season: See State regulations.

3. Daily Shooting Hours: One-half hour before sunrise to sunset.

4. All hunters must possess a refuge permit to hunt on Loxahatchee National Wildlife Refuge. Apprehension for violation of any hunt regulations will result in revocation of this permit.

5. All air-thrust boat operators must possess a valid refuge permit for operating on Loxahatchee National Wildlife Refuge. This permit will be revoked upon apprehension for a violation of any hunt regulation.

6. Entry to Refuge: Hunters are required to enter and leave the refuge from the headquarters landing or the 8-39 landing (Loxahatchee Recreation Area). Air-thrust boats may be launched at the
headquarters landing only. Use of the refuge is limited to the hours from one and one-half hours before sunrise to one hour after sunset. Hunters must use the designated routes of travel to and from the hunting area. These routes are the portions of Canal 39 and Canal 40 (Hillsboro Canal) immediately east and south of the hunting area. The refuge marina, hunting headquarters and 6-39 landing lying between the hunting area and said portions of the above canals may also be used for travel. No hunting is permitted in these canals or the marsh off-these canals.

7. Firearms: Hunters must carry unloaded shotguns that are dismantled or cased over the routes stated under Item 6 in traveling to and from the hunting area.

8. Only steel shot ammunition may be used. The possession or use of shotgun shells with lead or other toxic shot is prohibited.

9. Hunting Dogs: Hunters are permitted to use dogs for the purpose of retrieving dead or wounded birds.

10. All Boats: For safety reasons all boats using engines must have a light when traveling to and from the hunting area when traveling in darkness. All boats operating within the public hunting area are required to fly a flag 12" x 12" ten feet above the bottom of the boat.

11. Blinds: Only temporary blinds constructed of native vegetation are permitted.

12. Posted Areas: The public hunting area has been designated by red signs with black lettering. Other signs designated closed areas.

13. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation apply to all public and private areas which govern hunting on wildlife refuge areas generally which are set forth in Title 5, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: September 8, 1977.

HAROLD W. BENSON, Acting Regional Director.

PART 32—HUNTING

Opening of Ysaco National Wildlife Refuge, Mississippi to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Ysaco National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunities to the public.

Dated: December 7, 8, and 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Davis, Refuge Manager, Savannah National Wildlife Refuge Complex, P.O. Box 4623, Savannah, Ga. 31402. Telephone 912-232-4321, ext. 415.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the Ysaco National Wildlife Refuge, only on the areas designated as being open to hunting. These areas comprising 2,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, 17 Executive Park Drive, N.E., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Entry on the refuge will not be permitted more than one day in advance of the opening date of the hunt period. Participants will be confined to the camping area until the morning of the first day of the hunt period, and must be off the Island the day following the last day of the hunt period.

2. All camping will be at designated areas only. Fires must be confined to the camping area.

3. Hunters must check in at the Ysaco Refuge Headquarters and leave their boats at the refuge dock.

4. Only antlerless deer may be taken during the first hunt day. Deer of either sex may be taken on other hunt days. All State Regulations and bag limits will be enforced. A maximum of two deer may be taken.

5. Hunting hours are according to State regulations. During the periods from 7 a.m. until 9:30 a.m. and from 3 p.m. until 5:30 p.m. each day, hunters must be on their stands. No movement during these hours will be tolerated.

6. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

7. Blazing, driving spikes, painting, applying tape, or damaging or destroying trees and shrubbery in any manner is prohibited. Deer stands which will damage trees are not permitted.

8. All forms of litter should be placed in trash receptacles for proper disposal.

9. Transportation is not provided to and from the Islands or on the Islands. Any movement after reaching Ysaco Island must, of necessity, be by foot. You are not allowed to leave by boat to go to the other parts of Ysaco Island.

10. A Federal permit is required. Only hunt participants with proper licenses and permits will be permitted on the refuge to hunt and camp.

11. Only rifles and shotguns 20 gauge or larger using slug or larger using slugs may be used during the gun hunt. Handguns and buckshot are prohibited. Target practice during the gun hunt is prohibited. Weapons must be unloaded and cased except during the daily hunting periods.

12. Gun hunters must wear outer garments containing at least 500 square inches of daylight fluorescent orange colored material above the waistline.

14. The Ysaco National Wildlife Refuge will be closed to the general public December 6-9, 1977.

The provisions of this special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 59, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

Dated: September 8, 1977.

HAROLD W. BENSON, Acting Regional Director.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
RULES AND REGULATIONS

1. Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

2. Weapons: Archery, long bows only with broadhead arrows. Use or possession of drugged arrows is prohibited. Gun—shotguns, 20 gauge and larger, and centerfire rifles .22 caliber or larger. No handguns are permitted.

3. A refuge deer hunting permit is required. Entry of hunting area without permit is prohibited. Submission of more than one application or applications containing false information is prohibited.

4. Firearms may not be discharged within 250 yards of residences or the refuge headquarters. Carrying of loaded firearms in vehicles and shooting from or across County or State roads are prohibited.

5. All deer killed must be checked out at refuge checking station.

6. Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting area immediately after sunset. Gun hunters must depart the hunting area no later than 1 hour after sunset.

7. Each hunter under age 18 must be under the close supervision of an adult bearing a permit. For safety reasons, the ratio should be one adult to one juvenile. In no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern big game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

Dated: September 8, 1977.

HAROLD W. BENSON,
Acting Regional Director.

[FR Doc.77-26768 Filed 9-14-77;8:45 am]
DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
[7 CFR Parts 981]
HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule reduces the tolerance for inedible almonds to improve the quality of almonds entering the market. The rule also changes certain reporting requirements for handlers of California almonds by simplifying procedures and adapting reports to current needs.

DATE: Written comments to this proposal must be received by September 30, 1977.

ADDRESS: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR Parts 981-981.473) by revising §§ 981.442, 981.473 and 981.474. The subpart is issued under the marketing agreement, as amended and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposals are based on a unanimous recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or handlers, feed manufacturers, or processors, or receivers. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage as necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing. Section 981.442 implements § 981.42 and specifies the manner in which the inedible kernelweight of almonds is to be determined and methods by which a handler can satisfy his inedible kernelweight obligation. It also provides procedures for waiving a portion of the disposition obligations of those handlers not blanching almonds or manufacturing almond products.

Currently, § 981.442(a) (4) requires disposition of a portion of the inedible kernels in excess of two percent of the kernel weight reported to the Board. As a means of further improving the quality of almonds entering trade channels, the Board proposes, with the concurrence of this proposal, to revise § 981.442(a) (4) by lowering the percentage prescribed in each subparagraph to one and one-half percent. Therefore, the proposal is to revise § 981.442(a) (4) and (a) (6) by lowering the percentage prescribed in each subparagraph to one and one-half percent. Section 981.442(a) (6) deals with the partial waiver of a handler's disposition obligation.

Section 981.473 Redetermination reports, elaborates on the information required under § 981.67. Currently, § 981.473(f) requires a handler to report, as part of his redetermination report, his undelivered sales. This is a report of all almonds sold but not delivered, showing the weight of such almonds and whether they are unshelled or shelled. The Board indicated this information is unnecessary for the purposes of redetermination.

However, the Board needs information on deliveries of almonds to Board accepted crushers, feed manufacturers or processors for the purpose of establishing assessment obligation. Thus, paragraph (f) would be revised to require a handler to report the weight of all almonds he must deliver to such outlets to meet his disposition obligation pursuant to § 981.42 (a).

The revision would ease the burden on a handler in paying assessments which would otherwise be refunded. The proposal also requires § 981.442(a) (6) permits a handler to satisfy his disposition obligation no later than July 30 of the succeeding crop year in which the obligation is to be fulfilled. Section 981.474 requires that handlers file redetermination reports by July 15. Thus, the proposal removes the need for the Board to readjust a handler's assessment obligation on the basis of his subsequent deliveries of almonds to exempt outlets. It would also enable the Board to determine its financial position at an early date after the end of the crop year.

Section 981.474 prescribes other reports the handler must file. These include reports of shipments, export sales and deliveries, and diversions, and intentions to divert reserve almonds to non-competitive outlets.

Section 981.474 would be revised to update these reports and make them more understandable to handlers. It would also give the Board access to information it needs. In order to describe the true nature of its contents, the proposal changes the title of that section from "report of shipments" to "report of shipments and commitments". Also, § 981.474(a) would be revised to require each handler to report his commitments (almonds not shipped but sold or otherwise obligated to the Board on ABC Form 25). These commitments would be reported as domestic contract, export contract, and noncontract, and as inshell, shelled, or manufactured.

Section 981.474(b) pertains to the reporting of export sales. This information is necessary in those crop years when a handler is permitted to satisfy his reserve obligation by exporting almonds pursuant to § 981.67. Paragraph (b) would be revised so that it would not apply whenever export shipments are included with domestic shipments in the estimated trade demand for a crop year. In that event, handlers would still report export shipments, by countries of destination on ABC Form 25 pursuant to paragraph (a) of § 981.474.

The proposals to amend Subpart—Administrative Rules and Regulations are as follows:

1. Review § 981.442(a) (4) and (6) to read as follows:

§ 981.4.42 Quality Control.

(a) * * *

(4) Disposition obligation. The weight of inedible kernels in excess of one and one-half percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation. If a variety other
PROPOSED RULES

than Peaches is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(b) Partial waiver of obligations. Any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this inedible weight and his disposition obligation. The petition will be granted only if the handler certifies to the Secretary and the Board that (i) he did not engage in any blanching, cutting, chopping, or other processing of almond kernels during the crop year, (ii) all almonds shelled by or for him were hand-picked on belts and the visibly inedible almonds removed, and (iii) that he did not place into trade channels any almonds with more than one and one-half percent inedibles. However, no waiver shall be granted for more than 30 percent of the handler's inedible disposition obligation.

2. Revise § 981.471(f) to read as follows:

§ 981.471 Redetermination reports.

(1) Exempt outlet deliveries. A report showing the quantity of almonds delivered by a handler to Board accepted crushers, feed manufacturers, or feeders, and—for the purpose of establishing the assessment obligation—the quantity of almonds the handler must deliver to the Board approved outlets to meet his disposition obligation pursuant to § 981.42(a).

3. Revise § 981.474 to read as follows:

§ 981.474 Report of shipments and commitments.

(a) Each handler shall report on ABC Form 25 the following: (1) All shipments of almonds, inshell and shelled and by classification (domestic, and export by countries of destination); and (2) all commitments (already not shelled but sold or otherwise obligated) whether domestic contract, export contract, or non-contract. If the destination of any export is unknown to the handler, he shall have the broker/exporter furnish this information to the Board. The reports shall be filed with the Board within five business days after the close of each month of the crop year.

(b) At the time of each export sale, each handler shall file the report on ABC Form 19 and upon delivery into export shall report this on ABC Form 19. If any export is not made directly by the handler, he shall send the ABC Form 19 to the broker-exporter and request him to make the report to the Board. These forms shall include the number, type and weight of container, variety and whether inshell or shelled, time of export and destination. In years of minimum export prices applicable to reserve almonds, ABC Form 19 shall include the grade and size, the inspection certification price and any terms defining the price. Whenever export shipments are included with domestic shipments in the estimated trade demand for a crop year, this paragraph shall not apply.


CHARLES R. BRAEDER, Deputy Director, Fruit and Vegetable Division.

[FR Doc. 77-26934 Filed 9-14-77; 3:45 am]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Addition of Australia to the List of Countries to Which Reserve Tonnage Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on making Australia eligible for sales of reserve tonnage raisins under the Federal marketing order for California raisins. This would provide raisin handlers with another available export outlet for their product in selling such raisins overseas, and could facilitate exports of California raisins.

The proposal was recommended by the Raisin Administrative Committee.

DATES: Comments must be received prior to September 30, 1977.

ADDRESSES: Comments should be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

The proposal is to revise § 989.221 to read as follows:

§ 989.221 Countries to which sale in export of reserve raisins may be made by handlers.

The countries to which sale in export of reserve raisins may be made by handlers shall be all of the countries covered by this section except Australia. This would provide raisin handlers another available export outlet for their product in selling such raisins overseas, and could facilitate exports of California raisins.

The proposal is to revise § 989.221 to

§ 989.221 Countries to which sale in export of reserve raisins may be made by handlers.

The countries to which sale in export of reserve raisins may be made by handlers shall be all of the countries covered by this section except Australia.
Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above during regular business hours (8:15 a.m. to 4:45 p.m.).

**FOR FURTHER INFORMATION CONTACT:**

Mr. Paul R. Cenn, Director, Multiple Family Housing Loan Division, 202-447-7207.

**SUPPLEMENTARY INFORMATION:**

The Farmers Home Administration proposes to add new Exhibits F-5A, R, R-1, R-2, R-3, and R-4 to Subpart D of Part 1822, Title 7, Code of Federal Regulations. Exhibit J-2 is revised to provide a Project Worksheet for computing tenants’ rental rates and the amount of rental assistance. The benefits provided by Exhibit R will supplement the benefits available to tenants under the interest credit program which is outlined in Exhibit J to Subpart D. The objective of the rental assistance program is to reduce the rent paid by low income families.

As proposed, Exhibits F-5A, R, R-1, R-2, R-3, and R-4 are added to Subpart D of Part 1822 and Exhibit J-2 and Form FmHA 444-7 are revised and read as follows:

**FmHA Instruction 444.5**

Exhibit F-5A

Page 1

**HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES**

**NAME OF BORROWER**

**LOCATION AND IDENTIFICATION OF PROJECT**

**PART I**

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**PREPARED BY:**

Borrower or Agent Title Signature Date

**APPROVED BY FARMERS HOME ADMINISTRATION**

Name Title Signature Date
PROPOSED RULES

INSTRUCTIONS FOR PREPARATION AND USE OF HOUSING ALLOWANCES FOR UTILITIES AND OTHER SERVICES

FAHIA Instruction 444.5, Exhibit F-5A

INSTRUCTIONS FOR PREPARATION AND USE OF HOUSING ALLOWANCES FOR UTILITIES AND OTHER PUBLIC SERVICES

1. General. These are instructions for completing Exhibit F-5A for the establishment and use of approved utility allowances for tenants. All allowances established for the housing units shall be based on the average cost of utilities and service charges paid by occupants of similar size and type housing in the same locality. Allowances shall not be based on energy consumption or costs of above average or below average income families. The objective shall be to establish allowances at levels that will apply to the majority of the families assigned to the proper size unit.

II. Determining Allowances. A. In general, the borrower shall to the extent possible use local sources of information on the cost of utilities and services. The following sources should be contacted:

- Electric utility suppliers
- Natural gas utility suppliers
- Water and sewer suppliers
- Fuel oil and bottle gas suppliers
- Public service commissions.

6. Real estate and property management firms.

7. State and local agencies including public housing authorities.

B. Allowances approved by FHA or HUD for nearby localities with essentially the same type of housing stock should also be examined and may be used if determined adequate. In most cases fuel or utility rates normally will not vary appreciably in neighboring communities, and where data is not available in small communities, approved allowances for larger nearby communities may be used.

Data from other housing projects in the area may be used, providing the housing units are of similar size and type and serve comparable size families.

C. Separate heating and cooling allowances shall be established for the various types of multiple family housing financed by FHA in the locality for which there are significant differences in fuel costs for the same number of bedrooms. For example, separate allowances may be needed for duplexes, row or townhouses, garden and low and medium rise apartments. In addition to establishing different heating and cooling allowances for various types of structures, attention should be given to different allowances for water, depending on whether tenants will have responsibilities for lawn care.

D. The data to be solicited from the local sources shown in paragraph II A should be as close as possible in form and detail to the format of Exhibit F-5A. If possible, all consumption data should be obtained for each unit size and type. If data is available only for an average unit size (2.5 bedrooms), multiply the utilities costs for the average unit by the following factors:

- Size of unit: Factor
- 1 bedroom: 1.3
- 2 bedrooms: 1.4
- 3 bedrooms: 1.5
- 4 bedrooms: 1.6
- 5 bedrooms: 1.7

Example: Natural gas heating cost for an average sized unit is $18 per month. The allowance for a four-bedroom unit will be $1.4 \times 18 = 25.2$ (rounded to nearest dollar).

E. Allowances for air conditioning shall be established only for those projects which are cooled by a central air conditioning system and for projects that are equipped with wall or portable units as a part of the permanent equipment.

F. The cost of gas and electricity varies according to amounts consumed as shown on the appropriate rate schedules of the supplier. It is not possible to compute exactly the amount of electricity for any given function without knowing the total electrical usage for a unit. However, because neither the borrower nor the families know beforehand just what will be the combination of utilities for any unit rented, it will be necessary to approximate the allowances for each function (e.g., heating, cooking, etc.) as follows: for electricity the rates used for lighting, refrigeration and appliances should be from the top of the rate schedule or the higher unit costs. Allowances for electric cooling, water heating and space heating and cooling should be computed using rates from the middle or lower steps in the rate schedules. Similarly, allowances for gas used for water heating and cooling should be computed using rates from the middle or lower steps in the rate schedule and for heating from the lower steps.

III. Preparation. A. Exhibit F-5A will be completed in the original and three copies for each different type of unit in a project in all instances when a "Statement of Budget, Income, and Expenses" is required to be completed. This form will establish the allowances for all type and size units in the project. The allowances shall be adequate for all utilities and any authorized services which are or will be available to the tenants, except telephone and cable TV. The allowances for utilities as determined in Part I of this form will be the basis of the operating expenses used in budget preparation. The forms will be signed by the borrower. The original and two copies of the form will be submitted to FHA. Backup data and necessary documentation should be included with the submission.

B. If FHA finds the allowances acceptable, the approval portion of Part I will be completed on all copies and the original and a copy returned to the County Supervisor. The County Supervisor will file the approved form in the office file and return the original to the borrower. The borrower will complete Part II of the form and provide copies to each tenant to be attached to and become a part of the lease entered into by the borrower and tenant. The form will provide the family with the amount of allowance for each of the utilities and services which are to be paid by the family. If all utilities and services are paid by the borrower, Part II Block B of the form will show "none".

IV. Submission of Supporting Data to FHA. The applicant will submit to FHA adequate data to justify the utility allowance for the project. The data will include the following:

A. Completed Exhibit F-5A.
B. List of local sources contacted for information and copy of any data provided by such sources.
C. Any data on allowances already established for the area.
D. Complete narrative statement and computations on method used in arriving at the allowances.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
PROPOSED RULES

PROJECT WORKSHEET FOR INTEREST CREDIT
AND RENTAL ASSISTANCE

<table>
<thead>
<tr>
<th>Borrower Name</th>
<th>Case Number</th>
<th>Location of Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>

Kind of Loan (Check appropriate block)  
- [ ] RRI
- [ ] RCR
- [ ] RH

Plan of Operation (Check appropriate block)  
- [ ] Profit Plan I
- [ ] Plan II
- [ ] Plan II RA
- [ ] Plan RA

This report is for the month of __________, 19__

In accordance with Farmers Home Administration's formula and procedures, all rental units are occupied by families who have executed Form FnHA 444-8, "Tenant Certification" and are farmworkers if this is a labor housing project or if this is a rental housing project, have incomes within the limitations as set forth in FnHA regulations or the project has written permission from FnHA to rent to ineligible occupants on a temporary basis. The amount of payment, overage, surcharge, credit to the payment and/or request for payment for the loan(s) for this project is as follows:

<table>
<thead>
<tr>
<th>Payment Amount</th>
<th>Loan Number</th>
<th>Overage or Surcharge</th>
<th>Total Payment</th>
<th>Rental Ass. Payment Due Borrower</th>
<th>No. Units Receiving Rent Ass.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

I certify that the statements made above and in Part II are true to the best of my knowledge and belief and are made in good faith.

(Signature-Borrower or Borrower's Representative)

County Office Schedule No. ___________
<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
<th>Column 8</th>
<th>Column 9</th>
<th>Column 10</th>
<th>Column 11</th>
<th>Column 12</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
</tr>
</tbody>
</table>
For Projects Operating with Interest Credit Plan II, enter the basic monthly rental rate as determined by the budget, in accordance with Plan II, enter the difference between basic rental rate and the amount shown in item (9). For Projects operating in accordance with Interest Credit Plan II but which have not yet obtained Direct Loans, enter the amount of rental assistance which is the difference between basic rental rate and the amount shown in item (9).

Part II will be the difference between the amount shown in item (8), and 25 percent of the adjusted monthly income. This amount will be 25 percent of the tenant's adjusted monthly income.

All LH, direct RRH loans and insured RRH loans, the FHLMC's Multiple Housing Certification Exhibit will be prepared by the borrower in original and blank form. The copy will be retained by the borrower.

The objective of the rental assistance program is to reduce the rents paid by low income families. This exhibit sets forth the policies and procedures and deletes the notes as follows:

1. For Projects Operating without rental assistance payments program, only, enter the amount of monthly utility costs as though the note was written with a one percent interest rate. Enter the month and year for which the amount is shown.

2. For all LH, direct RRH loans, and in accordance with Plan II, enter the difference between basic rental rate and the amount shown in item (9). For Projects operating in accordance with Interest Credit Plan II but which have not yet obtained Direct Loans, enter the amount of rental assistance which is the difference between basic rental rate and the amount shown in item (9).

3. Enter the month and year for which the amount is shown.

4. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

5. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

6. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

7. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

8. Enter the month and year for which the amount is shown.

9. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

10. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

11. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

12. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

13. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

14. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

15. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

16. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

17. Enter the sum of the amounts in items (13) and (15).

18. Enter the name as it appears on the note.

19. Enter case number.

20. Enter number the 8th digit on the note.

21. Enter borrower’s name. (Use the same name as shown on the note.)

22. Enter appropriate blank block indicating if the project is eligible to receive rental assistance. All projects, except

23. Enter the schedule number of the Form FHLMC 444-9, “Multiple Housing Certification Exhibit.” The exhibit will be submitted by the borrower to the County Office. The exhibit will be used by all LH, direct RRH loans, and insured RRH loans, and any plan which involves overages, surcharges or rental assistance. This completed exhibit will be prepared by the borrower, who is obtaining rental assistance, after the amount that the borrower is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be 25 percent of the tenant's adjusted monthly income

24. Enter the month and year for which the amount is shown.

25. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

26. Enter the total payment due for each month.

27. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

28. Enter number of units occupied by the tenant.

29. Enter total amount of payment being transmitted to the County Office. The exhibit will be submitted by the borrower to the County Office. The exhibit will be used by all LH, direct RRH loans, and insured RRH loans, and any plan which involves overages, surcharges or rental assistance. This completed exhibit will be prepared by the borrower, who is obtaining rental assistance, after the amount that the borrower is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be 25 percent of the tenant's adjusted monthly income

30. Enter date signed.

31. Enter number the 8th digit on the note.

32. The County Office will enter the amount the tenant is required to pay, including the cost of all utilities for the unit whether paid by the owner or by the tenant. This amount will be 25 percent of the tenant's adjusted monthly income but never less than the basic rent shown in item (9). For Projects operating in accordance with Interest Credit Plan II but which have not yet obtained Direct Loans, enter the amount of rental assistance which is the difference between basic rental rate and the amount shown in item (9).

33. Enter the month and year for which the amount is shown.

34. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

35. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

36. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

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81. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

82. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.

83. Enter the amount of monthly utility costs as though the note was written with a one percent interest rate.
new RRH projects must also operate under Plan II in order to receive rental assistance. For a borrower to have an eligible project the loan must be—
(a) either insured or direct loan made to a broadly-based nonprofit organization or State or local agency or (b) an eligible project to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate a housing program under the Limited Profit basis as defined in Part 1822 Subpart D.
(c) RCH insured or direct loan or 
(d) LIH loan or an LIH loan and grant-combination made to a broad-based nonprofit organization or nonprofit organization of farmworkers or a State or local public agency.

2. Projects with all or a part of the units under contract with the Department of Housing and Urban Development (HUD) devoted under the Section 202 program for new construction or rehabilitation by either the dual or single track processing procedures will be approved.

This exemption does not prohibit the borrower from utilizing HUD’s Section 8 Housing Assistance Payments Program for existing housing when occupying a rental unit in an eligible project providing the project owner has agreed to provide such assistance in accordance with the exhibit and there are EA units available.

V. Priority of Rental Assistance Applications—The National Office may establish a State quota on the number of units that may receive rental assistance in any fiscal year. The State Director will limit the approval of rental assistance to no more than the number of units allocated to the State, unless otherwise stated by the National Office, the State allocation will indicate the number of units for existing projects and the number of units to be used with the applications for the projects. The priority in allocating units will be as follows:

A. Allocation to Projects Within a State.

The State Director, at his discretion, may allocate units to the State in accordance with any specific instructions from the National Office. An approved request for rental assistance to provide such assistance to tenants in accordance with directives of this exhibit. The number of units to be granted in any project will be based on the number of RA units needed to make the rental assistance up to the maximum allowed. The maximum number of units in a project to which rental assistance is limited to the following:

1. No limitation for eligible labor housing allowed and the approved labor housing project with a loan only will be limited to not more than 20 percent of the total number of units in the project.

2. No limitation for RRH, RCH or SCH projects designed and limited to housing for the elderly.

3. An RCH or RRH project designed and/or primarily occupied by low- and moderate-income families will be limited to not more than 20 percent of the total number of units in the project.

4. An RCH or RRH project planned and designed for low- and moderate-income families and moderate-income families will be limited to not more than 20 percent of the total number of units in the project.

5. An RCH or RRH project designed and/or primarily occupied by low- and moderate-income families and no limitations on the units designed for and occupied by senior citizens.

B. Granting Exceptions—1. State Directors Authority—An exception to the 20 percent limitation indicated in V B 1, 3 and 4 of this exhibit may be granted by the State Director for up to 40 percent of the units in any particular project (rounded to the nearest whole number). However, the total number of units of rental assistance granted by the State Director including exceptions, cannot exceed 40 percent of the number of units equal to that State. Exceptions will be granted only when units are or can be made available and the following conditions exist:

(a) When more than 25 percent of the units are occupied by families who are paying more than 25 percent of their adjusted income for rent.

(b) The tenants in a project that is being assisted at the 20 percent level experience a hardship as a result of an income decrease or a rental increase and must obtain rental assistance to remain in the project.

(c) The project is an eligible project in an area of extremely low income families and the majority of the proposed tenants will be paying in excess of 25 percent of their income for rent.

2. National Office Authority. If the project has all or a part of the units occupied by extremely low families and the majority of the tenants will be paying in excess of 25 percent of their income for rent. The National Office may authorize the State Director, without prior approval, for a greater number of units on a case-by-case basis for up to 100 percent of the units to be rental assisted. Such request will be submitted to the National Office prior to ban approval.

VI. Exception Requests—1. A request for an exception to the 20 percent limitation will be submitted by the borrower to the County Supervisor. The County Supervisor will submit the request with supporting documentation and recommendations to the State Director for approval. Included in the memorandum will be the number and percentage of units in excess of the 20 percent limit and justification for the request. When National Office authority is required, the State Director will request this authority by memorandum. The memorandum will include (a) the borrowers case file, (b) cost estimates, (c) allocation of the exception on the housing market situation, (c) the number of rental assistance units allocated to the State, (d) number of units committed to the State, (e) number of units still available, and (e) recommendations. If the borrower requests an exception and the loan has not closed prior to the loan is approved, such requests will not be approved until the project is completed and the project's fully occupied and it is apparent that full rental will not occur until the 40 percent limitation is exceeded.

2. The State Director will maintain Form FMNHA 444-27, “Plan II Exception Request.” The record will include the borrower's case number, loan code, loan status, number of units in the project, number of units for rental assistance authorized and the effective date of each agreement and amendment. This information will be obtained from Form FMNHA 444-25, “Request for Rental Assistance Agreement.” Form FMNHA 444-26, “Request for Obligation of Rental Assistance.” Form FMNHA 444-27, “Rental Assistance Agreement.” Any changes which are made in the number of units allocated to the State will be made in Form FMNHA 444-27. The Record of Rental Assistance Agreements Exhibit B-3 may be used for keeping this record.

VI. Priority Among Eligible Families Within a Project Receiving Rental Assistance. The priority will determine the priority for RA units among tenants living in a project and among families applying for occupancy in accordance with this paragraph.

A. In Existing Projects—1. If the project is fully occupied at the time the rental assistance is granted, priority will be based on adjusted monthly income of the families occupying the units. The family having the lowest adjusted monthly income will receive the highest priority. However, no family eligible to occupy a unit in the project will be required to move from the project to allow a family applying for a unit who has a lower adjusted monthly income.

2. If the project has vacancies or vacancies occur and rental assistance is available, priority will be based on adjusted monthly income of the families and the family having the lowest adjusted monthly income will receive the highest priority. If it is apparent that full rental will not occur until the 40 percent limitation is exceeded, the majority of the proposed tenants will be paying in excess of 25 percent of their income for rent.

3. National Office Authority. If the project has all or a part of the units occupied by extremely low families and the majority of the tenants will be paying in excess of 25 percent of their income for rent. The National Office may authorize the State Director, without prior approval, to provide a greater number of units on a case-by-case basis for up to 100 percent of the units to be rental assisted. Such request will be submitted to the National Office prior to ban approval.
family who is unable for personal reasons or does not want to accept a rental assistance unit when notified, will be redetermined of the County Supervisor. The borrower still wishes to be considered for occupancy.

3. If the project has vacancies or vacancies at the time of the conversion of a project, a family eligible for rental assistance may accept occupancy but cannot receive rental assistance. Such families will be considered for rental assistance in accordance with paragraph VI A.1. If such families elect not to accept occupancy because such assistance is not available, their application for a unit will retain its original date for priority.

The borrowers receiving the benefits of rental assistance shall continue receiving such benefits as long as they remain eligible tenants and there is a rental assistance agreement in effect.

B. In New Projects. Applications for occupancy should be accepted during the construction phase of the project. Priority will be given based on the date of the family's application for occupancy. If all or a percentage of the units will not be rented to families whose adjusted monthly income is less than the allowance for utilities unless adequate justification is provided.

VIII. Responsibilities of Borrower in Administering the Rental Assistance Program. The borrower or management agent must establish an adequate recordkeeping system of tenant certifications to ensure this responsibility is carried out.

C. The incomes reported by the tenants must be verified by the borrower. Such verifications may be obtained by:

1. The use of Form FmHA 410-5, "Request for Verification of Employment," or verification form or other sources. Until the Form FmHA 410-5 is revised, it may be modified by deleting "Farmers Home Administration" in Part 1.2. The borrower or management agent will insert the name and address to whom the form is to be returned. Also, in the first sentence of the applicant's statement in Part I, the words "applied for a Farmers Home Administration loan" and in the last sentence the word "loan" should be deleted.

2. In the case of the elderly or other persons whose income is not from wages or salary, by actually examining the income checks, check stubs or other reliable data from the tenant's place of employment.

3. Until the Form FmHA 444-6 is revised, the borrower will make a notation on each tenant application that "the tenant's income has been verified and found to be accurate" and the notation will be signed by the borrower or management agent. The Borrower or management agent will then verify the income of each family.

Actions Regardless of Outcome.

A. Confession of Judgment. Prior consent by tenant to any lawsuit between the landlord and tenant must be in writing and signed by the tenant and to a judgment in favor of the landlord.

B. Waiver of Legal Proceedings. Authorization to the landlord to take property of the tenant and hold it as a pledge when the tenant is in default whenever the landlord determines that a breach or default has occurred, without notice to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.

C. Authorization to the landlord to take property of the tenant and hold it as a pledge whenever the landlord determines that a breach or default has occurred, without notice to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.

Exhibit F-5A. Annexation and Annulment Letter to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.

A. Confession of Judgment. Prior consent by tenant to any lawsuit between the landlord and tenant must be in writing and signed by the tenant and to a judgment in favor of the landlord. Authority to the landlord to take property of the tenant and hold it as a pledge when the tenant is in default whenever the landlord determines that a breach or default has occurred, without notice to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.

B. Waiver of Legal Proceedings. Authorization to the landlord to take property of the tenant and hold it as a pledge whenever the landlord determines that a breach or default has occurred, without notice to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.

C. Authorization to the landlord to take property of the tenant and hold it as a pledge whenever the landlord determines that a breach or default has occurred, without notice to the tenant, as a part to a lawsuit, and to a judgment in favor of the landlord or the landlord's agent.
monthly income is less than the monthly allowance for utilities, the owner will pay the tenant that difference as prescribed in paragraph 25. In a project where the owner pays all the utilities, the tenant will pay the owner the full 25 percent of his adjusted monthly income toward the approved rent for the unit being occupied. For those tenants not receiving RA that pay utilities directly, their rent shall be reduced by the amount allowable for such utilities.

B. Determining the Allowance.—The utility allowance will be determined and recorded by the use of Exhibit F-5A to Part 1822 Subpart D and submitted to FmHA for approval. The data will be analyzed by the FmHA State Office to determine the allowances that will be permitted. The utility allowance is to be approved on a project-by-project basis. If the allowances are reasonable for the project, the allowance is to be approved on a project-by-project basis if necessary when the owner submits a new budget for approval.

C. Changes in Allowances.—The utility allowance will be changed to reflect changes in cost. Normally, allowances will be adjudged reasonable and justifiable on an annual basis as a normal part of the financial administration of the project.

D. Project to be Funded.—1. Applicants requesting funding under the RH or LH programs planning to utilize the rental assistance program should submit a completed Form FmHA 444-25. "Request for Rental Assistance," to the County Supervisor when submitting a preapplication or application for funding.

2. The number of units of rental assistance requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants. The Form FmHA 444-25 is available.) If a new agreement is to be executed, the application must be received by the County Supervisor for delivery to the borrower.

B. Borrowers who have requested rental assistance and are denied such assistance, in whole or in part by the Farmers Home Administration, will be notified in writing of the specific reasons why such assistance was not granted. The written notice issued by the County Director informing the borrower of the denial will advise the borrower that it may appeal the decision by writing to the Administrator.

C. The letter informing the family or borrower of the denial of assistance and the reasons therefor must include:

1. In case the determination was made by the borrower, that the decision is subject to appeal to the FmHA County Supervisor giving name and address.

2. In case the case was made by the State Director, that an appeal may be made to the Administrator giving name and address.

3. In case the case was made by the State Director, that an appeal may be made to the Administrator giving name and address.

4. A statement that "any appeal must be filed within 45 days of the date of this notice of denial of assistance."
PROPOSED RULES

WARNING

Section 1001 of Title 18, United States Code provides: "Whoever, in any matter "within the jurisdiction of any department or agency of the United States knowingly and willfully... makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

REQUEST FOR RENTAL ASSISTANCE

1. Name of Borrower

2. Address

3. Location of Project

4. Total Number of Units in Project

Request is made for _____ units of rental assistance for the above project. I have determined that _____ families qualify for rental assistance as identified by the attached copies of Exhibit J-2, "Project Worksheet on Interest credit and Rental Assistance." I therefore request rental assistance for _____ units which represents _____ percent of the units in the project. The rental assistance, if granted, will be provided as follows:

<table>
<thead>
<tr>
<th>NUMBER FOR</th>
<th>Number, Size, and Monthly Rental Rate</th>
</tr>
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<tbody>
<tr>
<td>Senior Citizen Families</td>
<td>CBR 1BR 2BR 3BR 4BR 5BR</td>
</tr>
<tr>
<td>Number Basic Rent Mkt Rent</td>
<td></td>
</tr>
<tr>
<td>Low and Moderate Income Families</td>
<td>Number Basic Rent Mkt Rent</td>
</tr>
</tbody>
</table>

I/we certify that the above information and attachments are true and correct to the best of my/our knowledge and belief.

Date

Monthly rental rates include utility allowances.

BORROWER: ____________________________
by ____________________________
SIGNATURE

STATE: ____________________________
COUNTY: ____________________________
CASE #: ____________________________
TYPE LOAN: ____________________________

For FHA Use Only

FEDERAL REGISTER, VOL 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
SUBJECT: County Office Review of Request for Rental Assistance

TO: State Director

1. From the information submitted by the borrower and available from the files, it appears rental assistance cannot be provided. (State reason if assistance cannot be provided)

2. The project is presently operating on: (Check all that apply)
   - Direct loan basis
   - Profit basis. The loan was approved ____________
   - Nonprofit basis
   - Limited Profit basis
   - Interest Credit Plan I
   - Interest Credit Plan II
   - Section 8 Rental Assistance Payments Program for new construction for __________ families
   - Section 8 Rental Assistance Payments Program for existing housing with __________ units

3. I have discussed with the borrower that if rental assistance is granted that the project will be operated on a nonprofit or limited profit basis when applicable in accordance with existing instructions.

4. It is my determination that the budget has been approved and the rental rates are acceptable.

5. Other Comments:

   ____________________________
   Date

   ____________________________
   Signature

   ____________________________
   County Supervisor

   ____________________________
   Farmers Home Administration

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RENTAL ASSISTANCE AGREEMENT

This Agreement effective on the 1st day of __________ 19____ between (herein called "the borrower") and its successors and the United States of America acting through the Farmers Home Administration pursuant to Section 521 (a) (2) (A) of Title V of the Housing Act of 1949 as amended. (Herein called "the Government") Witnesseth:

In consideration of the Mutual Covenant hereinafter set forth, the parties hereto agree as follows:

Section 1. The Government agrees to provide rental assistance in accordance with its governing rules and regulations for __________ units of housing for the project located at __________ and known as ________ consisting of __________ units. The Government will pay the difference between 25 percent of the families' adjusted monthly income and the Government approved rents for the project.

Section 2. The borrower agrees to abide by the present and future regulations of the government in the administration of this program.

Section 3. Borrower agrees to use due diligence in the verification and certification of tenants incomes.

Section 4. In the event that any tenant suffers a hardship because rental assistance may not be available in the project because of the limitations set forth on the number of units in Section 1, borrower may make requests to the government for additional units. In the event additional units can be provided and are approved by the government, a rider shall be executed by the parties and attached to this agreement. The rider will be in the following form:

---

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
“Rider to Rental Assistance Agreement between (Borrower), (case number) (loan code) and the United States of America acting through the Farmers Home Administration.

Section 1 of the above described agreement is amended to provide that ________ units may be assisted rather than ________ units.

The effective date of this change is ________, 19______.

By: ______________________

(Name and title)

(Date)

FARMERS HOME ADMINISTRATION

By: ______________________

(Name and title)

(Date)

The rider shall be dated and signed by the borrower and the County Supervisor.

Section 5. Borrower will not permit any tenant to initially occupy a unit and receive rental assistance (or interest credit) if the number of authorized persons in the unit is less or in excess of the following:

<table>
<thead>
<tr>
<th>Occupants</th>
<th>Min. Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-bedroom</td>
<td>1-1</td>
</tr>
<tr>
<td>1-bedroom</td>
<td>1-2</td>
</tr>
<tr>
<td>2-bedroom</td>
<td>2-4</td>
</tr>
<tr>
<td>3-bedroom</td>
<td>4-6</td>
</tr>
<tr>
<td>4-bedroom</td>
<td>6-8</td>
</tr>
<tr>
<td>5-bedroom</td>
<td>8-10</td>
</tr>
</tbody>
</table>

Section 6. In the selection of tenants in the project that will receive rental assistance, the borrower agrees to comply with the Government priorities of selecting tenants. (See paragraph VI of Exhibit R to FmHA Instruction 444.5.)

Section 7. Provisions Applicable if Housing Owner is a Cooperative—(a) As used in this agreement the term “tenant or occupant” may mean a member of a cooperative, and the term “rent” shall mean the charges under the occupancy agreement between the member and the cooperative.

(b) A member of a cooperative that obtains approval for rental assistance shall be required, as a condition of receiving such, to agree that upon a sale of such membership any equity increment accumulated through rent supplement payments will be turned over to the cooperative and will be remitted to the Government.

Section 8. Renegotiation, Modification, Termination—If, at any time during the life of this agreement the Parties find that it would be to their best interests and to the best interests of the rental assistance program, the provisions of the agreement may be modified, amended, or the entire agreement be terminated, upon written agreement of the Parties.

Section 9. Term of the Agreement—(a) Definitions:

(1) New construction project as used in this agreement is any project for which a request for obligation of rental assistance is made prior to completion of the project and any unit in the project occupied. The project will continue to be considered new construction for the complete term of the initial rental assistance agreement.

(2) Existing project as used in this agreement is any project in which units have been occupied.

Section 10. Special Conditions. The following special conditions shall be applicable to this Agreement:

FmHA Instruction 444.5 Exhibit R-2 Page 5

(b) In the case of a new construction project this agreement is for a period of twenty (20) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending twenty (20) years from the effective date of the initial agreement.

(c) In the case of an existing project this agreement is for a period of five (5) years from the effective date mentioned in this agreement. The term of any attached rider which changes the number of units will be for the period beginning on the effective date of the rider and ending five (5) years from the effective date of the initial agreement.

(d) This agreement is not renewable. If a need exists for rental assistance beyond the term of this agreement the borrower may, prior to the termination date of this agreement, submit a Form FmHA 444-25, “Request for Rental Assistance.” If a new agreement is consummated it will be made for a period not to exceed five (5) years.

Section 12. Special Conditions. The following special conditions shall be applicable to this Agreement:

FmHA Instruction 444.5 Exhibit R-2 Page 5
<table>
<thead>
<tr>
<th>Number of units allocated for Fiscal Year 19</th>
<th>For Existing</th>
<th>For New</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrower name and case number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of projects</td>
<td>(21) Existing</td>
<td>(22) New</td>
</tr>
<tr>
<td>Total</td>
<td>(15)</td>
<td>(16)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number of units</th>
<th>Fund No.</th>
<th>Number of rental assistance</th>
<th>Effective F/O obligation date</th>
<th>Date of request</th>
<th>Agreement date</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>(9)</td>
<td>(10)</td>
<td>(11)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number</th>
<th>Date of obligation request</th>
<th>Agreement date</th>
</tr>
</thead>
<tbody>
<tr>
<td>(12)</td>
<td>(13)</td>
<td>(14)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number</th>
<th>Date of obligation request</th>
<th>Agreement date</th>
</tr>
</thead>
<tbody>
<tr>
<td>(12)</td>
<td>(13)</td>
<td>(14)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Number</th>
<th>Date of obligation request</th>
<th>Agreement date</th>
</tr>
</thead>
<tbody>
<tr>
<td>(12)</td>
<td>(13)</td>
<td>(14)</td>
</tr>
</tbody>
</table>
## REQUEST FOR OBLIGATION OF RENTAL ASSISTANCE

### Instruction for Preparation

Only an original copy need be maintained by the State Office. No signatures are required. The record will be maintained on a current basis to reflect data and status of requests. Each item should be completed as follows:

1. Enter the fiscal year.
2. Enter the number of existing units allocated to the state for use in the fiscal year indicated.
3. Enter the number of new construction units allocated to the state for use in the fiscal year indicated.
4. Enter borrowers name and case number.
5. Enter fund and loan code, such as 84-01. Use loan number of initial loans only.
6. Enter the total number of units in the project.
7. Enter number of existing rental housing units to obtain rental assistance.
8. Enter number of new rental housing units to obtain rental assistance.
9. Enter number of existing labor housing units to obtain rental assistance.
10. Enter number of new labor housing units to obtain rental assistance.
11. Enter “I” to indicate the initial transmittal for rental assistance. Enter “C” to indicate a request for a change in the number of previously authorized.
12. Enter the date that the Request for Obligation for Rental Assistance is prepared. The date shown must be the same as shown in item (17) of the FMI for Form FmHA 444-26.
13. Enter the date of obligation of the units after the Finance Office has acted on and returned Form FmHA 444-26. At the same time, correct Items (7), (8), (9), and (10) if previous entries differ.
14. Enter effective date as shown on Form FmHA 444-27, "Rental Assistance Agreement."
15. Enter the sum for each column.
16. Enter the number of units of rental assistance granted during the current fiscal year.
17. Enter the number of projects granted rental assistance during the current fiscal year.
18. Enter the number of existing units of rental assistance granted during the fiscal year. This is the sum of Items (16) and (18).
19. Enter the number of new construction units of rental assistance granted during the fiscal year. This is the sum of Items (17) and (19).

### As of this date, , this is notice to you that your application for financial assistance from the Farmers Home Administration has been approved as indicated on the reverse side of this form, subject to the availability of funds and other conditions required by the Farmers Home Administration.

### In Compliance:

I have reviewed the borrower's request for rental assistance for the project and request obligation or change in obligation for the above units.

**STATE CODE**

<table>
<thead>
<tr>
<th>BORROWER NAME</th>
<th>CASE NO.</th>
<th>FUND CODE</th>
<th>LOAN NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STATE CODE</strong></td>
<td><strong>(1)</strong></td>
<td><strong>(2)</strong></td>
<td><strong>(3)</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REQUEST FOR OBLIGATIONS: (To be completed only for initial obligation)</th>
<th>REQUEST FOR CHANGE OF OBLIGATION: (To be completed only for a change in obligation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEW PROJECT</td>
<td>EXISTING PROJECT</td>
</tr>
<tr>
<td>NUMBER OF UNITS IN PROJECT</td>
<td>NUMBER OF UNITS TO RECEIVE RENTAL ASSISTANCE</td>
</tr>
<tr>
<td>NUMBER OF UNITS TO RECEIVE RENTAL ASSISTANCE</td>
<td>ESTIMATED EFFECTIVE DATE OF RENTAL ASSISTANCE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NUMBER OF UNITS PREVIOUSLY OBLIG</th>
<th>CHANGE</th>
<th>NO. UNITS TO RECEIVE RENTAL ASSISTANCE</th>
<th>ESTIMATED EFFECTIVE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREVIOUSLY OBLIG</td>
<td>CHANGE</td>
<td>NO. UNITS TO RECEIVE RENTAL ASSISTANCE</td>
<td>ESTIMATED EFFECTIVE DATE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE OF ORIGINAL OBLIGATION</th>
<th>EFFECTIVE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE OF ORIGINAL OBLIGATION</td>
<td>EFFECTIVE DATE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFICATION:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have reviewed the borrower's request for rental assistance for the project and request obligation or change in obligation for the above units.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPROVAL DATE</th>
<th>SIGNATURE OF REQUESTING OFFICIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FINANCE OFFICE USE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The above units have been obligated</td>
</tr>
<tr>
<td>The above units were not obligated due to units not being available</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE OF OBLIGATION</th>
<th></th>
</tr>
</thead>
</table>
INSTRUCTIONS FOR PREPARATION

PROCEDURE REFERENCE: FnHA Instruction 444.5
PREPARED BY: State Director
NUMBER OF COPIES: Original and three
SIGNATURES REQUIRED: State Director

DISTRIBUTION OF COPIES:
- Original and one copy to the Finance Office;
- Copy to borrower at time of submission to the Finance Office;
- Copy to be retained in the State Office pending receipt of the approved request from Finance.

(1) Enter the state office code.
(2) Insert the borrower's name as it appears on the promissory note.
(3) Enter the borrower's case number using the first two boxes for state code, the next three boxes for county code, and the last ten boxes for the borrower number. All boxes should be completed.

Example: 1 6 1 0 | 0 | 1 1 | 6 | 0 | 1 2 | 3 | 4 | 5 | 6 | 7

(4) Enter the correct loan code, such as 84-01. The loan code for the request should be the code for the initial loan of the project.
(5) Indicate the total number of units under each category for which rental assistance is being requested. The total number will include those previously obligated and the change being requested if applicable.
(6) Indicate whether the project is new (no unit in the project has been occupied) or existing (one or more units in the project has been occupied).
(7) Enter the total number of units in the project.
(8) Enter the number of units to receive rental assistance.
(9) Indicate the estimated date on which rental assistance will be effective.

(10) Enter the number of units to receive rental assistance shown on the last approved request.
(11) Indicate the difference (+ or -) in the number of units receiving rental assistance.
(12) Enter the number of units now to receive rental assistance.
(13) Indicate whether the project was reported as new or existing on the last approved request.
(14) Enter the date of obligation as shown on the last approved request.
(15) Indicate the effective date of the initial rental assistance agreement.
(16) Insert the estimated effective date that the increase or decrease in number of units will be effective.
(17) Show the date the form was signed.
(18) Signatures of the requesting officials.
(19) Title of the requesting official.
(20) The Finance Office will indicate whether or not the units were obligated for rental assistance.
(21) Finance will indicate the date the units were obligated for the project.
(22) The reverse side of the form is to be completed and mailed to borrower before or no later than the time the forms are sent to the Finance Office.
INTEREST CREDIT AND RENTAL ASSISTANCE AGREEMENT

1. This Agreement to be effective on 1st day of , 19
   between the United States of America, acting through the Farmers Home
   Administration pursuant to Section 521 of the Housing Act of 1949, (herein
   called "the Government") and (33)
   (herein called "Borrower") supplements a promissory note in the principal
   amount of $ (4a), dated (4b) which was drawn in (53) a
   single advance (53), multiple advances.

2. Subject to the provisions of this agreement, the Government will compute
   interest on the Borrower's account at the rate specified for the plan
   of operation selected below:

   PLAN I. The effective interest rate is three (3) percent plus
   surcharge as determined by the Government formula or
   procedure based on the income of the family.

   PLAN II. For non-profit and limited profit type operation with or
   without a HUD Section 8 Housing Assistance Payments contract in
   effective on a part of the units in the project.
   The effective interest rate is one (1) percent plus all
   rental income over basic rent as determined by the Government
   formula or procedure for the program.

   PLAN III. For nonprofit and limited profit type operations
   utilizing the Rental Assistance Payments Program.
   The Government agrees to credit the account or make a cash
   payment to the borrower in accordance with Government formula
   and procedure for the program.

3. Borrower shall submit to the Government, as required by the Government
   in form prescribed or approved by it, proof of Borrower's income and
   expenses for the previous calendar year or other designated periods,
   and any information on the family size and income of the occupants
   of the housing financed with the loan evidenced by the note.

4. If the Government should determine that the Borrower has defaulted
   under any terms or conditions of this agreement, the note, Borrower's
   related Loan Resolution, and supplementary or related agreements,
   or any related security instrument, or violates any program
   regulations, at its option the Government may terminate this
   agreement as of any specified date following the default.

5. No credit to the Borrower's account provided for in paragraph 2
   shall be made following any termination date specified pursuant
   to paragraph 4.

6. The Government shall credit annually or more often to Borrower's
   account, and/or pay the borrower in case of rental assistance
   so long as there is no default in any obligation of Borrower
   to the Government, amounts equal to the difference, determined
   in accordance with a formula and procedure prescribed by the

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
Government, between the payment that would be required in accordance with the terms of the note and the payment required under such formula and procedure.

7. No terms or conditions of the note or any related security or other instrument shall be affected by this agreement except as expressly set forth herein.

8. This agreement is subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

9. Upon request, the borrower will permit representatives of FmHA (or other agencies of the Department of Agriculture authorized by the Department) to inspect and make copies of any records of borrower pertaining to FmHA loans and this agreement.

10. If the borrower has received any excessive credit or payment, in addition to any other rights of recovery, the Government may deduct the amount from any subsequent credit or payment.

(CORPORATE SEAL)        

(NAME OF BORROWERS) 

(SIGNATURE & TITLE OF EXECUTIVE OFFICIAL) 

(SIGNATURE OF ATTESTING OFFICIAL) 

(STATE, COUNTY, ZIP CODE) 

UNITED STATES OF AMERICA 

FARMERS HOME ADMINISTRATION 

By (TITLE) 

(DATE OF EXECUTION) 

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

FORMS MANUAL INSERT FOR FORM FmHA 444-7

PROCEDURE REFERENCE 

PREPARED BY 

NUMBER OF COPIES 

SIGNATURES REQUIRED 

DISTRIBUTION OF COPIES 

INSTRUCTIONS FOR PREPARATION

(1) Insert (a) State and (b) County in which property is located, (c) borrower's case number, (d) borrower's loan code, and (e) check type of loan.

(2) Insert date the Agreement is effective which is the first day of the month of execution.

(3) Type name of borrower as it appears in the promissory note.

(4a) Insert amount of loan in figures as shown in the promissory note.

(4b) Insert the date of the promissory note.

(5) Check whichever is appropriate: single or multiple advances.

(6) Check appropriate block to indicate the Plan the borrower will follow. When "Plan II RA" or "RA" is checked indicating that rental assistance is available to the project, Form FmHA 444-27, "Rental Assistance Agreement", will be completed and attached to the borrower's and County Office copy of this form.
PROPOSED RULES

(7) Insert the effective interest rate which is applicable to the loan.

(a) For a project with all units under Section 8, the interest rate may be reduced by 1 or 2 percentage points below the note rate of interest in accordance with Farmers Home Administration Instruction 444.5.

(b) For a mixed project operating for profit the interest rate may be reduced a proportionate part of 1 or 2 percentage points in accordance with Farmers Home Administration Instruction 444.5. The proportionate amount of 1 or 2 percent (as appropriate) will be in direct ratio as the number of units under Section 8 are to the total units in the project.

(8) Same as (3).

(9) Signature of official of organization authorized to sign.

(10) Insert title of official signing the agreement.

(11) Signature of attesting official.

(12) Insert title of attesting official.

(13) Insert address of borrower.

(14) Signature of Farmers Home Administration official.

(15) Insert title of Farmers Home Administration official.

(16) Insert date the agreement is executed. If the borrower is to receive interest credit, this agreement should not be executed until the provisions of Exhibit J of Farmers Home Administration Instruction 444.5 are met. In other cases the agreement will be executed at the same time Form Farmers Home Administration Instruction 444-27 (Exhibit R-2) is executed.


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

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. The proposals contained in this notice may be changed in the light of comments received. All communications will be available, both before and after the closing date for comments, in the rules docket, for examination by interested persons. A report summarizing each public contact with PAA personnel concerned with this rule making will be filed in the public regulatory docket. Persons desiring copies of this NPRM should contact:


DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration [14 CFR Part 39] [Docket No. 77-NE-16]

AIRWORTHINESS DIRECTIVES

Sikorsky 5-58 Model Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Airworthiness Directive 74-15-96, as amended, to require removal of magnesium tail rotor input and intermediate housings, aluminum input and intermediate housings, and/or housings of the * * *: *

In addition, a minor typographical error is also corrected. A reference paragraph (D(3)) has been changed to (A(1)).

DRAFTING INFORMATION

The principal authors of this document are Martin Buckman, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2447 (FR 56883), AD 74-15-06 as follows:

1. Change second sentence of first paragraph by adding "equipped with magnesium input and/or intermediate housings" to read as follows:

"Applies to all 5-58 model series helicopters equipped with magnesium input and/or intermediate housings."

2. Change compliance paragraph to include "magnesium" before "input and/or intermediate housings" to read as follows:

"Compliance required as indicated unless otherwise accomplished. To preclude failure of the magnesium input and/or housings the * * *: * * *: *

3. Change paragraph 4 to read "Section 2, paragraph (A(1)) instead of "Section 2, paragraph D(3)."

4. Change existing paragraph No. 6 to 7.

5. Substitute a new paragraph 6:


NOTE—Sikorsky Service Bulletin No. 58755-25 covers this subject.

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AD 74–15–06, Amendment 39–2447 (40 FR 56883); appeared in the Federal Register on December 5, 1976, and became effective on December 10, 1976. The AD was issued to require one-time and repetitive inspections of housings in the tail rotor gearbox and its attaching hardware. At the time, the input and intermediate housings were being redesigned as aluminum castings with local reinforcement at a critically stressed area of the intermediate housing. As the strengthened housings are now in production, and since the inspections have not been completely successful in preventing failures, AD 74–15–06 is being revised to require removal of magnesium tail rotor input and intermediate housings and replacement with the new stronger aluminum housings.

In addition, a minor typographical error is also corrected. A reference paragraph (D(3)) has been changed to (A(1)).
under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.


William E. Crossby,
Acting Director,
New England Region.

[14 CFR Part 71]
[Airspace Docket No. 77-SW-38]

TRANSITION AREA
Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a transition area at Mexia, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Mexia-Limestone County Airport, using the newly established NDB located on the airport. Coincident with this action, the airport will be changed from VFR to IFR.

DATES: Comments must be received by October 17, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1619, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1688, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Mexia, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED
Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM
Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1688, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL
The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Mexia, Tex. The FAA believes this action will enhance IFR operations at the Mexia-Limestone County Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION
The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT
Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Mexia, Tex., transition area as follows:

MEXIA, TEX.

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (latitude 31°58'30" N., longitude 96°30'52" W.) and within 2.5 miles each side of the 185° bearing from Subpart G 71.181 (42 FR 440) extending from the 6.5 radius area to a point 12 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (40 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

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

Issued in Fort Worth, Tex., on September 1, 1977.

Paul J. Baker,
Acting Director,
Southwest Region.

[14 CFR Part 91]
[Docket No. 135 "7; Reference Notice No. 74-8]

TWO-WAY RADIO COMMUNICATIONS FAILURE DURING IFR OPERATIONS

Withdrawal of Proposal for Pilot's Transmisson of the Approach Clearance Time Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rule making.

SUMMARY: This notice withdraws Notice No. 74-8, that was published in the Federal Register on February 26, 1974 (39 FR 7431). That notice proposed amending the Federal Aviation Regulations (FARs) to provide that a pilot flying under Instrument Flight Rules (IFR), who loses two-way radio communications after receiving a holding instruction and an expected approach clearance time, must commence the approach at the expected approach clearance time received. This withdrawal is issued since the subject of two-way radio communications failure during IFR operations will be further handled under the Federal Aviation Administration's Part 91, Subpart B, Regulatory Review Program. All prior comments received will be considered during the Regulatory Review Program.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Section 91.127 of Part 91 prescribes the flight procedures that a pilot, flying under Instrument Flight Rules, should follow after his two-way radio communication with Air Traffic Control (ATC) has failed. Paragraph (e) (4) of that section provides, among other things, that if a pilot's two-way radio communications fail after he has received holding instructions and an expected approach clearance time, he shall "leave the hold-
PROPOSED RULES

THE WITHDRAWAL

For the reasons stated above, Notice 74-8, published in the Federal Register on February 26, 1974 (39 FR 7431) is hereby withdrawn, effective immediately.

(Sec. 307, 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1394, 3854(a) and 1421); and sec. 6(c), Department of Transportation Act (49 U.S.C. § 1667(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11291, as amended by Executive Order 11949, and OMB Circular A-4.  

Issued in Washington, D.C., on September 7, 1977.

GLEN D. TIGNER,  
Acting Director,  
Air Traffic Service.

[FR Doc. 77–26612 Filed 9–14–77; 8:45 am]

CIVIL AERONAUTICS BOARD  
[14 CFR Part 241]  

ACTION: Notice of proposed rulemaking.

SUMMARY: The Aviation Consumer Action Project (ACAP) has asked the Board to require the airlines to report the amount of money they spend on lobbying and institutional advertising, and not to permit the airlines to pass these costs on to their passengers. This notice proposes to amend the Board's accounting and reporting regulations to require the airlines to report all lobbying expenses in a separate nonoperating account. The FAA has determined that this action is not a significant regulatory action under Executive Order 12291.

DATES: Comments by October 14, 1977.

ADDITIONAL: Comments should be sent to Docket 30240, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1225 Connecticut Avenue, NW, Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:  

SUPPLEMENTARY INFORMATION: ACAP represents that the certificated air carriers spend large sums for lobbying and institutional advertising both on their own and through their trade associations, the Air Transport Association of America (ATA). While acknowledging that the ATA budget does not specify lobbying expenses, ACAP states that ATA minutes filed with the CAB indicate that the majority of ATA's objectives for 1976 would require some changes in federal or state law, and concludes that ATA's lobbying efforts are significant, even under the standards of the 1946 Lobbying Act, the carriers admit paying corporate officers, law firms and public relations consultants to lobby.

Section 1302(a)(2) of the Federal Aviation Act of 1958 provides that the Board, in exercising its ratemaking powers, shall consider among other factors "(1) the need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service," ACAP argues that, in accordance with this provision, expenditures relating to lobbying should not be included in the costs allowable for ratemaking purposes, but instead, should be classified as "nonoperating expenses." Part 241, Section 8(d), of the Board's Economic Regulations (14 CFR Part 241) distinguishes between operating and nonoperating expenses as follows:

(2) Operating Expenses. (i) All revenues and expenses attributable to the provision of air transportation services for compensation. (ii) Other revenues and expenses which are extraneous to and not an integral part of air transportation services.

ACAP argues that lobbying is clearly conducive to the provision of air transportation services for compensation. According to ACAP, expenditures in pursuit of such goals as "defeating proposals authorizing low cost charter service, capturing special corporate tax benefits and heading off regulatory reform" further the interests of corporation officers and stockholders and afford no benefit whatsoever to airline customers. These expenditures should not be classified as operating expenses and thus included in the fares charged to passengers.

The Board has considered these arguments and finds that estimates of lobbying expenses are best treated as nonoperating expenses. The Board finds the regulations for distinguishing between operating and nonoperating expenses to be adequate for the task.

As announced in the Federal Register on May 30, 1977 (42 FR 28390), the Board has scheduled a program conference for September 11-15, 1977. It will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va. On September 13, the conference hours will extend from 9 a.m. to 5 p.m. and, on all other days, from 8:30 to 5 p.m. There is no admittance fee or other charge to participate in the conference. All conference sessions will be open on a space available basis, to all interested persons who register to attend.

DRAFTING INFORMATION

The principal authors of this document are Cathy Carroll, Air Traffic Rules Division, and Gloria J. Willingham, Office of the Chief Counsel.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
and practices of several states, the Federal Power Commission, and the Federal Communications Commission, as further support for its position.

The Federal Power Commission (FPC) segregates lobbying expenses and requires these expenses to be treated as nonoperating expenses in interstate ratemaking, and does so under its jurisdiction to require the disclosure of lobbying expenses. The uniform system of accounts prescribed by the FPC was adopted in Regulation FPC Form 1.4, "Expenditures for Certain Civic, Political and Related Activities" which states:

This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances, or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations. 4

The Federal Communications Commission (FCC) recently required certain carriers under its jurisdiction to disclose lobbying expenses for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances, or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations. 4

ACAP requests that a new nonoperating account, "Lobbying and Legislative Public Relations," be defined in the Board's Uniform System of Accounts, and that the carriers be required to allocate expenses for the purpose of influencing public officials, legislation or appointment of public officials, with respect to the federal or state legislation." To this account, ACAP suggests that this account be modeled after the FCC account 426.4 and that a report form formulated by the FCC and approved by the Board be used. The report form is attached as Appendix B. ACAP notes that certain member carriers have not been reporting lobbying expenditures. In order to close this gap we are proposing to amend the reporting instructions of Article 426.4 to require the disclosure of lobbying expenses. In light of this increasing public concern and in response to ACA's Report and Order requesting relief in this area, we have decided to propose an amendment to the Board's accounting and reporting requirements which would require the certificated air carriers to allocate all expenditures related to lobbying activity to a new nonoperating account, thus excluding these expenditures from the costs allowable for ratemaking purposes. We have decided to consider the issue of the ratemaking treatment of advertising expenses in a separate advance notice of proposed rulemaking.

The Board is of the tentative view that the costs of advancing corporate or other interests should be borne by stockholders and not by airline passengers and shippers. Although these expenses may in fact be ordinary and necessary business expenses, as ATA argues, the Board does not have statutory mandate to allow all such expenses for ratemaking purposes. In the "Domestic Passenger Fare Investigation," the Board affirmed its right to establish ratemaking standards for determining the revenue needed for the provision of adequate and efficient service under section 1002(e). The application of these standards results in the disallowance of certain expenses incurred by the airlines in the course of conducting operations not directly related to the business of airlines.

We propose to establish a new objective nonoperating Account 89.2 "Lobbying" to include all costs expended for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing laws or ordinances); or for the purpose of influencing the decisions of public officials, with the exception of costs directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations. We are also proposing to amend the reporting instructions of Article 89 "Memberships" to include lobbying expenditures for the purpose of influencing the public to support the air carrier's existing or proposed operations. We propose to amend the reporting instructions of Account 89.2 "Lobbying" to include all costs expended for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing laws or ordinances); or for the purpose of influencing the decisions of public officials, with the exception of costs directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations. We propose to amend the reporting instructions of Account 89.2 "Lobbying" to include all costs expended for the purpose of influencing legislators and/or public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new or repeal or modification of existing laws or ordinances); or for the purpose of influencing the decisions of public officials, with the exception of costs directly related to appearances before regulatory or other governmental bodies in connection with the air carrier's existing or proposed operations.

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in response to this notice to suggest reasonable means for minimizing the administrative problems inherent in any allocation process. We also invite suggestions and discussions of feasible methods for allocating various lump sum payments, such as ATA membership dues, other ATA assessments, and outside counsel fees, between lobbying and other activities. The Board is particularly interested in developing a practicable mechanism for determining the proportions of carrier payments to ATA which are related to expenditures for lobbying activity, and should, therefore, be allocated to a nonoperating account.

**Proposed Rule**

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend Section 7—Chart of Profit and Loss Accounts, to read in pertinent part as follows:

   **SECTION 7—Chart of profit and loss accounts**

   **Functional or financial activity to which applicable (00)**

   **Group I carriers**
   - 89 Other nonoperating income and expenses—net
   - 88.7 Income from nontransport ventures
   - 88.8 Intercompany transaction adjustment—credit
   - 88.9 Other miscellaneous nonoperating credits
   - 88.10 Lobbying
   - 89.1 Intercompany transaction adjustment—debit
   - 89.2 Other miscellaneous nonoperating debits

   **Group II carriers**
   - 88.0 Income from nontransport ventures
   - 88.1 Intercompany transaction adjustment—credit
   - 88.2 Other miscellaneous nonoperating credits
   - 88.3 Lobbying
   - 89.1 Intercompany transaction adjustment—debit
   - 89.2 Other miscellaneous nonoperating debits

   **Group III carriers**
   - 88.0 Income from nontransport ventures
   - 88.1 Intercompany transaction adjustment—credit
   - 88.2 Other miscellaneous nonoperating credits
   - 88.3 Lobbying
   - 89.1 Intercompany transaction adjustment—debit
   - 89.2 Other miscellaneous nonoperating debits

**INCOME TAXES**

See Section 12—Chart of Operating Income and Expenses by revising account 84 to read as follows:

**Section 12—Chart of Operating Income and Expenses**

- 64 Memberships
  - Record here the cost of membership dues in trade associations, chambers of commerce, or other business associations and organizations together with related special assessments. That portion of membership dues and related special assessments, defined as lobbying expenses shall not be charged to this account but to nonoperating income and expense account 89.2 Lobbying.

**Section 14—Chart of Operating Income and Expenses**

- 89 Miscellaneous Nonoperating Debts
  - (a) Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; costs related to property held for future use; donations for charitable, social, or community welfare purposes; costs of lobbying; losses on reacquired and retired or resold debt securities of the air carrier; losses on uncollectible nonoperating receivables or accruals for uncollectible nonoperating receivables; and intercompany debt adjustments. This account shall be charged with amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjust-
PROPOSED RULES

of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the

Docket Section, without having to file additional copies.

(Secs. 204, 403, 404, 407 and 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, 766, and 788, as amended (49 U.S.C. 1324, 1373, 1374, 1377, 1482; and 5 U.S.C. 552))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, Secretary.

APPENDIX A

<table>
<thead>
<tr>
<th>Item</th>
<th>Quarter</th>
<th>12 Months to Date</th>
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<tbody>
<tr>
<td>TRANSPORT REVENUES</td>
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<td>Passenger-airline, 1st class</td>
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<td>Passenger-airline, non-first class</td>
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<td>Charter and specialized</td>
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<td>Nonreimbursed operating revenues</td>
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<td>Total interline revenue (Schedule P-1)</td>
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<p>| DEPRECIATION AND AMORTIZATION | | |</p>
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<tr>
<td>Ob. and exp. - deprec., ports (per Sec. P-5)</td>
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<td>Depreciation - equipment, intangibles</td>
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<tr>
<td>Depreciation - airports</td>
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<tr>
<td>Depreciation - general plant property</td>
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<tr>
<td>Depreciation - total, less</td>
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<p>| NONOPERATING INCOME AND EXPENSE NET | | |</p>
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<th>12 Months to Date</th>
</tr>
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<tr>
<td>Interest income - investment in bonds</td>
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</tr>
<tr>
<td>Interest income - investment in debentures</td>
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</tr>
<tr>
<td>Interest income - investment in other securities</td>
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<td>13.4</td>
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<tr>
<td>Interest income - total income from investment in securities</td>
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<td>Income from nontransport services</td>
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<td>Gross income</td>
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<tr>
<td>Net income</td>
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<tr>
<td>Net income from nontransport services</td>
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</tr>
<tr>
<td>Income from nontransport services</td>
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<tr>
<td>Dividends</td>
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<tr>
<td>Imputed interest</td>
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<tr>
<td>Total interest</td>
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</tr>
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</table>

C & B Form 41
(Rev. 7-77)

All identifiable expenditures for the purpose of influencing the public to support the Consumer Communications Reform Act shall be charged to account 333, "Miscellaneous Income Charges," and shall be reported. Such expenditures include:

(a) Costs of preparing and printing statements or pamphlets addressing the Consumer Communications Reform Act urging shareowners, employees or customers to support the legislation.

(b) Postage or distribution costs when such material is mailed or otherwise distributed as communication to shareowners, employees or customers.

(c) Costs for media advertising, meetings, speeches or fees to consultants for promoting the Consumer Communications Reform Act.

(d) Salaries, travel and other expenses of employees who prepare, distribute or promulgate material to promote the Consumer Communications Reform Act through shareowners, employees, customers or the public in general.

(e) Salaries, travel and other expenses of employees who, while not assigned solely to this program, incur such expenses on behalf of it.

If portions of any published or printed material are devoted to the above activities, where such proportion is 10% or more of the content of the material, the appropriate share of the costs shall be identified and reported.

Salary costs shall be identified and accounted for in those cases where an average of one hour or more weekly is routinely devoted to such efforts; or in the case of random activities, whenever any individual employee devotes as much as five hours in any bi-weekly period to such efforts. In the case of employee group meetings designed to promote the legislation, the salaries and/or wages of all employees shall be allocated where any such meeting is of 1/2 hour or more in duration.

The reports shall also include the costs of preparing testimony and testifying before legislative bodies in connection with the Consumer Communications Reform Act.

Items of a strictly informative character, such as reports of the status of the legislation, are not required to be reported.
### Analysis of Costs - Domestic Operations

for the 12 months ended December 31, 1976

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Lobbying Costs</th>
<th>Regulatory Costs</th>
<th>Cost of ATA Related Activities</th>
<th>Remaining Balance in Form 41 Account</th>
<th>Synopsis of types of items included in remaining balance</th>
<th>Total per Form 41</th>
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</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

1/ When statistical sampling or estimating is used in the analysis of costs, a footnote describing the procedures and assumptions should be attached.

2/ If the total amount of the column includes other than annual dues, report the amount of annual dues and a synopsis of the types of other payments in a footnote.

3/ These columns should be used to report expenses in cases where one or more carriers pay for services which are shared by other carriers and is reimbursed by those carriers.
Notes to Analysis of Costs

1. Cost to:

Prepare this report
Direct Labor $
Data Processing $
Printing/Copying $
Overhead $

Screen this data on a recurring basis

[FR Doc.77-26721 Filed 9-14-77;8:45 am]
[ 14 CFR Parts 241, 399]
[EDR-335/PDOR-50; Docket No. 31333;
Dated: September 1, 1977]

CERTIFICATED AIR CARRIERS

Appropriate Treatment of Advertising Expenses for Ratemaking Purposes

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Aviation Consumer Action Project (ACAP) has asked the Board to require the airlines to report the amount of money they spend on lobbying and institutional advertising, and not to permit the airlines to pass these costs on to their passengers. This advance notice affords the Board the opportunity to receive comments and additional information and proposals prior to formulating a specific proposed rule.

ACAP argues that institutional advertising is a lobbying activity and thus expenditures for this type of advertising should be eliminated from the costs allowable for ratemaking purposes. ACAP defines institutional advertising as advertising which is designed "to create, enhance, or sustain an airline's image or goodwill in regard to the general public or its customers." ACAP contrasts this with information advertising which is designed to attract passengers by telling them about schedules, prices and other airline services. ACAP contends that all advertising by the air carriers' trade association, the Air Transport Association of America (ATA), is institutional advertising.

ACAP seeks support for its position in the fact that public utility commissions in eight states have prohibited or restricted promotional and institutional advertising. ACAP notes that in disallowing the cost of promotional, community affairs, and image advertising the Arkansas Public Service Commission declared: "It is the opinion of this Commission that these expenditures are made for purposes which offer no direct benefit to the ratepayer. They will, therefore, be removed as expense items in the operating income statement submitted."
ATA has filed a response in opposition to ACAP's petition on its own behalf and that of certain member carriers. ATA contends that the treatment afforded advertising expenses by state public utility commission is in no way relevant here since the airline industry, in contrast to public utility companies, is not governed by the rate of return and is characterized by intra-industry and intermodal competition.

We find that the concept of institutional advertising is not well developed in ACAP's petition, nor does ACAP's material indicate its regular use. We have particular difficulty with institutional advertising as defined by ACAP, insofar as this definition does not provide a clear set of criteria for distinguishing between institutional and informational advertising. The series of ATA advertisements which ACAP offers as an example of institutional advertising characterizes advertising which attempts to divert passengers from one air carrier to another as "modal." Since it appears that ACAP would characterize advertising which attempts to divert passengers from other modes should not be considered institutional advertising.

Formulation of a proposed rule would require a clear definition of institutional advertising. Carriers may complete the attached form for the analysis of advertising expenses, Appendix A, to assist the Board in this regard. The instructions for completing this form include definitions for informational, promotional and institutional advertising in order to insure comparability of data among carriers. These definitions are by no means final, however, and we expect the response to this advance notice to include suggestions for refinements.

As a practical matter, any regulation requiring the separate disclosure of expenditures for institutional advertising could be difficult to administer, since any classification of advertising expenses according to type would be somewhat judgmental, even if the various types of advertising are clearly defined. In light of this, we have decided to seek comments and additional information before taking any action to require the exclusion of institutional advertising expenses from the costs allowable for ratemaking purposes.

The Board also intends to consider a broader approach to the ratemaking treatment of advertising costs by exploring the desirability of establishing a ratemaking standard for these expenses. The Board currently determines the reasonableness of the passenger fare level on the basis of costs which reflect the application of ratemaking standards such as the 55.0 percent load-factor standard and seating configuration standards. A ratemaking standard for advertising expense would be designed to ensure that the users of air transportation are not burdened by advertising costs in excess of what is required to inform airline customers of prices and services and to allow the carriers to operate effectively in a competitive environment. We invite comments on the desirability of establishing a ratemaking standard for advertising expenses as an alternative to requiring the disclosure of institutional advertising expenses in a non-operating account.

In sum, the Board expects comments in response to this advance notice to: (1) Define institutional advertising and discuss the extent to which this type of advertising should be considered a lobbying activity; (2) discuss whether institutional advertising expense should be treated as a non-operating expense and thus excluded from costs for ratemaking purposes; (3) discuss the merits of establishing a ratemaking standard for advertising expenses; and (4) the problems involved in deciding how much advertising is desirable in light of the fact that advertising and promotion are necessary if there is to be effective competition and for the introduction of new routes and experimentation with new rates and fares.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subject discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form in the Docket Section, without having to file additional copies.


By the Civil Aeronautics Board.

Phyllis T. Kaylor, Secretary.
### Analysis of Costs - Domestic Operations

**for the 12 months ended December 31, 1976**

<table>
<thead>
<tr>
<th>Form 41 Objective Account No.</th>
<th>Advertising Remaining Balance in Form 41 Account</th>
<th>Synopsis of types of items included in remaining balance per Form 41</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Institutional</td>
<td>Informational</td>
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<td>T.V.</td>
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<td>Radio</td>
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<td>Newspaper</td>
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<td>Magazine</td>
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<tr>
<td>Other</td>
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<tr>
<td>Total</td>
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</tr>
</tbody>
</table>

### Analysis of Advertising Costs by type of media used:

- **T.V.**
- **Radio**
- **Newspaper**
- **Magazine**
- **OAG**
- **Telephone Directory**
- **Other**
- **Total**

1/ When statistical sampling or estimating is used in the analysis of costs, a footnote describing the procedures and assumptions should be presented.

2/ For this report only, advertising costs should be categorized according to the definitions of institutional, informational and promotional advertising given on page 2, this Appendix. If you believe an advertisement fits more than one of the categories listed, include those costs in only one category, and indicate in a footnote the amount, in which category it is included and the elements of the advertisement that cause you to believe it fits in more than one category.
APPENDIX A
Page 2 of 2 pages

PROPOSED RULES

Definition of Terms for Use Only
on this Appendix

INSTITUTIONAL ADVERTISING - public communications of all kinds designed to create, enhance, or sustain an airline's corporate image or goodwill as viewed by the general public or its customers.

INFORMATIONAL ADVERTISING - public communications designed to inform passengers or shippers about flight times, prices, or other services offered by the airline.

PROMOTIONAL ADVERTISING - public communications designed to attract passengers or shippers from other air carriers or modes of travel to the advertising carrier.

Notes to Analysis of Costs

Cost to
Prepare this Report Direct Labor $________ Data Processing $________ Printing/Copying $________ Overhead $________

Screen this data on a recurring basis $________

TENNESSEE VALLEY AUTHORITY [18 CFR Part 304]
STRUCTURES ON TENNESSEE RIVER SYSTEM

Amendments to Regulations Governing Approval of Construction and Regulation of Structures or Activities which may result in any “discharge” into “navigable waters” of the United States, as those terms are defined in the Federal Water Pollution Control Act Amendments of 1972 (FWPCA). The only exceptions to this prohibition are applications which involve marine toilets. Under the proposed § 304.101, authority to approve or disapprove all applications will be delegated to TVA’s Director of Property and Services.

A second change is the addition of a new subsection (c) to § 304.103 in order to make it explicit that each flotation device subject to the regulations must be firmly affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave, wash and weather conditions. If this is not done, individual flotation devices will escape, causing a navigation hazard to vessels on TVA reservoirs.

Another alteration contained in the proposed amendments concerns § 304.108 (c), which currently provides that plans for fixed boathouses, piers, and docks will not be approved if they include toilets, living or sleeping quarters, or enclosed spaces with floor area in excess of 25 square feet. Floating boathouses are similarly restricted by the terms of § 304.204. In order to make coverage complete, the scope of this prohibition will be expanded to cover floats, rafts, and all other structures subject to approval under section 26a except those structures which are subject to section 26a only because they are located upon land subject to TVA flowage easements as provided in § 304.109. At the same time the present authority of the Director to modify these restrictions for piers and docks which are a part of public or commercial recreation facilities is to be expanded to any structure, not just piers and docks, and to any public or commercial facility, not just recreational ones.

In the course of reorganizing § 304.109 for greater clarity and simplicity, it was redrafted to apply to flowage easements on all TVA reservoirs instead of Fort Loudoun and Douglas Reservoirs only. Experience has shown that, although to a lesser extent, problems do occur on the flowage easements for the other reservoirs and this change will provide uniform application and facilitate a more complete implementation of TVA’s policies of flood damage prevention and water pollution control. The special provision under which the Director could exempt certain structures from the effect of the section if he determined that they were not subject to serious damage from flooding has been deleted. The provision was of little benefit to applicants because in order to determine essentially for flood damage the Director needs nearly as much information from them as for a regular approval, and in addition there is the possibility that a structure could be in close proximity to the reservoir itself and yet hamper the effectiveness of the reservoir under emergency conditions.

The final major proposed alteration concerns the definition of navigable houseboats in § 304.201. Currently, a houseboat may qualify as navigable if it is on a boat hull, pontoons or “other comparable flotation devices,” but there is no provision as to the alignment or the shape of the flotation devices. Yet, if they are placed crosswise to the direction of travel or are not shaped to facilitate movement through the water, they are likely to come loose and escape, endangering the craft being supported and creating navigation hazards for other vessels on the reservoir. These rules were also intended to prevent houseboats which have qualified as navigable under the current regulations, but would not under the proposed amendments, are to continue to be treated as navigable for all purposes except for being subject to the prohibition in § 304.230 (d) against replacing or rebuilding nonnavigable houseboats.

These amendments are proposed pursuant to section 26a of the Tennessee Valley Authority Act of 1933, as amended. Interested persons may submit written data, views, arguments, comments, or objections in regard to the proposed rulemaking, preferably in duplicate, to the Tennessee Valley Authority, Attention: Office of the General Counsel, 400 Commerce Avenue, Knoxville, Tenn. 37902.
PROPOSED RULES

All relevant material received not later than October 17, 1977, will be considered prior to the adoption of a final rule. Revisions may be made in the rule as finally adopted in the light of material received. Copies of all material received will be available for public examination during regular business hours at the following locations:

TVA Technical Library, Room E2A1, 409 Commerce Avenue, Knoxville, Tenn.
TVA Technical Library, Room 100, 401 Building, Chattanooga, Tenn.
TVA Technical Library, Room 100, National Fertilizer Development Center, Muscle Shoals, Ala.
TVA Technical Library, Forestry Building, Norris, Tenn.

Accordingly 18 CFR Part 304 is proposed to be amended as follows:

1. The Table of Contents to Part 304 is amended to read:

TABLE OF CONTENTS

Section 26a of the TVA Act, as amended:

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Subpart A—General Requirements

Sec.
304.1 Definitions.
304.2 Scope and intent.
304.3 Flotation devices and material.
304.4 Treatment of sewage.
304.5 Removal of unauthorized or unsafe structures.

Subpart B—Approval of Construction

304.100 Scope and intent.
304.101 Delegation of authority.
304.102 Application.
304.103 Contents of application.
304.104 Determination of application.
304.105 Appeal.

304.106 Conduct of hearings.
304.107 Grounds for denial.
304.108 Notice of approval.
304.109 Habitable and certain other enclosed structures within the flow area of real property of TVA reservoirs.

Subpart C—Regulation of Boathouses, Houseboats, Floating Structures, and Harbor Limits

304.200 Scope and intent.
304.201 Definitions.
304.202 Designation of harbor areas at commercial boat docks.
304.203 Houseboats.
304.204 Floating boathouses.
304.205 Approval of plans for floating boathouses and nonnavigable houses.
304.206 Numbering and transfer of approved facilities.

AUTHORITY—33 U.S.C. secs. 831-831d.

2. Section 304.1 is amended to read:

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

Act means the Tennessee Valley Authority Act of 1933, as amended.

Applicant means the person, corporation, State, municipality, political subdivision or other entity making application.

Application means a written request for approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

Board means the Board of Directors of TVA.

Director means the Director of the Division of Property and Services of TVA.

TCA means the Tennessee Valley Authority.

b: (b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to October 17, 1977, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoon, boat hull, or other buoyancy devices made of steel, aluminum, fiberglass or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be permanently affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave and weather conditions.

5. Section 304.4 is amended to read:

§ 304.4 Treatment of sewage.

No person operating a commercial boat dock or on or over real property of the United States in the custody and control of TVA on or over which TVA has responsibility for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part, shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

6. Section 304.5 is amended to read:

§ 304.5 Removal of unauthorized, unsafe, and deteriorate structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or not maintained in accordance with plans approved by TVA, or is not maintained or operated so as to maintain in accordance with plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner or operator of the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or maintained in violation of any such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.
§ 304.100 Scope and intent.

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

8. Section 304.104 is amended to read:

§ 304.104 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.105. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Property and Services.

9. Section 304.102 is amended to read:

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Property and Services, Knoxville, Tenn. 37902.

10. Section 304.103 is amended to read:

§ 304.103 Contents of application.

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing an Application for An Approval or Plans for Proposed Structures Under Section 26a of the Tennessee Valley Authority Act." These instructions require that the application include, among other things: (1) Accurate maps showing the exact location where the structure is to be built, moored, or installed, (2) plans, including layout, in scale, of the proposed structure, (3) statements of the plans formulated for the maintenance and operation of the structure when completed, (4) sufficient information to describe adequately all of the persons, corporations, organizations, agencies or others who propose to construct, own and operate such structure, and (5) a report of the anticipated environmental consequences resulting from the construction, operation and maintenance of the proposed structure. This report of anticipated environmental consequences shall include a discussion of: (i) The probable impact of the proposed structure on the environment; (ii) any probable adverse environmental consequences which cannot be avoided; (iii) alternatives to the proposed structure; (iv) the relationship between the local sources, the environment and the maintenance of long-term productivity which will result from the proposed structure; and (v) any significant or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b), the applicant must file with the application, in addition to the material required by paragraph (a) of this section, a certification from the Administrator of the Water Pollution Control Agency that the proposed or existing use of the proposed structure will not adversely affect the environmental quality which will result from the discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

9. Section 304.105 is amended to read:

§ 304.105 Determination of application.

(a) The Division of Property and Services conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement is required under NEPA, and of what additional information must be submitted to TVA by the applicant so that TVA may comply with the requirements of that statute and the FWPCA; and notifies the applicant if preparation and review of a report of the anticipated environmental consequences resulting from the construction, operation of the proposed structure is required. If a report of the anticipated environmental consequences is required under NEPA, the Director may refer any application to the Environmental Protection Agency for review, or the Division of Property and Services may refer any application to the Environmental Protection Agency for review, or the Division of Property and Services may request the Environmental Protection Agency to perform any of its functions under NEPA, if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting documents, the report of investigation, the transcript of the hearing or hearings, if any, held, the recommendations of other agencies, the intent of this part, and the applicability of the provisions of the TVA Act, the FWPCA, NEPA, and other applicable laws or regulations. If the Director approves an application under NEPA, he shall furnish a written statement as to the findings of the Director approving an application rendering a decision on NEPA, and a copy of the environmental statement or the NEPA Findings and Recommendations, if any, submitted under NEPA to the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharge. A party of record to any hearing before the Director who is aggrieved by any determination of the Director approving an application may obtain review by the Board of such determination by written request addressed and mailed within thirty (30) days after receipt of notification of such determination. In such review the Board may refer any application to the Director for determination of the Director disapproving the application.

(b) If the Director disapproves an application, the applicant shall be notified by the Board to the Director, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

12. Section 304.106(a) and (b) are amended to read:

§ 304.106 Appeals.

(a) If the Director disapproves an application, the application shall be addressed to the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

(b) If an approval is granted under § 304.103(b), the Director, upon request of the applicant, shall notify the Environmental Protection Agency and the states and local governments in which any part of the proposed structure is located of the approval and certify that a proper hearing has been held. In such case the Director may be called "the Agency" in any subsequent action by the states or local governments for review of the approval or any part of the proposed structure.

13. Section 304.108(b) and (c) are amended to read:

§ 304.108 Conditions of approvals.

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate is required on the basis of compliance with environmental quality standards has been obtained pursuant to the FWPCA and no additional or other Federal permit or license is required for
operation of such structure or facility, the holder of the TVA approval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in §304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boat houses, floats, or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or motor slips. Such facilities shall not exceed 4 feet in width unless, in the sole judgment of the Director, the site of the well or slip justifies a greater width. In the case of structures of this subsection, floor space shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure or facility open to the weather: And, provided, further, that nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

14. Section 304.109 is amended to read:
§ 304.109 Habitual and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood control or public lands or reservations within the meaning of section 26a of the Act if it:
(a) Is a fixed enclosed structure having a cost-in-place in excess of five thousand dollars;
(b) Is designed or used for human habitation, regardless of cost; or
(c) Involves a discharge into the navigable waters of the United States.

Such obstructions shall be subject to all requirements of this subpart, but nothing contained in this section shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by TVA.

For purposes of this section "enclosed structure" shall mean a structure enclosed overhead and on all sides so as to keep out weather.

15. The heading of Subpart C is amended to read:
Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

16. Section 304.200 is amended to read:
§ 304.200 Scope and intent.

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which may be moored or installed in such areas and in other areas in the Tennessee River and its tributaries, all in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, prevent the preemption of public waters by houseboats owned in permanent or semipermanent locations outside such harbors and used as floating dwellings, attain the widest range of beneficial uses of lands, and in other areas in the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses, and maintain, protect, and enhance the quality of the human environment.

17. Section 304.201 is amended to read:
§ 304.201 Definitions.

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

Existing as applied to floating boathouses or other structures, except houseboats, means those which were moored, anchored, or otherwise installed on or before January 1, 1978.
Nonnavigable houseboat means any vessel which is enclosed, capable of storing or providing for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not in excess of 250 square feet, inclusive of walkway, extending from the front of the houseboat to the aft for the full length of a vessel and may not be structurally modified or expanded beyond the confines of its original design.

Houseboat means any vessel which is equipped with enclosed or covered sleeping quarters.

Navigable houseboat means any self-propelled houseboat having maneuverability which is (a) built on a boat hull or on two or more pontoons: (b) equipped with motor and rudder controls located at a point on the houseboat from which there is forward visibility over a 180° range; and (c) in compliance with all applicable State and Federal requirements relating to watercraft; provided, however, that any existing houseboat which was deemed navigable under the provisions of the former §304.201, which after May 28, 1977, shall continue to be deemed navigable for all purposes of this subpart, except that such houseboats shall be subject to the provisions of §304.203(d).

New as applied to houseboats, floating boathouses, floats, or other structures means all houseboats, floating boathouses, floats, or other structures, other than existing ones.

New nonnavigable houseboats are houseboats not in compliance with one or more of the criteria defining a navigable houseboat.

Pontoon means an elongated water-tight box or cylinder extending fore and aft for the full length of a vessel and having a sloped or molded bow to facilitate movement through the water.

Vessel means any watercraft or other structure or construction not in use or capable of use as a means of water transportation, such as a boat, floatboat, or houseboat.

18. Section 304.203 is amended to read:
§ 304.203 Houseboats.

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs subject to the provisions of paragraph (d) of this section, but only if (1) they have floatation devices complying with §304.3; (2) they are approved and numbered pursuant to §§304.208 and 304.208; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored:
(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or
(2) To the bank of the reservoir outside the designated harbor limits of commercial dock boats, if the houseboat is the owner or lessee of the mooring property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to §304.208, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum floatation as required by §304.3, but such houseboats may not be structurally modified or expanded, nor may they be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir or have deteriorated or been damaged so as to be unusable and unrepairable.

19. Section 304.204 is amended to read:
§ 304.204 Floating boathouses.

(a) Floating boathouses may be moored in TVA reservoirs only if (1)
PROPOSED RULES

they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (b) of this section.

(b) All floating boathouses shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner or lessee is designated and approved by the Director in accordance with § 304.3; (2) they are approved and obtained from TVA, with § 304.3; (3) ordinary maintenance and repair of floating boathouses may be so structurally modified or expanded, replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable or unrepairable; Provided, however, That such floating boathouses may be so structurally modified or expanded, replaced, rebuilt, or so returned to the reservoir if they comply with all the requirements of § 304.205(d) and approval is obtained under that section as for a new floating boathouse.

20. Section 304.205(b), (c), (d), and (e) are amended to read:

§ 304.205 Approval of plans for floating boathouses and nonnavigable houseboats.

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction thereof, and such applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of flotation device; the proposed mooring locations thereof; whether a marine toilet is on the facility; and the name and mailing address of the owner. TVA shall be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boat dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather, and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation device includes metal drums in any form.

(2) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of § 304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with § 304.4 are approved.

21. Section 304.206(a) is amended to read:

§ 304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters and figures not less than three (3) inches high. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

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

Dated: September 6, 1977.

LYNN SEEBER, General Manager.

[FR Doc.77-26777 Filed 9-14r-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 177]

INDIAN COAL MINING REGULATIONS

Proposed Rulemaking

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: These proposed regulations implement the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87) insofar as it requires the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands.

The intended effect of this proposed regulation is to bring surface coal mining on Indian lands into compliance with the environmental safeguard and reclamation requirements imposed by the Act.

DATES: Written comments must be received on or before October 14, 1977.

FURTHER INFORMATION CONTACT: Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:
The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, requires the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands.

On April 5, 1977, proposed rulemaking governing mining on Indian lands was published in the Federal Register on September 7, 1977 (42 FR 44950). This proposal was designed to implement the Act as it relates to the Secretary of the Interior to incorporate certain of the Act's performance and reclamation standards in all existing and new coal mining leases on Indian lands.

On April 5, 1977, proposed rulemaking governing mining on Indian lands was published in the Federal Register (42 FR 18083). The proposal was designed to revise 25 CFR Parts 171, 177, and 183, and to issue a new Part 182. Proposed Subpart B of 25 CFR Part 177 was intended to provide performance and reclamation standards for coal operations on Indian lands. That Subpart B proposal was withdrawn on August 24, 1977 (42 FR 42695), in view of the enactment of the Surface Mining Act and the applicability of certain of its provisions to Indian lands. The following proposal is intended to be a substitute for the earlier Subpart B proposal.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 177]

INDIAN COAL MINING REGULATIONS

Proposed Rulemaking

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 177]
PROPOSED RULES

Section 710(c) of the Surface Mining Act requires that by December 16, 1977, all surface coal mining operations on Indian lands shall comply with reclamation and performance requirements at least as stringent as those imposed by certain provisions in Section 515 of the Act. Because the proposal is designed to implement that requirement.

The proposed performance standards set out below are nearly identical to the standards found in proposed 30 CFR Part 715 published in the Federal Register on September 7, 1977 (42 FR 44920). While the proposed Indian coal standards are little different from those applicable to non-Indian lands, their application recognizes specific procedures and considerations which apply only to Indian lands. The proposed performance standards for Indian lands do not include any of the provisions governing user. The principal authors are identified by name in the preamble to the proposed rules.

177.100 Applicability.
177.101 Definitions.
177.102 General Obligations.
177.103 Signs and Markers.
177.104 Postmining use of land.
177.105 Backfilling and grading.
177.106 Disposal of spoil and waste materials in areas other than the mine workings or excavations.
177.107 Topsoil banking.
177.108 Protection of the hydrologic system.
177.109 Dams constructed of refuse materials.
177.110 Revegetation.
177.111 Steep-slope mining.
177.112 Inspections.
177.113 Enforcement procedures.
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PART 177—PLANS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS: RECLAMATION OF NONMINERAL RESOURCES

Subpart B—Coal Operations

§ 177.100 Applicability.
(a) The performance standards in this subpart shall apply to all coal mining operations on Indian lands on or after December 16, 1977.
(b) The requirements of this subpart shall be incorporated in all existing and new contracts entered into for coal mining on Indian lands.

§ 177.101 Definitions.
As used throughout the regulations in this subpart, except where otherwise indicated—

Acid drainage means water with a pH of less than 6.0 discharged from active or abandoned mine and from areas affected by coal mining operations.

Acid-forming materials means earth materials that contain sulfide mineral or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87).

Alluvial valley floors means unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits unconcentrated runoff or slope wash, together with talus and other mass movement accumulation and windblown deposits.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined area so as to return the mined area, including any terracing or other related area, to its original configuration, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all high walls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with §177.103.

Auger mining means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface. This is a combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. designation 9-388-66.

Combustible material means organic material that is capable of burning either by fire or through a chemical process (oxidation) accompanied by the evolution of heat.

Conspaction means the reduction of pore spaces among the particles of soil or rock, generally done by running heavy equipment over the earth materials.

Director means the Director, Office of Surface Mining Reclamation and Enforcement, or his designee.

Disturbed area means those lands that have been affected by surface coal mining and reclamation operations.

Diversion means a channel constructed for the purpose of transporting water from areas where it is in excess to areas where it can be used or disposed of safely.

Excavation means earth moving and reclamation operations.

Highwall means the face of exposed overburden and is the open cut of a surface of underground coal mine.

Hydrologic balance means an accounting of the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the relationship between precipitation, runoff, evaporation, and the change in ground and surface-water storage and is usually expressed by a hydrologic equation.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the meteorological climate which includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves thence along or into the ground surface to the atmosphere as vapor by means of evaporation and transpiration.

Inherent danger to the health and safety of the public means the existence of any condition of practice, or any violation of permit or other requirement of


Leo M. Krulitz,
Solicitor of the Interior.

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the Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such conditions, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.

Impoundment means a closed basin formed naturally or artificially built, which is dammed or excavated for the retention of water, sediment or waste.

Indians mean any lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patents, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Indian Tribe means any Indian Tribe, band, group, or community having a governing body recognized by the Secretary.

Intermittent or perennial stream means a stream or part of a stream which flows continuously during all (perennial) or for at least one month (intermittent) of the calendar year as a result of ground-water discharge or surface run-off. The term does not include an ephemeral stream which is one that flows for less than one month of a calendar year and only in direct response to precipitation in the immediate watershed, which in turn is always above the local water table.

Leachate means a liquid that has percolated through soil, rock, or waste and has extracted dissolved or suspended materials.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Operator means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

Outslope means the exposed area sloping away from a bench or terrace being constructed as a part of a surface coal mining and reclamation operation.

Overburden means material of any natural, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil which overlies the coal to be mined.

Permit, except as used in references to permits during the initial regulatory program, means a permit issued by the Secretary to conduct surface coal mining and reclamation operations on Indian lands.

Person means an individual, partnership, corporation, association, society, joint-stock company, firm, company, corporation, or other business organization.

Premining land use means the highest and best use of the land, which could have been achieved, taking into account the locally accepted best land management practices, prior to any mining.

Productivity means the vegetative yield produced by a unit area for a unit of time.

Recharge capacity means the ability of the soils and underlying materials to accept rainfall, or the average rate of infiltration and reach the zone of saturation.

Regulatory authority means the Secretary.

Recession interval means the precipitation event expected to occur, in the average, once in a specified interval. For example, the 25-year 24-hour precipitation event would be that 24-hour precipitation event expected to be exceeded on the average once in 25 years. Magnitude of such events are as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom.

Roads means access and haul roads constructed, used, reconstructed, improved or maintained for use in surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State, tribal, and county roads are excluded.

Runoff water means precipitation that flows along the land surface before it enters a defined stream channel and becomes concentrated streamflow.

Secretary means the Secretary of the Interior or his representative.

Sediment means undissolved organic and inorganic material transported or deposited by water.

Settling pond means any natural or artificial structure or depression used to remove sediment from water and store sediment and runoff such as tailings ponds and surface coal mines subject to section 512 of the Act.

Significant, imminent environmental harm to land, air, or water resources is determined as follows:

1. An environmental harm is any adverse impact on land, air, or water resources, including plant and animal life.
   a. An environmental harm is imminent if a condition or practice exists which is causing or may reasonably be expected to cause such environmental harm if the condition or practice is not abated within a reasonable time.
   b. An environmental harm may be significant even if it is repairable. An environmental harm is significant if that harm is appreciable and not readily repairable.

Slope means average inclination of a surface, measured from the horizontal.

Soil horizons means a soil profile that consists of two or more layers lying one below the other and parallel to the land surface. The layers are known as horizons and are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are:

A horizon. The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the B or C horizons.

B horizon. The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron or aluminum than the A or C horizons.

C horizon. The deepest layer of the soil profile. It consists of loose material of weathered rock that is relatively unaffected by biologic activity.

Spoil means overburden that has been removed during surface mining.

Stabilize means any method used to prevent movement of soil, spoil piles or areas of disturbed earth and includes measures that prevent erosion, including contouring, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however, That such activities do not increase the environmental impact and are incidental to the extraction of other minerals where coal does not exceed 16% per cent of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to section 512 of the Act; and (b) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities, land affected by the generation and removal of refuse, debris or slime, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas or other areas upon which are sited structures, facilities, or other property or materials on the sur-
face, resulting from or incident to such activities.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary and incident to the reclamation of such operations. This term included the term "reclamation operations" as defined in §177.108 shall be marked at the edge of blasting areas along access and haul roads within the mine property.

Buffer zone markers. Buffer zones as defined in §177.103 shall be marked at not more than 20-foot intervals along the interior boundary of the buffer zone. The signs shall read "Blasting Zone—Limited Access" and be placed so as to be seen by all persons employed on the mine property.

(e) Topsoil markers. Where topsoil or other vegetation supporting material is segregated and stockpiled according to §177.107(c), the stockpiled material shall be marked with signs that read "Topsoil." These signs shall remain in place until the material is removed.

§177.104 Postmining use of land.

(a) General. All disturbed areas shall promptly be restored (1) to conditions that are capable of supporting the uses which they were capable of supporting before any mining, and (2) to higher or to lower elevation. The postmining use shall be judged on the basis of lands that (1) were previously mined and not reclaimed to meet the standards of this part, (2) were badly eroded or overgrazed so as to change the vegetation community to one unsuitable for grazing, or (3) are otherwise determined by the regulatory authority to have been poorly managed. However, if the lands within the mine property were previously mined and not reclaimed to the standards of this part, the postmining use of the land shall be evaluated against the highest possible use compatible with surrounding unmined lands. If the premining use of the land was changed within five years of the beginning of mining, the comparison of post mining use to premining use shall include a comparison to the historic use of the land as well as its use immediately preceding mining.

(b) Land-use categories. Proposed land uses will be considered subject to this section when they change from one to another of the land-use categories identified in this paragraph. The regulatory authority shall consider the requirements of paragraph (d) of this section and all other applicable environmental protection performance standards of this part. (1) Heavy industry. Manufacturing facilities, powerplants, airports or similar facilities.

(2) Light industry and commercial services. Office buildings, stores, parking facilities, apartment houses, motels, hotels or similar facilities.

(3) Public services. Schools, hospitals, churches, libraries, water-treatment facilities, solid-waste disposal facilities, public parks and recreation facilities, government offices, pipeline facilities, highways, roads, underground and surface utilities, and other servicing structures and appurtenances.

(4) Residential. Single- and multiple-family housing (other than apartment houses over three stories) with necessary support facilities. Support facilities may include commercial services incorporated in and comprising less than 5 percent of the total area of housing capacity, associated open space, and minor parking and recreation facilities supporting the housing.

(5) Agricultural.—(i) Cropland. Land used primarily for the production of cultivated crops for harvest. Land used for facilities in support of farming operations will be included.

(ii) Rangeland. Land used for grazing by livestock and big game animals on which the climax (natural potential) plant community is dominated by grasslike plants, forbs and shrubs.

(iii) Hayland or pasture. Land used for meadow grasses which are cut and cured for livestock feed.
PROPOSED RULES

(iv) Forest. Land used primarily for the production of adapted wood crops.

(v) Fish and wildlife habitat. Wetlands, fish and wildlife habitat, and areas managed primarily for fish and wildlife; may include impoundments that have a capacity of less than 20 acre-feet and a surface area at the high-water mark of less than 2 acres.

(1) Combined uses. Any appropriate combination of land uses where one land use is designated as the primary land use and other land uses are designated as secondary land uses.

(d) Criteria for approving alternative postmining use of land. An alternative postmining land use may be approved by the regulatory authority, after consultation with the land owner or the surface management agency on Federal lands, if the following criteria are met:

(i) The proposed land use is designated as the primary land use and is compatible with adjacent land use and, where applicable, with land-use policies and plans. A written statement of the views of the permittee or operator shall accompany the request for approval.

(ii) Available data on the long-term expected need and market show that the proposed land use can be achieved and maintained.

(iii) Specific and feasible plans have been prepared which include a time schedule showing how the proposed land use will be achieved within a reasonable time after mining and how the achieved land use will be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with the widened and reclaimed, and that the plans will result in successful reclamation.

(iv) Completion of the necessary public facilities is assured as evidenced by appropriate letters of commitment to provide them in a manner compatible with the operator’s plans.

(v) Specific and feasible plans for financing and maintenance of the postmining land use including letters of commitment if the financing is to be provided by someone other than the permittee or operator.

(vi) The plans are designed by a registered professional engineer, or other professional, who is knowledgeable about the proposed land use category and will ensure that the plans conform to nationally accepted standards to assure adequate land stability, drainage, and vegetation cover, and will provide an appropriate aesthetic design for the postmining land use.

(vii) The proposed use or uses will not present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(viii) The plans must not involve unreasonable delays in reclamation.

(ix) Necessary approval of measures to prevent or mitigate adverse effects on fish and wildlife has been obtained from the regulatory authority and appropriate Tribes. Trifed and Federal fish and wildlife management agencies.

(10) Proposals to change from premining land uses of rangeland, fish and wildlife habitat, cropland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, growing, cultivation, fertilization, or other similar practices to be feasible or to comply with applicable Federal and Tribal laws, shall be reviewed by the regulatory authority to assure that—

(i) There is a firm written commitment by the land owner or land manager to provide sufficient crop management after release of applicable permits or bonds to assure that the proposed postmining cropland use will be feasible and reasonable, and will not pose an actual or probable threat of water diminution or pollution;

(ii) There is sufficient water available to commit to maintain crop production;

(iii) The quality and quantity of topsoil has been shown to be sufficient to support the proposed use over a period of years;

(iv) The proposed cropland use will be maintained after release of applicable bonds and is not proposed only as a temporary alternative to re-establishing the postmining cropland use approved under § 177.104, will require minimal maintenance after mining and to control erosion on final graded slopes, cut-and-fill terraces along mine benches may be allowed if the terraces are compatible with the postmining land use approved under § 177.104, will provide for adequate support and will be maintained with the minimum area of erosion, and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(a) In order to conserve soil moisture and to control erosion on final graded slopes, cut-and-fill terraces along mine benches shall not exceed 20 feet.

(b) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(c) The slope of the terrace face shall not exceed 1:2:1 (50 percent).

(d) Culverts and underground rock drains shall not be used on the terrace unless approved by the regulatory authority.

(11) The regulatory authority has provided by public notice not less than 45 days nor more than 60 days for interested citizens and local, Tribal and Federal authorities to review and comment on the proposed land use.

§ 177.105 Backfilling and grading.

In order to achieve the approximate original contour, the permitted or operator shall, except as provided in paragraphs (d), (e), and (g) of this section, transport, backfill, compact unless otherwise approved by the regulatory authority and grade all spoil material to eliminate all highwalls, spoil piles, and depressions. Cut-and-fill terraces may be used only in those situations expressly approved by the regulatory authority. These measurements must not exceed the amount necessary to comply with this section and § 177.104. The postmining graded slope must be determined by the regulatory authority to prevent excessive erosion, and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(i) The regulatory authority shall provide for the approximate original contour.

(ii) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(iii) The slope of the terrace face shall not exceed 1:2:1 (50 percent).

(iv) Culverts and underground rock drains shall not be used on the terrace unless approved by the regulatory authority.

(c) All operations on natural slopes of 20 degrees or more as stated in paragraph (c) of this section shall meet the provisions of § 177.111.

(d) Mountain top removal. Where surface mining operations result in the removal of entire mountainous areas in the upper part of a mountain, ridge, or hill by removing all of the overburden, final graded top plateau slopes on the mined area shall be less than 10 degrees.

(i) To prevent or mitigate adverse effects on fish and wildlife, the final area shall be results of mining disturbances as determined by the regulatory authority. The final area shall be less than 10 degrees. After the disturbed area has been graded and the topsoil replaced, the final graded slopes shall be measured at the beginning and end of lines established on the postmining configuration of the land.

(ii) The slope measurements shall extend at least 100 linear feet above and below the coal outcrop, or, where this is impractical, at locations specified by the regulatory authority.

(iii) Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances as determined by the regulatory authority.

(iv) To prevent or mitigate adverse effects on fish and wildlife, the final area shall be results of mining disturbances as determined by the regulatory authority. The final area shall be less than 10 degrees. After the disturbed area has been graded and the topsoil replaced, the final graded slopes shall be measured at the beginning and end of lines established on the postmining configuration of the land.

(2) After the disturbed area has been graded and the topsoil replaced, the final graded slopes shall be measured at the beginning and end of lines established on the postmining configuration of the land.
satisfaction that all requirements of
pounds have been approved by the
onstrated to the regulatory authority's
the permit area.

land use in unmined areas surrounding
vegetate to achieve an ecologically sound
which may not exceed the angle of re­
tions shall be conducted to meet the fol­
more than 1 year from the day coal-
ulatory authority may specify to reduce
areas.

(1) Definition of thin and thick re­
stored overburden. The thin overburden
provisions of paragraph (g) of this sec-
section apply where the final thickness is
less than 0.8 of the initial thickness. The
thick overburden provisions of paragraph (g) of this sec-
initial thickness is the sum of the
thickness. Final thickness is the product of
bulk factor to be determined for each
area.

(g) Thin overburden. In surface con-
ing operations carried out continuously
the same limited pit area for
more than 1 year from the day coal-
removal operations begin and where the
volume of all available spoil and suitable waste
material and topsoil, placement of
material in areas other than the mine
workings or excavations.

(3) Transport, backfill, and grade, us-
ing all available spoil and suitable waste
materials; and using waste material for
cover.

(2) Eliminate highwalls by reshaping
to stable slopes not exceeding 1:2h (50
percent). Where steeper slopes are ade-
sor or production requirements are met:

(3) Use of waste materials as fill. Be-
fore waste materials from a coal prepara-
tion of conversion facility or from
wastes only within the permit area
and dispose of such materials in comform-
with § 177.106.

(4) The fill shall be designed using
recognized professional standards and
approved by a registered professional
engineer.

(7) All organic material shall be re-
oved from the disposal area and the
pil circle will be prevented.

(5) The spoil and wastes shall be
placed, compacted, covered, and graded
to allow surface and subsurface drain-
ge to be compatible with the natural
surroundings, and to ensure long-term
ability. The final configuration of the
land must be suitable for land uses ap-
plicable to the area.

(6) The fill shall be designed using recog-
nized professional standards and
approved by a registered professional
engineer.

(7) All organic material shall be re-
oved from the disposal area and the
topsoil must be removed and segregated
before the surplus material is placed in
the disposal area. However, if approved
by the regulatory authority, organic ma-
terial may be used as mulch or may be
cluded in the topsoil.

(8) The fill shall not interrupt or en-
croach upon active drainage channels
in a manner that will impound water or
cause an increase in suspended solids in
surface drainage outside the permit area
ert than the mine workings or excavations.

(9) The fill shall be designed and
constructed by a registered engineer or
qualified professional specialist at least quar-
tly and during critical construction
periods to assure removal of all organic
material and topsoil, placement of
underdrainage systems, and proper con-
struction of terraces according to the
approved plan. The registered engineer shall provide a certified report, after each inspection that the fill has been constructed as specified by the design approved by the regulatory authority.

(b) Disposal of spoil in valley or head-of-hollow fills. Waste material must not be disposed of in valley or head-of-hollow fills. Spoil to be disposed of in natural valleys must be placed in accordance with the following requirements:

(1) The disposal areas shall be within the permit area, and they must be approved by the regulatory authority and be appropriately bonded.

(2) The disposal site shall be near the ridge top of valley selected to increase the stability of the fill and to reduce the drainage area above the fill.

(3) A system of underdrains constructed of durable rock shall be installed along the natural drainageways of the disposal area. The drainage system shall extend from the toe to the head of the fill and contain lateral drains to be appropriately bonded.

(4) Terraces shall be constructed to stabilize the face of the fill. The height of each terrace shall not exceed 50 feet and the width shall not be less than 20 feet.

(5) The tops of the fill and each terrace shall be graded no steeper than 1:20h (5 percent) to drain surface water to the sides of the fill where stabilized surface channels shall be established off the fill to carry drainage away from the fill. Drainage shall not be diverted over the face of the fill unless approved by the regulatory authority.

(6) All surface drainage from the undisturbed area above the fill shall be channeled away from the fill area into protected channels.

(7) The cut slope of the fill shall not exceed 1:2h (50 percent). The regulatory authority may require a steeper slope because of the physical, climatological, and other characteristics of the site.

(8) The fill shall be inspected for stability by a registered engineer or qualified professional specialist at least quarterly and during critical construction periods to assure removal of all organic material and topsoil, placement of underdrainage systems, and proper construction of terraces according to the approved plan. The registered engineer shall provide a certified report, after each inspection, that the fill has been constructed and maintained as specified by the design approved by the regulatory authority.

§ 177.107 Topsoil handling.

To prevent topsoil from being contaminated by spoil and waste materials, the permitte or operator shall remove spoil and waste materials from areas to be mined. Topsoil shall be immediately redistributed according to the requirements of paragraph (b) of this section on areas graded to the approved postmining configuration. If sufficient graded areas are not immediately available because of climatic conditions or size of the area on which topsoil can be distributed, the topsoil shall be segregated, stockpiled, and protected from wind and water erosion or contaminants which lessen its capability to support vegetation.

(a) Topsoil removal. (1) All topsoil to be salvaged shall be removed before drilling for blasting, blasting, or mining to prevent loss and contamination of the topsoil with undesirable materials.

(2) Where removal of topsoil results in erosion that may cause air or water pollution, the regulatory authority shall limit the size of the area from which topsoil may be removed. Compaction shall be removed unless otherwise approved by the regulatory authority to provide for use of alternative soil horizon or to avoid retention of excessive B horizon material. Where the removal of topsoil results in erosion that may cause air or water pollution, the regulatory authority shall limit the size of the area from which topsoil may be removed.

(3) Overburden may be used instead of, or as a supplement to, topsoil only where the available topsoil is of inadequate quantity or quality to sustain vegetation, and if all the following requirements are met:

(i) The permittee demonstrates that the overburden is more suitable for vegetation by the results of chemical and physical analyses, which shall include determinations of pH, percent organic matter, nitrogen, phosphorus, potassium, texture class, water holding capacity, potential acidity, or other analyses as required by the regulatory authority, and by the results of any field-site trials or greenhouse results required by the regulatory authority.

(ii) The chemical and physical analyses and the field-site trials are accompanied by a certification from qualified soil scientists.

(iii) The alternative overburden is removed, segregated, stockpiled, and replaced in conformance with this section.

(b) Topsoil redistribution. (1) After final grading and before the topsoil is redistributed, spoil and waste material or otherwise treated to reduce slippage surfaces shall be approved by the regulatory authority.

(2) Topsoil shall be redistributed in a manner that: (i) Achieves a uniform thickness throughout the fill area; (ii) Prevents excess compaction of the spoil and topsoil; and (iii) Protects the topsoil from wind and water erosion before it is seeded or planted.

(c) Topsoil storage. If the permittee allows storage of topsoil, the stockpiled topsoil shall be placed within the permit area where it will not be disturbed or exposed to excessive water. Topsoil storage locations must not violate applicable Federal and Tribal regulations and contaminations which lessen its capability to support vegetation.

(d) Nutrients and soil amendments. Nutrients and soil amendments in the amounts and analyses as determined by the regulatory authority shall be applied to the topsoil to produce soil that will support the reclamation requirements of § 177.110.

§ 177.108 Protection of the hydrologic system.

The permittee shall plan and conduct coal mining and reclamation operations to minimize disturbance of and to prevent long-term changes in the prevailing hydrologic balance, on or off site. Changes in water quality and quantity, in the depth to ground water, or in the location of surface-water drainage channels will be limited to changes that do not violate applicable Federal and Tribal regulations and do not adversely affect the post-mining use of the disturbed lands. The permittee shall conduct all operations in such a way as to minimize water pollution and, where necessary, use treatment methods to control water pollution. Practices that will minimize pollution include, but are not limited to, sealing disturbed areas through shaping and grading, diverting runoff, achieving quick growing stands of temporary vegetation, lining drainage channels with a vegetation, or otherwise treated to eliminate slippage surfaces.
waste materials in backfill areas. If pollution can be controlled only by treatment, the permittee shall operate and maintain the necessary water-treatment facilities. However, the permittee shall emphasize mining and reclamation practices that will prevent or minimize water pollution in preference to water-treatment facilities.

(4) Water-quality standards and effluent limitations. All drainage from the disturbed area, including areas revegetated and not released from bond, shall be discharged through a settling pond, or a series of settling ponds. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the disturbed area is small and settling ponds are not necessary to meet water-quality standards and effluent limitations. Discharges from the entire permit area must meet all applicable Federal and Tribal water-quality standards and the following numerical effluent limitations:

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Maximum allowable</th>
<th>Average of daily effluent concentration for 30 consecutive discharge days 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iron, total</td>
<td>7.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Manganese, total</td>
<td>4.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Total suspended solids</td>
<td>70.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Nickel</td>
<td>0.5</td>
<td>0.5</td>
</tr>
<tr>
<td>Hydrogen-ion concentration</td>
<td>4.0 to 0.8</td>
<td></td>
</tr>
</tbody>
</table>

1 Based on a representative sampling schedule.

(1) Any overflow or other discharge of surface water from the permit area that would result from an event larger than a 25-year 24-hour frequency event will not be subject to these effluent standards.

(2) The permittee shall install, operate, and maintain adequate facilities to treat any water discharge that violates the standards and limitations of this paragraph or other applicable standards. If the pH of discharged waters normally is less than 6.0, the mine normally produces less than 50 tons of coal per operating day, an automatic liming device or other neutralization device approved by the regulatory authority shall be installed, operated, and maintained.

(b) Surface-water monitoring. (1) Equipment necessary to measure the quality and quantity of surface-water discharges from the permit area and to identify the effects of surface mining and reclamation operations on the surface water shall be installed, maintained, and operated, and shall be removed when no longer required. Total iron, total manganese, total suspended solids, pH, and flow rate shall be measured when a discharge occurs. When a discharge occurs, the regulatory authority may require additional analyses.

(2) Daily samples shall, for all discharges that occur for more than 1 hour (continuous or intermittent flow), be collected, and the permittee shall have representative of actual conditions, composited for a daily analysis. Chemical analysis must be performed as specified in 40 CFR Part 136. The results of these measurements shall be submitted to the regulatory authority on a monthly basis, but within 5 days of collection. However, if the discharge is subject to regulation by a Federal permit issued in compliance with section 301 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1311), a copy of the completed reporting form supplied by the regulatory authority shall be submitted to the regulatory authority to satisfy the monitoring and reporting requirements set by applicable Federal and Tribal water-quality standards. When no longer needed to protect disturbed areas, the structures shall be constructed to safely pass the peak runoff of a precipitation event with a 100-year recurrence interval, or a larger event as specified by the regulatory authority.

(3) Diversions shall be constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining. Applicable Tribal and Federal water-quality standards shall be met.

(c) Diverion and conveyance of overland flow from disturbed areas. In order to prevent acid and other toxic mine drainage from polluting surface and ground water, most of the overland flow shall be diverted away from disturbed areas by means of temporary or permanent diversion structures, and the following requirements shall be met:

(i) The average stream gradient shall be maintained and the channel designed to remain stable after mining and reclamation operations are completed.

(ii) Channel, bank, and floodplain configurations shall be adequate to safely pass the peak runoff of a precipitation event with a 10-year recurrent interval for temporary diversions and a 100-year recurrence interval for permanent diversions; or larger events as specified by the regulatory authority.

(iii) Channel banks shall be protected from erosion by measures such as seedling, planting, and applying riprap.

(iv) Fish and wildlife habitat and water and vegetation of significant value for wildlife food or shelter shall be protected and maintained in consultation with appropriate fish and wildlife management agencies.

(v) Diversions shall be constructed, and maintained in a manner that does not increase the total suspended solids leaving the permit area on a seasonal basis above those levels that existed before mining. Applicable Tribal and Federal water-quality standards shall be met.

(2) All temporary diversion structures shall be removed before release of applicable bonds unless the regulatory authority approves the retention of those structures.

(d) Buffer zone. No land shall be disturbed within 100 feet of an intermittent or perennial stream not approved for mining unless authorized by the regulatory authority. The area not to be disturbed shall be designated a buffer zone and marked with signs as specified in § 177.103.

(e) Settling ponds. Settling ponds shall be constructed in appropriate locations in each drainage area prior to any mining in that drainage area in order to control sedimentation or otherwise treat water in accordance with paragraph (a) of this section. These ponds may be used individually or in a series, and they shall meet the following criteria:

(1) The minimum storage volume shall be at least the sum of: the volume of runoff to be controlled from the drainage area above the settling pond that results from a 10-year 24-hour precipitation event; and

(2) 0.2 acre-feet of storage for each acre of disturbed area within the upstream drainage area.
(11) Additional storage as necessary to meet the effluent standards of paragraph (a) of this section.

(2) An appropriate combination of principal and emergency spillways shall be provided to divert surface water and reduce runoff from a precipitation event with a 25-year recurrence interval, or larger events as specified by the regulatory authority.

(3) All settling ponds shall be examined for structural weakness, erosion and other hazardous conditions in accordance with inspection requirements contained in 30 CFR 77.218.3.

(4) All settling ponds shall be removed and the disturbed areas regraded, revegetated, and stabilized before release of applicable bonds unless the regulatory authority approves retention of the ponds.

(5) Sediment shall be removed from settling ponds when the volume of sediment accumulates to 50 percent of the sediment storage volume required in paragraph (a)(1) of this section. The sediment shall be disposed of in a way that prevents its entering surface water, contaminating subsurface water, and causing adverse effects due to its chemical and physical characteristics on infiltration, vegetation, or water quality. Sediment that has been removed from settling ponds and that meets the requirements for topsoil may be redistributed over graded areas in accordance with §177.107.

(6) Discharges from settling ponds shall meet the water-quality and effluent requirements of paragraph (a) of this section.

(7) If a settling pond includes an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(i) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff from the design storm as specified by the regulatory authority. This design storm shall not exceed a recurrence frequency of less than 50 years.

(ii) Ponds shall be designed and constructed with a safety factor of at least 1.5 for embankment slope stability.

(iii) The minimum top width of the embankment shall not be less than the quotient of H+35 where H is the height of the embankment as measured from the upstream toe to the top of the embankment.

(iv) Ponds shall have appropriate barriers to control seepage along conduits that extend through the embankment.

(v) All ponds shall be designed and constructed under the supervision of a licensed and certified professional engineer.

(f) Discharge structures. Discharges from settling ponds and diversions shall be controlled using available technology, such as energy dissipators, surge ponds, and other devices to reduce erosion and prevent deepening and enlargement of stream channels.

(1) Acetic and toxic materials. Drainage from acid forming and toxic forming mine materials into ground and surface water must be prevented by:

(i) Identifying and burying in the permit area, spots of waste materials that can be toxic or otherwise harmful to vegetation and can adversely affect water quality. The material shall be buried with a minimum of 5 feet of non-toxic material or using other procedures in accordance with §177.105. Material shall not be buried or stored within 100 feet of any perennial or intermittent stream, or used in construction of dams, embankments or roads or where they will pollute surface and ground water.

(ii) Casing, sealing, or otherwise managing boreholes, shafts, wells, and auger or other horizontal holes to prevent pollution of surface or ground water, and to prevent mixing of ground waters of significantly different quality (unless mixing is approved by the regulatory authority). All boreholes that are within the permit area but are outside the surface coal mining area or which extend beneath the coal to be mined and into the ground water system, shall be plugged permanently.

(iii) The gradient of streams;

(iv) Aquifers, aquicludes, capillary zones, and other water zones;

(v) Quantity and quality of surface and ground water;

(vi) Depth to, and seasonal fluctuations of, ground water where ground water supports a subirrigated vegetation area;

(vii) Configuration and stability of the land surface in the flood plain as they allow or facilitate irrigation with flood waters and maintain erosional equilibrium; and

(vi) Soil profiles, including physical and chemical characteristics of the substrate (soil) where growth medium may provide moisture holding capacity and thereby provide for sustained vegetation growth through the dry months.

(2) Surface mining and reclamation operations conducted in or adjacent to alluvial valley floors located west of the 100th meridian west longitude shall not interrupt, discontinue, or preclude farming or these alluvial valley floors unless the permitting lands use of such alluvial valley floors has been undeveloped rangeland with no regular cropping of hay or unless the area of the affected alluvial valley floor is of small acreage and provides negligible support for one or more farmer's production. This subparagraph (2) does not apply to those surface coal mining operations that:

(i) Operated in preAugust 3, 1977, were located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities in the period identified in this paragraph.

(ii) Had specific permit approval by the Bureau of Indian Affairs before August 3, 1977, to conduct surface coal mining operations for an area within the affected alluvial valley floor.

(iii) Before new surface mining and reclamation operations which may be authorized under subparagraph (2) of this paragraph are commenced, the permittee shall submit and the regulatory authority shall approve detailed surveys and baseline data to establish standards against which the requirements of subparagraph (1) of this paragraph can be measured. The surveys and data shall include:

(1) A map at a scale determined by the regulatory authority showing the location of the alluvial valley floor;

(2) Baseline data and a full water year record of each of the hydrologic elements identified in subparagraph (1) of this paragraph.

(iii) Such other data as the regulatory authority may require.

(c) Ground-water monitoring. Ground-water levels and quality of the ground water shall be monitored as approved by the regulatory authority, to determine the effects of surface coal mining operations on ground water. When mining is done below the water table, the water levels shall be monitored in representative ground-water wells within an area which may be influenced by the mining or in such other wells that can adequately reflect changes in water levels. Where existing wells are inadequate to measure long-term changes, the permittee may be required by the regulatory authority to drill and complete wells to measure water quantity and quality in the permit area. When determined necessary by the regulatory authority, the permittee shall be required to drill and complete wells to measure water levels on and off site sub-
ject to surface owner consent. These wells must monitor all aquifers that may be impacted by the mining operation.

(1) Hydrologic impacts of roads.—(1) General. Access and haul roads and associated bridges, culverts, ditches, and road side ditches or ditches shall be constructed, maintained, and reclaimed so as to control diminution or degradation of water quantity and quality. The land over which roads are constructed for surface coal mining and reclamation operations shall be reclaimed in accordance with this part, unless retention of a road is approved under § 177.104, as being an integral and contributing part of the operations of the land.

(2) Construction. (i) All roads, insofar as possible, shall be located on benches, ridges, or flatter and more stable slopes to minimize erosion. Stream banks are prohibited unless they are specifically approved by the regulatory authority as temporary routes across dry streams unrelated to coal haulage. Roads shall be parallel to stream banks; nor shall they be located within the 100-year flood plain of any stream unless it can be demonstrated that the roads will not restrict the flow of the base flood (a flood that has a 1 percent chance of occurring in any year), nor increase erosion or cause significant sedimentation or flooding. However, nothing in this paragraph will be construed as prohibiting relocation of stream channels in accordance with paragraph (d) of this section.

(ii) In order to minimize erosion and subsequent hydrologic disturbances, roads along use of the land in compliance with the following grade restrictions, or other grade determined by the regulatory authority to be necessary to control erosion:

(A) The overall sustained grade shall not exceed 10 percent.

(B) The maximum grade greater than 10 percent shall not exceed 15 percent for more than 300 feet.

(C) There shall not be more than 300 feet per maximum grade within each 1,000 feet.

(iii) All access and haul roads shall be adequately drained using structures such as, but not limited to, ditches, water barriers, cross drains, and ditch-relief drains. For access and haul roads that are to be maintained for more than 1 year, water-control structures shall be designed with a discharge capacity capable of passing the peak flow from a 25-year 24-hour precipitation event. Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be provided at the toe of all cut slopes formed by the construction of roads. Trash racks and debris basins shall be installed in the drainage ditches where debris from the drainage area could impact the stability of the structures. Ditch relief and cross drains shall be spaced according to grade. Drainage from access and haul roads shall meet the water-quality requirements of this section.

(iv) Access and haul roads shall be surfaced with durable material. Toxic acid-forming substances shall not be used in the surface material. Vegetation may be cleared only for the essential width necessary for road and associated ditch construction and to serve traffic needs.

(2) Dams constructed of refuse materials. (a) No mine or processing refuse materials shall be used in existing or new dams without the approval of the regulatory authority. The permittee or operator shall design, locate, construct, operate, maintain, modify, abandon, and remove all dams used either temporarily or permanently when constructed of mine refuse materials, tailings, coal processing wastes, or other liquid or solid wastes in accordance with the requirements of this section.

(b) Definitions—Refuse materials. Coal mine waste materials excavated or removed during surface coal mining and reclamation operations or separated from mined coal. The material may be a mixture of various organic and inorganic materials. The material may be a mixture of coal, refuse, waste coal, and water. The material may be used only if it has been approved by the appropriate regulatory authority.

(c) Dams constructed of refuse materials. (i) Dams constructed of refuse materials shall be designed, maintained, and reclaimed so as to control diminution or degradation of water quantity and quality.

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All dams shall be routinely inspected by a registered professional engineer in accordance with MESA regulations pursuant to 30 CFR 77.210-3.

All dams shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs, ditches and spillways cleaned, any combustible materials present on the surface removed, and any other appropriate maintenance procedures followed.

All dams subject to this section shall be recertified annually as having been constructed and modified in accordance with current prevalent engineering practices to minimize the possibility of failures. Any changes in the geometry of the impounding structure shall be included in the annual recertification report. The certification will include a report on existing and required monitoring procedures and instrumentation, the average and maximum depths over the past year, and any other aspects of the structures affecting their stability.

Any enlargement, reductions in size, reconstruction or other modification of dams shall be approved by the regulatory authority.

All refuse dams shall be removed and the disturbed areas regarded, revegetated, and stabilized prior to the release of bond unless the regulatory authority approves retention of such dams as being compatible with an approved postmining land use (§ 177.104).

§ 177.110 Revegetation.

(a) General. (1) The permittee shall establish on all land that has been disturbed, a diverse, effective, and permanent vegetative cover of species native to the area of disturbed land or species that will support the planned postmining uses of the land approved according to § 177.104.

(2) Revegetation shall be carried out in a manner that encourages a prompt vegetation cover and recovery of productivity compatible with approved postmining land use, be seeded or planted to achieve a vegetation cover of the same seasonal varieties when it consists of disturbed land. If both the pre- and postmining land use be intensive agricultural planting, or if by some means grown will meet the requirement, vegetation cover shall be considered of the same seasonal varieties when it consists of disturbed land. Annual grains such as oats, rye, and wheat may be used instead of mulch when it is shown to be satisfactory to the regulatory authority that the substituted material will provide adequate stability and that they will later be replaced by species approved for the postmining land use.

(b) Use of introduced species. Introduced species may be substituted for native species only if appropriate field trials have demonstrated that the introduced species will be of equal or superior utility for the approved postmining land use, or is necessary to achieve a quick, temporary and stabilizing cover. Introduced species shall be subject to the most applicable Tribal and Federal seed or introduced species statutes, and may not include poisonous or potentially toxic species incompatible with the approved postmining land use.

(c) Timing of revegetation. Seeding and planting of land that has been regraded and the topsoil replaced shall be conducted during the first normal period for favorable planting conditions after final grading. The normal period for favorable planting shall be that planting time generally accepted locally where appropriate to ensure effective stabilization. Any disturbed areas, except water areas and surface areas of haul roads, which have been graded shall be planted with a temporary cover of small grains, legumes, forbs, or other appropriate species at a level that would establish adequate cover to control erosion. When hills or gullies, that would preclude the successful establishment of vegetation or the adoption of vegetation practices, require additional regrading or other stabilization, revegetation practices will be required before seeding or planting.

(d) Mulching. Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing climate conditions suitable for germination and growth, and do not interfere with the postmining use of the land. Mulches shall be anchored to the soil surface, moisture conservation, thus providing climate conditions suitable for germination and growth, and do not interfere with the postmining use of the land. Mulches shall be included in the postmining land use form in regraded topsoil and overburden materials as specified in § 177.105, additional regrading or other stabilization practices will be required before seeding or planting.

(e) Use of other materials. Introduced species may be substituted for native species only if appropriate field trials have demonstrated that the introduced species will be of equal or superior utility for the approved postmining land use, or is necessary to achieve a quick, temporary and stabilizing cover. Introduced species shall be subject to the most applicable Tribal and Federal seed or introduced species statutes, and may not include poisonous or potentially toxic species incompatible with the approved postmining land use.

(f) Standards for measuring success of revegetation. (1) Revegetation procedures shall be designed to require only that degree of fertilization and maintenance procedures required to meet the standards of this section for the approved postmining use of the land. The species of grasses, legumes, or forbs for seeding or planting shall be selected by the permittee to provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area. Livestock grazing will not be allowed on reclaimed land until the seedlings are established and can sustain managed grazing. The regulatory authority, in consultation with the surface owner and permittee, shall determine when the revegetated area is ready for livestock grazing. When freed of wildlife populations are large enough to cause damage, grazing by such wildlife may be permitted for periods of years until the seedlings are well established and can sustain normal grazing. The regulatory authority shall determine when the revegetated area is ready for wildlife grazing.

(2) Where an agricultural use that will require using tillage equipment such as plows, cultivators, and tractors is to be the postmining land use, the permittee shall use adequate erosion and sediment control practices approved by the regulatory authority.

(3) Where forest, to be the postmining land use, the permittee shall plant trees specified for local site conditions and climate in combination with an herbaceous cover of grasses, legumes, or forbs that provide a diverse, effective, and permanent vegetation cover with the seasonal variety, succession, and regeneration capabilities native to the area.

(4) Where wildlife habitat is to be included in the postmining land use, the permittee shall consult with appropriate Tribal and Federal wildlife agencies and, upon the approval of the regulatory authority, shall select species to be seeded or planted. The permittee shall select those species that will fulfill the needs of wildlife, including food, water, cover, and space, and shall space and distribute plant groupings and water resources to fulfill the requirements of wildlife.

(5) Where development of residential, recreational, industrial, or public service uses is to be the postmining land use, the postmining land use, the permittee shall be responsible for fulfilling the requirements of the postmining land use.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
## Standards for revegetation

[Herbaceous species: grass, sedge, and nonleguminous forbs; Woody plants: woody shrubs, trees, and vines; ground cover—area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

### A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season)

<table>
<thead>
<tr>
<th>Average annual precipitation, in inches</th>
<th>1 yr</th>
<th>5 yrs</th>
<th>10 yrs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10</td>
<td>6</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>10.1 to 16</td>
<td>10</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>16.1 to 26</td>
<td>20</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>More than 26</td>
<td>50</td>
<td>70</td>
<td>NA</td>
</tr>
</tbody>
</table>

### B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season)

<table>
<thead>
<tr>
<th>Average annual precipitation, in inches</th>
<th>Percent ground cover</th>
<th>Number of woody plants per acre</th>
<th>Percent ground cover</th>
<th>Number of woody plants per acre</th>
<th>Percent ground cover</th>
<th>Number of woody plants per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10</td>
<td>6</td>
<td>2,000</td>
<td>5</td>
<td>2,000</td>
<td>4</td>
<td>1,000</td>
</tr>
<tr>
<td>10.1 to 16</td>
<td>7</td>
<td>800</td>
<td>10</td>
<td>800</td>
<td>15</td>
<td>3,000</td>
</tr>
<tr>
<td>16.1 to 26</td>
<td>10</td>
<td>200</td>
<td>25</td>
<td>200</td>
<td>30</td>
<td>600</td>
</tr>
<tr>
<td>More than 26</td>
<td>15</td>
<td>100</td>
<td>50</td>
<td>100</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

On steep slopes, the minimum number of woody plants must be increased to 800 per acre.

1. When revegetation requirements are based on returning the permit lands to premining land uses of hayland, pasture, wildlife habitat, or rangeland, the regulatory authority may also require the permittee to set aside and fence exclosures of land not to be disturbed by mining activity or domestic livestock. These exclosures, which must be representative of geology, soils, slope, aspect, and vegetation in the permit area, will be used to estimate normal vegetation productivity, plant cover, species, plant succession, and plant self-regeneration. The regulatory agency shall approve the estimating techniques used to judge the degree of success achieved in the revegetated areas. These exclosures and estimations may be required before revegetation procedures are approved.

2. When exclosures are required, the degree of progress and success in revegetating shall, at a minimum, meet the standards in the following table. More stringent standards may be established by the regulatory authority based on natural conditions in the area. The permittee and the regulatory authority shall use those standards as guides to indicate potentials for ultimate revegetation success and to determine whether remedial measures are necessary to improve chances for success.

### Standards for revegetation when exclosures are required

[Ground cover—area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield—the total yield of living plants above ground in an area at the end of the growing season]

<table>
<thead>
<tr>
<th>Average annual precipitation, in inches</th>
<th>End of growing season</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 yr</td>
</tr>
</tbody>
</table>

A. Number of adapted species in revegetated areas

<table>
<thead>
<tr>
<th></th>
<th>Up to 10</th>
<th>10.1 to 16</th>
<th>16.1 to 26</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10</td>
<td>3</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>10.1 to 16</td>
<td>6</td>
<td>14</td>
<td>20</td>
</tr>
<tr>
<td>16.1 to 26</td>
<td>10</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>More than 26</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

B. Ground cover of perennial plants expressed as a percent of the ground cover in the exclosures

<table>
<thead>
<tr>
<th></th>
<th>Up to 10</th>
<th>10.1 to 16</th>
<th>16.1 to 26</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10</td>
<td>90</td>
<td>80</td>
<td>85</td>
</tr>
<tr>
<td>10.1 to 16</td>
<td>70</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>16.1 to 26</td>
<td>70</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>More than 26</td>
<td>90</td>
<td>90</td>
<td>NA</td>
</tr>
</tbody>
</table>

C. Biomass yield of perennial plants expressed as a percent of the biomass yield in the exclosures

<table>
<thead>
<tr>
<th></th>
<th>Up to 10</th>
<th>10.1 to 16</th>
<th>16.1 to 26</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10</td>
<td>90</td>
<td>80</td>
<td>85</td>
</tr>
<tr>
<td>10.1 to 16</td>
<td>70</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>16.1 to 26</td>
<td>70</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>More than 26</td>
<td>90</td>
<td>90</td>
<td>NA</td>
</tr>
</tbody>
</table>

### § 177.111 Steep-slope mining

(a) The permittee conducting surface coal mining and reclamation operations on natural slopes that exceed 20 degrees, or on lesser slopes that require measures to protect the area from disturbance, as determined by the regulatory authority after consideration of soils, climate, the method of operation, and other regional characteristics, shall meet the following performance standards. The standards of this section do not apply where mining is done on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area, or where the mining removes entire coal seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or gently rolling contour.

1. Overburden or waste materials or debris, including that from clearing and grubbing, and abandoned or disabled equipment, shall not be placed or permitted to remain on the downslope. Material in excess of that required to meet the provisions of § 177.105 must be disposed of in accordance with the requirements of § 177.106.

2. (1) Cut and fill operations shall be stored within the permit area. The storage piles must be designed and constructed to minimize erosion and to maintain stability. Any material temporarily stored for more than 30 days must be protected by an effective cover of nonnoxious, quick-growing annual and/or perennial plants, or other approved means as specified in § 177.110. (g) Seeding of stockpiled topsoil. Topsoil stockpiled in compliance with § 177.105(c) (if not to be redistributed within 30 days) be seeded or planted with an effective cover of nonnoxious, quick growing annual and/or perennial plants or protected by other approved measures as specified in § 177.107.

§ 177.112 Inspections.

(a) Extent. The authorized representatives of the Secretary shall conduct inspections of surface coal mining operations subject to regulations under the Act.

1. On the basis of information provided by a Tribe or any person which gives rise to a reasonable belief that the provisions of the Act, regulations, or per-
mit condition required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation.

(3) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice, or violation. 

(i) A cessation order is issued under subparagraph (1) or (2) of this paragraph; and

(ii) The cessation of mining or reclamation activities will not completely abate the imminent danger to public health or safety or the significant, imminent environmental harm or eliminate the practices or conditions that contributed to the imminent hazard, danger, or significant, imminent environmental harm.

(4) When imposing affirmative obligations under this subsection, the authorized representative shall require abatement of the danger or harm in the most expeditious manner physically possible. The affirmative obligation shall include a time by which abatement shall be accomplished and may include, among other things, the use of additional personnel and equipment.

(5) An authorized representative of the Secretary may terminate a cessation order issued under subparagraph (1) or (2) of this paragraph by written order when the authorized representative of the Secretary determines that the conditions or practices or violations which contributed to the imminent hazard, danger, or significant, imminent environmental harm have been eliminated.

(b) Non-imminent hazard violations.

(1) If an authorized representative of the Secretary finds a violation which is not an imminent hazard, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

(2) An authorized representative may extend the time to abate a violation by written notice if the failure to abate within the time set was not caused by the permittee's or operator's lack of diligence.

(3) The total time for abatement as originally fixed and subsequently extended shall not exceed 90 days.

(c) Failure to abate. An authorized representative of the Secretary shall order cessation of surface coal mining and reclamation operations, or the portion relevant to the violation, when the authorized representative has issued a notice of violation under paragraph (b) of this section determines that the permittee or operator has failed to abate the violation within the time originally fixed or in consequence of an order issued under this subsection.

(d) Service of notice. Notices and orders issued under this part shall be given to the permittee or operator or the designated agent. If no designated agent is at the mine site, service will be made upon any person who appears to be in charge of the mining or reclamation operations.
mation operation. The person receiving service shall be responsible for any immediate compliance actions required by the notice or order. Service is complete on delivery at the mine. However, a copy of each notice or order shall be mailed to the permittee or operator within 5 days.

(e) Review of the mine-site or field office and at the mine site of the Indian Tribe. Notice of the hearing also shall be given to the permittee or operator within 5 days of the mailing so that the District Manager or his delegate shall conduct an informal hearing at the mine-site or within such reasonable proximity to the mine that it may be visited during the conduct of the hearing. No hearing will be required where the condition, practice or violation in question has been abated or the operator waives the hearing.

(2) Any request made to the Office of Surface Mining Reclamation and Enforcement for a substantial modification or vacation of a cessation order shall be deemed to be an informal hearing under this section.

(3) Notice of the time, place and subject matter of the hearing shall be given to the permittee or operator, any citizen who filed a report which led to the violation or the District Manager or his delegate. Notice of the hearing also shall be given to the appropriate district or field office and at the mine site and, to the extent possible, shall be given by newspaper in the area of the mine.

(4) The requirements of section 554 of Title 5 of the United States Code shall not govern the conduct of the hearings required by this section. The District Manager or his delegate may accept oral or written arguments, presentations of evidence, or any other relevant information from any person attending.

(5) The District Manager or his delegate shall conduct the hearing within 15 days of the close of the informal hearing affirmed or vacated the order. The decision shall be in writing and shall be sent to the permittee or operator, any citizen who filed a report which led to the violation, the District Manager or his delegate reviewed and the appropriate agency of the local governing Indian Tribe. Notice of the hearing also shall be given to the appropriate district or field office and at the mine site and, to the extent possible, shall be given by newspaper in the area of the mine.

(6) Informal review under this subsection shall not affect the rights of any person to request formal review as provided in section 525(a)(1) of the Act. A request for informal review shall not affect the 30 day time period for filing a request for formal review.

(f) Inability to comply. (1) Neither a notice of violation nor a cessation order issued under this part may be vacated because of inability to comply. When the permittee or operator may not be deemed to have shown good cause for not suspending or revoking a permit by showing inability to comply. (2) If caused by a lack of diligence, inability to comply may be considered in mitigation of the amount of a Civil penalty under § 177.114 and of the duration of the suspension of reclamation of the permit under paragraph (g) of this section.
shall be counted those, resulting from a Federal inspection, that have not been reviewed at the time of the assessment being computed and that occurred or were issued within the year preceding the violation under consideration. The Office shall count each violation without regard to whether it led to a civil penalty assessment.

3) Seriousness. The Office shall assign up to 30 points based on the seriousness of the violation according to the following schedules.

(i) Probability of occurrence. The probability of the occurrence of the event against which a standard is directed may account, for a maximum of 15 penalty points. The Office shall use the following definitions and schedules.

(A) Probability of occurrence:

<table>
<thead>
<tr>
<th>Points</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5</td>
<td>None or insignificant</td>
</tr>
<tr>
<td>6-10</td>
<td>Unlikely</td>
</tr>
<tr>
<td>11-15</td>
<td>Likely</td>
</tr>
<tr>
<td>16-20</td>
<td>Occurred</td>
</tr>
</tbody>
</table>

(ii) Extent of potential or actual damage. The extent of the potential or actual damage in terms of area and impact on the public or environment may account for a maximum of 15 penalty points based on the following—

(A) If the damage or impact against which the standard violated is designed to protect, would remain within the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign zero to seven points depending on the duration and extent of the damage or impact.

(B) If the damage or impact, against which the standard violated is designed to protect, would extend outside the permit area (or in the case of a deep mine, the area of surface structures), the Office shall assign eight to fifteen points depending on the duration and extent of the damage or impact.

(C) The Office shall assign up to 15 points for seriousness for any failure to keep records, to give notice or to conduct any measuring or monitoring required by the regulations or a permit based upon the extent to which enforcement is obstructed. The method of assigning points for seriousness under subdivision (i) and (ii) of this subparagraph produces more points, the higher points shall be assigned.

(D) Negligence. Each negligence of the permittee or operator, either through act or omission, in causing or failing to correct the condition or practice which is a violation. A violation which occurs through no negligence shall not be assigned penalty points for negligence. A violation which is caused by negligence shall be assigned 12 points or less depending on the degree of negligence. A violation which occurs through a greater degree of fault than negligence shall be assigned 13 through 25 penalty points depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation, and the number of penalty points to be assigned, the following definitions apply—

(A) No negligence means an inadvertent violation of the regulations or permit condition, which was unavoidable by the exercise or reasonable care.

(B) Negligence means the failure of a permittee or operator to prevent the occurrence of any violation of his permit or any requirement of the regulations due to indifference, lack of diligence, or lack of reasonable care, or the failure to correct any violation of such permit or the Act or the regulations due to indifference, lack of diligence or lack of reasonable care.

(C) Examples of greater degree of fault than negligence are reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the actions of all persons working on the mine site shall be attributed to the permittee or operator.

5) Good faith in attempting to achieve compliance. (i) The Office shall subtract the proposed assessment and add points based on the degree of good faith of the permittee or operator in attempting to achieve rapid compliance after notification of the violation. The points shall be assigned according to the following schedule:

<table>
<thead>
<tr>
<th>Points</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Good faith in attempting to achieve compliance</td>
</tr>
<tr>
<td>5</td>
<td>Normal compliance</td>
</tr>
<tr>
<td>10</td>
<td>Lack of good faith</td>
</tr>
</tbody>
</table>

(ii) In determining the permittee's or operator's degree of good faith in attempting to achieve rapid compliance, the following definitions apply—

(A) Rapid compliance means that the permittee or operator took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved more rapidly than reasonably required.

(B) Normal compliance means that the permittee or operator abated the violation within the time given for abatement.

(C) Lack of good faith means the permittee or operator did not show diligence in attempting to abate the violation and the violation was not timely abated.

(iii) If the consideration of this criteria is impractical because the length of the abatement period, the assessment may be made without considering this criteria. Any such assessment may be reconsidered upon the permittee or operator's request after abatement is completed.

(d) Determination of amount of penalty. The Office shall determine the amount of any civil penalty by converting the total number of points assigned under paragraph (c) of this section to a dollar amount according to the following schedule:

<table>
<thead>
<tr>
<th>Points</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 and below</td>
<td>$500.00</td>
</tr>
<tr>
<td>26-29</td>
<td>$600.00</td>
</tr>
<tr>
<td>30-34</td>
<td>$700.00</td>
</tr>
<tr>
<td>35-39</td>
<td>$800.00</td>
</tr>
<tr>
<td>40-44</td>
<td>$900.00</td>
</tr>
<tr>
<td>45-49</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>50-54</td>
<td>$1,100.00</td>
</tr>
<tr>
<td>55-59</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>60-64</td>
<td>$1,300.00</td>
</tr>
<tr>
<td>65-69</td>
<td>$1,400.00</td>
</tr>
<tr>
<td>70 and above</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

(e) Assessment of separate violations for each day. (1) If a cessation order is issued for failure to abate a violation within the time set in a prior notice of violation or cessation order, the Office shall separate each day as a separate violation the violation underlying the cessation order remains unabated. The daily penalty shall be the amount assessed for the violation or $750.00, whichever is greater. The daily assessment of a violation shall not be made for any period that the obligation to abate is suspended.

(2) The Office may assess separately each day of any continuing violation. In making this determination, the Office shall consider the factors listed in paragraph (c) of this section and any economic benefit to the permittee or operator which resulted from a failure to comply.

(3) The Office shall separately assess a minimum of two days for any continuing violation which is assigned more than 70 points under subsection (c).

(1) Procedures for assessment of civil penalties. (1) Within 10 days of service of a notice or order, the permittee or operator may submit information in writing pertaining to the violation involved to the District Office with jurisdiction over the mine and to the Inspector who issued the notice or order. The Office shall arrange for a conference to be held within 30 days of the issuance of the notice or order, with a copy of the proposed assessment and of the worksheets showing the computations involved.

(g) Procedure for conference. (1) If a written request from the permittee or operator is received within 15 days from receipt of a proposed assessment, the Office shall arrange for a conference to review the assessment. The permittee or operator may submit additional material for consideration during the con-
The Office may contact the permittee or operator to discuss the assessment prior to the conference if necessary to expedite the review.

(2) The Office shall consider all relevant information on the violation in question presented by the permittee or operator and may recalculate either up or down or vacate the proposed penalty. No information as to which the permittee or operator claims confidentiality shall be considered as a basis for reduction of a proposed assessment. When new facts warrant the imposition of a higher penalty, it shall be proposed in the manner provided in paragraph (4) of this section. Every change in a proposed assessment shall be fully documented in the file including a written explanation of the reason the penalty has changed.

(3) Notice of the time and place of the conference shall be posted at the Office of Surface Mining Reclamation and Enforcement field office with jurisdiction over the mine at least five days prior to the conference. The person shall have a right to attend the conference.

(4) If the issues are resolved, the agreement shall be in writing and signed by both parties. If payment is not received within 10 days of the date of the conference, the permittee or operator to whom the notice was sent may determine whether a violation occurred and may recalculate either up or down the proposed assessment.

(5) A reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 agreed to during a conference shall be approved by the Regional Director or his designee before it is final and binding on the Secretary.

(h) Request for hearing. (1) Within 30 days from receipt of the proposed assessment, the permittee or operator may request a hearing before the Office of Hearings and Appeals by filing a petition and tendering full payment of the proposed assessment to be held in escrow.

(2) The timely filing of a request for a conference under paragraph (g) of this section suspends the running of the 30-day period for requesting a hearing. The suspension shall continue until the completion of the conference, which shall be held within 60 days from the date of the request for the conference. The permittee or operator shall have 15 days after completion of the conference to request a public hearing.

(3) The Office of Hearing and Appeals conducts the hearings and issues orders otherwise terminates the petition pursuant to its procedures in 43 CFR Part 4. The Office of Hearings and Appeals may determine whether a violation occurred. When determining the amount of the proposed penalty, the Office of Hearings and Appeals shall use the point system and conversion table contained in this part.

(1) Availability of records. All records and files created or used in the assessment process for this part shall be available for public inspection.

(1) Notice to tribe. Appropriate officials of the local governing Indian tribe shall be notified of any hearings or conferences conducted pursuant to this section, and shall be invited to attend.

Mining Enforcement and Safety Administration
[ 30 CFR Part 77 ]
SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES
Proposed Mandatory Safety Standards
Objections Filed and Hearing Requested
AGENCY: Department of the Interior, Mining Enforcement and Safety Administration.
ACTION: Notice of Objections Filed and Hearing Requested.
SUMMARY: This is a notice that objections have been filed and hearings requested for proposed amendments to 30 CFR Part 77, which would amend, revise and establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines. The Secretary of the Interior will issue notice at a later date that will advise interested persons of the date and place set for the public hearing.

FOR FURTHER INFORMATION CONTACT:

The comments and objections which have been filed may be examined at, or copies obtained from, either of the above offices.

SUPPLEMENTARY INFORMATION:
On January 13, 1977, there was published in the Federal Register (42 FR 2860) a Notice of Proposed Rulemaking containing proposed amendments to 30 CFR Part 77. These proposed amendments, amend and revise existing standards and establish new mandatory safety standards for surface coal mines and surface work areas of underground coal mines.

Many comments, suggestions and objections were submitted to Assistant Administrator, Coal Mine Health and Safety, MESA concerning the proposed regulations. The comments and suggestions were varied and ranged from approval to disapproval of the proposed regulations. Hearings have been requested on all subparts of the proposed rules.

Notice is hereby given in accordance with section 101(f) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 811(f)), that objections have been timely filed as well as requested for a hearing.

JOHN M. DAVENPORT,
Assistant Secretary of the Interior.

DEPARTMENT OF DEFENSE
Department of the Air Force
[ 32 CFR Part 976 ]
COMMISSARIES
Resale Operations
AGENCY: Department of the Air Force, DOD.
ACTION: Proposed rule.
SUMMARY: The Department of the Air Force proposes to add regulations needed for commissary officers in the performance of their duties and in providing the best possible customer service in commissaries worldwide. The regulations are intended to keep customers and commissary employees better informed of resale procedures. These provisions were formerly contained in the Air Force Manual 145-1 and are being published now for public comment.

DATES: Comments must be received by October 17, 1977.

ADDRESS: Comments should be submitted to Mr. J. F. McGowan, Headquarters, Air Force Commissary Service (DOR), Kelly Air Force Base, Tex. 78241.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: This rule is issued under authority of 10 U.S.C. 8012.

This new part guides and directs commissary complex officers and commissary officers in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFOCMs employees and base maintenance contractors and their employees operating AFOCMs commissaries.

Interested persons are invited to comment on this proposed rule. Comments and suggestions should be forwarded in writing.
PROPOSED RULES

PART 976—RESALE OPERATIONS

Sec.

976.1 Purpose.

976.2 Store section.

976.3 Authorized/identified customers.

976.4 Service to customers.

976.5 Shelf stocking by vendors.

976.6 Control of tax free items.

976.7 Sales and returns.

976.8 Support of disabled commissary patrons.

976.9 Surcharge.

976.10 Methods of payment.

976.11 Diagonosed checks.

976.12 Food stamp program.

Authority: 10 U.S.C. 8912.

§ 976.1 Purpose.

This part guides and directs commissary employees and commissary contractors in the performance of their duties and in providing the best possible customer service. It applies to all Air Force Commissary Service (AFCOMS) operations worldwide. It also applies to all AFCOMS employees and base maintenance contractors and their employees operating AFCOMS commissaries.

§ 976.2 Store section.

(a) Vendor personnel may wait on customers at the checkout counter. Vendor personnel are limited to stocking and displaying merchandise, helping patrons with their selections, packaging and marking the price on purchases. Only commissary personnel will perform the functions of approving orders, receiving products, and supervising the bakery outlet. Customers will pay at the regular checkout area, not at the bakery section. Commissary officers will ensure procurement documents provide for credit or return to the vendor of unsold bakery products, except for special orders.

(b) A vendor operated meat department delicatessen is authorized to enhance customer service. The criteria in § 976.2(a) also apply to operation of the delicatessen.

(c) Commissary management must ensure bakery and delicatessen prices offer a significant savings over normal commercial store prices in the local area. Savings of at least 20 percent over local prices are considered significant.

§ 976.3 Authorized/identified customers.

(a) Although patron identification and control is the responsibility of the installation commander (32 CFR Part 823). This may apply, the commissary officer will ensure all persons seeking to enter the store are authorized patrons before they are permitted in the store. Authorized commissary patrons are listed in (32 CFR Part 823). In- or out-of-service military personnel abusing their commissary privileges as subject to discipline action under the Uniform Code of Military Justice in addition to the loss of store privileges. Violations by authorized persons not subject to military law will provide a basis for suspension of store privileges.

(b) Authorized patrons assigned to remote locations may use a group shopping service when approved by the remote installation commander. This service permits such persons to enter the com- missary store and purchase the combined shopping needs of the group. The person so appointed will have a letter of authorization signed by the remote installation commander or his representative. The appointment letter will list all principals by name, rank and serial number.

(c) Commissary employees authorized to stock items for patrons privileges are subject to the following restrictions:

(1) Employees will shop only during normal store operating hours and only when off duty.

(2) Employees will remove all merchandise from the commissary at time of purchase, including purchases made during lunch periods. Employees will not store or bring back into the commissary items purchased in a bag or container.

(3) Checkers will not process purchases of a member of their family.

§ 976.4 Service to customers.

Commissary management will:

(a) Prepare a monthly calendar using AFCOMS Form 12, Customer Information Calendar, pointing out items of interest to employees on a first-come, first-served basis (orders, special sales, paydays, family shopping night, etc.).

(b) Ensure that customers are told of changes in store operations which affect the customer, keeping price changes in a prominent place well in advance of the holiday.

(c) Place a suggestion box in a convenient location near the identification checker. AFCOMS Form 13, Customer Suggestion Form, is available for patron use. Review the suggestions and reply to them by letter or telephone. Customer satisfaction will be enhanced by outlining the suggestions placed into effect on the store bulletin board. Ensure that a record is kept on all suggestions answered by telephone. Record and sign the reply made on the reverse of suggestion form.

§ 976.5 Shelf stocking by vendors.

(a) The commissary officer is authorized to accept voluntary offers for shelf stocking service by vendors for the following product groups:

(1) Baby foods.

(2) Fresh bakery products.

(3) Candy and gum.

(4) Refrigerated dairy products.

(5) Snack items (chips, nuts, crackers, cookies, and pretzels).

(6) Prepackaged luncheon meats.

(7) Light bulbs.

(8) Candy and gum.

(9) Frozen foods.

(10) Macaroni and pasta products (excluding prepared dinners).

(11) Macaroni and pasta products (excluding prepared dinners).

(12) Fresh bakery products.

(b) Stocking of store shelves by vendor stockers of categories listed above is authorized when the commissary officer determines that definite benefits will result and the service is offered voluntarily.

(c) Procedures to control vendors or their representatives who stock items at the commissary store. The store manager will provide a time log on each vendor or representative with a fresh batch of items at the store. Keep a separate entry for each company represented. Ensure that commissary personnel record the time in and out, and forward the time logs to the control section at the end of each month. Prevent only productive shelf stocking time is logged. The control section will total man-hours on a quarterly basis and report the vendor stocker man-hours on the AFC Form 1011, Commissary Operating Statement, to the AFCOMS region.

(d) The commissary officer will ensure that the following conditions are met by vendors or their representative/vendor stockers:

(1) The vendor will furnish a letter to the store manager, prepared by the company representative and approved by the commissary officer, before stocking a product group.

(2) The store manager will log, number and issue all vendor stockers identification badges, which identifies them as authorized stockers of shelf service. The vendor management will ensure that vendor stockers wear the badges while stocking the store.

(3) Commissary employees (civilian or military) or members of their immediate family will not be authorized to stock from the store shelves for the vendor for payment, wages, or any other form of remuneration.

(e) Any violations of the conditions listed below are a basis for revoking shelf stocking permits:

(1) Stocking a product other than those specifically authorized.

(2) Offering gratuitous gifts or items of value to customer personnel.

(3) Moving or interfering in any way with competitive products.

(4) Pilferage or destruction of merchandise.

(5) Conduct deemed inappropriate for personnel working in a “customer service” function.

(6) Failure to provide service as agreed by the vendor and commissary officer.

(7) Commissary management will not discriminate against vendors who do not provide shelf stocking service.

(g) Commissary personnel will control all movement of stock, in or out of sales area. Do not allow vendor stockers to in-check or sign for commissary merchandise.

(h) Customer demand will continue to be the primary basis for shelf stocking requests. The availability of shelf stocking service is not a factor in stockage determination. The commissary officer is responsible for adequate shelf stock replenishment of all merchandise, including vendor stocked items.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
§ 976.6 Control of tax free items.

General policy for tax free cigarettes. Establish a quantity limit not to exceed four cartons per customer present at the time of sale. Grand total per family shall not exceed 10 cartons. All customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases in the state where the commissary is located.

(a) Exceptions may be granted to the normal quantity limit in unusual circumstances, such as infrequent shopping, long distance to the commissary, etc. In these cases the maximum shall not exceed 10 cartons per customer present at time of sale or a grand total quantity of 15 cartons per family. The store manager or his representative may approve properly prepared AP Forms 183, Cigarette Purchase Certificate, § 976.13. Once initially approved, the form can be used for successive purchases without additional approval. File the AP Forms 183 alphabetically at the identification desk. Furnish patrons the forms upon request for presentation to the checkers. Checkers record the date of purchase and number of cartons bought on the reverse of the form, keep the forms and return them to the identification desk at close of business. Store management will review the forms to ensure tax free privileges are not abused.

(b) Policy for tax free cigarettes with State limit. In these cases, establish a two carton limit or the state limit, whichever is greater, per customer present at time of sale. Customers purchasing cigarettes or having them purchased on their behalf must be of legal age to make such purchases.

(c) Policy for tax free cigarettes outside the United States. Cigarette sales in commissaries located outside the United States are regulated by status of forces agreements.

§ 976.7 Sales and returns.

Individual customers will pay cash (includes checks) for all sales. Upon the correct payment for the sale, the merchandise becomes the property of the customer, who assumes full responsibility at that time. However, merchandise paid for and removed from the store may be returned. Such items may be exchanged for like items or a cash refund.

§ 976.8 Support of disabled commissary patrons.

(a) Authorized commissary patrons include retired personnel, hospitalized veterans, and totally disabled veterans. Many of these individuals are confined to wheelchairs or are blind. The commissary officer will ensure these patrons are accommodated with the least possible inconvenience or embarrassment.

(b) Commisary management will provide one or more checkout aisles wide enough to accommodate wheelchair patrons. In addition, these patrons will be afforded a convenient method of entering or exiting the store.

(c) Seeing eye dogs are permitted entry to the commissary sales store.

§ 976.9 Surcharge.

A four percent surcharge will be made on all sales and issues made from the grocery, meat, and produce departments with the exception of issues made to appropriated fund dining facilities and nonappropriated fund essential feeding facilities. Application of surcharge rates for these activities is outlined in Air Force Commissary Service Regulation 145-4.

§ 976.10 Methods of payment.

(a) Commissary stores will accept payment for commissary purchases by authorized individuals and activities only in the following forms: Cash (currency and coin); U.S. Treasury checks; certified checks; cashier's checks, and bank drafts; uncertified personal or nonappropriated fund payroll checks; traveler's checks; postal or bank money orders.

(b) The commissary will not accept personal second party checks, postdated checks, or cash checks as a matter of convenience.

(c) Inside the United States, the commissary will accept only checks drawn on U.S. banks located within the United States. In overseas areas, the commissary will accept U.S. Treasury checks and personal checks drawn on local banks or banks located in the United States. All checks accepted in overseas areas are payable in U.S. dollars.

(d) The store manager will ensure acceptance of vendor coupons. Commissary stores will accept unexpired coupons from customers for merchandise regularly stocked in the store. The commissary will accept coupons only for merchandise manufactured in the United States.

§ 976.11 Dishonored checks.

(a) Upon receipt of a dishonored check, the commissary officer will make two aggressive telephone demands for redemption of the check if required. If the drawer cannot be contacted by telephone, he will contact the drawer by certified mail with return receipt requested; a follow up letter will be sent two workdays after receipt of the first letter has been acknowledged. The commissary officer will not retain a dishonored check in his possession for more than 30 workdays.

(b) If returned checks are not redeemed after taking actions in § 976.11 (a) they will be forwarded to the AFO who will then process for collection against the drawer. This does not mean that agents must be authorized commissary patrons.
§ 976.12 Food stamp program.

(a) Commissary stores in the United States will participate in the Department of Agriculture Food Stamp Program by accepting food stamp coupons in exchange for eligible food items.

(b) Coupons will be accepted only for purchases of food or food products for human consumption, not for tobacco products, pet foods, nonfood items, or deposit on bottles or returnable food containers.

(c) The commissary store may make change with $1 uncanceled and uncanceled coupons, which were previously accepted in payment for eligible foods. Commissary stores will not return cash as change in food stamp transactions.

When the amount of change due is less than $1, it is the food stamp customer's option to:

1. Accept a credit slip (Air Force Form 461) for 99 cents or less (indicating food stamp credit), or

2. "Trade-out" for eligible foods, or

3. Pay the store the difference in cash.

§ 976.13 Cigarette purchase certificate (Air Force Form 183).

CIGARETTE PURCHASE CERTIFICATE

(This form is affected by the Privacy Act of 1974—See Section 13, Title I, Federal Register, Vol. 44, No. 168, August 2, 1979.)

I certify that I am purchasing cigarettes for myself and authorized dependents.

Reason for purchasing were from the cigarettes

Number of cigarettes

Signature of Purchaser

Signature of Authorizing Individual

For Further Information Contact:


FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Alcoholic beverages. The drinking of alcoholic beverages in any public place, except in the designated picnic area is prohibited, except with the written permission of the Superintendent.

Maintenance of Vehicles. Washing, cleaning, waxing, or lubricating motor vehicles or repairing or performing any mechanical work upon motor vehicles, except in emergencies, in any public place is prohibited.

(c) Definition. As used in paragraphs (a) and (b) of this section, the term "public place" shall mean any place, building, road, picnic area, parking space, or other portion of Minute Man National Historical Park to which the public has access.

Robert Nash,
Superintendent, Minute Man
National Historical Park.

September 1, 1977.
**ENVIRONMENTAL PROTECTION AGENCY**

**[40 CFR Part 52]**

**APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—Massachusetts**

**Extension of Comment Period**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of Comment Period.

**SUMMARY:** This notice extends the period for comments on the notice, published August 3, 1977 (42 FR 20260), proposing a change to the State Implementation Plan (SIP) which would increase the allowable sulfur content of fossil fuel burned by sources in the Berkshire Air Pollution Control District (geographic equivalent of the Berkshire Intrastate Air Quality Control Region). The comment period is being extended in order to provide sufficient time for affected sources and other interested parties to review EPA's evaluation of the air quality impact of the SIP revision and submission of comments and/or additional technical information.

**DATES:** Comments must be received on or before October 2, 1977.

**ADDRESSES:** Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

**FOR FURTHER INFORMATION CONTACT:** Wallace D. Woo, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203.

**SUPPLEMENTARY INFORMATION:** The City of Omaha Air Quality Control Ordinance and the City of Lincoln Air Pollution Control Ordinance and Regulations and Standards were adopted as part of the SIP by the Nebraska Environmental Control Council at a public hearing on December 10, 1976. The Lancaster County Air Pollution Control Resolution was adopted by the council on March 18, 1977. With certain exceptions, the local air pollution control ordinances are consistent with the Nebraska Air Pollution Control Regulations.

The Omaha and Lincoln ordinances, which were included in the SIP submitted on January 20, 1972, will now incorporate the revisions made to the ordinances since that time. Sections of the Lincoln ordinances which were found inadequate according to § 52.1424 and § 52.1429 have been revised. These sections deal with the authority to require recordkeeping and reporting and provisions for periodic testing and inspection of sources.

Certain New Source Performance Standards have been adopted by each of the three local ordinances. The Lincoln and Lancaster County ordinances also include prevention of significant deterioration regulations. Emission standards for inorganic fluoride compounds from brick manufacturing plants have been specified in the Lincoln and the Lancaster County ordinances.

These changes constitute a proposed revision to the Nebraska SIP, pursuant to § 51.6 of this chapter. Relevant comments concerning the proposed revision and compliance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 will be considered by the Regional Administrator in her decision to approve or disapprove the plan revision.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; Public Information Reference Unit, Library Systems Branch (PM-213) Environmental Protection Agency, Washington, D.C. 20460; and the Department of Environmental Control, 1424 P Street, Lincoln, Nebraska 68509.

**Dated:** September 2, 1977.

**Charles V. Wright,** Acting Regional Administrator.

**ADDRESS:** Comments should be sent to Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, Region VII, 1735 Baltimore, Kansas City, Missouri 64108.

**FOR FURTHER INFORMATION CONTACT:** Karen M. Solari, telephone 816-374-3791.

**SUPPLEMENTARY INFORMATION:**

- The proposed new source performance standards have been adopted by each of the three local ordinances. The Lincoln and Lancaster County ordinances also include prevention of significant deterioration regulations. Emission standards for inorganic fluoride compounds from brick manufacturing plants have been specified in the Lincoln and the Lancaster County ordinances.
- These changes constitute a proposed revision to the Nebraska SIP, pursuant to § 51.6 of this chapter. Relevant comments concerning the proposed revision and compliance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 will be considered by the Regional Administrator in her decision to approve or disapprove the plan revision.

**Dated:** September 2, 1977.

**Charles V. Wright,** Acting Regional Administrator.

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**Dated:** September 2, 1977.

**Charles V. Wright,** Acting Regional Administrator.
PROPOSED RULES

Weatherly, Alaska Public Utilities Commission. We hereby accept these very competent State Commissioners as members of the Joint Board. They will be joined by Commissioners Richard E. Wiley, Robert E. Lee, and Joseph R. Fogarty of this Commission.

3. The Hawaiian Telephone Company (HTC), notes that paragraphs 3 and 4 of the initial notice, supra, refers in part to settlements and that the purpose of the Joint Board is to prepare a recommended decision "...establishing the separations that would be applicable to Hawaii and Alaska." HTC asserts that the references to settlements are thus inappropriate and should be deleted. While we concur that the scope of the Joint Board proceeding is limited to separations, we do not believe that the use of the term settlements in the context used is inappropriate. In our reconsideration Memorandum Opinion and Order, FCC 77-364, released June 6, 1977, we noted that settlements must be related to an established separations procedure(s), and that further proceeding on this order, FCC 77-364, have not been filed it would be inappropriate to modify the Joint Board order at this time. The present order is consistent with other Commission orders, the Joint Board, and the Joint Board proceeding, and is not prejudicial to HTC. Thus, we will deny the request for clarification.

4. It is the further purpose of this notice to organize and establish a meeting place and date so that the Board may determine at that time procedures appropriate to the stated purpose of the creation of this Board. It is anticipated that the Joint initial proceeding will explore a schedule for a notice and comment procedure so that all interested parties will have an adequate opportunity to develop a record supporting what modifications, if any, are necessary to existing Separations Manual in order that it would be applicable to Alaska and Hawaii. In addition, we anticipate that the Board will address the procedures under which the Board will operate including ex parte rules.

5. Accordingly, it is ordered, That Edwin R. Lundborg, William Symons, Jr., Albert Q. Y Tom, Marvin R. Weatherly, Richard E. Wiley, Robert E. Lee and Joseph R. Fogarty are appointed to the Federal-State Joint Board mentioned herein and the first meeting of such board shall be held on September 22, 1977, at 9:00 a.m. In the office of this Commission at 1919 M Street, NW, in Washington, D.C.

6. It is further ordered, That the petition for clarification, filed June 9, 1977, by Hawaiian Telephone Company is denied.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS
Secretary.

[FR Doc.77-26746 Filed 9-14-77; 8:15 am]

Commissioner Abbott M. Washburn is designated as an alternate to the Joint Board.
SUMMARY: Three commenters have requested a 90-day extension of time to file comments in this Docket (42 FR 37427, July 21, 1977) indicating that extra time is needed to properly assess and analyze data now being collected which will serve as the basis for their comments. We believe that additional time should be allowed for this purpose; therefore, the time for filing comments is extended as indicated.

DATE: The time for filing comments in Docket HM–152; Notice 77–6 is extended from September 20, 1977 to November 21, 1977.

ADDRESSES: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Five copies should be submitted.

FOR FURTHER INFORMATION CONTACT:

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) (4) of App. A to Part 102)

Issued in Washington, D.C., on September 8, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77–38955 Filed 9–14–77; 8:45 am]
DEPARTMENT OF AGRICULTURE

ALGAECIDE TREATMENT OF SNOW & QUEMADO LAKES

Notice of Availability of Final Environmental Statement.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Algaecide Treatment of Snow and Quemado Lakes in New Mexico, USDA-FS-R3 FES Adm.

The final environmental statement considers probable environmental effects of the proposed project.

The environmental statement was transmitted to CEQ on September 8, 1976.

Copies are available for inspection during regular working hours at the following locations:


USDA, Forest Service, Southwestern Region, 617 Gold Avenue, SW, Albuquerque N. Mex. 87120.

Gila National Forest 2610 North Silver St., Silver City, N. Mex. 88061.

Single copies are available upon request to Forest Supervisor, Gila National Forest, 2610 North Silver Street, Silver City, New Mexico. 88061. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

M. J. HASSELL, Regional Forester, Region 3.

CIVIL AERONAUTICS BOARD

JoN T TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Specific Commodity

ORDER


An agreement has been filed by the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 599 dealing with specific commodity rates.

The agreement names seven specific commodity rates under existing commodity descriptions and adds one rate with a new commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotected notice to the carriers and promulgated in IATA letters between July 23 and July 27, 1977.

This order will be published in the Federal Register.

PHILLIS T. KAYLOR,
Secretary.

CARGO RATES AND CURRENCY MATTERS

TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Passenger Fares, Cargo Rates and Currency Matters

ORDER


Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

Both agreements are of a technical nature. Agreement C.A.B. 26816 would indefinitely extend the preclusion of passenger and cargo services within the area comprised of Australia/Papua New Guinea/Djajapura/Brith Solomon Islands Protectorate from the application of IATA resolutions governing such serv-
An executive session, if appropriate, may come the action of the Civil Aeronautics Board’s Regulations, 14 CFR 385.50, may file, such petitions within ten days after the date of service of this order.

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

This order will be published in the Federal Register.

PHYLIS T. KAYLOR, Secretary.

[FR Doc. 77-26897 Filed 9-14-77; 8:45 am]

CIVIL RIGHTS COMMISSION WASHINGTON Public Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 343, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on October 19, 1977, at the Federal Building, Courthouse, 514, 915 Second Avenue, Seattle, Wash. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; to appraise the actions of the Federal Government and the United States in general with respect to the rights of American Indians in respect to the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians, and to disseminate information with respect to denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or in the administration of justice, particularly concerning American Indians, and to disseminate information with respect to denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians.


ARTHUR S. FleMMING, Chairman.

[FR Doc. 77-26791 Filed 9-14-77; 8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Revision of General Determination No. 1 (Revised)

AGENCY: Domestic and International Business Administration.

ACTION: Amendment of General Determination No. 1 (Revised) (38 FR 20484 et seq.)

SUMMARY: This action amends Foreign Excess Property General Determination No. 1 (Revised) by broadening the scope of certain categories of property presently covered by general determination and by including new categories of property.

DATE: This amendment shall become effective on September 15, 1977.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Frank Creel, who can be reached by telephone on 202-377-4913.

SUPPLEMENTARY INFORMATION:

On August 5, 1971, there was published in the Federal Register (43 FR 29662 et seq.; corrected, August 10, 1977, 42 FR 40673) a notice in which the Deputy Assistant Secretary for Resources and Trade Assistance stated his intention to revise General Determination No. 1 (Revised) (38 FR 20484 et seq.) pursuant to Section 302.4 of the Department of Commerce Foreign Excess Property Regulations (15 CFR Part 302). Interested persons were invited to submit written comments concerning the proposed amendments on or before August 13, 1977. Five written comments were received, two of which expressed general approval of the proposal.

One party suggested that special equipment such as air compressors, boring machines and so forth which are mounted on vehicles subject to the General Determination also be included. This suggestion was adopted, but additional clarification was inserted to exclude discrete accessories which were not deemed to satisfy the conditions for inclusion on the vehicles.

Another party suggested that the General Determination should also encompass track laying vehicles such as the M-4 and M-5 high-speed tractors. Further research indicated that such vehicles would not satisfy the conditions for inclusion and the suggestion was not adopted. Finally, this party thought that the provision for unused parts and components for combat military motor vehicles should be broadened to include unused parts and components as well. While the Department agrees that many excess vehicles are obsolete and for that reason can be considered to be in short supply, it was determined that this is not always the case and that unused parts and components should, therefore, continue to be subjected to case-by-case review.

Another party suggested that the proposal include Bailey-type prefabricated steel bridge components and erection equipment. Upon consideration, it was determined that such bridges are currently military procurement items and that certain components are available on order. The suggestion was, therefore, not adopted.
importation of foreign excess property property in the form, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars or track laying vehicles.

(b) Used parts and components for non-combat military motor vehicles. Used non-combat military motor vehicles, irrespective of rated capacity, including but not limited to general purpose trucks such as cargo, carry-all, chassis, panel, pickup, dump, platform, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars or track laying vehicles.

(c) Combat military vehicles and parts and components thereof. Note: Military vehicles enumerated on the U.S. Munitions Import List are also subject to the import permit requirements of the Department of the Treasury pursuant to the Arms Export Control Act (Pub. L. 94-359, which supersedes the Mutual Security Act of 1954). See 27 CFR 47.

(d) Pneumatic tires and inner tubes, excluding passenger car tires and inner tubes. Used or new non-combat military motor vehicles, anecdotally used for military purposes, are subject to the General Determination shall prior to entry into the customs territory of the United States: (i) be branded with the letters “N.F.C.” (Not First Class) in one inch block type with the letters “N.F.C.”.

(e) Used power transformers, 10001 kilovolt-ampere and above.

(f) Compressed gas cylinders.

(g) Metal scrap, ferrous and non-ferrous.

(h) Used ships, boats, floating equipment (including barges, dry docks and pontoons), and parts and components thereof. Excludes battleships, cruisers, aircraft carriers, destroyers and submarines which are not subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended; 40 U.S.C. 472(d) (2).

(i) Photofilm and paper which is being imported solely for reclamation of the silver content.

Any of the property described above may be entered into the economy of the United States on presentation of the original FEP Import Authorization to the Director of Customs for his endorsement at the time of entry: Provided, the requirements in paragraph (d) above relating to the unused pneumatic tires and inner tubes are complied with to the satisfaction of the Director of Customs.

Effective September 15, 1977, General Determination No. 1 (Revised) is hereby amended to permit entry of Foreign Excess Property under General Determination No. 1 shall be construed to exempt the importer from presentation of such other entry documents, or conforming with any procedures, required by the U.S. Customs Service.

Effective September 15, 1977, General Determination No. 1 shall be amended or withdrawn by the Deputy Assistant Secretary and notice of such amendment or withdrawal shall be published in the Federal Register (15 CFR 302.4). Effective Date: September 15, 1977.

ROBERT E. SHEPPARD, Deputy Assistant Secretary for Resources and Trade Assistance.

Domestic and International Business Administration

DUTY FREE ENTRY OF ELECTRON MICROSCOPES

Consolidated Decision on Applications

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Mutual Security Act, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.1161)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-60176. Applicant: University of California, San Diego, Department of Neurosciences, School of Medicine, La Jolla, Calif. 92039. Article: Electron Microscope, Model JEM-100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used to study the structure of biological cells and tissues which include nerve tissues and phenomena associated with neurological disease, including the subcellular regions of excitable membranes; and serial sections of subcellular regions of neurons, suitable for computer reconstruction. All of the materials and phenomena to be studied are derived from instances derived from patients suffering from neuro muscular diseases.

Docket Number: 77-60186. Applicant: New York Medical College, Department of Anatomy, Basic Science Building, Valhalla, N.Y. 10595. Article: Electron Microscope, Model JEM-100C with side entry goniometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for light microscopic examination of biological tissues such as pancreas, liver, muscle, and blood platelets. Blood platelets before and after exposure to thrombin will be examined to determine the intracellular translocation of calcium related to secretion. Studies of fine filaments will be made to relate these to morphologic changes in cell shape and, particularly, to the formation of long pseudopodia. Low magnification studies of undistorted, flat field cells will be performed. These will be used for light microscopic-electron microscopic correlations which will permit visualization of the same cells by both instruments. The applicant intends to train an electron microscope course to train graduate and medical students in the use of electron microscopes as a tool for research and service in the field of osteology. Application received by commissioner of customs: April 1, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977. Article ordered: February 25, 1977.

Docket Number: 77-60186. Applicant: University of California, San Diego, Department of Neurosciences, School of Medicine, La Jolla, Calif. 92039. Article: Electron Microscope, Model JEM-100C with side entry goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for the study of neurological phenomena associated with neurological disease, including the subcellular regions of excitable membranes; and serial sections of subcellular regions of neurons, suitable for computer reconstruction. All of the materials and phenomena to be studied are derived from instances derived from patients suffering from neuro muscular diseases. In addition, the article will be used in the course “Workshop in Electron Microscopy” in which students will be taught modern electron microscopic techniques in order that they may successfully be able to undertake relevant projects without further supervision. Application received by commissioner of customs: March 24, 1977. Advice submitted by the Department of Health, Education, and Welfare on: June 24, 1977. Article ordered: February 25, 1977.
complexes containing fluorine.

5. Magnetic exchange using Knight shifts. Magnetic
properties of transition metal

6. Structural determination of organic

7. Structural studies of antibiotics isolated
from fermentation broth, by 13C and 1H NMR spectroscopy:

8. Structural studies of antibiotics isolated
in minute quantities (2-4 milligrams) as isolated
from plant materials by 13C and 1H NMR spectroscopy.

9. Stereo chemical assignments made on
antibiotics by a combination of 13C and 1H NMR studies.

10. Structure elucidation studies on bio-
transformed antibiotics by combination of
13C and 1H NMR spectroscopy.

11. Structural verification studies on deriva-
tives of antibiotics by combination of
13C and 1H NMR spectroscopy.

which each of the foreign articles to
which these applications relate is inte-
tended to be used. HEW also advises
that it knows of no domestic instrument which
provided the pertinent features of each article at the time of order.

The Department of Commerce knows
of no other instrument or apparatus of
equivalent scientific value to any of the foreign articles to which the foregoing
specifications relate. For such purposes as
these articles are intended to be used,
which was being manufactured in the
United States at the time the articles
were ordered.

RICHARD M. SEPPA,
Director,
Special Import Programs Division.
(Catalog of Federal Domestic Assistance Pro-
gram No. 11.106, Importation of Duty-Free
Educational and Scientific Materials.)

DUTY-FREE ENTRY OF NUCLEAR MAG-
NETIC RESONANCE SPECTROMETERS

Consolidated Decision on Applications

The following is a consolidated deci-
sion on applications for duty-free entry of
a Nuclear Magnetic Resonance Spectrometers pursuant to section 8(c) of the
Educational, Scientific, and Cultural Ma-
terials Importation Act of 1966 (Pub. L.
89-651, 80 Stat. 897) and the regula-
tions issued thereunder as amended (15 CFR
301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review
during ordinary business hours of the
Department of Commerce, at the Special
Import Programs Division, Office of Im-
port Programs, Department of Com-
merce, Washington, D.C. 20230.

Docket Number: 77-00172. Applicant:
Frederick Cancer Research Center, P.O.
Box B, Frederick, Md. 21701. Article: NMR Spectrometer, Model JNM/FX-60
and Accessories; JEOL Ltd., Japan. Intended use of article: The article
will be used for the following indi-
individual research activities which in-
volves 13C and 1H NMR spectroscopy:

1. Structural studies of antibiotics isolated
from fermentation broth, by 13C and 1H NMR spectroscopy.

2. Structural studies of antibiotics isolated
in minute quantities (2-4 milligrams) by 13C and 1H NMR Spectroscopy.

3. Structural studies of antibiotics isolated
from plant materials by 13C and 1H NMR spe-
troscopy.

4. Stereo chemical assignments made on
antibiotics by a combination of 13C and 1H NMR studies.

5. Structure elucidation studies on bio-
transformed antibiotics by combination of
13C and 1H NMR spectroscopy.

6. Structural verification studies on deriva-
tives of antibiotics by combination of
13C and 1H NMR spectroscopy.

Most of the materials to be studied will
be antitumor compounds, hopefully can-
didates to cure cancer in clinics. Some of
these materials are available in small
quantities (2-4 milligrams) as isolated
from limited resources and need to be studied by a microprobe system of an
NMR instrument. Application received by
Commissioner of Customs: March 17, 1977. Advice submitted by the Depart-
ment of Health, Education, and Welfare on
July 4, 1977. Article ordered August
2, 1976.

Docket Number: 77-00206. Applicant:
Nihon Kohden Kogyo Co., Ltd., Japan. Intended use of article: The article
will be used for the following in-
dividual research activities which in-
volves 13C and 1H NMR spectroscopy:

1. Structural studies of antibiotics isolated
from fermentation broth, by 13C and 1H NMR spectroscopy.

2. Structural studies of antibiotics isolated
in minute quantities (2-4 milligrams) by 13C and 1H NMR Spectroscopy.

3. Structural studies of antibiotics isolated
from plant materials by 13C and 1H NMR spe-
troscopy.

4. Stereo chemical assignments made on
antibiotics by a combination of 13C and 1H NMR studies.

5. Structure elucidation studies on bio-
transformed antibiotics by combination of
13C and 1H NMR spectroscopy.

6. Structural verification studies on deriva-
tives of antibiotics by combination of
13C and 1H NMR spectroscopy.

The article is intended to be used for
studies of bioelectric potential changes
from excitable tissues. Membrane poten-
tial and membrane current are recorded
from nerve and muscle tissues displayed
on an oscilloscope, and photographed on
a film. Membrane electrical properties
including ionic conductances are then
measured from the recorded film.

Comments: No comments have been
received with respect to this application.

Decision: Application approved. No in-
strument or apparatus of equivalent sci-
tific value to the foreign article, for
such purposes as these articles are intended to be used, is being manufactured in
the United States.

Reasons: The foreign article provides
capabilities for continuous recording on
a television film in a lighted room. The
Department of Health, Education, and
Welfare (HEW) advises in its memoran-

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RENSSELAER POLYTECHNIC INST.
Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder as amended.

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00412. Applicant: Rensselaer Polytechnic Institute. Materials Engineering Department, Troy, New York 12181. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the United States at the time the foreign article was ordered (December 17, 1974).

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.] [FR Doc. 77-26820 Filed 9-14-77; 8:45 am]

UNIVERSITY OF SOUTHERN CALIFORNIA, ET AL.
Application for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons are invited to present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States.

Amended regulations issued under cited Act (15 CFR 301), prescribe the requirements applicable to such comments. A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00332. Applicant: University of Southern California, University Park, Los Angeles, California 90024. Article: Transmission electron microscope. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for studies of the formation and transformation of thin sections of crystalline solids, including nickel-base alloys, titanium alloys, steels, glass-ceramics, oxides, sulfides and minerals. Experiments to be conducted include the preparation of thin sections of freeze-fracture replicas of normal, experimentally altered and diseased myelin. The main phenomena to be investigated includes the ultrastructure of myelin and maintenance of myelin as electron microscope features of experimentally altered or diseased myelin. The article is intended to be used for studying experimentally low temperature properties of specimens to be used in furthering the conceptual understanding of the phenomenon of superfluidity. Application received by Commissioner of Customs: August 9, 1977.

Docket number: 77-00333. Applicant: Stevens Institute of Technology, Castle Point Station, Hoboken, New Jersey 07030. Article: PLM-3 Platinum NMR Thermometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigations of crystalline and non-crystalline solids, including nickel-base alloys, titanium alloys, steels, glass-ceramics, oxides, sulfides and minerals. Experiments to be conducted include characterization of defects in crystalline solids, determination of chemical composition of phases in minerals, glass-ceramics and alloys, and mechanisms of phase transformations in.
Materials Characterization, Engr. 244. Transmission Electron Microscopy, and Chemical Analysis. The objectives of these courses are to familiarize the students with the principles, operation, and applications of the techniques of TEM, SEM, STEM, and X-ray microanalysis. The article is intended to be used for the study of the interactions of molecules with intense, coherent infrared radiation. The article will also be used for educational purposes in medical and pharmaceutical histology, the study of normal organs, tissues, and cells; Anatomy 102 and Anatomy 103. The article will be used to provide by direct visualization the normal arrangement of substructure, both internally and externally, of cells and how these cells are arranged to form tissues and organs. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00335. Applicant: National Bureau of Standards, Route 270 and Quince Orchard Road, Gaithersburg, Md. 20760. Article: Complete gasifier, 1-cubic meter furnace, and accessories. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used to study live viruses; specifically, live hemorrhagic fever viruses will be studied in the hope that gamma irradiation will be used to produce by direct visualization the normal arrangement of substructure, both internally and externally, of cells and how these cells are arranged to form tissues and organs. Application received by Commissioner of Customs: August 12, 1977.

Docket Number: 77-00325. Applicant: Colorado State University, Fort Collins, CO 80523. Article: FX-100 NMR Spectrometer. Manufacturer: JEOL. Ltd., Japan. Intended use of article: The article is intended to be used for a variety of studies of the molecular structure type, utilizing "C and 'H nuclear magnetic resonance (NMR) in the Fourier transform (FT) mode. Specific research will include studies of the following:

1. Geometrical dependence of substituent effects on "C chemical shifts.
2. 13C signal intensities in hydrocarbons.
3. The synthesis of complex organic systems.
5. Biodegradation of toxic plant nitro compounds.
6. Polymer chemistry.

Application received by Commissioner of Customs: August 11, 1977.

Docket Number: 77-00333. Applicant: Regents of the University of California, 405 Hilgard Avenue, Los Angeles, Calif, 90024. Article: Electron Microscope, Model JEM-200 with High Resolution Universal Goniometer Double Tilting Stage, and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of the microstructure of heavy-iron irradiated Ni-base alloy, the microstructure of irradiated ferrous and non-ferrous alloys, and radiation-induced minerals such as quartz and olivine; and phase transformations in materials. Microstructural studies will be conducted in relation to the irradiation properties of metals, alloys, ceramics and minerals, and irradiation-induced swelling in alloys. The article will also be used for educational purposes in the courses: Engr. 145-A, Introduction to Materials Characterization, Engr. 244.

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Docket Number: 77-00340. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: 2 (each) Image Converter Camera Systems, and Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the motion of the high-temperature plasma column in the Scylla IV-F theta-pinch device which is part of the U.S. program to produce energy for peaceful purposes through controlled nuclear fusion. Specific experiments to be conducted include the following:

(a) Studies of the phenomena involved in the plasma heating processes (Shock, heating, and adiabatic compression heating)

(b) Studies of the plasma end-loss phenomena and various methods of reducing both the particle end-loss and the heat loss by axial thermal conduction.

(c) Determination of the detailed plasma properties such as temperature, density, and confinement time.

(d) Study of the nuclear fusion reactions which occur in the hot plasma.

Application received by Commissioner of Customs: August 15, 1977.

Docket Number: 77-00341. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Amplifier Module, Series 600A and Accessories. Manufacturer: Hadland Systems Lab. Ltd., United Kingdom. Intended use of article: The article is intended to be used for high resolution transmission and scanning transmission electron microscopic studies of the cytoskeletal changes associated with neoplastic progression in fibroblastic tissue and mammary epithelial cells. Specifically, the article will be used in conjunction with an energy dispersive spectrophotometer to perform microanalysis of particulate material within the fibroblasts and mammary epithelial cells both in normal and pathological samples. Studies will be conducted regarding the effects of estrogen on the scale of progression of male lethal product in the cockeral as studied in the liver. The article will also be used for the training of medical and graduate students, faculty and technical staff in electron microscopy. Application received by Commissioner of Customs: August 22, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

UNIVERSITY OF TEXAS SYSTEM CANCER CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 5.6 of the Educational, Scientific, and Cultural Materials Import Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00014. Applicant: The University of Texas System Cancer Center, 6723 Bertner Avenue, Houston, Tex. 77030. Article: Impulcrophotometer, Model ROC, of Phoenix Scientific, Inc., Phywa Co., West Germany. Intended use of article: The article is intended to be used for high speed analysis of intracellular compounds by means of fluorescence. The material to be studied will be cultured human cells and biopsy material from patients with malignant disease. The article will serve as a tool to assess the effect of physical and chemical agents on cell cycle progression of both cultured cells and human tumors in vivo. The objectives of such studies are to define the mechanism of action of new anti-tumorigenic agents at the cellular level, to correlate cytokinetic with cytoelastic effects, to utilize data on cell cycle progression as a potential predictor for in vivo tumor response, to develop combination immunotherapy protocols for patients with malignancies based on information provided in such studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 23, 1976). Reasons: The foreign article provides a flow system in which excitation is parallel to the sample flow minimizing cell geometry effects stable excitation and a band of ultraviolet wavelengths (390-400 nanometers) to allow optimal choice of wavelength. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated July 11, 1977, that (1) the capabilities of the foreign article described above are pertinent to the application and intended uses, and (2) it knows of no domestic instrument that provided the pertinent feature at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

Richard M. Seppa,
Director, Special Import Programs Division.

DEPARTMENT OF COMMERCE
Foreign-Trade Zones Board

[Application and Public Hearing]

PHILADELPHIA PORT CORP.

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Philadelphia Port Corp., a Pennsylvania corporation, Philadelphia, Pa., requesting a grant of authority for the establishment of a foreign-trade zone in the City of Philadelphia, within the Philadelphia Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations (15 CFR Part 400). It was formally filed on August 26, 1977. The applicant is authorized to make this proposal under Pennsylvania State Act No. 126 (Pub. L. 201), approved June 10, 1935.
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Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations: Office of the Director, T.S. Department of Commerce District Office, Room 6448 Federal Building, 600 Arch Street, Philadelphia, Pa. 19106; Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets NW., Washington, D.C. 20230.


JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc. 77-5665 Filed 9-13-77; 8:45 am]

National Oceanic and Atmospheric Administration

TIDAL DATUMS

Establishment of Gulf Coast Low Water Datum

AGENCY: National Oceanic and Atmospheric Administration, Commerce Department.

ACTION: Establishment of Gulf Coast Low Water Datum.

SUMMARY: In this document the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, gives notice of the establishment of Gulf Coast Low Water Datum as Chart Datum for the Gulf Coast of the United States. This term will progressively replace the term Mean Low Water on all navigational products of the National Ocean Survey. The adoption of Gulf Coast Low Water Datum will provide one uniform low water datum national for the entire Gulf Coast and one continuous low water reference elevation based on the same tidal characteristics to eliminate vertical datum jumps and abrupt horizontal displacements of coastal boundaries.

ADDRESS: Director, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852.

FOR FURTHER INFORMATION CONTACT:

Stacey D. Hicks, Physical Oceanographer, National Ocean Survey, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Md. 20852. Telephone 301-443-8204.

Pursuant to the authority contained in section 883(a) of Title 33 of the United States Code, the National Ocean Survey, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, designates Gulf Coast Low Water Datum as Chart Datum for the coastal waters of the United States. The designation will become effective sixty days after publication of this notice. Full implementation will take place over a period of approximately two years.

Gulf Coast Low Water Datum is defined as: Mean Lower Low Water when the type of tide is Mixed and Mean Low Water when the type of tide is Diurnal. Gulf Coast Low Water Datum will be used:

(a) As the base from which depths and contours on nautical charts and bathymetric maps are referred;
(b) For determining the position of the low water line when displayed on large scale charts and maps;
(c) As the base from which tide-prediction heights are referred; and
(d) To fix those coastal boundaries by, based upon, or measured from (or points thereon) the low water line.

The demarcation between Chart Datum of the Atlantic Coast (Mean Lower Low Water of the Mixed type of tide) and Chart Datum of the Gulf Coast (Gulf Coast Low Water Datum) occurs at the boundary between the Semidiurnal tide of the Atlantic and the Mixed wedge of the Gulf. The boundary from Mixed to Semidiurnal occurs where the value of the ratio of the principal Diurnal constituents of the tide of the principal Semidiurnal constituent becomes less than 0.25. The official boundary is represented by lines on the largest scale nautical charts of the National Ocean Survey extending:

(a) From the Long Island Sound; and
(b) The most westerly segment of the southern border of Biscayne National Monument and the land (just south of Mangrove Point);
(c) Along the southwest segments of the principal border of the Monument to Old Rhodes Point on the southeast corner of Old Rhodes Key;
(d) Hence, from Old Rhodes Point to the northwest corner of the John Pennekamp Coral Reef State Park along its southwest border and continuing straight out to sea just south and beyond Molasses Reef.

Gulf Coast Low Water Datum extends from the demarcation outlined immediately above, around the southern extremity of Florida (including the Keys), hence along the coastal waters of the Gulf Coast to the border between the United States and Mexico.

The purpose for the adoption of Gulf Coast Low Water Datum is to provide:

(a) One uniform low water datum name for the entire Gulf Coast; and
(b) One continuous low water reference elevation based on the same tidal characteristics, in order to eliminate:

(1) Vertical datum jumps; and
(2) The resultant abrupt horizontal displacements of coastal boundaries.

This action does not eliminate the datums of Mean Low Water or Mean

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DEPARTMENT OF DEFENSE
Air Force Department

USAФ SCIENTIFIC ADVISORY BOARD
Meeting
The USAФ Scientific Advisory Board Science and Technology Advisory Group, Standing Committee on Research, Air Force Systems Command, will hold meetings on October 11, 1977, from 8:30 a.m. to 5:00 p.m. and October 12, 1977, from 7:30 a.m. to 3:00 p.m., at Air Force Armament Test Laboratory, Eglin AFB, FL, Room 204, Building 1, Andrews Hall. The Committee will receive briefings and participate in discussions related to United States Air Force research and research needs which support weapons development for conventional warfare.
The meeting concerns matters listed in section 552(b)(5) of Title 5, United States Code and, therefore, the meeting will be closed to the public.
For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

USAФ SCIENTIFIC ADVISORY BOARD
Meeting
The USAФ Scientific Advisory Board Meeting of the ad hoc Committee on Cruise Missile Technology scheduled to be held on September 22, 1977, from 8:00 a.m. to 5:00 p.m., at Langley AFB, Va., has been changed to October 18, 1977. All other information is the same. This meeting was advertised in FR Vol. 42, No. 25119.
For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

DEPARTMENT OF DEFENSE WAGE COMMITTEE
Closed Meetings
Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 1; Tuesday, November 8; Tuesday, November 15; Tuesday, November 22; and Tuesday, November 29, 1977, at 9:45 a.m., in Room 18B01, the Pentagon, Washington, D.C.
The Committee's primary responsibility is to consider and submit recom-

mandations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92–362. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage surveys, summary of reports and recommendations, and wage schedules derived therefrom.
Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are “concerned with matters listed in section 552(b) of Title 5, United States Code.” Two of the matters so listed are the “relatives to the emergency personnel rules and practices of an agency,” (5 U.S.C. 552(b)(c)(2)), and those involving “trade secrets and commercial or financial information obtained from a person and privileged or confidential” (5 U.S.C. 552(b)(c)(4)). Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552(b)(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence.
Honors, advisors, and members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be of the Committee’s deliberate. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 8B261, the Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comp­
troller).

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
ADVISORY COMMITTEE ON GEOTHERMAL ENERGY, RESOURCE SUBCOMMITTEE
Meeting
In accordance with provisions of Pub.
L. 92–463 (Federal Advisory Committee Act), the Resource Subcommittee of the Advisory Committee on Geothermal Energy will hold its second meeting Thursday and Friday, September 29–30, 1977. The meeting on Thursday will take place from 8:30 a.m. to 5 p.m., Room 18B01, the Pentagon, Washington, D.C.
On Friday, as supplement to deliberations, the Subcommittee will tour a local in-
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Division of Geothermal Energy, Energy Administration has been rescheduled or relocation shall be directly relevant to the agenda. Minutes of the statements on agenda items may do so to facilitate the orderly conduct of business. This will record.

HARVEY L. PEBBLES, Deputy Advisory Committee Management Officer.

ENVIROMENTAL PROTECTION AGENCY

Extension of Contingency Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a) (2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (68 Stat. 975; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable George R. Ariyoshi, Governor of the State of Hawaii, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) contingent upon promulgation of implementing regulations. On June 9, 1976, the Regional Administrator, EPA, Region IX, approved the Plan on a contingency basis, allowing one year for promulgation of the regulations. Notice of the approval was published in the Federal Register on July 13, 1976 (41 FR 28844).

Subsequently, on July 8, 1977, the State of Hawaii submitted an extension of the period of the contingent approval in order to allow additional time to promulgate the regulations required for full approval. The Agency finds that there is good cause for approving this request and as such has granted an extension until December 31, 1977.


PAUL DE FALCO, JR., Regional Administrator, Region IX.

HAZARDOUS WASTE MANAGEMENT

Public Meetings

The Environmental Protection Agency will hold three identical public meetings in October to review and discuss the provisions of Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580), of 1976. Subtitle C of the Act creates a regulatory framework to control hazardous waste. Congress has found that such wastes present "special dangers to health or welfare due to their degree of regulation than does nonhazardous solid waste." (Section 1002(b)(5)). Because of the seriousness of this solid waste management problem, Congress provided that EPA shall develop programs to control it. In the event that States do not choose to operate this program, EPA is mandated to do so.

A series of seven guidelines and/or regulations is being developed under Subtitle C to implement the hazardous waste program. The principle subject areas are the following:

Section 3001—identification criteria for and storage of hazardous waste which are hazardous.

Section 3002—standards applicable to generators of hazardous waste.

Section 3003—standards applicable to transporters of hazardous waste.

Section 3004—standards applicable to treatment, storage, and disposal of hazardous wastes.

Section 3005—regulations for issuing permits for treatment, storage, or disposal of hazardous wastes.

Section 3006—guidelines to assist States in the development of State hazardous waste regulations.

Section 3010—a program for notification by persons generating and/or transporting hazardous wastes, and/or owning or operating a facility for storage, treatment, and disposal of hazardous wastes.

Informed Agency working groups were constituted in February 1977 to develop these guidelines and/or regulations. The Agency has held a series of public meetings and workshops throughout the country to gain input for them. At this stage of the regulation development process, EPA would like to share the prospective outline of the draft guidelines and regulations for further public comment prior to formal proposal. Further Agency-wide deliberations will follow these meetings prior to proposal in the Federal Register. These guidelines and regulations will be discussed at these identical meetings, while reflecting the current Agency position, will be further analyzed by EPA in the development of the final guidelines and regulations received at these meetings.

EPA Office of Solid Waste personnel will review and discuss the content of these draft guidelines and/or regulations at the three identical public meetings which will be held at the following locations:

October 11-12, 1977, Ranau Inn (Reno), 3000 North Folly Dr., Arlington, Va. time: 8 a.m. (registration).

October 13-14, 1977, The Chase-Park Plaza Hotel, 212 North King Street Blvd., St. Louis, Mo., 63108—time: 12 noon (registration).


Summaries of the materials that will be reviewed at these meetings will be available after September 20, 1977, by contacting: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, WH-462, U.S. Environmental...

THOMAS C. JORLING, Assistant Administrator, Water and Hazardous Materials.

[FR Doc.77-26940 Filed 9-14-77; 8:45 am]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Control Twospotted Spider Mite on Hop Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the “Applicant”) to use TETRAHYDROFURAN PYROPHOSPHATE (hereafter referred to as TEPP) for the control of twospotted spider mites which are threatening to destroy the commercial hop crop in Canyon County, Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, the Twospotted Spider Mite (Tetranychus urticae Koch) has or is about to occur in hop yards in Idaho and no registered pesticide nor alternative method of control is available to suppress the mite.

Although several miticides are registered for use on hops, Idaho State University entomologists alleged that none of the registered miticides were viable options for one or more of various reasons: (1) The riboflavin contents in hops are insufficiant for other miticides; (2) aerial applications were precluded because of ineffectiveness or labeling restrictions, and (3) the required pre-harvest interval excluded application at the time required. Ground pesticide applications were not feasible because of damage to hop foliage, lodged hops, and irrigation equipment. The Applicant stated that TEPP has prevented economic damage to the hop crop by this pest in previous years. The Applicant requested approval to treat the 1,500-acre commercial hop crop at a rate of 0.03 pound of active ingredient per acre in a single aerial application to suppress populations of twospotted spider mite which are threatening this crop in Canyon County. The pesticide will be applied by State-licensed aerial applicators under the Applicant’s supervision; the application will terminate no later than September 15, 1977. A three-day pre-harvest interval will be maintained.

The State of Idaho is producing 1,500 acres of the nation’s early-maturing hop crop. The Applicant stated that the potential crop yield loss attributable to the mites in Idaho is valued at $700,000.

The applicant cited the following factors which contribute to a relatively low probability of exposure of man to harmful residues of TEPP from hops: (1) Raw hops are never consumed by humans, and hops and hops products have a low harvesting harvest; (2) one-fourth pound of hops is added to each thirty-one (31) gallons of beer, a 1:1,000 dilution by weight; and (3) fermentation in the brewing vat destroys all the mites in addition to killing the pesticide residues. However, TEPP exhibits acute toxicity to fish and wildlife species, especially avian species. We have consulted with the Fish and Wildlife Service (USDI), and have been advised that two endangered species, the Arctic and American Peregrine Falcons, may be present in the Idaho counties where the pesticide is to be applied; however since neither species is known to frequent hop fields, no serious adverse effects on an endangered species and/or its habitat are expected. The Applicant has stated that it is to be applied; however since neither species is known to frequent hop fields, no serious adverse effects on an endangered species and/or its habitat are expected.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of twospotted spider mites has or is about to occur; (b) there is no pesticide presently registered and available for use to control the twospotted spider mites in Idaho; (c) there are no alternative means of control, taking into account the efficacy and cost of the pesticide noted above until September 15, 1977; (d) the potential crop yield loss attributable to the twospotted spider mites is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, The Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1977. This exemption is to be included in the notice. The specific exemption is also subject to the following restrictions:

(1) Aerial applications of TEPP are limited to one (1) at the rate of two (20) pounds of active ingredient per acre.
(2) Total acreage treated shall not exceed 1,500 acres.
(3) A maximum of 3,000 pounds of active TEPP will be applied.
(4) Treatment area is limited to Canyon County.
(5) A three-day pre-harvest interval will be observed.
(6) The Applicant is responsible for monitoring aerial applications of TEPP.
(7) Liaison shall be established with the Idaho State Departments of Agriculture, and Fish and Game to minimize any adverse effects on fish and wildlife resources.
(8) The EPA shall be immediately informed of adverse effects resulting from the use of this pesticide in connection with this exemption.
(9) All applicable directions, Restrictions and precautions on EPA-registered label will be observed.
(10) All precautions will be taken to avoid or minimize spray drift to nontarget areas and

Issued: September 8, 1977.

EWIN L. JOHNSON, Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-26736 Filed 9-14-77; 8:45 am]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Mesurol To Control Blackbirds on Wild Rice

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the “Applicant”) to use Mesurol (3-dimethyl-4-(methylthio) phenyl methyl carbamate) to control blackbirds which are causing grain losses on commercial wild rice in thirteen counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460.

According to the Applicant, blackbirds attack cultivated wild rice paddies every year; if not controlled, blackbird damage may cause well over 50 percent of the crop to be lost to harvest, and as a result, economic losses of from 1.5 to 2.0 million dollars may occur. The areas to be treated cover approximately 25,000 to 30,000 acres of commercial wild rice located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially at a dosage of 1.5 to 3.0 pounds active ingredient per acre. At the lower rate, two applications may be made. The 55 percent WP formulation of Mesurol will be used; a 14-day pre-harvest interval will be observed.

Mesurol is currently registered as a seed treatment on corn for repelling corn leafworms. The active ingredient of Mesurol may cause damage to corn, peas and other crops. The active ingredient of Mesurol may not be registered for use in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

Dated: September 8, 1977.

D. F. STEVENS, Assistant Administrator for Pesticide Programs.

[FR Doc.77-26736 Filed 9-14-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
NOTICES

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Malathion To Control Wild Rice Worm on Commercial Wild Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the “Applicant”) to use malathion to control populations of the Wild Rice Worm (Apamea apamiformis), which are threatening the commercial wild rice crop in thirteen (13) counties in Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain provisions regulated by regulations to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M. St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 30,000 acres of commercial wild rice require treatment with malathion to control damage caused by the wild rice worm. The rice crop to be treated is located in the following counties: Aitkin, Beltrami, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The wild rice worm appears to be a continuing pest of this crop throughout Minnesota.

There appear to be no registered alternative pesticides nor alternative methods of control available to suppress this pest. The Applicant has previously submitted efficacy data which indicate that malathion is effective in controlling the wild rice worm. Application of malathion E.C. on grain crops, including rice, is a registered use pattern. The recommended rate of use, and a maximum of several insects on grains is one pound of active ingredient malathion per acre, which is the application rate the Applicant will use. There will be a single aerial application on the rice crop.

Applications are limited to drained wild rice fields; and

The specific exemption is also subject to the following conditions:

1. A malathion E.C. product, Mesurol 5% WP, is authorized.
2. The dosage rate shall be 1.5 to 3.0 pounds active ingredient per acre; two applications may be made at the 1.5 pound rate. Total amount applied per acre must not exceed 3.0 pounds active ingredient.
3. Up to 30,000 acres in the thirteen counties listed in this notice may be treated.
4. Only State-certified and licensed commercial applicators may apply Mesurol.
5. Aerial applications are authorized.
6. A residue level of Mesurol in or on processed wild rice grain will not constitute a human health hazard; in addition, wild rice constitutes a very small fraction of the human diet. The Minnesota Department of Health, U.S. Department of the Interior (USDI), has informed EPA that two endangered species, the Peregrine Falcon (Falco peregrinus) and the Wolf (Canis lupus), may be present in or on rice areas requiring control. It is the property of the U.S. Department of the Interior where the pesticide is to be applied; however, since neither species is known to frequent rice paddies, it is not believed that Mesurol will cause any adverse effects in this respect. Because of the large acreage involved, there is also a possibility that some mortality to non-target song-birds will occur. However, result of the birds, if any, is not enough to induce the repellency effect of this substance; this effect would discourage the birds from ingesting further amounts of treated grain which would include Mesurol. The USDI and EPA agree that Mesurol is acutely toxic to fish and aquatic invertebrates; accidental contamination of aquatic areas near these rice paddies will result in fish kill. Measures must be exercised by the applicants of this pesticide to avoid such contamination.

After reviewing the application and other available information, EPA has determined that: (a) there is no pesticide presently registered and available for this use to control blackbird damage to commercial wild rice crops; (b) there is no pesticide presently registered and available for this use to control blackbird damage to commercial wild rice crops in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the blackbirds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been advised of this action.

There will be a single aerial application to the Minnesota Department of Agriculture, U.S. Department of the Interior (USDI), has advised EPA that one endangered species, the Timber Wolf (Canis lupus lycaonyx), is found occasionally in the counties listed: in addition, two endangered migratory avian species, the Whooping Crane (Grus americana) and the Arctic Peregrine Falcon (Falco peregrinus), are found through the area. However, both species will be located north of Minnesota during the rice growing season.

After reviewing the application and other available information, EPA has determined that: (a) there is no pesticide presently registered and available for use to control wild rice worm in Minnesota; (b) there is no pesticide presently registered and available for use to control wild rice worm in the Minnesota counties listed; in addition, two endangered migratory avian species, the Whooping Crane (Grus americana) and the Arctic Peregrine Falcon (Falco peregrinus), which are expected to pass through the area. However, both species will be located north of Minnesota during the rice growing season.

Applications are limited to drained wild rice fields; and

The counties to be treated are limited to the ones listed in this notice.

Applications of malathion are prohibited within ten days of harvest.

Wild rice with residues not in excess of 8.0 parts per million (ppm) will not pose a hazard to human health. The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that one endangered species, the Timber Wolf (Canis lupus lycaonyx), is found occasionally in the counties listed: in addition, two endangered migratory avian species, the Whooping Crane (Grus americana) and the Arctic Peregrine Falcon (Falco peregrinus), which are expected to pass through the area. However, both species will be located north of Minnesota during the rice growing season.

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STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to State of Wyoming

On December 23, 1971 (36 FR 24070), and March 7, 1974 (39 FR 9808), and August 6, 1974 (39 FR 33152), and September 26, 1975 (40 FR 43650), and October 6, 1975 (40 FR 46160), and December 16, 1975 (40 FR 58416), and December 22, 1975 (40 FR 49294), and January 15, 1976 (41 FR 2322 and 2332), and January 26, 1976 (41 FR 3826), and May 4, 1976 (41 FR 18501), pursuant to section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations establishing standards of performance for twenty-four (24) categories of new stationary sources (NSPS).

Section 111(a) directs the Administrator to delegate his authority to implement and enforce NSPS to any State which has submitted adequate procedures. If the Administrator determines that a State procedure for implementing and enforcing the NSPS is inadequate, or that a State is not carrying out, this delegation will be revoked. Any such revocation shall be effective as of the date specified in a Notice of Revocation by the Administrator. This portion of the delegation may be revoked.

If at any time there is a conflict between a State regulation and a Federal regulation, the more stringent or Federal regulation shall be applied. The granting of such a variance must comply with provisions 40 CFR 60.11(e)(14).

Delegation of authority to the State of Wyoming was requested by the Administrator of Region VIII, the Director of the Wyoming Department of Environmental Quality, on May 13, 1975, and the Administrator has determined that for the source categories set forth in paragraph A of the letter of February 23, 1977, requesting delegation of authority for implementation and enforcement of the New Source Performance Standards (NSPS) to the Air Quality Division of the Wyoming Department of Environmental Quality, the State of Wyoming has demonstrated that they have equivalent or more stringent programs in force.

The delegation of the State of Wyoming does not include the authority to implement any State Standards for New Source Performance Standards (NSPS) to the Air Quality Division of the Department of Environmental Quality of the State of Wyoming.

This delegation is subject to the following conditions:

1. Semianual reports, which include information for 24 sources, must be submitted to the Environmental Protection Agency (EPA) by the Air Quality Division of the Department of Environmental Quality and to the Administrator of Region VIII, the Director of the Department of Environmental Quality of the State of Wyoming, no later than March 31st and September 30th of each year.

2. The Air Quality Division of the Department of Environmental Quality and EPA will develop a joint interpretation of the regulations to be applied if it is more stringent than any State regulation and a Federal regulation.

3. The granting of such a variance must comply with provisions 40 CFR 60.11(e)(14).

4. Acceptance of this delegation of authority by the State of Wyoming to accept delegation of authority by EPA is subject to the following provisions that are equivalent to 40 CFR 60.5(a) through (o). The failure to meet these requirements shall be consistent with those which already have been made by the EPA.

5. Upon approval of the Regional Administrator of Region VIII, the Director of the Wyoming Department of Environmental Quality may sub-delegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State where such authorities have demonstrated that they have equivalent or more stringent programs in force.

6. The delegation to the State of Wyoming does not include the authority to implement any State Standards for New Source Performance Standards (NSPS) to the Air Quality Division of the Department of Environmental Quality of the State of Wyoming.

This delegation of authority to the State of Wyoming will not at time grant a variance or waiver from compliance with NSPS regulations. The granting of such a variance must comply with provisions 40 CFR 60.11(e)(14).

NOTICES

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Paranitrophenol has been used by the Applicant for over thirty years. During this period, wear tests as well as skin patch tests were conducted on personnel in the tanning and finishing companies. No instance has been reported other than some irritation when treated leather was applied directly to the skin. There appear to be no significant health hazards associated with the use of PNP for this purpose. However, there is a potential human health hazard associated with mold/mildew on leather. One of the fungal genera, Aspergillus, is also capable of causing Aspergillosis, which is a disease of the lungs in humans.

After reviewing the application and other available information EPA has determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to control these fungi during manufacture for end use protection; (c) the use of PNP is necessary to meet the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above for the purpose of treating leather during manufacture and not for end use. This exemption has been effective upon the date of receipt of this letter, the State must notify EPA of its acceptance.

Sincerely yours,

[Signature]
John A. Green, Regional Administrator,
Center for Regulatory Analysis, Air Quality Division, Region VIII Office, 1860 Lincoln Street, Denver, Colorado 80203.

Effective immediately, all reports required pursuant to the delegated New Source Performance Standards (NSPS) should not be submitted to the EPA Region VIII Office but instead should be submitted to the State Agency at the following address: Air Quality Division, Department of Environmental Quality, Hathaway Building, Cheyenne, Wyo. 82002.

Applications for new source review in process at the time of this delegation shall be processed through to completion by the EPA Region VIII Office.

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended, 42 U.S.C. 1867, 1867c-5, 6, 7 and g.

Date: August 25, 1977.

John A. Green, Regional Administrator.

[FR Doc.77-26906 Filed 9-14-77;8:45 am]

[FRL 761-1; OPP-180.142]

UNITED STATES ARMY

Issuance of a Specific Exemption To Use Paranitrophenol For Control Fungi Which Deteriorate Leather

The Environmental Protection Agency (EPA) has granted a specific exemption to the U.S. Army (hereafter referred to as the “Applicant”) to use paranitrophenol (PNP) to treat approximately twenty different types of leather military articles in order to prevent the rapid deterioration of these articles by fungi under high humidity conditions. The exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH - 267), Office of Pesticide Programs, 401 M St. SW, Room E-315, Washington, D.C. 20460.

According to the Applicant, the Army has been treating various leather military articles, of which the most important are those in contract, for thirty years. However, this particular use of PNP—treating leather during manufacture for the end use protection of the product against fungal decay—has never been registered. The Applicant has formally applied for registration of PNP for the exclusive purpose of treating military leather articles; however, a registration for this purpose will probably not be issued in time for the current year contracts now up for bids. The Applicant was confronted with the problem of not having a registered product for use on leather by having a tight deadline for new contracts.

Without an efficient fungicide, the cost of replacing shoes would increase from 2.4 million dollars to 4.8 million dollars annually. The applicant estimated that this cost would thus progressively result in unsatisfied demands at the rate of 3.5 million dollars per month. This could result in the Applicant's inability to store sufficient stock to serve as protection against a national emergency (mobilization, etc.).

The Applicant will use paranitrophenol (PNP) at a dosage rate of 0.18 to 0.7 percent based on the dry weight of the leather. PNP will be applied during the pinning and/or fat liquorizing of the leather or other operations of the tanner in preparing finished leather. PNP will be applied by the tanning company awarded a contract by the Applicant. The duration of application of PNP is not to exceed one year; either a formal registration of PNP for military use or an alternative registrable fungicide is to be obtained.

At least thirteen genera of fungi are known to cause leather deterioration, damage from these fungi occurs not only in humid tropical regions but also in temperate or cold regions where the humidity is in excess of 65 percent. It is known that during the Korean War, leather shoes not treated with PNP lasted 3.5 years. While there are registered fungicide compounds for treating the surfaces of finished leather for mold/mildew prevention, the Applicant has stated that these products are not practical under field use.

There appears to be no registered fungicide that (1) is applied during the manufacturing process, and (2) has a claim for preventing mold/mildew of the finished products. No fungicides are applied to leather during the tanning process, but the intent is to protect the leather during this process and not for end use.

Paranitrophenol has been used by the Applicant for over thirty years. During this period, wear tests as well as skin patch tests were conducted on personnel in the tanning and finishing companies. No instance has been reported other than some irritation when treated leather was applied directly to the skin. There appear to be no significant health hazards associated with the use of PNP for this purpose. However, there is a potential human health hazard associated with mold/mildew on leather. One of the fungal genera, Aspergillus, is also capable of causing Aspergillosis which is a disease of the lungs in humans.

After reviewing the application and other available information EPA has determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to control these fungi during manufacture for end use protection; (c) the use of PNP is necessary to meet the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above for this purpose. However, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Paranitrophenol (PNP) may be used at a dosage rate of from 0.18 to 0.7 percent active ingredient PNP based on the dry weight of the leather.

2. In addition to boots and shoes, the following leather items may be treated with PNP: Footwear counters, money bags, pocket ammunition magazines, policeman's club carriers, side arm shoulder straps, police security belts, handcuff cases, first aid dressing cases, flagstaff, slings, cartridge belt holders, Paratrooper gear, backpacks, and small pack cases. Any article intended for prolonged direct skin contact must not be treated with PNP.

3. The personnel of the leather manufacturer is authorized to apply PNP provided they are awarded contracts by the Applicant to provide the same with military leather articles.

4. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

5. The Applicant must either submit or initiate subacute and long term toxicity tests as well as teratogenic tests on PNP.

6. This specific exemption will terminate either when the use of PNP becomes registered for use by the military or when suitable alternative registered pesticide becomes available. In any event, this exemption will expire on June 16, 1978.

(Sec. 13 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136a et seq.)

Dated: September 8, 1977.

Edwin L. Johnson.
Deputy Assistant for Pesticide Programs.

[FR Doc.77-26733 Filed 9-14-77;8:45 am]
NOTICES

VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE

Issuance of a Specific Exemption To Use Botran 75W To Control Sclerotinia Blight of Peanuts

The Environmental Protection Agency (EPA) has granted a specific exemption to the Virginia Department of Agriculture and Commerce (hereafter referred to as the "Applicant") to use no more than 4 to 5 pounds of Botran 75W per acre for two treatments for the control of Sclerotinia Blight on peanuts in Virginia. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 156, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

According to the Applicant, the Sclerotinia Blight which is caused by the plant pathogen Sclerotinia sclerotiorum (syn. S. minor) is a relatively new disease on peanuts in the United States, being first reported in 1971. S. sclerotiorum was first reported to be present in North Carolina and Virginia due to this pathogen, the Applicant stated in Virginia, the Applicant stated that nine (9) major peanut-growing counties located in the southeastern part of the State are likely to be subject to infection by this pest. The total acreage in these counties is 104,000; however, only 50 percent (52,000) of this acreage has been designated for peanut production.

Several fungicides have been tested and shown to be effective for the control of Sclerotinia Blight on peanuts. Pen-tachloronitrobenzene (PCNB) when used at maximal label rates did control S. sclerotiorum in some instances, but not in others. Multiple applications of Benomyl also provided adequate control.

Neither of these fungicides are registered although PCNB has a registration for potato pod rot complex. For the control of this pest, Botran 75W was chosen by the Applicant because it was considered to be most efficacious when the plant pathogen, S. sclerotiorum, is present in peanuts. In addition, Botran 75W is registered for the control of Sclerotinia on several vegetable crops (beans, celery, cucumbers, lettuce, and onions).

The Applicant stated that Botran 75W (EPA Reg. No. 1023-38), containing the active ingredient 2,6-dichloro-4-nitroaniline, at a dosage rate of 2 to 2.5 pounds of product per acre, will be made by peanut growers. A total of 52,000 acres in the following counties will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Pasquotank. The control of the plant pathogen must be made before Botran 75W is applied. The Virginia Cooperative Extension Service recommends the following procedure in the application of Botran 75W. The product should be applied in 25-50 gallons of water over the row using a flat type spray nozzle (flowjet nozzle or equivalent) that produces large droplets rather than a mist and with a pressure high enough to drive the chemical to the soil surface. Thorough coverage of the peanut plant and soil is essential. Copies of this procedure will be furnished to dealers marketing Botran.

In 1976, the total gross farm income from peanuts in the counties listed was $65,626,000; the estimated income loss due to yield losses because of S. sclerotiorum was approximately 5 percent or $3,250,000, according to the Applicant. Similar or higher losses are expected to occur this year if this pathogen is not controlled.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. It is recommended that peanuts gathered immediately after harvest should not be used as livestock feed items.

After reviewing the application and other available information, EPA has determined that (a) post-outbreak of Sclerotinia Blight has or is about to occur in Virginia; (b) there is no pesticide presently registered and available for use to control this pest in Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the present outbreak is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption.

This exemption is also subject to the following conditions:

1. Two applications of Botran 75W (EPA Reg. No. 1023-38) at a dosage rate of 2 to 2.5 pounds of product/acre made at 10-14 day intervals. The total amount of Botran 75W will not exceed 4 to 5 pounds of product per acre. Applications of Botran will be made by peanut growers. A total of 52,000 acres in the following counties will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Pasquotank. The control of the plant pathogen must be made before Botran 75W is applied. The Virginia Cooperative Extension Service recommends the following procedure in the application of Botran 75W. The product should be applied in 25-50 gallons of water over the row using a flat type spray nozzle (flowjet nozzle or equivalent) that produces large droplets rather than a mist and with a pressure high enough to drive the chemical to the soil surface. Thorough coverage of the peanut plant and soil is essential. Copies of this procedure will be furnished to dealers marketing Botran.

2. A total of 52,000 acres of peanuts in the counties listed will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Pasquotank. The diagnosis of this plant pathogen will be made by peanut growers. A total of 52,000 acres in the following counties will be treated: Brunswick, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Pasquotank.

3. The use of Botran 75W in conjunction with this specific exemption is authorized only when personnel of the Virginia Cooperative Extension Service determine the presence of Sclerotinia Blight in a given growing field.

4. The use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. It is recommended that peanuts gathered immediately after harvest should not be used as livestock feed items.
FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of August 19 Through August 26, 1977

Notice is hereby given that during the week of August 19 through August 26, 1977, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

APPEALS. — List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aug. 22, 1977</td>
<td>Arkansas Louisiana Gas Co., Shreveport, La. (If granted: An extension of the exception relief granted in the FEA's June 17, 1977, order and order and would be permitted to increase its price to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Baxley, Covington, Cairo, Dayton, Drayton, Edisto, Lonigrove, Midland, North Dowden, Nueces River, Prices, Weeshies, survey, Stevens Redden, and Swan Island plants.)</td>
<td>FEE-0684</td>
<td>Price exception.</td>
</tr>
<tr>
<td>Aug. 26, 1977</td>
<td>Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would receive an extension of the exception relief granted in the FEA's June 17, 1977, order, and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Cameron, Crittenden, Grand Chenier, Indian Basin, and Sabine plants.)</td>
<td>FEE-0700</td>
<td>Price exception.</td>
</tr>
<tr>
<td>Aug. 22, 1977</td>
<td>Champiion Petroleum Co., Fort Worth, Tex. (If granted: Champion Petroleum Company would receive an extension of the relief granted in the FEA's March 21, 1977, order and order and would be permitted to increase its price to reflect nonproduct cost increases in excess of $.005 per gallon incurred in the production of natural gas liquid products at its Willabee plant.)</td>
<td>FEE-0661</td>
<td>Price exception.</td>
</tr>
<tr>
<td>Aug. 26, 1977</td>
<td>Cheyenne Airways, Inc., Cheyenne, Wyo. (If granted: Cheyenne Airways, Inc. would be classified as a fixed base operator and would be entitled to operate as a fixed base operator without being subject to certain cost increases.)</td>
<td>FEE-0667</td>
<td>Price exception.</td>
</tr>
<tr>
<td>Aug. 22, 1977</td>
<td>Cheyenne, Wyo. (If granted: The order issued by the Office of Regulatory Programs on June 17, 1977, the Order issued by the Office of Regulatory Programs on June 17, 1977, and the Order issued by the Office of Regulatory Programs on June 17, 1977, the Order issued by the Office of Regulatory Programs on June 17, 1977, and the Order issued by the Office of Regulatory Programs on June 17, 1977, would be rescinded and Crystal Oil Co. would be required to increase its prices to reflect nonproduct cost increases at the Adobe Refinery in its calculations for the entitlement program.)</td>
<td>FEE-1438</td>
<td>Appeal of the order issued by Office of Regulatory Programs on July 15, 1977.</td>
</tr>
<tr>
<td>Aug. 8, 1977</td>
<td>Kansas, Kan. (If granted: Mr. Gould would receive a temporary stay of a remedial order issued by FEA Region VII on Aug. 8, 1977, pending a determination on his applications for stay and appeal.)</td>
<td>FRT-0049</td>
<td>Temporary Stay of FEA Region VII's Remedial Order.</td>
</tr>
</tbody>
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APPENDIX—List of cases received by the Office of Exceptions and Appeals, week of Aug. 19 through Aug. 26, 1977—Continued

<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
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<tbody>
<tr>
<td>Aug. 23, 1977</td>
<td>Coastal States Gas Corp., Houston, Tex.</td>
<td>FRS-4654</td>
<td>Petition for special redress</td>
</tr>
<tr>
<td></td>
<td>M. J. Mitchell, Dallas, Tex.</td>
<td>FRS-4655</td>
<td>Stay of the remedial order granted in FEA Region V on July 23, 1977 pending a determination of its appeal</td>
</tr>
<tr>
<td></td>
<td>McAlester Fuel Co., Magnolia, Ark.</td>
<td>FRS-4656</td>
<td>Appeal of the FEA's information request denial issued on July 15, 1977</td>
</tr>
<tr>
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<td>Lyon County Cooperative Oil Co., St. Paul, Minn.</td>
<td>FRS-4657</td>
<td>Price exception (sec. 212.73)</td>
</tr>
<tr>
<td></td>
<td>Shell Oil Co., Houston, Tex.</td>
<td>FRS-4659</td>
<td>Extent of the relief granted in Shell Oil Co., Case No. FEE-2429, FEE-2430 (decided June 27, 1977)</td>
</tr>
<tr>
<td></td>
<td>Standard Oil Co. of Indiana, Chicago, Ill.</td>
<td>FRS-4660</td>
<td>Appeal of the remedial order issued by the FEA Region VI on July 14, 1977, May request</td>
</tr>
<tr>
<td></td>
<td>Robert E. Davis, Great Bend, Kans.</td>
<td>FRS-4663</td>
<td>Appeal of the remedial order issued by the FEA Region VII on July 14, 1977, May request</td>
</tr>
<tr>
<td></td>
<td>Shell Oil Co., Houston, Tex.</td>
<td>FRS-4664</td>
<td>Extension of the relief granted in Standard Oil Co. of Indiana, case No. FEE-2433 through FEE-3023 (decided Mar. 31, 1977) (unreported decision)</td>
</tr>
<tr>
<td></td>
<td>Hank Martel Oil Co., Hamilton, Kans.</td>
<td>FRS-4666</td>
<td>Price exception (sec. 212.93)</td>
</tr>
<tr>
<td></td>
<td>Mountain West Aviation, Aspex, Colo.</td>
<td>FRS-4667</td>
<td>Extension of the relief granted in Mountain West Aviation, Case No. FEE-2434 (decided Mar. 11, 1977) (unreported decision)</td>
</tr>
<tr>
<td></td>
<td>&quot;STIX&quot; Gas Co., Inc., Baton, Tex.</td>
<td>FRS-4668</td>
<td>Extension of the relief granted in &quot;STIX&quot; Gas Co., Inc., Case No. FEE-2435 (decided Mar. 11, 1977) (unreported decision)</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Date</th>
<th>Name and location of applicant</th>
<th>Case No.</th>
<th>Type of submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aug. 24, 1977</td>
<td>Champlin Petroleum Co., Fort Worth, Tex.</td>
<td>FEE-4736</td>
<td>Extension of the relief granted in the FEA's July 25, 1977 decision and order and would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon incurred in the production of natural gas liquid products at its Possum Kingdom Plant.</td>
</tr>
<tr>
<td>Aug. 21, 1977</td>
<td>Cities Service Oil Co., Boston, Mass.</td>
<td>FEE-4730</td>
<td>Exception to the entitlements program (sec. 211.57).</td>
</tr>
<tr>
<td>Aug. 19, 1977</td>
<td>Rancho Refining Co. of Texas, Houston, Tex.</td>
<td>FEE-4712</td>
<td>Extension of the relief granted in Mobil Oil Corp.'s case.</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until FEA had considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 205.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notifications dated December 15, 1976, for Number 1 and May 19, 1976, for Number 2, pursuant to Section 110(d) (1) (B) of the Clean Air Act, that these powerplants could burn coal on September 22, 1976, and April 8, 1976, respectively, and comply with all applicable air pollution requirements. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective 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 Policy Act, 42 U.S.C. 4332(2)(C).

Public notice of the negative determination and of the availability for inspection of this analysis was given in the Federal Register published May 23, 1977, in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants and served the Notice on the powerplants by registered mail on the same day. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source. Any person aggrieved by the new effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the Prohibition Order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a Prohibition Order based on "significantly changed circumstances" which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The Order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assigns of such persons.

The above listed powerplants have been served the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room B-120, 2000 M Street N.W., Washington, D.C., from 9 a.m. to 5 p.m., Monday-Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue N.W., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue N.W., Washington, D.C.

Any questions regarding this notice should be directed to the Director, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue N.W., Washington, D.C. 20461 (202-566-7941).
The Prohibition Order issued by FEA on June 30, 1975, to the above listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective unless FEA considered the environmental impact of the order and until FEA had served the affected powerplants with a Notice of Effectiveness.

Subsequent to issuance of the Prohibition Order, FEA performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of the Notice of Effectiveness, including an assessment of the EPA Notification dated August 25, 1976, and the EPA Certification dated December 17, 1976, pursuant to Section 119(d) (1) (B) of the Clean Air Act, that July 20, 1976, was the earliest date that powerplants Number 1 and 2 could burn coal and comply with all applicable air pollution requirements, and that February 1, 1977, was the earliest date that powerplant Number 3 could burn coal and comply with the applicable requirements. That analysis resulted in a determination that it is clear that issuance of the Notice of Effectiveness making this Prohibition Order effective 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 Policy Act, 42 U.S.C. 4332(2) (C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the Federal Register published July 1, 1977, in accordance with 10 CFR 208.4 (c) and 208.16 (a).

Upon completion of this environmental analysis, FEA issued a Notice of Effectiveness of the June 30, 1975, Prohibition Order to the above listed powerplants. The Notice makes effective the Prohibition Order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the new effective Prohibition Order may file an appeal with the FEA Office of Exceptions and Appeals in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days of service of the Notice of Effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to 10 CFR Part 303, Subpart H. The appellate proceeding is completed by issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of a Prohibition Order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the Notice of Effectiveness, shall be filed within 30 days of service of such Notice. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the Notice of Effectiveness.

All terms and conditions of the Prohibition Order and the Notice of Effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by the Notice of Effectiveness is effective against any persons that, as of the date of service of such Notice, own, lease, operate, or control the above listed powerplants and against any successors-in-interest or assigns of such persons.

The above listed powerplants have been served with copies of the Notice of Effectiveness by registered mail. In addition, copies of the document will be available for inspection by any interested members of the public at the FEA public docket room located in Room 108C, 20th Street and Pennsylvania Avenue NW., Washington, D.C., from 8 a.m. to 5 p.m. Monday through Friday. Copies will also be available in the appropriate FEA regional office. The negative determination and environmental analyses are available upon request from the FEA National Energy Information Center, Room 1040, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.


E. J. Fygi, Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26784 Filed 9-14-77; 8:45 am]

NOTICES

46393

PHILLIPS PETROLEUM CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 203.197(c), the Federal Energy Administration (FEA) hereby gives Notice of a Consent Order which was executed between Phillips Petroleum Co. (Phillips) and the Federal Energy Administration (FEA) on August 5, 1977. In accordance with Section 119 of the National Environmental Policy Act, FEA will receive comments with respect to this Consent Order. Although FEA has signed and tentatively accepted this Consent Order, FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Phillips Petroleum Co., with its executive office located in Bartlesville, Okla., is an integrated refiner engaged in the production of crude oil and refining and marketing of petroleum products subject to FEA Regulations.

As a result of an audit conducted by FEA of Phillips' business practices in its sales of No. 2 heating oil and kerosene to Union Petroleum Corp. (Union), Revere, Mass., for the periods of January through May for the years 1974, 1975, and 1976, FEA advised Phillips that Phillips improperly removed Union from its rightful class of purchaser and placed Union in an improper class of purchaser resulting in Phillips charging prices to Union in excess of those permitted by and in violation of the price rule then in force in 10 CFR 212.62 (prior to its amendment on April 13, 1976), and that Phillips failed to deal with Union in accordance with the "normative characteristics," in violation of 10 CFR 210.62.

In resolution of the issues raised by the audit results, FEA and Phillips executed a Consent Order on August 5, 1977, the significant terms of which are as follows:

(1) Phillips, within 30 days of the effective date of the Consent Order, will refund to Union $977,890.54 plus interest.


E. J. Fygi, Acting General Counsel, Federal Energy Administration.

[FR Doc.77-26785 Filed 9-14-77; 8:45 am]
(2) The provisions of 10 CFR 208.197, including the publication of this Notice, are applicable to the Consent Order.

Further, FEA will issue an Ancillary Order to the Consent Order to Union requiring Union to recompute its increased product costs and reimburse its maximum allowable sales prices for No. 2 heating oil and kerosene by taking into account the refund it shall receive from Phillips as a reduction in cost ab initio.

Special procedure is mandated to make appropriate refunds to its customers.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Wayne Gifford, Deputy Regional Administrator for Compliance, Region VI, Federal Energy Administration, P.O. Box 38238, Dallas, Tex. 75238. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Phillips Consent Order." All comments received by 4:30 CDT, on or before October 17, 1977, will be considered by FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the persons furnishing it, is confidential, must be identified as such, and submitted in accordance with the procedures outlined in 10 CFR 208.4(d).


Eric J. Fygi,
Acting General Counsel.

[FR Doc. 26788 Filed 9-14-77; 8:45 am]

STATE ENERGY CONSERVATION PLANS
Negative Determination of Environmental Impacts on New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of Vermont, Maryland, Kentucky, South Carolina, Kansas, and Nebraska, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the FEA has determined that an environmental impact statement is not required for these plans.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments of the State Plans for New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Environment Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.


Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

[FR Doc. 37876 Filed 9-14-77; 8:45 am]

STATE ENERGY CONSERVATION PLANS

Pursuant to 10 CFR 208.4, the Federal Energy Administration (FEA) hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of New Hampshire, Puerto Rico, Delaware, Alabama, Florida, Mississippi, and Missouri, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the FEA has determined that an environmental impact statement is not required for these plans.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Environment Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. E.D.T., September 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.


Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

[FR Doc. 27376 Filed 9-14-77; 8:45 am]

STRATEGIC PETROLEUM RESERVE
Notice of Availability of the Draft Environmental Impact Statement for the Texoma Group of Storage Sites

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft environmental impact statement (EIS) on the proposed storage of crude oil at the Texoma group of storage sites. The Texoma group of storage sites has been proposed as a key element of the Strategic Petroleum Reserve. The Re-
serve mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption. Exceeding such obligations of the United States under the International Energy Program.

Single copies of the Texoma draft EIS (DES 77-8) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this draft EIS will also be available through review in the FEA Information Access Reading Room, Room 2017, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays. Interested persons are invited to submit data, views, and arguments with respect to this EIS to Executive Communications, Box FN, Room 3517, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the document with the title, “Nonconference Representation” and the statement “Texoma Draft EIS (DES77-8).” Fifteen copies should be submitted.

All comments may be received by FEA until October 31, 1977, in order to receive full consideration.

Any information or data, submitted in response to the Texoma draft EIS, considered by the FEA to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on September 12, 1977.

Eric J. Fucig, Acting General Counsel, Federal Energy Administration.
[FR Doc.77-26934 Filed 9-14-77; 8:45 am]

FEDERAL MARITIME COMMISSION

STRATES/NEW YORK CONFERENCE

Notice of 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, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire a hearing. 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:

Henry Noon & Co., Secretaries, Straits/New York Conference, P.O. Box 247, Ocean Building (18th Floor), Collyerquay, Singapore.

Agreement No. 4016-31, entered into by the members of the Straits/New York Conference, modifies Article 15, entitled, “Nonconference Representation” whereby all references therein to “Port Swettenham” are changed to read “Port Kelang.”

By Order of the Federal Maritime Commission.


JOSEPH C. POLKING, Acting Secretary.
[FR Doc.77-30619 Filed 9-14-77; 8:45 am]

UNITED STATES LINES, INC. AND OCEANIA LINE INC.

Notice of 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, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire a hearing. 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:

Mr. Jos. J. Fanelli, Division Manager, Pricing and Conference Affairs, United States Lines, Inc., 1576 Middle Harbor Road, Oakland, Calif. 94607.

Agreement No. 10309, a cooperative working arrangement entered into between United States Lines, Inc., and Oceania Line, Inc., provides for the leasing of United States Lines’ containers, chassis and other container equipment by Oceania Line, Inc., when performing interchanges at the Port of Guam, Marianas Islands. Such equipment shall be used by Oceania Line, Inc., services between Guam, Marianas Islands, and the Trust Territory of the Pacific Islands and Caroline Islands, in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.


JOSEPH C. POLKING, Acting Secretary.
[FR Doc.77-30619 Filed 9-14-77; 8:45 am]

FEDERAL POWER COMMISSION


Take notice that on August 29, 1977, American Petrofina Company of Texas (petitioner), P.O. Box 2159, Dallas, Tex. 75221, in Docket No. R77-120, filed a petition for special relief pursuant to section 2.76 of the Commission’s General Policy and Interpretations (18 C.F.R. 2.76). Petitioner requests an increase in rate from 28.7493 cents per Mcf to $1.619810 per Mcf at 14.73 psia for natural gas sales to Texas Gas Transmission Corp., from the Lake Palourde Field, St. Martin Parish, La. Petitioner proposes to undertake new investment in order to improve the recovery of gas from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should file 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 the protestants parties to the proceeding. Any party wishing to become a party to the proceeding, or to participate as a party in any hearing therein, 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:

Joseph C. Polking, Acting Secretary.
[FR Doc.77-30619 Filed 9-14-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
NOTICES

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission’s rules of practice (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 22, 1977. 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. Copies of this application are available for public inspection.

KENNETH F. PLUMS,
Secretary.

[FR Doc.77-26854 Filed 9-14-77; 8:45 am]

[DOCKET No. R177-115]

ART MACHIN & ASSOCIATES, INC.
Petition for Special Relief

SEPTEMBER 8, 1977.

Take notice that on July 18, 1977, as supplemented on August 19, 1977, Art Machin & Associates, Inc. (Petitioner), P.O. Box 1069, Longview, Tex. 75601, filed a petition for special relief seeking an increase in rate for natural gas sales to United Gas Pipe Line Co. from the G. A. Kelly Well No. 1, Willow Springs Field, Gregg County, Tex. Petitioner seeks an increase from the current rate of 41 cents per Mcf to a rate of 73.69 cents per Mcf. Petitioner states that the requested rate will provide adequate incentive to perform a work-over which would enhance production from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should file a protest on or before September 30, 1977, with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission’s rules of practice and procedures (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 protestants parties to the proceeding. Copies of this application are available for public inspection.

KENNETH F. PLUMS,
Secretary.

[FR Doc.77-26838 Filed 9-14-77; 8:45 am]

[DOCKET No. ER77-574]

CENTRAL VERMONT PUBLIC SERVICE CORP.
Proposed Tariff Change

SEPTEMBER 9, 1977.

Take notice that Central Vermont Public Service Corp. (Company) on August 31, 1977, tendered for filing proposed changes in its FPC Electric Service Rate Schedules Nos. 88 and 92. Company states that the proposed changes would increase revenues from jurisdictional sales and service by $8,004 for the 12-month period ending October 31, 1977.

Company indicates that the change is proposed in accordance with the provisions of Article V of the Company’s agreements with the Vermont Electric Cooperative, Inc., and the Lyndonville Electric Department, which provides that changes will be updated annually to incorporate the Company’s cost experience for the preceding calendar year.

According to the Company, copies of the filing were served upon the Company’s affected jurisdictional customers and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with 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 September 19, 1977. 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. PLUMS,
Secretary.

[FR Doc.77-26846 Filed 9-14-77; 8:45 am]

[PROJECT No. 2705]

CITY OF SEATTLE, WASH.
Notice Granting Intervention


The National Marine Fisheries Service (NMFS) and the Saik-Suattle Tribe, Choctaw-Skagit Tribe, and Swinomish Tribal Community (Tribes), on August 1, 1977; the U.S. Department of the Interior (Interior) on August 3, 1977; and the State of Washington Departments of Natural Resources and Game, on July 22, 1977; filed petitions to intervene respecting the application by the city of Seattle for a preliminary permit for the proposed Capilano Project and predecessors. The project would be located on the Skagit River, in Skagit and Whatcom Counties, Washington, about 10 miles below the applicant’s existing Skagit River Project, FPC No. 55.

NMFS states that it is the department of the Federal Government entrusted...
with jurisdiction over food fish and marine recreational resources in and adjacent to the waters of the United States. It states further that the Skagit River System supports a major anadromous fisheries, migratory, and consumptive commercial and recreational benefits to citizens of the United States, and alleges that the proposed Copper Creek Project will significantly affect this resource. NMTFS requests to intervene in the foregoing proceeding so that it may participate in the determination of the impacts of the proposed project on the fishery resource and the programs necessary for protection, maintenance, and enhancement of this resource.

The Tribes state that they are federally recognized Indian Tribes holding adjudicated treaty rights to take anadromous fish throughout the Skagit River System and in Marine areas dependent on the Skagit System. They allege that construction of the project will cause serious injury to the fish within the Skagit River and downstream, causing irretrievable and irreplaceable losses of fish which constitute a direct violation of treaty rights. The tribes request intervention in order to protect these rights and interests.

The Interior cites its statutory authority over the fish, shellfish, and wildlife resources of the Nation, its trust responsibility for Indians, and also its authority over the Ross Lake National Recreation Area within which the project would be located. Interior notes the impacts which the project may have upon these various resources. It requests to intervene to assist the Commission in conditioning the preliminary permit to avoid conflicts with the Wild and Scenic Rivers Act and to ensure that proper baseline studies are undertaken.

Fisheries and Game assert their respective jurisdiction over the food fish resources, and game fish and wildlife resources, of the State of Washington. Fishes and Game state that construction and operation of the project would damage the above noted resources both at, and downstream from, the project site. Intervention is requested to participate in the Commission’s rulemaking process and to assist the Commission in determining the appropriate action to be taken but will not serve to make the project proponent liable to any person for damages for injury of any kind which may result from the construction of the proposed project.

Pursuant to section 3.5(a)(30) of the Commission's general rules as promulgated by Order No. 557 (issued December 10, 1979), the National Marine Fisheries Service, the Sauk-Suiattle Tribe, the Upper Skagit Tribe, the Swinomish Tribal Community, the U.S. Department of the Interior, and the State of Washington Departments of Fisheries and Game are hereby permitted to intervene in the above-referenced proceeding subject to the rules and regulations of the Commission: Provided, however, That neither the CIP77-599 by the intervenors shall be limited to the matters affecting the asserted rights and interests specifically set forth in the petition to intervene: And provided further, That the admission of such petition shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB, Secretary.

[FED Doc.77-26825 Filed 9-14^77;8:40 am]

NOTICES

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on September 1, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue S.E., Charleston, W. Va. 25314, filed in Docket No. CIP77-599 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 19.5 miles of 2-inch through 8-inch diameter natural gas transmission pipeline extending from the outlet of a separation plant to a point on Applicant's existing transmission system near Clendenin Compressor Station, all located in Kanawha County, W. Va., as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is said that the gas produced from the Tuscarora Formation in the Indian Creek field located in Kanawha County, W. Va., is to separate the CO2 from the gas stream to obtain commercially saleable gas having a heat content of approximately 900 Btu's per cubic foot.

It is said that the gas produced from the Tuscarora Formation will consist of approximately 65 percent carbon dioxide and 35 percent methane and that the project is estimated to consist of 53 wells, 573 miles of 2 inch through 8-inch well and gathering pipeline, a CO2 separation plant, and the transmission line hereof mentioned.

Applicant estimates that based upon the completion of the Tuscarora field, the 53 wells planned to be drilled as part of this project, as well as other geologic, engineering and economic studies made for this project, that approximately 64,000,000 Mcf of the equivalent of 57,000,000 Mcf of 1000 Btu gas, can be made available to Applicant over the twenty-year life of the project. Applicant's cost of service estimates for this period of the four basic components of this project are as follows:

1. The wellmouth facilities are estimated at approximately $62,886,500, or an average of approximately 109.8 cents per Mcf over the life of the property;

2. The gathering facilities are estimated at approximately $10,561,700, or 18.5 cents per Mcf;

3. The CO2 separation plant is estimated at approximately $5,380,300, or 9.4 cents per Mcf;

4. The natural gas transmission pipeline, for which Columbia seeks certification herein, is estimated at approximately $5,380,300, or 9.4 cents per Mcf.

The total cost-of-service of this project for the twenty-year period is thus estimated at approximately $119,185,700, or 203.13 cents per Mcf, if it is indicated.

Applicant states that it would include the total costs associated with this project in its future gathering and distribution costs rental and that the total wellmouth, gathering, and separation costs will be included in such future filings in the same manner as proposed in Applicant's pending proceeding in Docket No. RP75-106. While Applicant presently plans to vent the CO2 which is removed from the gas stream, if it finds such CO2 marketable, then Applicant states that it will credit all net revenues received from its sale of CO2 against its cost of service.

Applicant states that approximately 10,400 Mcf per day of gas would be produced from said fields over the twenty-year period and that such gas is needed by the project to supply gas for the 1977-78 winter season and 54 percent of the 1977-78 summer season. It is stated that the gas is to be produced in the heart of Applicant's eastern rail route and made available and that said gas would be less expensive to produce than the average cost of production nationwide.

It is estimated that the cost of the construction of the proposed facilities is $1,852,000 to 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 October 4, 1977, 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 and 1.10) and the Regulations under the Natural Gas Act (18 CFR 197.10). Any 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 applicant liable to any person for damages for injury of any kind which may result from the construction of the proposed project.

Any person wishing to become a party to said application should, on or before October 10, 1977, file with the Commission an application to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to
the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMM,
Secretary.

[PR Doc.77-26847 Filed 9-14-77;7:45 am]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES
Notice of Compliance Filing


Take notice that Delmarva Power & Light Co., Delmarva Power & Light Co. of Maryland and Delmarva Power & Light Co. of Virginia (Delmarva), on August 29, 1977, tendered for filing a Delmarva System Power Pool Agreement, incorporating in one composite document changes in FPC Rate Schedule No. 33 of Delmarva Power & Light Co., FPC Rate Schedule No. 10 of Delmarva Power & Light Co. of Maryland, and FPC Rate Schedule No. 5 of Delmarva Power & Light Co. of Virginia, all in compliance with the Order Approving Settlement Docket No. 977-578 filed August 3, 1977, and noticed on August 15, 1977, the above designated docket. The motion states that all parties have agreed to a three-week extension.

Upon consideration, notice is hereby given that the date for filing comments on the tendered settlement agreement is extended to and including September 21, 1977.

KENNETH F. PLUMM,
Secretary.

[PR Doc.77-26927 Filed 9-14-77;8:45 am]

KANSAS CITY POWER & LIGHT CO.
Proposed Change in Rate Schedule

SEPTEMBER 9, 1977.

Take notice that on September 6, 1977, Kansas City Power & Light Co. (KCPL) tendered for filing a proposed change in the General Participation Agreement in order to include Sunflower Electric Cooperative, Inc. as an additional Participant.

KCPL states that the following are presently Participants under the General Participation Agreement:

- The Empire District Electric Co., Rate Schedule FPC No. 118
- Kansas Gas & Electric Co., Rate Schedule FPC No. 72
- The Kansas Power & Light Co., Rate Schedule FPC No. 7
- Central Telephone & Utilities Corp., Rate Schedule FPC No. 83
- Central Kansas Power Co., Inc., Rate Schedule FPC No. 2

KCPL states that the other Participants under the General Participation Agreement filed certificates of concurrence to the proposed change with KCPL's submittal.

Any person desiring to be heard or to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street NW., 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 protests should be filed on or before September 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMM,
Secretary.

[FR Doc.77-26840 Filed 9-14-77;7:45 am]

MISSISSIPPI RIVER TRANSMISSION CORP.
Complaint and Petition for Relief

SEPTEMBER 8, 1977.

Mississippi River Transmission Corp. v. TIPCO Operating Co. and Bill R. Tipton.
Take notice that on July 28, 1977, Mississippi River Transmission Corp. (MRTC), John B. Rudolph, Bendwell & Rudolph, 502 Madison Building, 1155 15th Street NW, Washington, D.C. 20005, filed a complaint and petition for relief pursuant to §§1.6 and 1.7 of the Rules of Practice and Procedure of the Federal Power Commission in Docket No. CP77-713 against TIPCO Operating Co. and Bill E. Tipton (TIPCO), P.O. Box 1315, Marshall, Tex. 75850, alleging that TIPCO is in violation of §§7(b) and 7(c) of the Natural Gas Act.

Specifically, MRTC complains of the alleged unauthorized termination of deliveries of natural gas by TIPCO from the Dolly Bell Key Gas Unit No. 1 well and the Conno—Key Gas Unit No. 1 well located in Woodlawn Field, Harrison and Marion Counties, Tex. Further, in the petition for relief, MRTC requests that TIPCO be ordered to cease all deliveries of natural gas produced from these two wells to parties other than MRTC; to resume immediately deliveries of natural gas produced from these two wells to MRTC; to pay back to MRTC the equivalent of all volumes of natural gas produced from these two wells; to cease all deliveries of MRTC but were sold and delivered to purchasers other than MRTC.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of 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 procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, is required to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMS, Secretary.

[PR Doc. 77-28838 Filed 9-14-77; 6:45 am]

Docket No. CP77-601

NATURAL GAS PIPELINE CO. OF AMERICA
Notice of Application

SEPTEMBER 9, 1977

Take notice that on September 1, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-601 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional 6,600 horsepower of compression facilities and 20.08 miles of 30-inch loop pipeline to increase the capacity of its Louisiana supply pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its present certificated capacity of its Louisiana supply pipeline of 1,173,000 Mcf per day is insufficient to accommodate the deliveries of additional gas available from existing and new sources of supply and that projected daily average gas deliverability for the peak month would reach approximately 1,421,000 Mcf per day in 1978 and 1,487,000 Mcf per day in 1979. Applicant states that the increase in projected deliveries through the Louisiana supply pipeline results chiefly from acquisition of additional volumes of natural gas in the offshore areas of Texas and Louisiana through Applicant's advance payment and funding programs. These volumes are or would be transported and delivered to natural gas pipeline facilities to the offshore gas wells to resume immediately deliveries of natural gas to the Louisiana supply pipeline. Applicant asserts that the additional volumes would also be delivered to pipeline companies.

Applicant states that the only practicable way of transporting these increased volumes into its main transmission system is the further expansion of its Louisiana supply pipeline. Consequently, Applicant proposes to construct and operate 6,600 horsepower of additional compression facilities at Applicant's existing Compressor Station No. 343 in Liberty County, Tex., and approximately 20.08 miles of 30-inch loop pipeline in Montgomery, Harris, and Jefferson Counties, Tex., and Cameron Parish, La., together with appurtenant facilities, to enable Applicant to transport increased quantities of gas through its Louisiana supply pipeline. Applicant asserts that the proposed expansion would increase the capacity of Applicant's Louisiana supply pipeline to 1,480,381 Mcf per day which capacity would permit Applicant to transport the gas supplies committed to it from the offshore Louisiana and Texas areas.

The estimated cost to construct the proposed facilities is $8,456,000, which would be financed initially with bank credit, short-term borrowings from Applicant's parent, Peoples Gas Co., and/or by issuance of commercial paper.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 7, 1977, 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 187.10). 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 discretion and control vested in the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMS, Secretary.

[FR Doc. 77-28851 Filed 9-14-77; 8:45 am]

Docket Nos. CP72-289 and CP77-602

NATURAL GAS PIPELINE CO. OF AMERICA
Petition To Amend and Application To Abandon

SEPTEMBER 9, 1977

Take notice that on September 1, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP72-289 a petition to amend the Commission's order of August 27, 1975, issued in the instant docket (54 FPC 1) pursuant to Section 7(c) of the Natural Gas Act so as to delete therefrom authorization to exchange gas at adjust or any other facility. Natural also in an application in Docket No. CP77-602 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Polk and Trinity Counties, Texas, used in conjunction with the exchange, all as more fully set forth in the petition to amend and application to abandon which is on file with the Commission and open to public inspection.

Natural indicates that on December 10, 1973, it was authorized to construct and operate facilities to exchange gas with Texas Eastern Transmission Corporations (Texas Eastern) in accordance with an exchange agreement between Texas Eastern and Natural dated November 17, 1972, as amended. Natural further indicates that it was authorized by an amendment issued August 27, 1975, in Docket No. CP73-289 to add an additional exchange point in Polk County, Texas, to effectuate deliveries of gas for resale by three nonparty customers. Natural indicates that it has ceased and discontinued all operations at one of the exchange points in Polk County, Texas, and Polk and Trinity Counties, Texas, and has abandoned those facilities. Natural requests permission to abandon the above-named facilities in Polk and Trinity Counties, Texas, and to transfer ownership of the same to Texas Eastern.

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Texas. The sale of gas from Napeco to Natural was made pursuant to a gas purchase contract dated April 1, 1975, as authorized by the Commission, it is said. Natural indicates that Texas Eastern was made at an existing interconnection in Brazoria County, Texas, it is indicated.

It is stated that production from the acreage dedicated under the several gas purchase contracts terminated in October 1975 when the one producing well watered out and that the sellers do not contemplate further development of the dedicated acreage because two other wells were drilled and both were dry holes. Natural indicates that it and Napeco have entered into a termination agreement dated January 28, 1977, terminating the April 1, 1975, gas purchase contract.

Natural proposes to delete the existing tolls, provide delivery point from its gas exchange agreement with Texas Eastern and to abandon the facilities constructed under the budget-type authorization in Docket No. CP75-161 to effectuate deliveries from the Trees Field to Texas Eastern. Natural states that it would remove all salvageable above ground facilities and retain them in stock. All other facilities would be abandoned in place, it is said.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should file on or before October 4, 1977, file with the Federal Power Commission by Sections 1.10) All such petitions or protests should be filed on or before September 26, 1977, file with the Federal Power Commission by Sections 1, 1.9, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.9, and 1.10). All such petitions or protests should be filed on or before September 26, 1977.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $1,500,000 except that any single offshore well would not exceed $1,500,000,000 and that the total cost of any single project would not exceed $1,500,000,000 except that any single offshore well project would not exceed $2,500,000,000. Any person desiring to become a party to any proceeding or to make any protest with reference to said application should file on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C., a petition on file with the Commission and open to public inspection.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 13 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. Any person desiring to become a party to any proceeding or to make any protest with reference to said application should file a petition to intervene in accordance with the Commission's Rules and available for public inspection.

KENNETH F. PUMA, Secretary.

[PR Doc.77-28580 Filed 9-14-77 8:45 am]
the facilities to be constructed during
marily because of the higher costs at­
approximately $2,000,000, with $1,906,319 re­
approximately 10.3 miles of 12%, 10%, 8% and
purchase agreement dated December 28,
approximately $1,456,000. It is indicated,
said connection consisted of approxi­
er constructed the North Douglas Creek
Northwest Pipeline Corporation (Peti­
Petitioner asserts that the actual con­
be represented at the hearing.
KENNETH F. PLUMB,
Secretary.
[FR Doc.77-26828 Filed 9-14-77; 8:45 am]
[Docket No. CP76-130]
NOTICES
NORTHWEST PIPELINE CORP.
Petition To Amend
SEPTEMBER 9, 1977.
Take notice that on August 31, 1977, Northwest Pipeline Corporation (Peti­tioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76-130 a petition to amend the Commissi­
order issued February 12, 1976, in
the instant docket, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations under the Act
so as to increase the authorized single
miles of 4¼-inch gathering line and a
approximately 1,100 Mcf per day.
It is indicated that the February 12,
order granted a budget-type certificate authorizing the construction, during the calendar year 1976, and op­
certain gas purchase facilities. Pursuant to such authorization Petitioner
collapsed gas gathering system, necessary to connect
the North Douglas Creek Gathering System, necessary to connect
Petitioner indicates that the Febru­
during the calendar year 1976, and op­
evolved by Chandler and As­
connection between the facilities of Peti­
Petition to the instant docket, pursuant to Section 7(c) of the Natural Gas Act to authorize
additional transportation, sale and ex­
state an agreement between Petitioner
contract with King Resources dedicates
miles of 12½%, 10%, 8½% and
connection consisted of approxi­
technology, it would construct pursuant to
sources, it would construct pursuant to
to the June 8, 1977, agreement, will be
approximately 25 percent of the volumes of natural gas de­
the volumes of natural gas which Peti­
Petitioner provides that Petitioner shall
delivered to Mountain Fuel pursuant
area located in the proximity of the acreage covered under the February 13,
agreement between Petitioner and
Mountain Fuel and that Mountain Fuel will purchase the natural gas which
will purchase from King Resources pursuant to the terms and conditions of
of the purported actual project cost
approximately 1,150 Mcf per day.
Petitioner asserts that in order to pur­
Would the cost of said facilities and well meter will be $169,000.
It is said that by letter dated Febru­
Petitioner states that by the Commis­
date of the acreage located in the proximity of the
the option of purchasing up to 25 per­
the volumes of natural gas delivered for exchange by Petitioner to it and
Mountain Fuel and that Mountain Fuel will pay North­
the gas from the Sweetwater County
the option of purchasing up to 25 per­
the least possible investment.
(c) of the Natural Gas Act to authorize
be delivered to Mountain Fuel pursuant
to the terms and conditions of
Petitioner estimates that, initially, the volume of gas to be delivered to Moun­
to the North's existing gathering system which interconnects with the facilities of Mountain Fuel in Sweetwater County,
Petitioner indicates that granting the authorization requested will serve to pro­
additional volumes of natural gas for
the option of purchasing up to 25 per­
requirements and to provide the sub­
petition to intervene or a protest in accordance with the Commission's
Petitioner indicates that the option of purchasing up to 25 per­
the lease possibility to be a party to the proceeding.
any person desiring to be heard or to
the recognition of the interconnection between the facilities of Peti­
to be heard or to make any protest with reference to
the antecedent of the acreage located in the vicinity of the
Point of interconnection of acreage located in the vicinity of the
its authorization for budget-type gas
the volumes of natural gas purchase facilities approximately 7.4
the Sweetwater County.
Petitioner indicates that the option of purchasing up to 25 per­
the volumes of natural gas purchased by Petitioner from Re­
the volumes of natural gas delivered for exchange by Petitioner to it
month of September.
Petitioner estimates that the volume of gas to be delivered to Mountain Fuel pursuant
to the terms and conditions of
the Commission's Rules of Practice and Procedure (18 CFR 1.8 or
the option of purchasing up to 25 per­
must file a petition to intervene in accordance with the Commission's
Petitioner asserts that its May 24, 1977, contract with King Resources ac­
agreement with King Resources and Mountain Fuel that Mountain Fuel will purchase the

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NOTICES
46401
Order Denying Request for Withdrawal of Rate Filing


On June 21, 1977, Oklahoma Gas & Electric Company submitted for filing a proposed Transmission Agreement between itself and Western Farmers Electric Cooperative (Western) that provides for OG&E to wheel power and energy furnished by Western to its member cooperatives. OG&E requested waiver of the 30-day notice requirement to allow the Agreement to become effective on July 1, 1977.

Notification of the proposed Transmission Agreement was issued on July 7, 1977, with comments due on or before July 15, 1977. On July 15, 1977, Western, along with nine other cooperatives, petitioned to intervene in this proceeding.

The proposed Transmission Agreement with its requested effective date of July 1, 1977, was contemplated to replace service being rendered pursuant to a three party agreement (IPSA-356) between OG&E, Southwestern Power Administration (SPA), and Public Service Company of Oklahomas (PSCO), which was to terminate by its own terms on June 30, 1977.

In Public Service Company of Oklahoma, Docket No. ER77-423, the Commission on June 30, 1977, ordered that the proposed termination be suspended for five months. The Commission's order, in effect, extended service under IPSA-356 through November 30, 1977.

The Commission's action in Docket No. ER77-423 raised questions concerning the effective date of the proposed Transmission Agreement in this docket, since IPSA-356 and the instant Agreement provide for essentially the same service. Consequently, on July 21, 1977, the Secretary of the Commission sent a Deficiency Letter to OG&E, requesting that it clear up the ambiguity surrounding the proposed effective date of the Agreement.

By letter dated August 3, 1977, OG&E responded by requesting that it be allowed to withdraw its filing to permit further review of the objections and questions raised by the filing. OG&E did state in its response that service under the Agreement is not anticipated to commence for several months.

By letter dated August 9, 1977, Western and nine electric cooperatives objected to the withdrawal of the proposed Transmission Agreement, maintaining that any problems raised by the Agreement should be resolved at the context of an investigation in this docket. They state: OG&E clearly is obliged to file the Agreement with the Federal Power Commission, Lansdale v. FPC, 484 F.2d 1104 (D.C. Cir. 1973), and the company has offered no reason why it would be in the public interest to withdraw the Agreement at this time.

The Commission finds good cause to deny OG&E's request for withdrawal of the proposed Agreement. Western, a signatory to the Agreement, did not consent to the withdrawal and has filed a Petition to Rehear. Pursuant to the Agreement along with nine other cooperatives.

OG&E's letter of August 3, 1977, indicates that service under the Agreement is not anticipated to commence for several months. However, response does not cure the deficiency with respect to the identifying a specific proposed effective date as contemplated by the Commission Secretary's letter of July 21, 1977.

The Commission finds: Good cause exists to deny OG&E's request for withdrawal of its proposed Agreement with Western filed herein.

The Commission orders: (A) OG&E's request for withdrawal of its proposed Agreement filed in this docket is hereby denied.

(B) OG&E shall file with this Commission a specific proposed effective date for commencement of service under its contract with Western.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission: KENNETH P. PILGRIM
Secretary.

FR Doc. 77-26830 Filed 9-14-77; 8:45 am

NOTICES

Philadelphia Electric Co.

Docket No. ER77-465

Order Denying Request for Reconsideration and Establishing Procedures

September 8, 1977.

On August 7, 1977, the Borough of Lansdale, Pa., filed a Petition for Rehearing of the Commission's order of July 28, 1977, which accepted proposed rate schedules for filing, denied Lansdale's motion to reject, suspended the proposed rate schedule for one day, granted intervention of Lansdale, and established procedures. Since the order is interlocutory, no application for rehearing is permitted. However, the Commission will treat the application as a Motion for Reconsideration of the order.

Lansdale asserts that (1) in the order of July 28, 1977, the Commission erred in failing to reject Philadelphia Electric Co.'s (PE) filing as patently defective under section 35.13 of the Commission's regulations, and, the Company's proposed auxiliary service provision results in anticompetitive and discriminatory impact to Lansdale and so should be rejected or its effectiveness deferred pending a final Commission determination on the matter, pursuant to section 206 of the Federal Power Act.

1 See sec. 1.34 of the Commission's rules of practice and procedure, which requires a final decision or order before an application for rehearing can be permitted.

With regard to its claim that PE's filing is deficient, Lansdale basically repeats its arguments made in its Motion to Set Aside Pursuant to Section 206 of the Commission's regulations, only that material which "patently fails to substantially comply with the applicable requirements set forth in this Part, or the Commission's rules of practice and procedure" should result in rejection. In our order of July 26, 1977, this Commission determined that PE's filing is not deficient on its face; we are not now convinced that that determination was in error.

Lansdale also repeats in this Motion its attack on PE's proposed auxiliary service provision, asserting that the provision will "limit and stifle any attempt by the Borough to * * * utilize self-generation * * * which other parties to this proceeding * * * have established procedure. The Commission finds: (1) The Borough to * * * utilize self-generation power from any source but PE; further, Lansdale's claim that there are no cost supports for the provision.

Lansdale's claim of anticompetitive effect and discrimination will be adjudicated in this proceeding, along with the other provisions of the proposed rate. The Commission finds that no justification exists to select out one provision of the filing as suggested by Lansdale and try that provision separately from other issues in the case. Further procedural dates will be enumerated below.

The Commission finds: (1) The Borough of Lansdale's Petition for Rehearing of August 9, 1977 should be denied.

The Commission orders: (A) Philadelphia Electric Co.'s Petition for Reconsideration is hereby denied.

(B) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before December 7, 1977. (See Administrative Order 167).

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose. (See Delegation of Authority, 18 CFR 3.5(a)), shall preside at an initial hearing to be held within ten days of service of Staff top sheets in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule on all motions for intervention in this proceeding, motions to consolidate and sever and motions to dismiss, as provided for in the rules of practice and procedure.

Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement.
pursuant to section 1.18 of the Commission's rules of practice and procedure. (E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 77-20458 Filed 9-14-77; 8:45 a.m.]

[DOCKET No. CP-77-327]

SEA ROBIN PIPELINE CO.

Filing of Original and Revised Tariff Sheets

SEPTEMBER 9, 1977.

Take notice that on August 17, 1977, Sea Robin Pipeline Co. tendered for filing as a part of its FPC Gas Tariff, Original Volume No. 2:

Rate Schedule X-1

Fourth Revised Sheet No. 5; Original Sheet No. 5-A; Original Sheet No. 5-B; Sixth Revised Sheet No. 6.

Rate Schedule X-2

Fifth Revised Sheet No. 20; Original Sheet No. 20-A; Original Sheet No. 20-B; Sixth Revised Sheet No. 21; Third Revised Sheet No. 22; Original Sheet No. 22-A.

The purpose of this filing is to amend Sea Robin's existing Rate Schedules X-1 (Southern Natural Gas Co.) and X-2 (United Gas Pipe Line Co.) to provide for the transportation of gas purchased by Southern and United in Block 228, Vermilion Area, Offshore Louisiana, to Erath, La.

Sea Robin states that copies of these tariff sheets have been mailed to Southern Natural Gas Co. and United Gas Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 3, 1977, should 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 (16 CFR 1.8 or 110). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein fixed. If the Certificate of Public Convenience and Necessity is issued, the public review of the matter finds that a grant of the certificate is required by the public convenience and necessity, if a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Any further 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. 77-20458 Filed 9-14-77; 8:45 a.m.]

[DOCKET No. CP-77-327]

SIERRA PACIFIC POWER CO.

Extension of Time


On September 2, 1977, Mount Wheeler Power, Inc., filed a motion to extend the time for filing protests to the revised tariff sheets tendered for filing by Sierra Pacific Power Co., on July 25, 1977, and noticed on August 10, 1977, in the above designated docket. The revised tariff sheets were filed in compliance with the Commission Order approving settlement agreement, issued June 30, 1977.

Upon written application it is hereby given that the date for filing protests to the compliance filing is extended to and including September 29, 1977.

Kenneth F. Plumb,
Secretary.

[FR Doc. 77-20458 Filed 9-14-77; 8:45 a.m.]

[DOCKET No. CP-77-591]

SOUTHERN NATURAL GAS CO.

Pipeline Application

SEPTEMBER 8, 1977.

Take notice that on August 26, 1977, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP 77-591, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct, install, and operate pipelines and compression and measurement facilities to connect its existing pipelines in the Breton Sound Area with the producers' facilities in order to receive the quantities of gas purchased pursuant to the aforesaid contracts. The installation of such facilities will immediately enable Southern to increase its purchases of gas from Kerr-McGee and Phillips from its existing 12-inch Breton Island pipeline in Block 45, Breton Sound Area, and a 3,000 H.P. compressor and measuring station on this platform; (2) approximately 1,451 miles of 10-inch pipeline to connect the production platform to be built by Kerr-McGee and Phillips at their State Lease No. 2000, Well No. 44 in Block 29, Breton Sound Area, with the pipeline described in No. 1 above in Block 36, Breton Sound Area; and a measuring station on this platform; (3) approximately 1,620 miles of 6%-inch pipeline to connect the production platform to be installed in Block 37, Breton Sound Area, by Kerr-McGee with the pipeline described in No. 1 above in Block 36, Breton Sound Area, and a measuring station on this platform; and (4) approximately 3,530 miles of 6%-inch pipe line to connect the platform to be installed by Applicant, in Block 32, Breton Sound Area, with Applicant's existing 6%-inch pipeline in Block 34, Breton Sound Area, and a measuring station on this platform. The estimated cost of the facilities proposed herein is $7,175,455.00, which cost Applicant states will be financed initially by short term financing which will be repaid from cash from current operations from the proceeds of the proposed certificates.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 30, 1977, should 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 (16 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without
further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[Docket No. CP77-594]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNESCO, INC.

Notice of Application

SEPTEMBER 9, 1977.

Take notice that on August 29, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed an application in Docket No. CP77-594 pursuant to Section 7(c) of the Natural Gas Act as amended, and the Rules and Regulations of the Federal Power Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a natural gas transportation service for Sea Robin Pipeline Company (Sea Robin), Tennessee also requests temporary authorization to render this service.

Applicant requests authorization to receive from Texaco, Inc. (Texaco), for the account of Sea Robin, daily volumes of natural gas, up to a maximum of 5,000 MCF of the existing interconnection of the facilities of Tennessee and Sea Robin located in Eugene Island (ED) Block 338 and to transport and deliver such volumes to Sea Robin at an existing subsea interconnection between the facilities of Tennessee and Sea Robin located in ED 330. For such service, Sea Robin will pay Tennessee one cent ($0.01) for each MCF transported.

Applicant's ability to render presently authorized service to its customers will not be affected by its proposal.

Tennessee requests that this application be considered under the shortened procedure provided for in Section 157.7(b) of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said application, or on or before September 26, 1977, should 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, a hearing will be held without further notice before the Commission on this application if no petition to intervene is timely filed, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[Docket No. CP77-594]

TEXAS EASTERN TRANSMISSION CORP.

Joint Pipeline Application

SEPTEMBER 6, 1977.

Take notice that on August 15, 1977, Texas Eastern Transmission Corporation ("Texas Eastern"), Post Office Box 2521, Houston, Texas 77001, and Natural Gas Pipeline Company, ("Natural Gas"), 122 South Michigan Avenue, Chicago, Illinois 60603 ("Applicants"), filed an application pursuant to Section 7 of the Natural Gas Act in Docket No. CP77-593 for a certificate of public convenience and necessity authorizing operation of facilities for the transportation and exchange of natural gas, Texas Eastern shall receive, or cause to be received, up to 15,000 MCF of natural gas per day tendered for delivery by the Applicants at several points of interconnection of Texas Eastern's Cameron Pipeline System with the pipeline facilities to be constructed and to transport such quantities of natural gas onshore for exchange with or delivery to Texas Eastern onshore. Natural gas shall receive, or cause to be received, up to 15,000 MCF of natural gas per day tendered for delivery by the Applicants at several points of interconnection of Stingray's Offshore Louisiana pipeline system with the pipeline facilities to be constructed by Texas Eastern and Columbia Gulf Iron West Cameron, Block 563, Offshore Louisiana (filed at Docket No. CP77-409) and to transport or cause the transportation of such quantities of natural gas onshore for exchange with or delivery to Texas Eastern onshore.

Tumally equivalent volumes of natural gas transported onshore each day by each of the Applicants will be deemed to have been exchanged onshore. Any volume of natural gas transported onshore on any day in excess thereof shall be re-delivered onshore by the transporting Applicant to the other Applicant. Daily deliveries of any such excess quantities of natural gas shall be made at the Union of Texas Winnie Plant, Jefferson County, Texas or at the Exxon-Sarita plant, Kent County, or at other mutually agreeable authorized points of exchange between the two pipelines.

Any person desiring to be heard or to make any protest with reference to said application, or on or before September 26, 1977, should 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, a hearing will be held without further notice before the Commission on this application if no petition 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.

[Docket No. CP77-594]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application


Take notice that on August 28, 1977, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-593 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) for a certificate of public convenience and necessity authorizing the construction of the 12-month period commencing October 22, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline
system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant’s ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

The estimated total cost of the proposed facilities would not exceed $12,900,000 with no single onshore project to exceed a cost of $1,500,000 and no single offshore project to exceed a cost of $2,500,000. These costs will be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program, if it is said.

Any person wishing to become a party in any hearing therein must file a protest with reference to said application. Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission’s Rules. Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission’s Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. FLUMBE, Secretary.

[FR Doc.77-26833 Filed 9-14-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 35]

ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING AUGUST 27, 1977

ACTIONS OF THE BOARD

Goodletsville Bancshares, Inc., Goodletsville, Tenn., extension of time to November 1977, to withdraw its membership from the Federal Deposit Insurance Corporation.

Bank of Christiansburg, Christiansburg, Va., extension of time within which to establish a branch at the intersection of South Main and Davis streets, on U.S. Highway 460, Blacksburg, Va.,

Bank of Gassaway, Gassaway, W. Va., proposed merger with Community Investment Co., Inc., Gassaway, W. Va., report to the Federal Deposit Insurance Corporation on competitive factors.

Bank of St. Augustine, National Association, St. Augustine, Fla., proposed merger with Barnett Bank of Anastasia Island, St. Augustine, Fla., report to the Federal Deposit Insurance Corporation on competitive factors.

Bank of West Boca, West Boca Raton, Fla., extension of time to November 1, 1977, within which to withdraw its membership from the Federal Reserve System.

1 Application processed on behalf of the Board of Governors under delegated authority.

NOTICES

[Dock. No. CP77-592]

TRUNKLINE GAS CO.

Notice of Application


Take notice that on August 26, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-592 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of 300 Mcf of natural gas per day on a firm basis for Transcontinental Gas Pipe Line Corporation (Transco) from an existing tap located in Iberia Parish, Louisiana, to a point in Vermilion Parish, Louisiana, where Applicant’s and Transco’s system are currently interconnected, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that said transportation would be pursuant to an agreement dated June 23, 1977, wherein Transco has agreed to pay Applicant a monthly transportation charge of $275 based upon a daily volume of 300 Mcf subject to increase if Applicant receives and delivers more than 300 Mcf per day or decrease if Applicant fails or is unable to take and deliver a volume of gas tendered by Transco up to 300 Mcf per day, by an amount equal to 2.60 cents per Mcf for those volumes delivered above or below 300 Mcf per day. It is said that the agreement provides for a term of 10 years from the date of first delivery and from year to year thereafter unless cancelled by either party by giving one year’s written notice. According to the foregoing, the agreement may be cancelled after the first three years of deliveries upon 30 days’ written notice.

Applicant indicates that it has been advised by Transco that the gas to be transported is attributable to working interests owned by participants in a joint venture known as the Transmac Exploration and Development Program (Transmac) and gas owned by Transco. It is said that all of such participants are direct or indirect customers of Transco and all have been affected by Transco’s curtailment of deliveries in recent years. Transco has advised that its estimated average curtailment of service for the 1977-78 winter period is projected to be approximately 45 percent and that transportation of such participants’ gas to them for their use will help alleviate the effect on them of Transco’s curtailment, it is said.

Applicant indicates that no new facilities are required to implement the instant proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1977, 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 on its own motion 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 protest with reference to said application or a petition to intervene 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).
To establish a Domestic Branch Pursuant to Section 3 of the Federal Reserve Act.

APPROVED

Union Trust Co. of Maryland, Baltimore, Md., Branch to be established at the intersection of U.S. Route 40 (Pulaski Highway) and Rossville Boulevard, Baltimore County.  

APPROVED

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bank of America: Investment—additional shares of Commercial & General Acceptance Ltd., Sydney, Australia.


Mellon International Finance Corp.: Investment—additional shares of Network Finance Ltd., Australia.


* * * * *

Bethlehem Bank & Trust Co. of Pennsylvania: Branch—additional in Hamburg, West Germany.

COLLECTION FOR H. R. 1977 NO. 23, PAGE 3


Thirty Day Notice by a Member Bank of意图 to Establish an Additional Branch in a Foreign Country.

APPROVED

The First National Bank of Boston: Branch—additional in Hamburg, West Germany.

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

Bailer National Bank: Branch—Manila, Philippines.


To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Downs Bancshares, Inc., Downs, Kan., for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Downs National Bank, Downs, Kan.

4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

First Guthrie BancShares, Inc., Guthrie, Okla., for approval to acquire 80 percent or more of the voting shares of The First National Bank of Guthrie, Guthrie, Okla.

Ottawa Bancshares, Inc., Ottawa, Kans., for approval to acquire 100 percent of the voting shares of The Kansas State Bank, Ottawa, Kans.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

National City Corp., Cleveiland, Ohio, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Union Bank, Columbus, Ohio.

Amberline Inc., St. Joseph, Mo., for approval to acquire 80 percent or more of the voting shares of Morgan County Bank, Verona, Mo.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

APPROVED

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit as would be made by a finance company which activities include making direct consumer installment loans; making personal property or acting as agent, broker, or adviser in leasing such property) at 7590 West Colfax Avenue at 37777 Paseo Padre Parkway, Fremont, Calif., through its indirect subsidiary, BankAmerica Corp. (a California corporation) (2/6/77).

RELATEd

Southern Bancorporation, Inc., Greenville, S.C., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit as would be made by a finance company which activities include making direct consumer installment loans and other extensions of credit such as would be made by a finance company including secured and unsecured loans and other extensions of credit in conjunction with extensions of credit made or acquired by FinanceAmerica Corp.) at 556 North Clearwater-Vance Freeway, Pembroke Pines, Fla., through its wholly-owned subsidiary, Southern Bancorporation, Inc., Pembroke Pines, Fla.

Jefferson Bankshares of Colorado, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of leasing personal property or acting as agent, broker, or adviser in leasing such property and making loans secured and unsecured loans on the account or the account of others, loans and other extensions of credit such as would be made by a finance company including secured and uninsured loans and other extensions of credit in conjunction with extensions of credit made or acquired by Jefferson Bankshares of Colorado, Inc.) at 37777 Paseo Padre Parkway, Fremont, Calif., through its wholly-owned subsidiary, Jefferson Bankshares of Colorado, Inc., Fremont, Calif.

Jefferson Bankshares of Colorado, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of servicing, brokering, making, or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company including secured and uninsured loans and other extensions of credit in conjunction with extensions of credit made or acquired by Jefferson Bankshares of Colorado, Inc.) at 37777 Paseo Padre Parkway, Fremont, Calif., through its wholly-owned subsidiary, Jefferson Bankshares of Colorado, Inc., Fremont, Calif.

*37777 Paseo Padre Parkway, Fremont, Calif.

*To establish a Domestic Branch Pursuant to Section 3 of the Federal Reserve Act.

APPROVED

Horizon Bancorp, Morrisville, N.C., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit as would be made by a finance company which activities include making direct consumer installment loans; making personal property or acting as agent, broker, or adviser in leasing such property) at 566 North Clearwater-Vance Freeway, Pembroke Pines, Fla., through its subsidiary, Horizon Bancorp, Morrisville, N.C.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Mellon National Corp., Pittsburgh, Pa., for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Union Bank, Columbus, Ohio.

*To establish a Domestic Branch Pursuant to Section 3 of the Federal Reserve Act.

APPROVED


* * * * *

BankAmerica Corp., San Francisco, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured loans and other extensions of credit as would be made by a finance company which activities include making direct consumer installment loans; making personal property or acting as agent, broker, or adviser in leasing such property) at 7590 West Colfax Avenue at 37777 Paseo Padre Parkway, Fremont, Calif., through its indirect subsidiary, BankAmerica Corp. (a California corporation) (2/6/77).

*To establish a Domestic Branch Pursuant to Section 3 of the Federal Reserve Act.

APPROVED

Mountain Financial Services, Inc., Denver, Colo., notification of intent to engage in de novo activities (the business of servicing, brokering, making, or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at 37777 Paseo Padre Parkway, Fremont, Calif., through its wholly-owned subsidiary, Mountain Financial Services, Inc., Fremont, Calif.
and secured commercial financing such as dealer floor-plan financing and lease financ-
ing; and acting as agent or broker in se-
lending of personal, family, or household goods or property damage insurance on collateral-
supporting loans made by Atlantic Con-
sumer Services of Tennessee, Inc.) at 2021
Northeast 8th Street, Knoxville, Tenn., through
a subsidiary, Atlantic Consumer Services of
Tennessee, Inc. (8/27/77).8
First Guthrie BancShares, Inc., Guthrie,
Okla., notification of intent to engage in de
novo activities (operating an industrial
loan and investment company pursuant to
the laws of the State of Nebraska, includ-
ing the issuance of paid-up certificates of
incorporation and making consumer loans
and first and second mortgage loans on real
estate) at 4421 South 84th Street and
3922 North 90th Street, Omaha, Nebr.,
through a subsidiary, First of Omaha Sav-
bank, Inc. (8/28/77).8
University Bancorp, Inc., Kansas City,
Mo., notification of intent to engage in de
novo activities (leasing personal property,
such personal property leasing activity will
serve as the functional equivalent of credit
lending on the property, the property to be
leased will be acquired specifically for the
leasing transaction, the nonoperating leases
and/or the lease at the inception of the
lease the effect of the transaction
will cause the lessor for not less than the
lessor’s full investment in the property
over the term of the lease) at 331 Walnut,
Kansas City, Mo. (8/28/77).8
U.S. National Bancshares, Inc., Galveston,
Tex., to engage in microfinance at 400
Jefferson Boulevard, Suite 710, Houston,
Tex., and 30 East 26th Street, North, Chute,
Tex., through a wholly-owned subsidiary,
Bankers Data Services, Inc., Houston, Tex.
(8/28/77).8
Security Pacific Corp., Los Angeles, Calif.,
nomination of intent to relocate de
novo activities (the leasing of personal,
property and equipment and real property
and the leasing of such property or the act-
ing as agent, broker, or advisor in the leasing
and/or financing of such property where at
the inception of the initial lease the effect
of the transaction (and, with respect to
activities (making extensions of credit)
at 112 Broad Street, Suite 100 and 101, 1250
Terminal Way, Detroit, Mich., through its
subsidiary, Security Pacific Leasing Corp.
(8/28/77).8
Seicen, Inc., Toledo, Ohio, notification of
intent to engage in de novo activities (lease-
ing personal property and equipment or
acting as agent, broker, or advisor in leasing
such property where at the inception of the
initial lease the effect of the transaction
and, with respect to governmental en-
titles only, reasonably anticipated future
activities) at 901-903 Sneath Lane, San Bruno,
Calif., through its subsidiary, Bancorporation
Leasing (8/28/77).8
Approved
First Guthrie BancShares, Inc., Guthrie,
Okla., for approval to acquire a beneficial
interest in First Guthrie Business Trust,
Guthrie, Okla., which in turn will acquire
First Guthrie Insurance Agency, Guthrie,
Okla.
Ottawa Bancshares, Inc., Ottawa, Kan., for
approval to acquire the assets of Credit
Applications Received
To Establish a Domestic Branch Pursuant
to Section 9 of the Federal Reserve Act
Chemical Bank, New York, N.Y., Branch
branch to be established at the intersection
of Osborne Lake Road and Peakskill Drive
Road, Oregon Corners, Putnam Valley,
Putnam County.
The Commercial Trust & Savings Bank
Storm Lake, Iowa, Branch to be established
at 12537 Lake Avenue, Storm Lake, Buena
Vista County.
Liberty State Bank & Trust, Hammonton,
N.J., Branch to be established at 23719
Grand River Avenue, Redford Township,
Wayne County.
Bank of Sturgeon Bay, Sturgeon Bay, Wis.,
Branch to be established in Egg Harbor,
Village of Horseshoe Bay, Door County.
Bank of Sturgeon Bay, Sturgeon Bay, Wis.,
Branch to be established in the Village of
Ellison Bay, Town of Liberty Grove, Door
County.
To Form a Bank Holding Company
Pursuant to Section 3(a)(1) of the Bank
Holding Company Act of 1956.
Charter Techny Bancorporation, Inc., North-
brook, Ill., for approval to acquire 90 per-
cent or more of the voting shares of Char-
ter Bank of Techny, Northbrook, III., a
proposed new bank.
Sword Financial Corp., Horicon, Wis., for
approval to acquire 82.85 percent of the vot-
ing shares of Horizon State Bank, Horicon,
Wis.
American National Bancshares, Inc., Midwest
City, Okla., for approval to acquire 90 per-
cent or more of the voting shares of Ameri-
an National Bank of Midwest City,
Midwest City, Okla.
Chickasha Bancshares, Inc., Chickasha,
Okla., for approval to acquire 80 percent of
the voting shares of Chickasha Bank &
Trust Co., Chickasha, Okla.
First National Fairbury Corp., Fairbury,
Nebr., for approval to acquire 100 percent of
the voting shares of First National Bank of
Fairbury, Fairbury, Nebr.
Jefferson County Agency, Inc., Daykin,
Nebr., for approval to acquire 100 percent of
the voting shares of Jefferson County Bank,
Daykin, Nebr.
Kremmling Holding Co., Kremmling, Colo.,
for approval to acquire 100 percent of the vot-
ing shares (less directors’ qualifying
shares) of Bank of Kremmling, Kremmling,
Colo.
Commercial National Corp., Brady, Tex., for
approval to acquire 81 percent or more of
the voting shares of The Commercial Na-
tional Bank of Brady, Brady, Tex.
To Expand a Bank Holding Company
Pursuant to Section 4(a)(1) of the Bank
Holding Company Act of 1956.
Pittsburgh National Corp., Pittsburgh, Pa.,
nomination of intent to engage in de
novo activities (making personal instal-
ment loans and other extensions of credit)
at 150 East Mount Street, Suite 100 and
101, 1250 Terminal Way, Detroit, Mich.,
through its subsidiary, Amortized Mortgages,
Inc., a subsidiary of Mortgage Associates, Inc.
(8/25/77).7
Manufacturers Hanover Corp., New York,
N.Y., notification of intent to engage in de
novo activities (mortgage banking including
acquiring, for its own account or for the
accounts of others, loans and other exten-
sions of credit such as would be made or
acquired by a mortgage company and serv-
ing such loans and other extensions of
credit, acting as an investment adviser and/or
guardian of a beneficial trust; providing bookkeeping or data proc-
sessing services for Manufacturers Hanover
Corp., a subsidiary of Manufacturers Hanover
Corp., second mortgage installment loans)
for personal, family, or household pur-
poses; purchasing sales finance contracts
except in connection with the sale of
personal, family, or household goods or
services in connection with certain per-
sonal credit; acting as agent or broker in
the making or acquiring and servicing for
its own account or for the accounts of others,
loans and other extensions of credit (at 150
East Mount Street, Suite 100 and 101,
1250 Terminal Way, Detroit, Mich., through
its subsidiary, Signal Mortgage Corp.,
(8/16/77).7
Southern Bancorporation, Inc., Greenville,
S.C., notification of intent to engage in de
novo activities (making, extension, and
sold of credit as a licensed consumer credit
lender under the Consumer Finance Law of
South Carolina as amended, and/or extension
of credit related life/accident and health
insurance activity) and acting as agent or
broker in the making of credit-related life/ac-
cident and disability insurance and credit
related property and casualty insurance
issued in connection with the above-men-
tioned extensions of credit; at 112 Broad

NOTICES
FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
46107
Kremmling Holding Co., Kremmling, Colo.,
Security Pacific Corp., Los Angeles, Calif.,
Barnett Banks of Florida, Inc., Jacksonville,
Security Pacific Corp., Los Angeles, Calif.,
Board of Governors under delegated authority.

NOTICES

petitions for rulemaking

None.


GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-26783 Filed 9-14-77; 8:45 am]

COMBANKS CORP.

Acquisition of Bank

Combanks Corp., Winter Park, Fla., has applied for the Board's approval under § 225.4(a) of the Bank Holding Company Act (12 U.S.C. § 1842(a) (3)) to acquire indirectly, through the acquisition of 22.5 percent of the voting shares of American Bancshares, Inc., North Miami, Fla., voting shares of the following banks: The Second National Bank of North Miami, North Miami, Fla.; The Seminole Bank of Tampa, Tampa, Fla.; Firestone Bank, Fort Worth, Tex.; First National Bank of the Upper Keys, Tavernier, Fla.; Second National Bank of North Miami Beach, North Miami Beach, Fla.; First National Bank of the Upper Keys, Tavernier, Fla.; Second National Bank of North Miami Beach, North Miami Beach, Fla.; Executive Bank of Fort Lauderdale, Fort Lauderdale, Fla.; and Second National Bank of Homestead, Homestead, Fla. The fact that a company or a subsidiary, Barnett Banks Trust Company, N.A. (8/19/77), has also applied, pursuant to § 4(c) (8) of the Bank Holding Company Act (12 U.S.C. § 1842(a) (3)), to acquire indirectly voting shares of American Bancshares, Inc., engages in the activities of making loans and extensions of credit (including issuing credit such as would be made by a factoring company or a consumer finance company) and acting as broker or agent for the sale of credit-related life/accident and health insurance that is directly related to an actuarially sound firm. Such activities are conducted in each of the areas served.

American Bancshares Insurance Agency, Inc., engages in the activities of acting as an insurance agent or broker with respect to (i) credit life or accident and health insurance that is directly related to the extension of credit by a bank or bank related firm, and (ii) credit life or accident and health insurance that is directly related to the provision of other financial services by a bank or bank related firm. Such activities are conducted at all of the offices of the banking subsidiaries of American Bancshares, Inc., and notice of this application was published in newspapers of general circulation in each of the areas served.

American Bancshares Mortgage Co., Inc., engages in the activities of making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 16200 Ventura Boulevard to 17337 Ventura Boulevard, Encino, Calif., through its subsidiary, Security Pacific Finance Corp. (6/22/77).

Security Pacific Corp., Los Angeles, Calif., notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 16200 Ventura Boulevard to 17337 Ventura Boulevard, Encino, Calif., through its subsidiary, Security Pacific Finance Corp. (6/22/77).

Security Pacific Corp., Los Angeles, Calif., notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 16200 Ventura Boulevard to 17337 Ventura Boulevard, Encino, Calif., through its subsidiary, Security Pacific Finance Corp. (6/22/77).

REPORTS RECEIVED

None.

* * * * *

R_{e}ports

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

OLD KENT FINANCIAL CORP.

Acquisition of Bank

Old Kent Financial Corp., Grand Rapids, Mich., has applied for the Board's approval under § 3(a) (5) of the Bank Holding Company Act (12 U.S.C. § 1842(a) (5)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor to consolidation to Peoples Bank and Trust, National Association, Trenton, Mich. The factors that are considered in acting on the application are set forth in § 3(e) of the Act (12 U.S.C. § 1842(a) (5)). The application may be inspected at the offices 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 7, 1977.


GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-26781 Filed 9-14-77; 8:45 am]
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Basic Programs of Bilingual Education—Initial Awards

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for initial awards of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of the Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to new applicants for basic programs.

Closing date: November 15, 1977.

A. Application forms and information.

Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail.

An application sent by mail will be considered to be received on the date it is postmarked if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service, and

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered applications.

An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information.

The amount of funds which may be available in fiscal year 1978 for initial awards of assistance for basic programs of bilingual education is $32,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at $166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

3. For further information contact:

The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporters' Building, Room 4211), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations.

Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the Federal Register on June 11, 1976 (41 FR 33862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 106, 180, and 190. In addition, applications and notifications, applicants' attention is directed in particular to Subpart B of 123—§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13) (Catalog of Federal Domestic Assistance Number 13.403C, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[Feb. 27-1977 Filed 9-14-1977:8:24 am]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Basic Programs of Bilingual Education—Non-Competing Continuation Awards

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of the Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to nonprofit organizations presently in operation pursuant to an approved project period in excess of one year.

Closing date: November 15, 1977.

A. Application forms and information.

Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail.

An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the loss of applications, applicants are encouraged to use registered or certified mail and to note the date of receipt from the U.S. Postal Service; or on the original receipt from the U.S. Postal Service, and

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered applications.

An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays.

Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information.

The amount of funds which is expected to be available in fiscal year 1978 for the continuation of the noncompeting continuation awards for basic programs of bilingual education is $71,473,000. The anticipated number of noncompeting continuation awards for basic programs of bilingual education is 428 with an expected average amount for the majority of continuation awards at $166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

Dated: September 8, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[Feb. 27-1977 Filed 9-14-1977:8:24 am]
BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Training Programs—Non-Competing Continuation Awards

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Elementary and Secondary Education Amendments of 1970 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the non-competing continuation of training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies; or one or more local educational agencies and State educational agencies; or one or more local educational agencies and one or more State educational agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date, November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 15, 1977.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13,403E, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civil disturbances, etc., the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

1. The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or
2. The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards is $6,800,000. The anticipated number of initial awards for training programs is 68, with an expected average amount for initial awards of $100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, U.S. Department of Health, Education, and Welfare, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Applications will not be accepted after 4:00 p.m. on the closing date.

F. Applicable regulations: Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the Federal Register on June 11, 1976 (41 FR 23662), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 160a, 160c, and 100d. In preparing applications, applicants' attention is directed to Subpart B of Part 123:—§ 123.11—123.20, relating to Basic Programs of Bilingual Education.

NOTICES

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
NOTICES

EDUCATIONAL AGENCIES.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation of training programs is $4,200,000. The anticipated number of non-competing continuation awards for training programs is 24, with an expected average amount of continuation awards at $100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporters' Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Application forms and information. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, applicable regulations, and appropriate acts.

Closing Date for Receipt of Applications

Closing date: September 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages to be ready for mailing on or about September 15, 1977. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.


Applicants considering a joint application are advised to follow all instructions to verify joint applicant status, as well as to complete Form OE 4561, "Certification Signatures for Bilingual Educational Joint Application".

(5) Under § 123.22(d) of the program regulations, 45 CFR § 123.22(d) (1), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in any one year. Such service area designated under § 123.22(a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Such determination may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart more effectively.

(6) Applicants that propose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriate acts.

Funds expected to be available in FY 1978 for new competing awards for Resource Training Centers are estimated at $8,600,000. Funds expected to be available in FY 1978 for new competing awards for Materials Development Centers are estimated at $6,600,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriate acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporters' Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations: Grant applications made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the Federal Register on June 11, 1976 (41 FR 23862), and except where inconsistent with, one or more local educational agencies.

NOTICES

EDUCATIONAL AGENCIES.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation of training programs is $4,200,000. The anticipated number of non-competing continuation awards for training programs is 24, with an expected average amount of continuation awards at $100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact. The Office of Bilingual Education, Office of Education, 400 Maryland Avenue, S.W. (Reporters' Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Application forms and information. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, applicable regulations, and appropriate acts.
except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of Part 123—§§ 123.21-123.30 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b—880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER, Commissioner of Education.

[FR Doc.77-26798 Filed 9-14-77; 8:45 am]

BILINGUAL EDUCATION SUPPORT SERVICES

Closing Date for Receipt of Applications for Support Services for Programs of Bilingual Education—Non-Competing Continuation Awards

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b—880b-13) the Commissioner of Education hereby gives notice that:

(1) Applications for the non-competing continuation of training resources centers are being accepted from one or more local educational agencies, or one or more institutions of higher education which apply for consultation with, or jointly with, one or more local educational agencies, or one or more State educational agencies, and

(2) Applications for the non-competing continuation of materials development centers and dissemination/assess ment centers are being accepted from one or more local educational agencies, or one or more institutions of higher education which apply jointly with one or more local educational agencies.

All applications must be received by the Application Control Center on or before the closing date.

A. Application forms and information.

Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. Hand-delivered applications. An application to be hand-delivered must be received by the Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays.

D. Provisions for submission. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation awards for support services for programs of bilingual education is $3,400,000. The anticipated number of non-competing continuation awards for support services is six. Two resources training centers; three materials development centers; and one dissemination/assessment center.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the Federal Register on June 11, 1977 (41 FR 23362), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of Part 123—§§ 123.11-123.20 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b—880b-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER, U.S. Commissioner of Education.

[FR Doc.77-26799 Filed 9-14-77; 8:15 am]
programs for trainers of bilingual education teachers are being accepted from educational agencies in the State where programs of bilingual education assisted under the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 2800—2800d-13), notice is hereby given that applications for noncompeting assistance contracts for the coordination of technical assistance are being accepted from State Educational Agencies in the State where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought.

Funds made available pursuant to this notice shall not exceed five percent of the aggregate of the amounts paid under Part A of the Bilingual Education Act to local educational agencies in the State of such agencies in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular method of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue SW. (Reporter’s Building, Room 421), Washington, D.C. 20202 (202-245-2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

P. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR 123.42(a). The Bilingual Education Regulations at 45 CFR 123.42(a). The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR 123.42(a).

Dated: September 8, 1977.

ERNST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 77-26801 Filed 9-14-77; 8:45 a.m.]

BILINGUAL EDUCATION

Closing Date for Receipt of Applications for Non-Competing Assistance Contracts for Coordination of Technical Assistance by State Educational Agencies for Programs of Bilingual Education

Pursuant to the authority contained in section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 8800—8800d-13), notice is hereby given that applications for noncompeting assistance contracts for the coordination of technical assistance are being accepted from State Educational Agencies in the State where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought.

The amount paid to any State educational agency pursuant to this notice shall not exceed five percent of the aggregate of the amounts paid under Part A of the Bilingual Education Act to local educational agencies in the State of such agencies in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate that applications forms and information packages will be ready for mailing on or about September 15, 1977. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.
B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202. Application should be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, civic disturbances, etc., the Office of Education, will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education, as evidence that the application was received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

1. The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

2. The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Cancellation on the postmark or the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education will be accepted as evidence of when the application was received.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds available in Fiscal Year 1978 for assistance contracts for coordination of technical assistance is $4,375,000. Awards are made annually on a noncompetitive basis as assistance contracts to State educational agencies in states where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought. Forty-six states are eligible for Fiscal Year 1978 funds. Awards shall not exceed five percent of the aggregate of the amounts under Part A of the Bilingual Education Act to local educational agencies in the State for Fiscal Year 1977.

This statement on the availability of funds is only an average and does not bind the Office of Education to any particular pattern of distribution, except as otherwise prescribed under the Bilingual Education Act, applicable regulations, and appropriation acts.


F. Applicable regulations. Assistance contracts awarded pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act. Applications received in the Federal Register on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, the Office of Education, General Provisions Regulations in 45 CFR Part 100b. In preparing applications, applicants' attention is directed in particular to Subpart F of Part 123—§123.51—123.60 relating to Coordination of Technical Assistance by State Educational Agencies.

(20 U.S.C. 890d—890h-13.)

(Catalog of Federal Domestic Assistance Number 13.403, Bilingual Education.)

Dated: September 8, 1977.

ERNEST L. BOYER, U.S. Commissioner of Education.

Health Care Financing Administration

COMMONWEALTH OF PUERTO RICO: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement To Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare published in the Federal Register a notice in which he announced his intention to enter into an agreement with the Foundation for Medical Care of Puerto Rico designating it as the Professional Standards Review Organization for the Commonwealth of Puerto Rico, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.7.

Such notice was also published in three consecutive issues of The San Juan Star on July 20, 21, and 22, 1977. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate medical and specialty societies, and hospitals and other health care facilities in the area, with a request that such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in the Commonwealth of Puerto Rico of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in the Commonwealth of Puerto Rico who objects to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico on the grounds that such organization is not representative of doctors in the Commonwealth of Puerto Rico, mail such objection in writing to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1388, FDR Station, New York, New York 10022 on or before August 19, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in the Commonwealth of Puerto Rico, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percent of the doctors engaged in the active practice of medicine or osteopathy in the Commonwealth of Puerto Rico have expressed
timely objection to the Secretary entering into an agreement with the Calumet Area Professional Review Organization. Therefore, the Secretary will proceed to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana.

Dated: September 8, 1977.

ROBERT A. DERSON, Administrator, Health Care Financing Administration.

[FR Doc.77-26894 Filed 9-14-77; 8:45 am]

INDIANA PSRO AREA I: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the Federal Register a notice in which he announced his intention to enter into an agreement with the Calumet Area Professional Review Organization designating it as the Professional Standards Review Organization for PSRO Area I of the State of Indiana, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.18.

Such notice was also published in three consecutive issues of the Post-Tribune, Chicago Sun-Times, Times, Chicago Tribune, and the Chicago Daily News on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977 in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area I of the State of Indiana of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Indiana who objects to the Secretary entering into an agreement with the Calumet Area Professional Review Organization on the grounds that such organization is not representative of doctors in PSRO Area I of the State of Indiana, mail such objection to the Secretary on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area I of the State of Indiana, the Secretary has determined, pursuant to 42 CFR 101.105, that more than 10 percent of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of the State of Indiana have expressed timely objection to the Secretary entering into an agreement with the Indiana Area V PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana.

Dated: September 8, 1977.

ROBERT A. DERSON, Administrator, Health Care Financing Administration.

[FR Doc.77-26890 Filed 9-14-77; 8:45 am]

STATE OF KANSAS: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 6, 1977, the Secretary of Health, Education, and Welfare published in the Federal Register a notice in which he announced his intention to enter into an agreement with the Kansas Area I PSRO designating it as the Professional Standards Review Organization for the State of Kansas, which area is designated a Professional Standards Review Organization Area in 42 CFR 101.20.

Such notice was also published in three consecutive issues of The Salina Journal, The Manhattan Mercury, The Kansas City Star, The Kansas City Times, The Topeka State Journal, The Garden City Telegram, The Lawrence Daily Journal-World, The Morning Sun, The Dodge City Daily Globe, The Hays Daily News, The Topeka Daily Capital, Beacon, Eagle and The Hutchinson News on July 1, 2, and 4, 1977; and a correction notice was published on July 27, 28, and 29, 1977, in the same newspapers. In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and county medical and specialty societies and hospitals and other health care facilities in the area, with a request that each such society or facility inform those doctors in its membership or on its staff who are engaged in active practice in PSRO Area I of the State of Kansas of the contents of the notice.

The notice requested that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Kansas who objects to the Secretary entering into an agreement with the Kansas Area I PSRO on the grounds that such organization is not representative of doctors in PSRO Area I of the State of Kansas, mail such objection to the Secretary, Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022, on or before August 5, 1977.

After reviewing the final tabulation of objections from doctors of medicine or osteopathy in PSRO Area I of the State of Kansas, the Secretary has determined, pursuant to 42 CFR 101.105, that not more than 10 percent of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area V of the State of Indiana have expressed timely objection to the Secretary entering into an agreement with the Indiana Area V PSRO. Therefore, the Secretary will proceed to enter into an agreement with the Indiana Area V PSRO designating it as the Professional Standards Review Organization for PSRO Area V of the State of Indiana.
NOTICES

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

MICHIGAN PSRO AREA VIII: RESULTS OF NOTIFICATION

Notice to Physicians Regarding Agreement to Designate Professional Standards Review Organization

On July 20, 1977, the Secretary of Health, Education, and Welfare, published in the Federal Register a notice in which he announced his intention to enter into an agreement with the Federation of Physicians in Southeastern Michigan designating it as the Professional Standards Review Organization for PSRO Area VIII of the State of Michigan.

Dated: September 8, 1977.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

Social Security Administration
DIVISION OF SENSITIVE INQUIRIES, ET AL.

Redelegations of Authority To Make Various Findings of Fact, Decisions and Determinations on Cases Referred for Correction

In FR Doc. 77-25106 appearing on page 43671 in the issue of Tuesday, August 30, 1977, on page 42672, the 1st line, 1st paragraph should read as follows: "E. Pursuant to sections 402, 412 and . . . ."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Idaho (FDAA-3046-EM), dated May 5, 1977.


FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Idaho dated March 2, 1977, and amended on April 1, 1977, June 14, 1977, and July 21, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977:

The Counties of:
Mecosta
Oceana

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended notice.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc. 77-26932 Filed 9-14-77; 8:45 am]
[Docket No. NFD-556; FDAA 3035-EM]

MONTANA

Notice of an Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice of an Emergency Declaration and Related Determinations was published in the Federal Register of August 22, 1977.


[FR Doc. 77-26992 Filed 9-14-77; 8:45 am]
[Docket No. NFD-551; FDAA 3046-EM]


FOR FURTHER INFORMATION CONTACT:
Frank J. Muckenheupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:
The Counties of:

Caswell
Stokes
Lincoln
Wake

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned area effective the date of this amended Notice.

Thomas P. Dunne, Administrator, Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.


FOR FURTHER INFORMATION CONTACT:
Frank J. Muckenheupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285: and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 22, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Montana is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Montana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy, FDAA Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency:
The County of Glacier.

The purpose of this designation is to provide emergency livestock feed and cattle transportation assistance only in the aforementioned area effective the date of this Notice.

Thomas P. Dunne, Administrator, Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.


FOR FURTHER INFORMATION CONTACT:
Frank J. Muckenheupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 24, 1977, the President declared an emergency as follows:

I have determined that the impact of severe storms, floods, and flooding on the State of West Virginia is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288 for the purpose of providing mobile homes. I therefore declare that such an emergency exists in the State of West Virginia.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle, FDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:
The Counties of:

Boone
Mingo
Logan

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
NOTICES

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

[CA 2877]

CALIFORNIA
Opening of Land Subject to Section 24 of the Federal Power Act


Pursuant to the order of the Federal Power Commission DA-1127 issued June 17, 1977, and by virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075, 16 U.S.C. 818) (1970), as amended, and in accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, issued January 21, 1977 (42 FR 3901), as amended, it is ordered as follows:

1. The Commission finds that the value of the following described land, withdrawn in Power Site Classification No. 115, will not be injured or destroyed by conveyance subject to the provisions of Section 24 of the Federal Power Act.

HUMBOLDT MERIDIAN

POWER SITE CLASSIFICATION 115

T. 8 N., R. 4 E., Sec. 25, Lot 25.

The area described aggregates 19.26 acres in Humboldt County.

2. The State of California has waived its preference right of application for highway rights-of-way on material sites afforded by Section 24 of the Federal Power Act.

3. The land shall be made immediately available for a pending Indian Allotment CA 3933 subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and subject to the provisions of Section 24 of the Federal Power Act, supra.

JOHN B. RUSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

COLOMBIA
Closure to Motorized Vehicles

Notice is hereby given that under the authority of Executive Order 11944 as amended May 24, 1977, and the regulations in 43 CFR 6010, a four-wheel drive vehicle trail across the following described public lands under the administration of the Bureau of Land Management is closed to motorized vehicle use.

SCHULTZ PRINCIPAL MERIDIAN

T. 15 S., R. 77 W., Sec. 10, NW¼ and SE¼.

T. 16 S., R. 77 W., Sec. 11, NW¼ and SW¼, Sec. 40, SW¼.

T. 17 S., R. 77 W., Sec. 12, NE¼ and SE¼.

T. 19 S., R. 77 W., Sec. 13, NE¼ and SW¼, Sec. 24, SE¼.

Vehicle closure signs are posted where this trail enters public lands. The trail extends from the vicinity of Ruby Mountain, near Nathrop, Colo., southeasterly approximately four miles to the San Isabel National Forest boundary. In the past this trail continued into the National Forest but that portion has been closed by the Forest Service. This trail passes through a portion of an area known as Brown's Canyon which was included in a proposed withdrawal to protect primitive values on August 16, 1976. In addition, Sec. 103 of the Federal Land Policy and Management Act of October 21, 1976 requires that such areas be reviewed to determine suitability for wilderness designation. The Act also requires that until such a determination is made such areas are to be managed so as not to impair suitability for preservation for wilderness. Closure of the above described trail is an interim management action to protect potential primitive and/or wilderness values.

This notice of closure shall become effective upon publication in the Federal Register.

Copies of a map showing the location of the trail as it crosses through the above described lands are posted in the Post Office at Nathrop, Colo., and in the Chaffee County Courthouse in Salida, Colo., and are available in the District Office, Bureau of Land Management, 3069 East Main Street, Canon City, Colo. 81212.

DALE R. ANDRUS,
State Director.


COUGARS, MONTROSE, CANON CITY-GRAND JUNCTION TEAM LEADERS, BRANCH OF ADJUDICATION, DIVISION OF TECHNICAL SERVICES, COLORADO STATE OFFICE

Redelegation of Authority


1. Pursuant to the authority contained in redelegation of authority, published in Federal Register, 42 FR 41484, No. 159—Wednesday, August 10, 1977; and in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, I hereby redelegated to the Leaders, Craig, Montrose and Canon City-Grand Junction Teams, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters:

Sections 13 (b) and (e), 13 (a), 15 (b) and (c), 16 (e) through (1), and 19 (a) through (f), (b) through (e), (u), (x), and (y) of Part I of the Bureau Order No. 701, of July 23, 1964, as amended.

2. Effective date: This redelegation will become effective October 1, 1977.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc. 77-28698 Filed 9-14-77; 8:45 a.m.]

NELLIS AIR FORCE BOMBING AND GUNNERY RANGE WITHDRAWAL, SOUTHERN NEVADA

Draft Environmental Statement

Draft Environmental Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended.

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 77-28691 Filed 9-14-77; 8:45 a.m.]

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
Act of 1969, the Department of the Air Force and the Bureau of Land Management (BLM) have begun preparation of a draft environmental statement on the proposed renewal of the Nellis Air Force Bombing and Gunnery Range Withdrawal. The Nellis Range, located in southeastern Nevada, includes portions of Clark, Lincoln, and Nye Counties.

The proposed action involves the continued use by the Department of the Air Force of about three million acres, most of which have been withdrawn land used primarily for training combat air crews and for testing experimental or improved weapons systems.

The draft statement will analyze the potential impacts of the proposed action and/or future Air Force activities on the human environment. The potential environmental effects to be assessed in the statement will primarily relate to: (a) The exclusion of possible alternative land uses within the areas involved; and (b) Impacts to the land caused by continued use by the Air Force for weapons-related activities. These types of activities have been occurring in the area since an original 1940 withdrawal.

The draft environmental statement is being prepared by the Air Force’s Environmental Planning Division, Langley Air Force Base, Va., with the assistance and review of the BLM. Anyone desiring more information, or wishing to comment on the project should contact William C. Calkins, Chief, Environmental Coordination Section, Bureau of Land Management, 300 Booth Street, Reno, Nev. 89509.

Dated: September 8, 1977.

E. I. Rowland,
State Director, Nevada.

[FR Doc. 77-26810 Filed 9-14-77; 8:45 am]

NEW MEXICO
Notice of Application

September 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 29 N., R. 9 W., Sec. 23, lots 4, 5, 12 and 13.
Sec. 26, lot 1.

This pipeline will convey natural gas across 1.20 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-26810 Filed 9-14-77; 8:45 am]

NEW MEXICO
Notice of Application

September 8, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 6%-inch and two 4%-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 24 N., R. 9 W., Sec. 22, E1/4 NE1/4.
Sec. 23, SW1/4 NW1/4.
Sec. 31 N., R. 9 W., Sec. 32, lots 1, 2, and 4.
Sec. 32 N., R. 11 W., Sec. 13, NE1/4 NW1/4.

These pipelines will convey natural gas across 0.921 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-26810 Filed 9-14-77; 8:45 am]

NOTICES
NOTICES

ceeding with consideration of whether
the public that the Bureau will be pro­

name and address tQ the District Man­

if so, under what term and conditions.

their views should promptly send their

June 30, 1977, the width for the gasoline

as 45 inch o.d. The correct width dimen­

which was published in the

Reclassification of Public Land for Disposal

multiple use management under the Act

of September 19, 1964, 43 U.S.C. 1411-18

PIPELINE APPLICATION (CORRECTION)

16285-16287), as amended, classified the

parcel described below and the segrega­

CFR 2400, notice is hereby given that

this land is reclassified for disposal by

exchange under the provisions of Section


T. 33 S', R. 18 E.,

2201.1 and 2202.1, no application for an

has been classified and the application is

accompanied by a statement from the

Land Management, that the proposal is

feasible.

For a period of two years from the date
of publication of this notice in the Fed­

eral Register, the lands will be segre­
gated from, entry as specified above un­
less the application is rejected or the

withdrawal is approved prior to that
time. If the withdrawal is approved by
the Secretary, it will be for a 20 year
period, and the lands will remain segre­
gated for the duration of the withdrawal.

The lands involved in the application are:

Sixth Principal Meridian, Wyo.

T. 19 N., R. 105 W.

Sec. 22, lots 22 and 23, containing 11.21

acres.

All communications in connection with
this withdrawal should be addressed to the Chief, Division of Technical Services,
Bureau of Land Management, Depart­
ment of the Interior, 2515 Warren Ave­
 nue, P.O. Box 1826, Cheyenne, Wyo.
82011.

HAROLD G. STINCHCOMB,
Acting Chief, Division of
Technical Services.

[FR Doc. 77-26743 Filed 9-14-77; 8:45 am]

National Park Service

[Order No. 5]

ADMINISTRATIVE OFFICER, ET AL., INDE­
PENDENCE NATIONAL HISTORICAL
PARK

Delegation of Authority

Section 1. Administrative Officer. The
Administrative Officer may execute, ap­
prove, and administer contracts not in
excess of $200,000 for supplies, equip­
ment, or services in conformity with ap­
licable regulations and statutory au­
thority and subject to the availability of
appropriated funds. This authority may
be exercised by the Administrative Offi­
cer in behalf of any area administered by
Independence National Historical Park.

Section 2. Procurement Agent. The
Procurement Agent may execute, ap­
prove, and administer contracts not in
excess of $25,000 for supplies, equip­
ment, or services in conformity with applicable regulations and statutory authority
subject to the availability of appropriated funds. This authority may be
exercised by the Procurement Agent in
behalf of any area administered by
Independence National Historical Park.

Section 3. Revocation. This order
supersedes Order No. 4 dated March 13, 1975 and published in 40 FR 29309 on
July 11, 1975.

(National Park Service Order No. 77 (38 FR
17478) as amended, Mid-Atlantic Region Order
No. 1 (39 FR 6394) as amended.)


HOBART G. CAVWOOD,
Superintendent, Independence
National Historical Park.

[FR Doc. 77-26743 Filed 9-14-77; 8:45 am]
ADMINISTRATIVE OFFICER, LAKE MERIDIAN RECREATION AREA

Delegation of Authority Regarding Purchasing Authority

Sec. 1. (a) Administrative Officer. The Administrative Officer is authorized to execute, approve and administer contracts not in excess of $50,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(b) Purchasing Agent. The Purchasing Agent may issue purchase orders not in excess of $100,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.


WILLIAM E. LYTER, Superintendent, Lake Meredith Recreation Area.

[FR Doc.77-26739 Filed 9-14-77;8:45 am]

ADMINISTRATIVE TECHNICIAN, PETERSBURG NATIONAL BATTLEFIELD

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, and Services

Section 1. Administrative Technician. The Administrative Technician of Petersburg National Battlefield may issue purchase orders not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.


Dated: July 26, 1977.

WALLACE B. ELMS, Superintendent.

[FR Doc.77-26744 Filed 9-14-77;8:45 am]

GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY, WYO.

Concurrent Jurisdiction Accepted

Notice is hereby given that the 11th day of July, 1977, the United States has accepted concurrent jurisdiction over crimes and offenses under the laws of the State of Wyoming, over and within all of the territory dedicated to national park purposes included in tracts of land designated as Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The acceptance of such jurisdiction was authorized by the Act of February 1, 1940 (54 Stat. 19, as amended.; 40 U.S.C. 355).

Concurrent jurisdiction was also assumed by the State of Wyoming subject to provisions contained in the act of the Forty-Fourth Legislature of the State of Wyoming, 1977 Session, as approved February 25, 1977 (Enrolled Act No. 41, Senate; Chapter No. 95, W.S. 5-4-4). This acceptance was effected by letter of July 5, 1977, from the Director of the National Park Service to the Governor of the State of Wyoming, receipt of which was acknowledged by the Governor on July 11, 1977.

The acquisition of this jurisdiction will enable the National Park Service to assume a more positive role in matters of public health and safety and to otherwise administer these areas more effectively. It will also relieve much of the burden heretofore placed on local authorities by the thousands of people who visit these Federal areas each year.

Done at the city of Washington, D.C. this 31st day of August, 1977.

WILLIAM J. WHALEN, Director, National Park Service.

[FR Doc.77-26738 Filed 9-14-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 26, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9, G&S Incorporated has filed a Plan of Operations for support of proposed mining activities on lands embracing its Big Gypsum Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, Calif.


DONALD M. BROADLING, Superintendent, Death Valley National Monument.


HOWARD H. CHAPMAN, Regional Director, Western Region.

[FR Doc.77-26471 Filed 9-14-77;8:45 am]

SAN JUAN ISLAND NATIONAL HISTORICAL PARK

Public Workshop

Notice is hereby given that a public workshop will be held concerning the alternatives for the San Juan Island National Historical Park's General Management plan. The workshop will be conducted in the Grange Hall at Friday Harbor on San Juan Island from 2 p.m. to 5 p.m. on Wednesday, October 12, 1977.

Written comments may be submitted to the Superintendent, San Juan Island National Historical Park, Box 540, Friday Harbor, Washington 98250, until November 4, 1977.

RUSSELL E. DICKENSON, Regional Director, Pacific Northwest Region.

SEPTEMBER 8, 1977.

[FR Doc.77-26740 Filed 9-14-77;8:45 am]

Office of the Secretary

PREVENTION OF SIGNIFICANT AIR QUALITY DETERIORATION WITHIN UNITS OF THE NATIONAL PARK SYSTEM

Termination of Class I PSD Redesignation Study

The Department of the Interior has discontinued studies to determine whether Capitol Reef National Park and Canyonlands National Park should be redesignated to Class I areas pursuant to EPA Prevention of Significant Air Quality Deterioration (PSD) Regulations (40 CFR § 52.21).

The Secretary of the Interior announced in the Federal Register on June 14, 1977, that these two national parks in Utah were being reconsidered for redesignation to Class I, and that studies required for that purpose under regulations of the Environmental Protection Agency in effect at that time would be pursued. However, the Clean Air Act Amendments of 1977, enacted into law on August 8, 1977, automatically place Capitol Reef and Canyonlands National Parks in the Class I PSD category. This new legislation preempts the former EPA regulations and makes further redesignation study of the two parks unnecessary.


DAVID D. HALE, Acting Assistant, Secretary of the Interior.

[FR Doc.77-26742 Filed 9-14-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 818), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a registration under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 24, 1977, Research Laboratories, Division of Research, National Institute on Drug Abuse, DHEW, 11400 Rockville Pike, Rockville, Md.,...
Pursuant to Section 301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 25, 1977, Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

**Drug:**

- **Hydromorphone**  \(\text{Schedule II}^{*}\)
- **Oxycodeone**  \(\text{Schedule II}^{*}\)
- **Oxymorphone**  \(\text{Schedule II}^{*}\)

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than October 20, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a notice at page 40 of the Federal Register of September 23, 1975, all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to address the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 835(b), 21 U.S.C. 823(a), and 21 CFR 1311.4(b), (c), (d), (e), and (f) are satisfied.

**MANUFACTURE OF CONTROLLED SUBSTANCES**

**Application**

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

"The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;"

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that on August 9, 1977, Fher Corporation Ltd., Cerrada 132, KM 25.3, P.O. Box 4108 Fance, Puerto Rico 00931, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of phenmetrazine, a basic class of controlled substance in schedule II.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 2030, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 8, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.
for legitimate medical, scientific, research, and industrial purposes;"

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on July 28, 1977, Pharmaceuticals Division, Ciba-Geigy Corporation, 566 Morris Avenue, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance as prescribed by 21 CFR 1316.47. Such application was made in accordance with 21 CFR 1301.43 of the Code of Federal Regulations.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above named firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance in schedule II.

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above named firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance in schedule II.

Robert M. Sims, Administrative Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26803 Filed 9-14-77; 8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular Biology.

Sub-Panel B.

Date and Time: October 6 and 7, 1977—9 a.m. to 6 p.m.

Place: Room 641, National Science Foundation.

Type of Meeting: Closed.

Contact person: Fred Stollnitz, Program Director for Biochemistry, Room 329, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4260.

Purpose of panel: To provide advice and recommendations concerning support for research in molecular biology.

Agenda: To review and evaluate research proposals 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 and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 12, 1977.

[FR Doc.77-26760 Filed 9-14-77; 8:45 am]

COMMITTEE MANAGEMENT

Establishments

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I have determined that the Advisory Committees listed below are necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the National Endowment for the Arts (NEA) by the National Science Foundation Act of 1950, as amended, and other applicable law.

As a result of the recent reorganization of the Foundation's advisory group structure, these 14 new committees will replace 36 advisory panels which will be terminated at the time the new charts are filed with Congress. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Sect. 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Purpose: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.

Membership: The Atmospheric Sciences Committee will consist of approximately 30 persons selected...
from the scientific community in atmospheric sciences.

**Advisory Committee for Astronomical Sciences**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the astronomical sciences area.

**Membership.** The Advisory Committee will consist of approximately 18 persons selected from the scientific community in astronomy.

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from the scientific community in earth sciences.

**Advisory Committee for Earth Sciences**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the earth sciences area.

**Membership.** The Advisory Committee will consist of approximately 25 persons selected from the scientific community in earth sciences.

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from the scientific community in polar regions.

**Advisory Committee for Polar Programs**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the polar regions area.

**Membership.** The Advisory Committee will consist of approximately 55 persons selected from the scientific community in polar research.

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from the scientific community in engineering research.

**Advisory Committee for Engineering**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the mathematics and computer sciences area.

**Membership.** The Advisory Committee will consist of approximately 25 persons selected from the scientific community in mathematical and computer sciences.

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from the scientific community in materials research.

**Advisory Committee for Materials**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the following areas: condensed matter physics and chemistry, metallurgy, ceramics and polymer science; the Materials Research Laboratory Program; and user facilities at the National Magnet Laboratory, the Wisconsin Synchrotron Radiation Center and the Stanford Synchrotron Radiation Project.

**Membership.** The Advisory Committee will consist of approximately 30 persons selected from the scientific community in materials research.

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from the scientific community in chemistry.

**Advisory Committee for Chemistry**

**Purpose.** To provide advice, recommendations, and oversight concerning support for research and research-related activities in the chemistry area.

**Membership.** The Advisory Committee will consist of approximately 18 persons selected from the scientific community in chemistry.
that equipment so closely related to the safety of flight should be more closely controlled by appropriate technical standards. Accordingly, on September 9 the Safety Board recommended that

Issue an Airworthiness Directive to require that all Scott Aviation "Sky Masks" be modified so that the dilution valve filter is positively retained. (Class I—Urgent Followup) (A-77-56)

Issue a Teleri Maintenance Bulletin to alert all operators of aircraft equipped with Scott Aviation "Sky Masks" to check visually the security of the dilution valve filter before each use of the mask until the mask is modified. (Class I—Urgent Followup) (A-77-57)

Develop a Technical Standard Order (TSC) for continuous flow oxygen masks. (Class II—Priority Followup) (A-77-68)

Pipeline Safety Recommendations P-77-21 through 23.—Three additional

Class I—Urgent Followup recommendations were issued September 9 to Alyeska Pipeline Service Co. as the Safety Board continues its investigation into the explosion and fire which occurred on July 8 at Alyeska's Pump Station No. 8 on the Trans-Alaska pipeline. Two Class I recommendations, Nos. P-77-21 and 17, were issued on July 15. (See 42 FR 37459, July 21, 1977.)

Investigation has shown that the explosion occurred when crude oil was turned into Pump No. 1 while the workers were servicing the pump's strainer. The oil under a pressure of about 400 psig sprayed out of the open cover and rapidly filled the building with vaporized crude oil. The vapor was ignited by one of several possible sources and exploded.

Information obtained from personnel directly affected by the accident revealed that before removing and cleaning the No. 1 pump suction valve's motor operator had been placed in the manual position to allow the men in the pump room to clean this valve and then drain the crude oil out of the No. 1 pump.

However, after the valve was closed the control for the valve operator was not "locked out" electrically to render the No. 1 pump suction valve inoperable as it is at the Alyeska company procedures direct.

Because of the inability to control the valves or to shut down the pumps from the pump room, and because of the inability of personnel in the pump station control room to monitor operations visually in the pump room and turbine room, the Safety Board now recommends that Alyeska—

Install a control in the pump room to shut down the pumps from that location. (P-77-21)

Install a control in the pump room to operate the valves from that location at any time. (P-77-22)

Install a closed circuit-type video camera in the pump room and turbine room to allow the pump station control center to monitor visually all activities at those locations. (P-77-23)

Railroad Safety Recommendations R-77-26 and 27.—A head-on collision of two rapid transit trains of the Greater Cleveland Regional Transit Authority on the Shaker Heights Line near 92nd and Holton Streets on July 8 is now under investigation by the Safety Board. The collision resulted in 57 injuries.

The Safety Board notes that trains on this line are carried by signals of an automatic block signal system. The double-track line is signalled for train movement in only one direction on each track. At the time of the accident, trains were running in both directions on the south track because track work was being performed on the north track. This single-track operation was confined to the area between Pennsy Crossing and Shaker Square, a distance of approximately 3 miles. The single-car trains collided on a curve, approximately 1,500 feet east of the Fenney Crossing crossover. Preliminary investigation has revealed a serious deterioration in the effectiveness and maintenance of the signal system on this line.

Although the Safety Board has not yet determined the cause of the collision on the Shaker Heights Line, the condition of the block signal system should be immediately corrected. The Board therefore recommends to the Cleveland Regional Transit Authority—

Immediately inspect and repair the block signal system and implement procedures for its maintenance to insure that it continues to function as intended. (Class I) (R-77-26)

Until such time that the block signal system is repaired, establish a well-defined operating procedure which will ensure the safe movement of all trains on the Shaker Heights Line. (Class I) (R-77-27)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-76-101 and 102.—Federal Aviation Administration's letter of August 30 informs the Safety Board that changes to the Air Traffic Control Handbook 2110.65 and AIM Part I have been completed and published, effective July 1, 1977. The FAA considers actions completed with regard to this recommendation completed following the investigation of the November 30, 1975, Scenic Airlines crash southwest of the Elko (Nev.) Airport. (See 41 FR 31625, June 29, 1976.) The recommendations asked that the Handbook be amended to emphasize to the FAA-designated Aviation Medical Examiners, designated Aviation Safety Recommendations 57-39, and to instruct the controller to issue a "safety advisory" to a nonradar-identified aircraft if a verbal altitude report or a verbal position report reveals a situation which, in the controller's judgment, is likely to affect the safety of the aircraft.

Aviation: A-77-6 and A-77-8.—Federal Aviation Administration's letter of August 30 is a further response to recommendations regarding medical procedures for airmen. A-77-6 proposed that an issue of the Federal Air Surgeon's Medical Bulletin emphasize to the FAA-designated Aviation Medical Examiners the need for quality control and the need for adherence to the provisions of 14 CFR Part 61 and the Guide for Aviation Medical Examiners, and A-77-8 referred...
Coast Guard reports that regulations are being drafted for inland waters; the regulations will parallel the 1972 International Regulations for Preventing Collisions at Sea, which came into force July 15, 1977. The Western River rule in question will also be expanded and therefore will be more effective in providing guidance for the prevention of collisions. As Coast Guard said. It is also planned that an article be published in the Proceedings of the Marine Safety Council relative to the risk of collision rules.

In answer to the Safety Board's recommendation that Coast Guard require suitable side-light alignment and securing devices on the front of barge tows in order to ensure that such light will comply with the alignment standards of the Rules of the Road. Coast Guard reports publication of an article concerning the subject Marine Board of Investigation in the Proceedings of the Marine Safety Council. Volume 20, No. 4 of April 1977: included in the article are the Safety Board findings and recommendations. Coast Guard says that the article received wide distribution within the marine field, including the towing vessel industry. The Coast Guard is currently undertaking revision of the rules of U.S. waters to conform with requirements of the 1972 International Regulations for Preventive Collision

Regarding M-73-4, which recommended that Coast Guard upgrade the reliability of the navigation lights on barge tows by requiring that their circuits be automatically monitored to give an alarm in case of light failure, and by requiring redundant lights, Coast Guard finds no evidence that these lights are so unreliable as to necessitate extensive and expensive redundancies and control capabilities. Coast Guard agrees with the Board that such a requirement could be instituted but says that casualty statistics for the Trans-Alaskan pipeline accident (see above).

The Coast Guard recommends that such a requirement be instituted but says that casualty statistics for the Trans-Alaskan pipeline accident do not support the need for such equipment.

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NOTICES

Power and Light Company, pending the Commission's completion of its detailed analysis of FPL's application for permanent relief. The relief relates to the in-service inspection (testing) program for the Turkey Point Generating Station Unit No. 4 (the facility) located in Dade County, Florida. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of excising certain valves and pumps from being exercised or tested due to their design and their physical location, arrangements, alignment and orientation in the system or pumps and valves whose access may be restricted due to high radiation areas.

The request for relief 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 letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental impact statement or negative declaraton and environmental comments is not required. The Commission has prepared findings in connection with this action.

For further details with respect to this action, see (1) the request for relief dated February 25, 1977, (2) the Commission's letter to the licensee dated September 7, 1977.

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 and Urban Affairs Library, Florida International University, Miami, Florida. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEE.
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-26856 Filed 9-14-77; 8:45 am]

FLORIDA POWER AND LIGHT CO.
Consideration of Proposed Modification to Facility Spent Fuel Storage Pool

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a modification to the spent fuel storage pool of St. Lucie Unit No. 1 (the facility) operated under Facility License No. DPR-67 issued to the Florida Power & Light Company (the licensee). The facility is a pressurized water reactor located in St. Lucie County, Florida, and currently authorized for operation at power levels up to 2860 MWt.

The proposed modification being considered involves replacement of the existing racks in the spent fuel storage pool of the facility with racks of design capacity of 729 fuel assemblies in accordance with the licensee's request dated August 31, 1977. The existing racks have a capacity for storage of 310 fuel assemblies. The modification will require changes to the facility Technical Specifications and issuance of a license amendment.

Prior to approval of the proposed modification and 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. The relief consists of excepting certain valves and pumps from being exercised or tested due to their design and their physical location, arrangements, alignment and orientation in the system or pumps and valves whose access may be restricted due to high radiation areas.

The request for relief 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 letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental impact statement or negative declaration and environmental comments is not required. The Commission has prepared findings in connection with this action.

For further details with respect to this action, see (1) the request for relief dated February 25, 1977, (2) the Commission's letter to the licensee dated September 7, 1977.

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Dated at Bethesda, Maryland, this 7th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEE.
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 77-26856 Filed 9-14-77; 8:45 am]

[DOCKET NO. 50-70 AND 70-754]

GENERAL ELECTRIC CO.
Consideration of Applications for Renewal of Operating License and Special Nuclear Material License

The Nuclear Regulatory Commission (the Commission) is considering the application for renewal of Operating License No. TR-1 issued to the General Electric Company (the licensee) for operation of the General Electric Test Reactor (OFR-1) at the Vallecitos Nuclear Center located in Alameda County near Pleasanton, California (Docket No. 50-70). The renewal would extend the expiration date of Operating License No. TR-1 to October 1, 1985, in accordance with the licensee's application for renewal, dated October 21, 1975.

The Commission is also considering the application for renewal of Special Nuclear Material License No. SNM-960 issued to the General Electric Company for the Vallecitos Nuclear Center (Docket No. 70-754), as requested in the licensee's application dated August 26, 1971, with revisions dated November 16, 1975. The renewal would extend the expiration date of Special Nuclear Material License No. SNM-960 for a period of five years.

Each of the above license renewal considerations is a separate proceeding; however, the proceeding may be subject to consolidation pursuant to Section 2.716 of 10 CFR Part 2 of the Commission's Regulations.

Prior to a renewal decision of Operating License No. TR-1 and Special Nuclear Material License No. SNM-960, 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.

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 requested 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 the 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 licensee's proposal dated August 31, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Indian River Junior College, 3269 Virginia Avenue, Ft. Pierce, Florida 32345.

Dated at Bethesda, Maryland, this 21st day of October, 1977.

For the Nuclear Regulatory Commission.

M. K. GRODENTHUIJS, Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.
for a hearing in the form of a petition for leave to intervene with respect to the renewal application of the subject facility operating license and/or the special nuclear material license. Petitions for leave to intervene should be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations and should identify the specific docket number for the proceeding for which intervention is sought. 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 Section 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 as filed for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Edward A. Firestone, Legal Counsel, Avenue, MC 822, San Jose, Calif. 95125, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspects of the proceeding(s) as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his/her interest and his/her 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 Atomic Safety and 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 procedure issued regarding the disposition of the petition.

In the event that a hearing is held and a person is permitted to intervene, he/she becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he/she may present evidence and examine and cross-examine witnesses. For further details with respect to these actions, see the application for operating license renewal dated October 21, 1977, together with 13 documents which constitute a partial submittal of technical information in support of the operating license renewal application, and the application for special nuclear material license renewal dated August 20, 1971, with revisions dated May 13, 1977, and the licensee's Environmental Information Report, 1976, all of which are available for public inspection at the Commission's Public Document Room, 1771 H Street NW, Washington, D.C. and at the Commission's local reading room, Office of Inspection and Enforcement, Region IV Suite 230, 100 North California Boulevard, Walnut Creek, Calif. 94596.

Subsequent information relating to the license renewal applications will also be made available at these locations.

Dated at Bethesda, Md., this 2nd day of September 1977.

For the Nuclear Regulatory Commission,

A. SCHWENCK,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

R. W. STAROSTECI,
Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-26519 Filed 9-14-77;8:45 am]

[Docket No. 40-8947]

KERR–MCCGEE NUCLEAR CORP. SOUTH POWDER RIVER BASIN MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Kerr–McGee Nuclear Corporation has filed an environmental report in support of their application for a source material license for the proposed South Powder River Basin Mill, located in Converse County, central Wyoming. The report, which discusses environmental considerations related to the proposed uranium mill, is available for public inspection at the Commission's Public Document Room, 1771 H Street NW, Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capital Building, Cheyenne, Wyoming 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the Federal Register a summary notice of availability of the draft statement, and with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will also be published in the Federal Register.

Dated at Silver Spring, Maryland, this 9th day of September, 1977.

For the Nuclear Regulatory Commission,

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-26533 Filed 9-14-77;8:45 am]

[Docket No. 50-306]

MAINE YANKEE ATOMIC POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station, located in Lincoln County, Maine.

The amendment would revise the provisions in the Technical Specifications relating to an increase of the authorized maximum power level from 2440 MWT to 2630 MWT, a 7.8% increase, in accordance with the licensee's application for amendment dated August 1, 1977.

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 October 17, 1977, 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 facility operating license.

Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 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 Section 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 John A. Kuchar, Esquire, Ropes Gent, 225 Franklin Street, Boston, Mass. 02110, the 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 pe-
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Robert W. Red, Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-26861 Filed 9-14-77; 8:45 am]

[Docket No. 50-272]

PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

Issuance of Amendment to Facility Operating License.

In the matter of Public Service Electric and Gas Company versus Philadelphia Electric Company, Delmarva Power and Light Company, Atlantic City Electric Company.
The U.S. Atomic Energy Commission (the Commission) has revised Amendment No. 7 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, et al. (the licensee), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1, located in Salem County, New Jersey. The amendment is effective as of its date of issuance.

The amendment revised the provisions in the Technical Specifications related to the allowable pH levels for discharged effluents, the intake impingement monitoring program, and the circulating water entrainment monitoring program.

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 was 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 impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 6, 1977, as supplemented by letters dated May 25 and August 9, 1977, (2) Amendment No. 7 to License No. DPR-70 and (3) the Commission's letter dated September 8, 1977. Both 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 Salem Free Public Library, 112 West Broadway, Salem, N. Jersey 07079.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of September 1977.

For the Nuclear Regulatory Commission.

[FR Doc.77-26861 Filed 9-14-77; 8:45 am]

[President No. 50-272]

San Diego Gas and Electric Co., et al.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters.

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 was not required since the amendments do not involve a significant hazards consideration.

The application for the amendments 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 was not required since the amendments do not involve a significant hazards consideration.

The application for the amendments 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 was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

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For further details with respect to this action, see (1) the application for amendment dated July 26, 1977, (2) Amendment No. 32 to License No. DPR-33, Amendment No. 20 to License No. DPR-52, and Amendment No. 8 to License No. DPR-68, and (3) 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 at the Athens Public Library, South and Forrest, Athens, Ala. 35611. 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, Md., this 31st day of August 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL, Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-26865 Filed 9-14-77; 8:45 am]

[Docket No. 59-946]

TOLEDO EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to the Facility Operating License No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment removes a condition which stipulated the amount of time allowed from date of issuance of the operating license for completing the installation of the modified emergency diesel fuel oil storage and transfer system. This license is further amended by making the appropriate change to the Technical Specifications on page 3/4 6-1.

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 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 impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 6 to License No. NPF-3, (2) the Commission's related Safety Evaluation supporting Amendment No. 6 to License No. NPF-3, and (3) the above referenced amendments. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director Division of Project Management.

Dated at Bethesda, Md., this 26th day of August 1977.

For the Nuclear Regulatory Commission.

JOHN STOLL,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77-26518 Filed 9-14-77; 8:45 am]

FEEDBACK
Virginia Electric & Power Co.

Proposed Issuance of Amendments to Atomic Safety and Licensing Board Panel Procedures and Rules

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-32 and DPR-37 to Virginia Electric and Power Co. (the licensee), for operation of the Surry Power Station Units Nos. 1 and 2, located in Surry County, Va.

In accordance with the licensee's application for amendment dated August 9, as supplemented August 26, 1977, the amendments would revise the provisions in the technical specifications relating to the transient and accident analysis as affected by an increase in steam generator tube plugging levels from the current 26% to 25%.

Prior to issuance of the proposed license amendments, 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 October 7, 1977, 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 amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 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.

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 August 9, as supplemented August 26, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. at the Swam Library College of William and Mary, Williamsburg, Va.

Dated at Bethesda, Md., this 6th day of September 1977.

For the Nuclear Regulatory Commission.

Robert W. Reib, Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77—20851 Filed 9—14—77;8:45 am]

Wisconsin Electric Power Co., ET AL.

Filing of Petition for Rulemaking

Notice is hereby given that Gerald Charnoff, Esquire, and Jay E. Silberg, Esquire have filed with the Commission on behalf of "the Wisconsin Electric Power Co., Wisconsin Public Service Corp., and Baltimore Gas and Electric Co. a petition for rulemaking dated August 19, 1977.

The petitioners request the Commission to amend §73.55(d)(1) of the Commission's regulation "Physical Protection of Plants and Materials," 10 CFR Part 73, to eliminate the requirement for "pat-down" physical search of individuals entering a protected area.

The amendments proposed by the petitioners would modify 10 CFR 73.55(d)(1) by deleting the bracketed words and adding the italicized language as follows:

§73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

(d) Access requirements. (1) The licensee shall control all points of personnel and vehicle access to a protected area. Identification and search of all individuals shall be made and authorization shall be checked at such points. The licensee shall post signs at such points informing individuals that they may be subject to physical search prior to entering a protected area. The search function for detection of firearms, explosives and incendiary devices shall be conducted either by a physical search or by use of equipment capable of detecting such devices, to the extent such equipment is reasonably available. The licensee may conduct a physical search of an individual if deemed necessary or appropriate. The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a bullet-resistant structure as described in paragraphs (e) (8) of this section to assure their ability to respond to or summon assistance.

The petitioners state that a requirement for a "pat-down" physical search is unnecessary in view of the other protective measures which are required, the absence of such a requirement for other (and more sensitive) facilities, and the serious problems which the physical search requirement imposes. The petitioners state, however, that "pat-down" physical searches should be permitted in any case where security personnel are suspicious about an individual, and signs should be posted that individuals entering a protected area may be subject to physical search.

The Commission is assessing the implications of "pat-down" searches and their value as a part of a total physical protection system, considering their relation to other features of security systems required by the rule that affect access controls intended to protect with high confidence against insiders. It is endeavoring to identify alternatives that will achieve equivalent protection in the context of the total security system. Public comments are solicited specifically on such alternatives, and on the petitioners' contentions as to the value of searches as a contributing element of security systems.

A copy of the petition for rulemaking is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Regulations, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Washington, D.C., this 13th day of September 1977.

For the Nuclear Regulatory Commission.

Samuel J. Chilk, Secretary of the Commission.

[FR Doc.77—27055 Filed 9—14—77;8:45 am]


Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued
Amendment No. 27 to Facility Operating License No. DPR-34 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Unit No. 1, located in the town of Two Creeks, Manitowoc County, Wisconsin. This amendment is effective as of the date of issuance.

This amendment consists of changes to the Technical Specifications to allow a one-time waiver of the requirement for monthly functional tests of the Turbine Core XIII, with an active ECCS accumulator subsystem, and with modified ECCS piping, based on an ECCS performance analysis utilizing certain modeling changes. The amendment also includes provisions restricting operation with Cycle XIII to the 4-loop mode and to 255 effective full power for one-time waiver of the requirement for provisions restricting operation with Cycle XIII to the 4-loop mode and to 255 effective full power.

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 was 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 impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1977, Amendment No. 27 to License No. DPR-24, and (2) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the University of Wisconsin—Stevens Point Library, Attn: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481. 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 September 1977.

For the Nuclear Regulatory Commission,

GEORGE LEAR, Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-28526 Filed 9-14-77; 8:45 am]

[DOCKET NO. 80-29]

YANKO ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment incorporates provisions in the Technical Specifications required for operating with the refueled Core XIII, with an active ECCS accumulator subsystem, and with modified ECCS piping, based on an ECCS performance analysis utilizing certain modeling changes. The amendment also includes provisions restricting operation with Cycle XIII to the 4-loop mode and to 255 effective full power for one-time waiver of the requirement for provisions restricting operation with Cycle XIII to the 4-loop mode and to 255 effective full power.

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 was 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 impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1977, as supplemented March 11; April 13; May 2; June 20; July 7; 14; 15 and 18; August 1, 4, 5, 8, 9, and 22, 1977, Amendment No. 43 to License No. DPR-3, and (2) 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. 20555 and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01347. 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 Bethedsa, Md., this 25th day of August 1977.

For the Nuclear Regulatory Commission,

A. SCHWENKE, Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-28866 Filed 9-14-77; 8:45 am]
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Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no earlier than September 23, 1977, addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 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 NRC Public Document Room, 1171 H Street NW, Washington, D.C. 20555, and at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Wash. 98284.

(b) Persons desiring to make an oral statement 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 Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting will include further briefings on 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 September 30, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1394, Attention: Dr. Richard P. Savio) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not impair the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 7 and December 30, 1977, respectively, at the NRC Public Document Room, 1171 H Street NW., Washington, D.C. 20555, and at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Wash. 98284.

Copies may be obtained upon payment of appropriate charges.


John C. Hoyt,
Advisory Committee
Management Officer.

[FR Doc.77-27074 Filed 9-14-77; 10:47 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 94-463, the Office of Science and Technology Policy announces the following meeting:

Name: Advisory Group on White House Information Systems.

Date: October 4 and 5, 1977.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 725 Jackson Place NW., Washington, D.C.

Type of Meeting: Open, subject to space limitations. Those wishing to attend should call William J. Montgomery, Executive Officer, 202-395-3153, by 5 p.m., EDT on September 29, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1394, Attention: Dr. Richard P. Savio) between 8:15 a.m. and 5 p.m., EDT.

Summary Minutes: May be obtained from the Office of Science and Technology Policy.

Purpose of Advisory Group: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the President.

Agenda: 9 a.m. to 4 p.m.—This second panel meeting will include further briefings on information needs by EOP staff members, a thorough review of documents describing present and postulated information systems needs in the EOP organizational unit; and discussion to define further objectives for the Advisory Group, an agenda for the next meeting, and additional staff research requirements.

William J. Montgomery,
Executive Officer.

[FR Doc.77-27077 Filed 9-14-77; 10:47 am]

SECURITIES AND EXCHANGE COMMISSION

Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From All Provisions of the Act

September 2, 1977.

Notice is hereby given that AGEC Security Corp., 2200 Bow Valley Square 2, 205 Fifth Avenue SW., Calgary, Alberta, Canada T2P 2W4 ("AGEC") a corporation organized under the laws of the State of Delaware on March 29, 1977, filed an application on July 22, 1977, and an amendment thereto on August 29, 1977, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application, and to the Commission for a statement of the representations made therein, which are summarized below.

Applicant is a wholly-owned subsidiary of The Alberta Gas Ethylene Co. Ltd. ("Alberta Gas Ethylene"), incorporated under the laws of the Province of Alberta, Canada. Alberta Gas Ethylene is the form of secured note issued December 1, 1977. Filing of Application Pursuant to Section 6(c) of the Alberta Gas Trunk Line Co. Ltd. ("Alberta Gas Trunk Line"), incorporated by Special Act of the Legislative Assembly of the Province of Alberta, Alberta Gas Trunk Line is a corporation whose shares are listed and traded on the Toronto Stock Exchange. Applicant, a special purpose corporation, has been organized for the purpose of acquiring the Ethylene Plant together with the pipeline being hereinafter referred to as the "Project," The Project will be owned and operated by Alberta Gas Ethylene. Applicant does not intend to conduct any other business.

Applicant plans to issue debentures in the form of secured notes on December 31, 1977 ("Notes") to approximately nine United States insurance companies in transactions exempt from the registration requirements of the Securities Act of 1933, as amended, and from the provisions of Section 4(2) thereof. The Notes will be guaranteed as to principal, premium, if any, and interest by Alberta Gas Ethylene and, in all circumstances except where note therefor is interrupted by war in Canada or expiration of assets in Canada, by The Dow Chemical Co. ("Dow U.S.") a Delaware corporation. The guarantee by Alberta Gas Ethylene will be secured by a charge on substantially all its assets, including its interest in the Project and all Applicant's stock.

The net proceeds of the sale of the Notes will be approximately $325,000,000 (U.S.) or an amount not greater than 88 percent of the cost of the Project. In no event will such proceeds be increased or decreased in excess of 15 percent of $325,000,000. Upon receipt of any portion of the proceeds, such proceeds will be deposited in trust with a Canadian trust company ("Trustee") which will, at the direction of Alberta Gas Ethylene, deposit such proceeds with a group comprised of up to five of the leading Canadian chartered banks ("Banks"); the
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Banks will, in turn, issue certificates of deposit to the Applicant. The certificates of deposit will have identical terms as to interest rate, maturity and repayment schedule as the Notes to be issued by Applicant (as provided below) and will thus provide Applicant with funds to repay the Notes.

On receipt of proceeds upon issuance of the certificates of deposit, the Banks will concurrently purchase from Alberta Gas Ethylene the notes (“A.G.E. Note”) having identical terms as to interest rate, maturity and repayment schedule as the remaining installments of the Notes. After maturity of the certificates of deposit, the obligations of Alberta Gas Ethylene to repay the funds raised by Applicant for the construction and related costs of the Project, or temporarily invest such proceeds pending such use. Utilization of the proceeds of the Income Debentures will provide a lower rate of interest to Alberta Gas Ethylene than favored Canadian tax treatment to the Banks on receipt of interest on the Income Debentures.

Concurrent with the maturity of the Income Debentures the Act defines the term “investment company” to include any issuer which “is * * * engaged primarily, or proposes to engage primarily, in a business other than investing, reinvesting, owning, holding, or trading in securities.” Section 3(a)(3) of the Act defines “investment company” to include any issuer which “is engaged primarily in a business other than that of investing, reinvesting, owning, holding, or trading in securities.” Consequently, Applicant will come within the definition of “investment company” contained in Section 3(a) of the Act.

Section 3(b)(2) of the Act, generally speaking, exceptions from the definition of investment company any issuer, all the outstanding securities of which (other than short-term paper and directors’ qualifying shares) are owned by a company primarily engaged in a business other than investing, reinvesting, owning, holding, or trading in securities. Because all equity securities of Applicant will be owned at all times solely by Alberta Gas Ethylene, it is asserted that the substantial securities of which will be substantially the equivalent of purchasing obligations of Alberta Gas Ethylene. The guarantees of the Notes will rank pari passu with all other indebtedness of Albert Gas Ethylene, and upon liquidation of Alberta Gas Ethylene, would have a claim on the assets of Alberta Gas Ethylene equal to that of all other indebtedness of Alberta Gas Ethylene. Applicant claims that he be notified if the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from the provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed, in the event that the Commission grants the application, to the insertion in the Commission’s order of the following conditions:

(1) Commencing with the first fiscal year in which it issues and sells any debt securities, Applicant will file with the Commission within 90 days after the close of each fiscal year of Applicant: (a) the data required by Form N-1A (except with respect to information relating to persons under common control of Applicant) or Form N-1R adopted by the Commission pursuant to Section 30(a) of the Act, and (b) a balance sheet and statement of income and surplus and an annual balance sheet for each of the two fiscal years immediately preceding the fiscal year for which such statement is filed, together with an annual financial statement and schedule of temporary investments.

(2) Applicant will not issue any additional debt securities following the issuance of the Notes unless Applicant shall first give written notice to the Commission describing the proposed issuance of such debt securities within 90 days prior to the date of such proposed issuance; subject, however, to the right of the Commission, upon request of the Applicant, to decrease such number of days. If the Commission shall, after receipt of said written notice, determine that a substantial question shall exist as to whether or not the exemption granted by the Order requested should continue, it shall mail or otherwise give notice to that effect to Applicant at its offices, 2200 Bow Valley Square 2, 205 Fifth Avenue SW, Calgary, Alberta, Canada T2P 2W4 (or at such other address as may be previously specified in writing to the Commission) within 15 days after the receipt by the Commission of said written notice. Such notice shall be served personal-
NOTICES

[File No. 500-1]

ISC FINANCIAL CORP.

Notice of Suspension of Trading

September 1, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of ISC Financial Corp., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors; Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:05 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 77-26878 Filed 9-14-77; 8:45 am]

JERSEY CENTRAL POWER & LIGHT CO.

Proposals To Amend Articles of Incorporation to Reclassify Presently Outstanding Shares of Preferred Stock and Increase Authorized Preferred Stock, and To Issue and Sell Preferred Stock at Competitive Bidding

September 8, 1977.

Notice is hereby given that Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, N.J. 07960 (“Jersey Central”), an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (“Act”), designating sections 6(a), 6(b), and 7 of the Act and rules 42(a) and 59 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Jersey Central proposes to amend its articles of incorporation (“Articles”) (1) to increase its authorized preferred stock, presently consisting of 2,000,000 shares, par value $100 per share, and (2) to increase its authorized preferred stock, presently consisting of 2,000,000 shares without par value, to 15,600,000 shares without par value, or an aggregate of $200,000,000 (of which 1,000,000 shares, or an aggregate of $100,000,000, are presently outstanding) to 15,600,000 shares without par value or an aggregate of $200,000,000 (of which 1,000,000 shares, or an aggregate of $100,000,000, are presently outstanding), in each case without par value but with a maximum aggregate stated value of $200,000,000. It is stated that the proposed reclassification will not affect the dividend, liquidation, voting or other rights of the holders of outstanding shares of preferred stock, and will make it feasible for Jersey Central to issue additional series of preferred stock from time to time at a unit price (e.g. $25 per share) which appears to be most readily marketable. The proposed amendment to the Articles will provide that each share of preferred stock will have such voting rights as is stated or indicated in the Articles, and the stated value of such share to (1) the stated value of all shares of Jersey Central preferred stock then outstanding. It is further provided in the proposed amendment that the stated value of each share shall be equal to the capital furnished to Jersey Central for such share, and will also be equal to such share's preferred claim in the event of Jersey Central's involuntary liquidation, dissolution, or winding up. It is further stated that the amendment of the Articles will require the favorable vote of the holder of Jersey Central's common stock. OPD, the holder of all the outstanding Jersey Central common stock, has advised Jersey Central that it intends to vote the outstanding common stock in favor of the proposed amendment.

Jersey Central also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 2,000,000 shares of Cumulative Preferred Stock, — percent Series H (the "New Preferred Stock"). The New Preferred Stock will be similar to Jersey Central's outstanding series of cumulative preferred stock, except that (1) the New Preferred Stock will have a stated value of $25 per share, (2) the dividend rate and redemption prices of the New Preferred Stock will be determined as a result of competitive bidding, and (3) the New Preferred Stock will contain a provision which precludes Jersey Central from redeeming any such shares prior to October 1, 1982, if the funds for such redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

The proceeds ($50,000,000, exclusive of underwriting commissions and expenses of the offering) of the New Preferred Stock are expected to be applied to the payment at or before maturity of all of Jersey Central's $400,000,000 principal amount of short-term bank loans expected to be outstanding at the date of sale of such stock, and the balance will be applied to finance Jersey Central's 1977 construction program. At August 26, 1977, Jersey Central had $33,000,000 of short-term bank loans outstanding. The estimated cost of Jersey Central's 1977 construction program is $220,000,000 (including allowance for funds used during construction).

The fees and expenses to be incurred by Jersey Central in connection with the proposed transactions are estimated at...
Request, and the issues of fact or law
be held on such matter, stating the na­
ture of his interest, the reasons for such
request and the issues of fact or law raised by such application-declaration.

Notice is further given that any inter­
ested person may, not later than October
3, 1977, request in writing that a hearing
be held on such matter, stating the na­
ture of his interest, the reasons for such
request that he be notified if the Com­
mission shall order a hearing thereon.

Any such request should be addressed:
Secretary, Securities and Exchange

A copy of such request should be served
personally or by mail upon the appli­
cant-declaration at the above-stated ad­
dress, and proof of service (by certified
or, in the case of an attorney at law, by
certificate) should be filed with the re­
spect. At any time after said date, the
application-declaration, as filed or as it
may be amended, may be granted or per­
mitted to become effective as pro­
vided in rule 23 of the General Rules and
Regulations promulgated under the Act,
or the Commission may grant exemp­
tion from such rules in whole or in part
(rules 23(a) and 100 thereof or take such
other action as it may deem appropri­
ate. Persons who request a hearing or
advice as to whether a hearing is ordered
who request a hearing or advice as to
whether a hearing is ordered, will receive
any notices and orders issued in this
matter, including the date of the hearing
(if ordered) and any postponements there­
of.

For the Commission, by the Division
of Corporate Regulation, pursuant to
delegated authority.

GEORE A. FITZSIMMONS,
Secretary.

MAKOVER INVESTMENT CO., INC.
Filing of Application Pursuant to Section
8(f) of the Investment Company Act of
1940 for an Order Declaring That the
Applicant Has Ceased To Be an Invest­
ment Company

Notice is hereby given that Makover In­
vestment Co., Inc., (formerly "Shirley
of Atlanta, Inc.") 3020 Nancy Creek
Road NW, Atlanta, Ga. 30327, ("Applica­
tant") registered under the Investment
Company Act of 1940 ("Act") as a
closed-end, non-diversified management
investment company, filed an applica­
tion on August 9, 1977, pursuant to sec­
tion 8(f) of the Act, for an order of the
Commission declaring that the Applicant
has ceased to be an investment company
as that term is defined in the Act. All
interested persons are referred to the
application on file with the Commission
for a statement of the representations
contained therein, which are sum­
marized below.

The Applicant, operating under the
.corporate name of Shirley of Atlanta,
Terrord Stock and that no other State
commission, and no Federal commission,
other than this Commission, has juris­
diction over the proposed transactions.

Notice is further given that any inter­
ested person may, not later than October
3, 1977, request in writing that a hearing
be held on such matter, stating the na­
ture of his interest, the reasons for such
request and the issues of fact or law raised by such application-declaration.

Any such request should be addressed:
Secretary, Securities and Exchange

A copy of such request should be served
personally or by mail upon the appli­
cant-declaration at the above-stated ad­
dress, and proof of service (by certified
or, in the case of an attorney at law, by
certificate) should be filed with the re­
spect. At any time after said date, the
application-declaration, as filed or as it
may be amended, may be granted or per­
mited to become effective as pro­
vided in rule 23 of the General Rules and
Regulations promulgated under the Act,
or the Commission may grant exemp­
tion from such rules in whole or in part
(rules 23(a) and 100 thereof or take such
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ate. Persons who request a hearing or
advice as to whether a hearing is ordered
who request a hearing or advice as to
whether a hearing is ordered, will receive
any notices and orders issued in this
matter, including the date of the hearing
(if ordered) and any postponements there­
of.

For the Commission, by the Division
of Corporate Regulation, pursuant to
delegated authority.

GEORE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26881 Filed 9-14-77;8:45 am]

[Release No. 12942 (SR-MSRB-76-9)]

MUNICIPAL SECURITIES RULEMAKING
BOARD
Order Approving Proposed Rule Change

On August 9, 1976, the Municipal Se­
curities Rulemaking Board, Suite 507
1150 Connecticut Avenue NW, Wash­
ington, D.C. 20036 (the "MSRB") filed
with the Commission, pursuant to sec­
tion 19(b) of the Securities Exchange
Act of 1934 (the "Act") and rule 19b-4
thereunder, a proposed rule change ("proposed rule 9-16"). The purpose of the proposed rule change is to establish
confirmation delivery and disclosure re­
quirements for transactions in municipal
securities.

Notice of the proposed rule change, to­
gether with its term of substance, was
given by publication of a Commission
release (Securities Exchange Act Release
No. 12686 (August 9, 1976)), and by pub­

$140,000, including legal fees of $34,000.
The fees and expenses of counsel for the
underwriters, to be paid by the successful
bidder, will be supplied by amendment
to the книги of the State Board of Pub­
lic Utility Commissioners of New Jersey
has jurisdiction over the proposed amend­
ments to the Articles and the prop­
osed issuance and sale of the New Pre­
ferred Stock and that no other State
commission, and no Federal commission,
other than this Commission, has juris­
diction over the proposed transactions.

Notice is further given that any inter­
ested person may, not later than October
3, 1977, request in writing that a hearing
be held on such matter, stating the na­
ture of his interest, the reasons for such
request and the issues of fact or law raised by such application-declaration.

Any such request should be addressed:
Secretary, Securities and Exchange

A copy of such request should be served
personally or by mail upon the appli­
cant-declaration at the above-stated ad­
dress, and proof of service (by certified
or, in the case of an attorney at law, by
certificate) should be filed with the re­
spect. At any time after said date, the
application-declaration, as filed or as it
may be amended, may be granted or per­
mited to become effective as pro­
vided in rule 23 of the General Rules and
Regulations promulgated under the Act,
or the Commission may grant exemp­
tion from such rules in whole or in part
(rules 23(a) and 100 thereof or take such
other action as it may deem appropri­
ate. Persons who request a hearing or
advice as to whether a hearing is ordered
who request a hearing or advice as to
whether a hearing is ordered, will receive
any notices and orders issued in this
matter, including the date of the hearing
(if ordered) and any postponements there­
of.

For the Commission, by the Division
of Corporate Regulation, pursuant to
delegated authority.

GEORE A. FITZSIMMONS,
Secretary.

[FR Doc.77-26881 Filed 9-14-77;8:45 am]

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securities.

Notice of the proposed rule change, to­
gether with its term of substance, was
given by publication of a Commission
release (Securities Exchange Act Release
No. 12686 (August 9, 1976)), and by pub­
liciation in the Federal Register (41 FR 34712 (August 16, 1976)). The MSRB has filed several substantive amendments to the proposed rule change and notice of each has been given, with the effect of each amendment, by publication in the Federal Register.1 On August 23, 1977, the MSRB filed technical amendments to certain of the proposed rule changes.

The text of the proposed rule change is as follows:

RULE G-15 CUSTOMER CONFIRMATIONS

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Name, address and telephone number of the broker, dealer or municipal securities dealer;

(ii) Name of customer;

(iii) Designation of whether the transaction was a purchase from or sale to the customer;

(iv) Par value of the securities;

(v) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue for which the bonds are issued;

(vi) The date of maturity or the call notice, and the amount of the call price;

(vii) Settlemet date;

(viii) Yield to maturity and resulting dollar price of the securities or securities sold at par, in which event only dollar price need be shown (in cases in which the transaction is not a sale at par, this must be stated, and where a transaction is effected on a yield basis, the calculation of dollar price shall be by the lower of price to call or price to maturity);

(ix) Amount of accrued interest;

(x) Description of the securities, including (A) as principal for its own account, (B) as an agent for the customer, (C) as an agent for a person other than the customer, or (D) as an agent for both the customer and another person;

(xi) Description of the securities, including (A) as principal for its own account, (B) as an agent for the customer, (C) as an agent for a person other than the customer, or (D) as an agent for both the customer and another person;

(xii) The statement that the securities are "fully registered" or "registered as principal only," a designation to such effect;

(xiii) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(xiv) Denominations of notes and, if other than the following, denominations of bonds:

(A) For bearer bonds, denominations of $1,000 or $5,000 par value, and (B) for registered bonds, denominations which are multiples of $1,000 par value, up to $100,000 par value;

(xv) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(xvi) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(b) The MSRB filed a proposed rule change that would require a "when, as and if issued" transaction to be reported to the customer within five business days following the date of receipt of a request for such confirmation. In adopting this proposal, the MSRB stated that in the case of information relating to a transaction executed more than 30 calendar days prior to the date of receipt of a request, the information shall be given or sent to the customer on or before the date of execution reflected in the records of the broker, dealer or municipal securities dealer pursuant to Rule G-6 of the Board or Rule 17a-5 of the Commission.

(c) Proposed rule G-15 currently does not require disclosure of mark-ups and mark-downs on "riskless principal" transactions or remuneration paid to dealers by persons other than the customer. Such requirements have been included in proposed amendments to Securities Exchange Act Rule 10b-10, which prescribes confirmation delivery and disclosure requirements for transactions in securities other than municipal securities. The MSRB has stated that it "intends to study these proposals and to elicit comment from the municipal securities industry." See also Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33349 (June 30, 1977).

NOTICES

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

46437

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 9, 1977.

[FR Doc. 77-26886 Filed 9-14-77; 8:45 am]

[File No. 500-1]

NETWORK ONE, INC.

Suspension of Trading

SEPTEMBER 1, 1977.

It appearing to the Securities and Exchange Commission that the Summary suspension of the trading in the securities of Network One, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:50 p.m. (EDT) on September 1, 1977 through September 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-26886 Filed 9-14-77; 8:45 am]

*Proposed rule G-15 currently does not require disclosure of mark-ups and mark-downs on "riskless principal" transactions or remuneration paid to dealers by persons other than the customer. Such requirements have been included in proposed amendments to Securities Exchange Act Rule 10b-10, which prescribes confirmation delivery and disclosure requirements for transactions in securities other than municipal securities. The MSRB has stated that it "intends to study these proposals and to elicit comment from the municipal securities industry." See also Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33349 (June 30, 1977).
NOTICES

Ohio Power Co.

Proposed Issue and Sale of Notes to Banks and to a Dealer in Commercial Paper and Request for Exception From Competitive Bidding


Notice is hereby given that Ohio Power Company, 201 Cleveland Avenue SW., Canton, Ohio, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application with the Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that, from the date of the granting of this application to December 31, 1978, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks, to dealers in commercial paper and demand notes to bank trust departments, with such notes constituting an aggregate amount not to exceed $150,000,000 outstanding at any one time. In no event will the amount outstanding be in excess of the maximum amount allowable under its Articles of Incorporation and the consent granted by its Cumulative Preferred stockholders permitting an increase in the amount of authorized short-term debt that Ohio could incur. The notes are to be issued from time to time prior to December 31, 1978, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than June 30, 1979. At June 30, 1979, Ohio had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of $77,007,000.

Each note payable to a bank to be issued by Ohio will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepaid at any time without premium or penalty. In the case of most of the banks from which Ohio proposes to borrow, sufficient bank balances to meet operating and financial requirements of such banks, not available by each bank and 10% of the amount of any borrowings, if the full amount were borrowed from these banks, the maximum effective interest cost to Ohio would be approximately 1.75% above the current prime commercial rate of 7% or approximately $8.75. Ohio states that it will file with the Commission, by Post-Effective Amendment, lists of other banks not previously identified in filings with the Commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks until it has received an order from the Commission, by Post-Effective Amendment, which will include the names of such banks.

On August 17, 1977, the highest rate paid by General Electric Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 5 1/2%. This rate plus the 1/4% referred to above was approximately 6% less than the rate at which Ohio was then able to issue commercial paper of comparable maturities and approximately 2% below the effective rate for bank borrowings based on a prime rate of 7% and compensating balances, or equivalent fees, of 20%. It is stated that based on past experience, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including fees.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the years 1977 and 1978 are estimated at approximately $14,600,000 and $203,000,000, respectively, exclusive of the cost of the proposed construction program of Ohio's subsidiary, Ohio Electric Company. Estimates of this subsidiary's construction expenditures for the years 1977 and 1978 are approximately $11,000,000 and $10,000,000 respectively.

Ohio claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank trust departments pursuant to paragraph (a) (2) thereof. Additionally, Ohio requests exception from the competitive bidding requirements of Rule 58 for the proposed issue and sale of its commercial paper pursuant to paragraph (a) (5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $120,000. It is stated that no state commission and no federal regulatory commission, including the Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 26, 1977, request a hearing to be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may re-
NOTICES

PENNERTON POWER CO.

Proposals to Increase Authorized Shares of Preferred Stock and to Issue and Sell Preferred Stock to an Insurance Company; Request for Exemption From Competitive Bidding

September 8, 1977.

Notice is hereby given that Pennsylvania Power Company, 1 East Washington Street, New Castle, Pennsylvania 16103 ("Penn Power"), an electric utility subsidiary company of Ohio Edison Company, a registered holding company, has filed an application-declaration with the Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designated Sections 6(b) and 12(o) of the Act and Rules 42 and 50(a) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Penn Power proposes to issue and sell up to 100,000 shares of its preferred stock, par value $100, of a new series ("New Preferred Stock") to the Prudential Insurance Company of America ("Prudential") for $100 per share in a direct private placement. No finder's or other fee, commission or remuneration is to be paid directly or indirectly in connection with the issue, sale or distribution of the New Preferred Stock. Penn Power will pay all of Prudential's reasonable out-of-pocket expenses arising in connection therewith, including the fees of Prudential's counsel.

The New Preferred Stock will be identical in all respects to the presently outstanding shares of Penn Power's preferred stock, except as to dividend rate and payment dates, terms of redemption and sinking fund requirements, which terms shall be determined by and will be supplied by amendment. No shares of the New Preferred Stock may be redeemed prior to the fifth anniversary of its issuance if the funds for redemption are obtained directly or indirectly from borrowings or the issuance of stock at a lower effective interest or dividend cost than the dividend cost of the New Preferred Stock.

Penn Power requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a) (5) on the grounds that the sale will be made pursuant to a private placement without the involvement of any investment banking firm or other party to whom a commission would be paid and the terms of the New Preferred Stock will be based on prevailing market conditions.

The proceeds from the sale of the New Preferred Stock will be used to repay unsecured short-term debt (estimated to aggregate approximately $10,000,000 at the time of issuance), and the balance, if any, will be applied to Penn Power's construction program, which is estimated at approximately $73,072,000 for 1977.

Penn Power also proposes to increase its authorized shares of preferred stock, par value $100, from 500,000 to 740,000. Penn Power presently has 561,517 shares of outstanding preferred stock. In addition to the 100,000 shares of New Preferred Stock proposed to be issued, it is contemplated that Penn Power will sell 60,000 shares of preferred stock to Prudential in 1979. It is stated that the proposed increase in authorized preferred shares requires the approval of the holder of Penn Power's common stock. Ohio Edison, the holder of all of the outstanding Penn Power common stock, has indicated that it intends to approve the increase in authorized preferred shares.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of the New Preferred Stock and that no other state commission and no federal commission, other than this commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 5, 1977, request in writing that a hearing be held. Any interested person, stating the nature of his interest, the reasons for such request, and the issues of fact or law covered by the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FEDERAL Register, Vol. 42, No. 179—Thursday, September 15, 1977
NOTICES

ARTICLE XX

SEMI-ANNUAL CONFIRMATION OF OPEN ORDERS

Rule 35. All open orders resting in the specialists’ books will expire at the end of the semi-annual confirmation period unless reentered with the specialists. After the close of business on the last business day of such period, Open orders shall be confirmed semi-annually and the dates on which the confirmation periods end shall be prescribed by the Exchange.

Specialists must remain on the Floor or have a representative thereon as long as necessary after the close of the last business day of each semi-annual confirmation period for the purpose of receiving renewals of open orders.

Open orders properly confirmed in the manner of their original entry, except as to partial execution or reduction in shares, are entitled to retain the same order of precedence on the specialists’ books; and the specialists will be responsible for their proper entry. Open orders not so confirmed are automatically canceled. Specialists must inform the originating broker of an order’s cancellation prior to the opening of business on the first business day of the new semi-annual confirmation period.

Open orders which have been canceled due to the absence of a proper request will be accepted as new orders with priority based on new time of receipt provided they are received no later than one hour after the opening of business on the first business day of the new semi-annual confirmation period.

MSE’S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed new rule is to establish within the framework of the Exchange Rule, a definitive procedure for the proper confirmation of open orders resting in specialists’ books. This new rule changes the prior practice in that the specialist is no longer required to request confirmation prior to cancellation. The duty of the specialist under the proposed rule is now limited to notification to the originating floor broker after cancellation, but prior to the opening of business of the new semi-annual confirmation period.

As a result of setting up procedures for the confirmation of open orders, the proposed rule change prevents fraudulent and manipulative acts and practices; promotes just and equitable principles of trade; and promotes the perfection of the mechanism of a free and open market.

This proposed rule change has been approved by the Committee on Floor Procedure. MSE states that no other comments have been solicited nor received.

The Midwest Stock Exchange, Incorporated, believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate to 90 days after the date that if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 8 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available on inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS, Secretary.

Proposed Rule Change By New York Stock Exchange, Incorporated

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78g(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE’S STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed changes to Exchange Rules 104.29 and 104.33 and the rescission of Rule 114 will reduce the capital and manpower requirements imposed upon members who currently are or wish to become registered as Exchange specialists. This will provide greater ease of entry into the specialist business and enhance the potential for competition on the Floor of the Exchange. The proposed changes will also allow specialists to maintain a single “book” in a stock while competing as market-makers.

September 6, 1977.

[Release No. 34-13939; File No. SR-NYSE-77-25]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78g(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE’S STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed changes to Exchange Rules 104.29 and 104.33 and the rescission of Rule 114 will reduce the capital and manpower requirements imposed upon members who currently are or wish to become registered as Exchange specialists. This will provide greater ease of entry into the specialist business and enhance the potential for competition on the Floor of the Exchange. The proposed changes will also allow specialists to maintain a single “book” in a stock while competing as market-makers.
Exchange Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed changes to Rule 104.20 are designed to eliminate a possible barrier to entry into the specialist business and thereby facilitate a more competitive environment on the Trading Floor of the Exchange. At the same time the proposed changes are designed to insure the continued quality and financial capabilities of existing specialist organizations.

Proposed changes to Rule 104.20 would reduce the minimum capital requirement for specialists to the greater of $100,000 or 25 percent of position requirements from the greater of $500,000 or 25 percent of position requirements. Position requirements which specialists must be able to assure will remain at $5,000 shares in each common stock. 1,000 shares in each convertible preferred stock. 400 shares of each 100 common trading units non-convertible preferred stock and 100 shares in each 1,000 common trading units of non-convertible preferred stock. Thus, the minimum capital requirement for a potential new specialist who wishes to register in only a small number of stocks would be reduced from a possible four to only one.

At the same time, the majority of existing Exchange specialists have total position requirements such that 25 percent of their position requirement would be $500,000. Thus, the proposed reduction in the capital requirement would leave the requirement for most existing specialists unchanged, while significantly reducing the capital requirement for entry into the specialist business.

In connection with the proposed reduction in the capital requirement for specialists, it is also proposed that the current provision which allows withdrawals below the normal required amount of capital, and the current so-called maintenance capital requirement, be eliminated. The proposed change is to allow for one or two specialist organizations and thus eliminate a possible barrier to entry into the specialist business.

In addition, the rescission of Rule 114 would allow specialists to create so-called "combined books".

Elimination of this prohibition is designed to allow for greater competition among specialists by providing that two or more specialist organizations may maintain a single book in the stocks in which they are registered and at the same time compete as market-makers.

In connection with the proposed elimination of the "three-man" requirement and proposed rescission of the prohibition against "combined books", it should be noted that existing Exchange Rule 104.15 requires, in part, that:

Any member registered as a regular specialist must either (1) be associated with other regular specialists in the same stocks, either through a partnership or a member corporation or a joint account, and arrange to be in attendance during the hours when the Exchange is open for business, or (2) arrange for the registration by at least one other member as relief specialist, who would always be available, in the regular specialist's absence, to take over the "book" and to serve as relief specialist.

Thus, members of one-man specialist organizations and participants in a combined book would not be permitted to "walk away" from the market and would be required to arrange for appropriate relief in their capacity as specialist.

The overall purpose of the proposed rule changes is to eliminate possible barriers to entry into the specialist business and thus provide enhanced opportunities for competition on the Floor of the Exchange.

Basis Under the Act for Proposed Rule Change

The proposed rule changes are designed to enhance opportunities for specialist competition on the Floor of the Exchange and to eliminate possible barriers to entry into the specialist business. They are, therefore, consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 which requires, in part, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market; Section 11(b) which provides for Exchange rules pertaining to members registered as specialists; and Section 11(a)(1)(C) which states that Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not solicited comments on the proposed rule change nor have any written comments been received.

Burden on Competition

The proposed rule changes do not impose any burden on competition but, rather, allow for increased competition on the Floor of the Exchange.

In connection with the proposed rule change, it would be inappropriae for the Commission to determine whether the proposed rule change should be approved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be referred to the file number referenced in the caption above and should be submitted on or before October 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzhugh, Secretary.

September 2, 1977.

Proposed Changes to Exchange Rules 104.20, 104.23 and 114.

Revised Rule 104.20 to read as follows:

Capital Requirements of Specialists

(1) A member registered as a regular specialist at an active post must be able to assure a position of 50 share trading units in each common stock in which he is registered.

(2) A member registered as a regular specialist at an active post must be able to assure a position of 10 trading units in each convertible preferred stock, of 400 shares in each of the 100 share trading unit non-convertible preferred stocks and of 100 shares in each of the 10 share unit non-convertible preferred stocks in which he is registered.

(3) A member registered as a regular specialist at the inactive Post must have, at all times, net liquid assets of at least $50,000.
(4) Notwithstanding .30 of this Rule, each member registered as a specialist at an active post must be able to establish that he has, or will have on the first day of the minimum capital requirement which shall be the greater of $100,000 or 25 percent of the position requirements as set forth in Paragraphs 1 and 2 above, except as determined by the Exchange in unusual circumstances.

The term "net liquid assets" is defined as the excess of cash or readily marketable securities over liabilities for a specialist who is registered as a specialist and as such included in the computation of such excess net capital for purposes of this Rule, with "haircuts" restored in respect of bonds which are debt securities for which he is registered as a specialist and for long positions in securities in which he has bought and sold with another member organization as collateral for funds borrowed to finance transactions or positions in such specialist securities.

The term "proprietary accounts" refers to those accounts either with their own capital or by members from effecting transactions in listed securities.

The basis and purpose of the foregoing proposed rule changes are as follows:

**POURPOSE OF PROPOSED RULE CHANGES**

The Commission in its review of Exchange rules conducted in accordance with section 31(b) of the Securities Acts Amendments of 1975 has cited the Exchange rules under discussion as being inconsistent with certain provisions of the Act.

**RULES 390, 395, AND 396**

Exchange Rules 390, 395, and 396, the "off-board trading" rules, prevent members from effecting transactions in listed securities in the over-the-counter market either as principal or agent. An exception is provided for members to effect agency transactions in the OTC market with third market-makers and non-member block positioners.

On January 3, 1977, the requirement in Rules 390 and 395 that members satisfy public limit orders on the Exchange floor at least equal to 0.02 of an over-the-counter execution involving other bonds which are debt securities remained in effect.

The repeal of the "public limit order protection" provision was mandated by Rule 19c-1 which prohibits an exchange from having rules that directly or indirectly prohibit or condition the ability of any member acting as agent to effect transactions on the market with a market-maker or non-member block positioner in exchange listed securities.

The NYSE had handed the matter by interpretation and did not ask the Board of Directors to approve housekeeping changes to Rules 390, 395, and 396 since it was not essential in view of the fact that the provisions of Rule 19c-1 override Exchange off-Board trading rules. This notwithstanding, the Board at its July 7, 1977, meeting amended these Rules to conform to the spirit as well as the letter of the Securities Acts Amendments of 1975.

Rule 390 also requires that members effecting off-Board transactions in a listed stock report such transactions to the Exchange. (There are no reporting requirements contained in Rules 396 and 396.) The purpose of requiring member organizations to report off-Board transactions in listed stocks to the Exchange is to ensure that orders on the specialist's book at prices equal to or better than the OTC transaction price were satisfied in accordance with the requirements of the Rule. As noted above, on January 3, 1977, this "public limit order protection" requirement expired. In view of this, the reporting requirement is being eliminated.

**PERCE**

The language of the preamble to the rules governing special block procedures ("basic philosophy") is being eliminated since it may be viewed to condition or limit a member's ability to trade in the OTC market.

**RULE 54**

Exchange Rule 54 prohibits members, while on the Floor, from making a transaction in any listed security with anyone except another member—with certain exceptions.

The proposed changes would clarify the scope of the Rule which might be misconstrued to limit or condition a member's ability to initiate a trade in the over-the-counter market by transmitting an order from the NYSE Floor to the member's office. The portion of the Rule dealing with the establishment of loan rates on the Floor is no longer appropriate since it is obsolete and is being deleted—loan rates have not been established on the Floor for many years.
Basis Under the Act for Proposed Rule Change

As cited by the Commission in its review of Exchange rules conducted in accordance with section 31(b), the proposed rule changes made to proposed sections (b) (8) and section 11A(a) (1) (C) (ii) of the Act, and item (v) (D) of Item 4 of Form 19b-4A. The proposed rule change to Rule 54 further relates to sections 6(b) (5) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed changes to Rules 390, 395, 396, and 54 and the preamble to the rules governing special block procedures and has received none.

Burden on Competition

The proposed rule changes will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days after notice is given of such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission may:

(A) By order approve such proposed rule changes, or
(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS, Secretary.
September 2, 1977.

EXHIBIT I

The following constitutes the text of proposed changes to Rule 390, 395, 396, and 54 and the preamble to the rules governing special block procedures.

MARKET RESPONSIBILITY RULE

Rule 390. (a) Except as otherwise provided by this Rule, no member, member organization, or other person who is a nonmember broker or dealer and who directly or indirectly, controls, is controlled by, or is under common control with, a member or member organization shall deal as principal or as agent for a nonmember, or other person who is a nonmember block positioner in any equity security which is reported on the consolidated tape in exchange securities or which is traded on any other exchange or over-the-counter with a third market maker or nonmember block positioner in any equity security which is listed on the exchange or to which a rule adopted by the exchange have been extended ("exchange securities").

(b) Beginning March 31, 1976, and ending January 2, 1977, the provisions of paragraph (a) of this rule shall not apply to a rule of this exchange approved by the Securities and Exchange Commission pursuant to section 10(b) (2) of the Securities Exchange Act of 1934 (the "Act") which assures that, in the case of any transaction in any security under extraordinary or emergency conditions the public interest and the protection of investors may be served or protected by a market maker acting on its own account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the securities used in making the transaction.

(c) For purposes of this rule:

(1) The term "third market maker" shall mean a "market maker" as defined in Rule 15c3-1 (c) (8) under the Act, which makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(4) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 15c3-1 under the Act which is not a member of the Exchange.

(f) Notwithstanding the provisions of Rule 15c3-1, the provisions of this rule shall be applied to any account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the securities used in making the transaction.

* * * Supplementary material.


Rule 391. (a) The Market Responsibility Rule has been adopted by the Board of Directors and approved by the Securities and Exchange Commission pursuant to subparagraph (b) of Rule 19c-1 under the Securities Act of 1934. Rule 19c-1 reads in full as follows:

Rule 19c-1. (a) The rule of each national securities exchange shall provide, on and after March 31, 1976, as follows:

(1) No rule of such exchange shall not apply to a rule of this exchange approved by the Securities and Exchange Commission pursuant to section 10(b) (2) of the Securities Exchange Act of 1934 (the "Act") which assures that, in the case of any transaction in any security under extraordinary or emergency conditions the public interest and the protection of investors may be served or protected by a market maker acting on its own account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the securities used in making the transaction.

(b) Beginning March 31, 1976, and ending January 2, 1977, the provisions of paragraph (a) of this rule shall not apply to a rule of this exchange approved by the Securities and Exchange Commission pursuant to section 10(b) (2) of the Securities Exchange Act of 1934 (the "Act") which assures that, in the case of any transaction in any security under extraordinary or emergency conditions the public interest and the protection of investors may be served or protected by a market maker acting on its own account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the securities used in making the transaction.

(c) The market responsibility rule shall provide, on and after March 31, 1976, as follows:

(1) The term "market maker" shall mean a "market maker" as defined in Rule 15c3-1 (c) (8) under the Act, who makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(2) The term "nonmember broker or dealer" as defined in Rule 5b-1 under the Act, who makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(3) The term "third market maker" shall mean a "market maker" as defined in Rule 15c3-1 (c) (8) under the Act, who makes markets over-the-counter in exchange securities and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(4) The term "nonmember block positioner" shall mean a "block positioner" as defined in Rule 15c3-1 under the Act which is not a member of the Exchange.

(f) Notwithstanding the provisions of Rule 15c3-1, the provisions of this rule shall be applied to any account on a plus or zero plus tick or sell for his own account in a minus or zero minus tick any or all of the securities used in making the transaction.
organization (any such other person being hereafter referred to as an affiliated person) shall effect any transaction (in any subscription right admitted to dealings on the Exchange) in the over-the-counter market, when such transaction forms part of a series of transactions (including prearranged sales or purchases) in which the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(v) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gain, or

(vi) Any purchase or sale of any bond trading in which trading has been suspended by the Exchange pending review of the listing status of such bond;

(vii) The acquisition of bonds by a member (or change of principal person in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392; and

(viii) Any transaction for less than one unit of trading;

(ix) Any principal transaction in rights to subscribe to bonds, affected with other members, non-member brokers and dealers, and institutions, provided the provisions of paragraphs (a) and (b) above are complied with;

(x) Any transaction in rights to subscribe to preferred stocks included on the Exchange's open order book (Rule 104);

(xi) Any single transaction where the amount involved is less than $100,000 of the securities subject to the rights (and in respect of issues amounting to less than $7,500,000 the size of the wholeness for which action will be proportionately reduced) provided the purchase is for the purpose of subscribing to the issue.

In some instances, the Exchange may give consideration to requests for exemptions in respect of private negotiations for the purchase or sale of securities of the United States, or securities of a public or private character in listed or unlisted bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

Notwithstanding the provisions of this Rule, be considered a public bid or offer any foreign country at any time; and notwithstanding the provisions of this Rule shall mean any broker as defined in Rule 15c3-l(c)(8)(ii) of the Act, who makes markets over-the-counter in listed bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

* * * Supplementary material: *

10. Interpretations.—(1) Notwithstanding the provisions of this Rule, a member, member organization or affiliated person: may trade as principal or as agent in any listed bond in the over-the-counter market, either as principal or agent.

(b) A member, a member organization or affiliated person holding a customer's order for the purchase or sale of a listed bond (the Order) may exercise the Order (or such portion as may be exercised) in accordance with this Rule in the over-the-counter market with a third market maker or nonmember block positioner outside of Exchange trading hours without satisfying public bids or offers present on a limited order mechanism on the Exchange Floor at the time of the over-the-counter execution, or, if inquiry is made immediately prior to the over-the-counter execution, all public bids or offers recorded on the Exchange Floor at the time of such inquiry, at prices which, insofar as the Order is concerned, are equal to or better than the price at which such portion of the Order is executed over-the-counter are satisfied at the prices at which such portion of the Order is so executed.

(c) The provisions of this Rule shall not apply to any of the following transactions:

(i) Any order for the purchase or sale of ten bonds or more;

(ii) In the case of an agency transaction (transactions of securities on an investment basis). When the customer specifically directs that the particular order shall not be executed on the Floor, the member organization shall solicit such instructions before sending the order to the Floor.

(iii) When the order calls for the purchase or sale of securities of the United States, Puerto Rico, the Philippine Islands, or States, Territories, or Municipalities therein, or of bonds which, pursuant to call or otherwise, are to be redeemed within twelve months.

(iv) Any transaction which is part of a primary distribution by an issuer, or a registered broker-dealer in the over-the-counter market, effected off the floor of the Exchange;

(v) Any transaction made in reliance on section 15(b)(1) of the Act, who makes markets over-the-counter in listed bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

(vi) Any trade at a price unrelated to the current market for the security to correct an error or to enable the seller to make a gain, or

(vii) Any purchase or sale of any bond trading in which trading has been suspended by the Exchange pending review of the listing status of such bond;

(viii) The acquisition of bonds by a member (or change of principal person in anticipation of making an immediate special offering or exchange distribution on the Exchange under Rule 391 or Rule 392; and

(ix) Any transaction for less than one unit of trading;

(x) Any principal transaction in rights to subscribe to bonds, affected with other members, non-member brokers and dealers, and institutions, provided the provisions of paragraphs (a) and (b) above are complied with;

(xi) Any single transaction where the amount involved is less than $100,000 of the securities subject to the rights (and in respect of issues amounting to less than $7,500,000 the size of the wholeness for which action will be proportionately reduced) provided the purchase is for the purpose of subscribing to the issue.

In some instances, the Exchange may give consideration to requests for exemptions in respect of private negotiations for the purchase or sale of securities of the United States, or securities of a public or private character in listed or unlisted bonds and who maintains the minimum net capital required of a market maker by Rule 15c3-1 under the Act; and

* * * Supplementary material: *

10. Interpretations.—(1) Notwithstanding the provisions of this Rule, a member, member organization or affiliated person: may trade as principal or as agent in any listed bond in the over-the-counter market, either as principal or agent.
received a number of comment letters on lease Nos. 13671 (June 24, 1977) and releases (Securities Exchange Act Re­
director, as well as an application for an offerings; secondary distributions. or supplied in the regular auction market this requirement will provide an oppor­
tunities for small municipal securities dealers. The Commission be­
oral applications expressed reser­
wmbers, particularly for small municipal
s for the development of more efficient
means of providing the numbers to small
dealers. In addition, while the use of CUSIP numbers may not produce econo­
ities to all municipal securities brokers and dealers, the general use in the mun­
necessary for the development of low-cost
The text of the proposed rule change follows:
RULE G-12. UNIFORM PRACTICE

All transactions in municipal securi­
ties between any broker, dealer or municipal securities dealer and any other broker, deal­
er or municipal securities dealer shall be sub­
provisions of this rule, except to the
to the computation of the final settle­
early agreed upon by the parties.

Business Day. The term "business day" shall mean a day recognized by the

Order Approving Proposed Rule Change

September 6, 1977. -

On December 20, 1976, the Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue NW, Washing­

D.C. 20036, (the "MSRB") filed with

the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 there­
nder, copies of a proposed rule change. On June 17, 1977, the MSRB filed with

the Commission an amended proposed rule change which made substantial changes in the rule proposal. In addition the

MSRB filed technical amendments to the proposed rule change on June 29, 1977, and August 26, 1977. The proposed

rule change, as amended, would codify unique industry practices for the proces­sing, clearance, and settlement of inter-dealer transactions in municipal securities and related matters.

Notice of the proposed rule change, as amended, together with the terms of

Subsidiary of the Municipal Securities Rulemaking Board (MSRB) is approved by the Commission. Notice is hereby given of

Rule 19b-4, that the proposal is effective pending completion of

the rule. The following pages contain rules and information governing these special

procedures.

[FED Reg.77-26900 Filed 9-14-77;7r:45 am]

Release No. 13999: (SR-MSRB-76-121]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

September 6, 1977. -

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[FED Reg.77-26900 Filed 9-14-77;7r:45 am]

Release No. 13999: (SR-MSRB-76-121]

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Subsidiary of the Municipal Securities Rulemaking Board (MSRB) is approved by the Commission. Notice is hereby given of

Rule 19b-4, that the proposal is effective pending completion of

the rule. The following pages contain rules and information governing these special

procedures.
NOTICES

(F) Amount of concession, if any, per $1,000 par value unless stated to be an aggregate;

(K) Amount of accrued interest;

(L) Extended principal amount;

(N) Total dollar amount of transaction;

and

(P) Instructions, if available, regarding receipt or delivery of securities, and form of payment if other than those specified in paragraph (e) (iv) below.

(d) Interest calculation, and first interest payment if other than as usual and customary between the parties.

The initial confirmation for a "when, as and if presented" transaction shall not be required to contain the information specified in subparagraphs (H), (L), (M), and (N) of this paragraph or the resulting dollar price as specified in subparagraph (I).

(VI) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) Date paid if it affects the price or interest calculation of the transaction;

(B) If the securities are "fully registered" or "registered as to principal only," a designation to such effect, the date of maturity which has been fixed by the party to the transaction;

(C) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the party to the transaction, and the amount of the call price;

(D) Denominations of notes and, if other than $1,000 or $5,000 par value, up to $100,000 par value;

(E) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default, a designation indicating such default;

(F) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(g) Comparison and Verification of Confirmations: Unrecognized Transactions.

(i) Upon receipt of a confirmation each party to a transaction shall compare and verify such confirmation to ascertain whether any discrepancies exist. If any discrepancies exist in the information as set forth in the two compared confirmations, the party discovering such discrepancies shall promptly communicate such discrepancies to the contra party and both parties shall promptly attempt to resolve the discrepancies. In the event the discrepancies remain unresolved by the close of the business day following the date the confirming party gives telephone notice to the nonconfirming party, indicating nonrecognition of the transaction, the nonconfirming party shall seek to ascertain whether a trade occurred and the terms of the trade. If the nonconfirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(ii) If, after such verification, such party believes that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iii) Promptly following receipt of telephone notice from the confirming party, the nonconfirming party shall seek to ascertain whether a trade occurred and the terms of the trade. In the event the nonconfirming party determines that a trade occurred, it shall immediately notify the confirming party by telephone to such effect and, within one business day thereafter, send a written notice, return receipt requested, to the confirming party, indicating nonrecognition of the transaction.

(iv) If the transaction pursuant to paragraph (ii) of this section, the procedures required by paragraph (iii) need not be followed if the procedures are initiated pursuant to paragraph (iii) of this section, the procedures required by paragraph (ii) thereof.

(v) In the event any material discrepancies or differences, basic to the transaction, remain unresolved by the close of the business day following the date the confirming party gives telephone notice of the transaction to the nonconfirming party pursuant to paragraph (ii) above, whichever first occurs, the transaction may be cancelled by the confirming party or, in the event there exists disagreement concerning the terms of the transaction, by either confirming party. Nothing herein contained shall be construed to affect whatever rights the confirming party or the nonconfirming party may have with respect to a transaction which is cancelled pursuant to this paragraph.

(vii) Nothing herein contained shall be construed to prevent the settlement of a transaction prior to completion of the procedures prescribed in this section (d); provided that each party to the transaction shall be responsible for sending to the other party, within one business day of such settlement, a confirmation evidencing the terms of the transaction.

(vii) The notices referred to in this section indicating that there is a rejection of a transaction or failure to complete a transaction shall contain sufficient information to identify the party initiating such notice including, at a minimum, the information set forth in subparagraphs (A) through (E), (G), and (H) of paragraph (d). In addition, such notice shall identify the firm and person providing such notice and the date thereof. The requirements of this paragraph shall be satisfied by providing a copy of the confirmation of an unrecognized transaction, marked "don't know," together with the name of the firm to which the notice was provided and the date thereof.

(e) Delivery of Securities. The following procedures are agreed by the parties, govern the delivery of securities:

(f) Place and Time of Delivery. Delivery shall be made at the office of the purchaser or its designated agent, between the hours established by rule or practice in the community in which the office is located. If the parties so agree, book entry delivery through a registered clearing agency or delivery by ordinary mail with respect to a security which does not involve the physical delivery of securities will constitute good delivery for purposes of this rule.

(Delivery Ticket. A delivery ticket shall accompany the delivery of the securities. Such ticket shall contain the information set forth in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph and shall have attached to it an extra copy of the ticket which may be used to acknowledge receipt of the securities.

(f) Notice of Delivery. The purchaser shall not be required to accept a partial delivery with respect to a single trade in a single security. For purposes of this paragraph, a "single security" shall mean a security of the same issuer having the same maturity date, coupon rate and price.

(H) Units of Delivery. Delivery of bonds shall be made in the following denominations:

(A) For bearer bonds, in denominations of $1,000 or $5,000 par value; and

(B) For registered bonds, in denominations with a par value of $1,000 or $5,000 par value, up to $100,000 par value.

Delivery of notes shall be made in the denominations specified on the confirmation as required pursuant to paragraph (c) (vi) of this rule.

(i) Bearer and Registered Form. Delivery of bonds which are tradeable in bearer form and registered form shall be in bearer form unless otherwise agreed by the parties.

(j) Transmission Certificate. Delivery of a certificate which is damaged to the extent that any of the following is not ascertainable:

(A) Name of issuer;

(B) Par value;

(C) Signature;

(D) Coupon rate;

(E) Maturity date;

(F) Seal of the issuer; or

(G) Bond or note number

shall not constitute good delivery unless validated by the trustee, registrar, transfer agent, or its designated agent or by an authorized agent or official of the issuer.

(k) Coupon Securities.

(A) Coupon securities shall have securely attached to the certificate in the correct sequence all appropriate coupons, including supplemental coupons if specified at the time of trade, which in the case of securities upon which interest is in default shall include all unpaid or partially paid coupons. All coupons attached to the certificate must have the same serial number as the certificate.

(B) Anything herein to the contrary notwithstanding, if securities are traded "and interest" and the settlement date is on or after the interest payment date, such securities shall be delivered without the coupon payable on such interest payment date.

(C) If delivery of securities is due within 30 calendar days of the payment date which bears a coupon, the seller may deliver to the purchaser a draft or bank check of the seller or its agent, payable on the date delivery is made, in an amount equal to the interest due in lieu of the coupon.

(l) Mutilated or Cancelled Coupons. Delivery of a certificate which bears a coupon which is damaged to the extent that any one of the following cannot be ascertained from the coupon:

(i) Name of issuer;

(ii) Par value;

(iii) Signature;

(iv) Coupon rate;

(v) Maturity date;

(vi) Seal of the issuer; or

(vii) Bond or note number
either the coupon number or the payment
declared to be good delivery unless
by the time of trade.
ments, such endorsement or guarantee must
be provided by the issuer or by a com-
mercial bank. In the case of cancelled cou-
ponts, such endorsement or guarantee must
be provided by the issuer or an authorized agent
or official of the issuer, or by the trustee or pay-

(11) Delivery of Certificates Called for by
Reclamation. A certificate for which a notice or call
has been published prior to the trade date shall not constitute good delivery unless the securities are identified as “called” at the
time of trade.
(12) Delivery Without Legal Opinions or
Other Documents. Delivery of certificates
without legal opinions or other documents
showing ownership may not constitute good delivery unless identified as “called” at the
time of trade.
(13) Insured Securities. Delivery of certifi-
cates of securities including insured securities
shall be accompanied by evidence of such
insurance, either on the face of the certificate
or on the delivery ticket, when the certificate is
endorsed as required by the notice of rejection
or reclamation.
(14) Endorsements for Banking or
Insurance Requirements. A security bearing an
endorsement, such as “Co.” or “Incorporated” or “Inc.”
shall be endorsed as required by the notice of rejection
or reclamation, and the requirement of endorsement
applies to all transfers even subsequent transfers,
except securities which have been presented
for payment, substitution, or transfer.
(15) Delivery of Registered Securities.
(A) Assignments. Delivery of a certificate in
registered form must be accompanied by an
assignment on the certificate or on a
attached assignment for such certificate,
containing a signature which corresponds in
every particular to the name written upon
the certificate except that the following words may
be interchanged: “Company” and “Cor.”
“Company” and “Limited” or “Ltd.”
(B) Detached Assignment Requirements. A
security shall be traded “Flat” if it is deposited in
irrevocable appointment of an attorney, with
power of substitution, a full description of
such attorney, the name of the issuer, the bond number,
and the par value expressed in words and
numerals.
(C) Power of Substitution. When the name of
an individual or firm has been inserted in
an assignment as attorney, a power of sub-
stitution shall be executed in blank by such
individual or firm. When the name of an
individual or firm has been inserted in an
assignment as a substitute attorney, a new
power of substitution shall be executed in
blank by such substitute attorney.
(D) Endorsements. Endorsements, endorse-
ments of attestation and endorsement shall bear a
guarantee acceptable to the transfer agent or
recipient.
(E) Certification in Name of a Party Other
Than a Natural Person. A certificate regis-
tered in the name of a party other than a
natural person and not in a signature, or
designation, shall constitute a good delivery only if the
statement “Proper papers for transfer attached and
proper endorsement, and assignment and signed by the transfer agent.
(F) Certificate in Name of Deceased
Person, Trustee, etc. A certificate shall not constitute good
delivery if executed with a qualification, restriction or special designation or if de-
ished in the name of, or with an assign-
ment or power of substitution executed by a
person since deceased; a minor; a receiver in
bankruptcy of an individual; or, except as provided in subparagraph (2) below, a
trustee or trustees (except for trustees act-
ing in their capacity as a corporation or association in which case the
requirements of subparagraph (E) above shall apply), a guardian, an executor, or an
administratrix of an individual or firm; or a
conservator or curator of a corporation or
association.
(2) A certificate shall constitute good
delivery with an assignment or a power of
substitution executed on behalf of an individ-
ual by any of the following: (a) the
issuer, the president, the secretary, the
trustee, or the person discharging similar
functions; (b) the controller or comptroller, the
director of the Issuer, the treasurer, the
corporate auditors, the committee of
comparative auditors, or custodian; or a
custodian acting pursuant to the provisions of the
Uniform Gifts to Minors Act.
(2A) Payment of Interest. If a registered
security is traded “and interest” and trans-
dition, alteration and erasure shall bear a
time of trade to be made, for the amount of the in-
terest.
(2B) Registered Securities Traded “Flat.”
If a registered security is traded “Flat” (i.e. a
security is traded “as is” and is a security which has
not been previously traded “and interest”), the
security must be delivered on or before the record date
for the determination of registered holders for the
security. Delivery shall be accompanied by a
draft or bank check of the seller or other proof of
payment, if any, of the amount of the payment to be
made, for the amount of the payment to be
made by the issuer, unless the security is traded
“and interest.”
(2C) Expenses of Shipment. Expenses of
shipment of securities, including insurance, postage,
draft, and collection charges, shall be paid by
the transferee. The seller may be required to
advance such expenses and secure a receipt
for the same.
(2D) Expenses of Reclamation. In the case
of a reclamation, the amount of money
expenses claimed for; and
the requirements of this rule, the pur-
chaser may close out the transaction in
accordance with the following procedures:
(A) Notice of Close-Out. If the purchaser
receives a notice of close-out in accordance with
this paragraph, the purchaser shall, not earlier than the fifth business
day following the settlement date, notify the
purchaser of the close-out and the
purchaser of the transaction and immedi-
ately thereafter send or resubmit the pursuit notice,
return receipt required. If the seller
resubmits a notice of close-out to the
close-out notice, the purchaser shall be
notified of the retention by a copy of the seller's confirmation of
the transaction to be closed out or other written
confirmation of the close-out notice by
the parties. The notice shall state that unless the
transaction is completed by a specified time,
which shall not be later than the close of the fifth business day
following the telephonic or written notice is
given, or as provided in subparagraph (C)
below, the transaction may be closed out in
accordance with this section.
(B) Response. The seller shall respond to the notice of close-out in writing, or by telephone, without delay, and, if the purchaser has requested return receipt requested, within one business day following the date the telephonic notice required by subparagraph (A) is given, stating whether the seller will complete the transaction, or, that in the event of failure to complete the transaction, the purchaser may not close out the transaction before the close of the fifteenth business day following the date the close-out notice was given. Failure by the seller to respond to the notice of close-out within the time periods and according to the procedures provided herein for the seller’s response, or to provide an adequate explanation, as described below, for the seller’s failure to complete the transaction, the purchaser shall extend the date for close-out by one business day, and the party transmitting the notice shall attach to the notice or as extended due to retransmittals, a seller’s reasons for failing to complete the transaction, or, if the purchaser has requested return receipt requested, within one business day following the date the close-out notice was given, the purchaser shall not be required to provide an adequate explanation. A seller shall be deemed to have failed to complete the transaction where it has not completed the transaction within the time periods and according to the procedures provided herein for the seller’s response, or has received no response or notice of retransmission or has received a response which fails to provide an adequate explanation, as described below, for the seller’s failure to complete the transaction. The notice shall state that unless the transaction is completed not later than the nineteenth business day following the settlement date, regardless of the number of close-out notices issued. Anything herein to the contrary notwithstanding, each time period specified in subparagraph (A) shall be extended by one business day for each retransmittal of the notice of close-out subsequent to the initial close-out notice. (C) Time Periods. If by the close of the fifth business day following the date the close-out notice was given, the purchaser has received no response or notice of retransmission or has received a response which fails to provide an adequate explanation, as described below, for the seller’s failure to complete the transaction, the purchase may not close out the transaction before the close of the sixth business day following the date the close-out notice was given. For purposes of this subparagraph, a seller shall be deemed to have failed to complete the transaction only if it has an offsetting fall to receive outstanding of the same security and so states or if the certificates, coupons or documentation required by this rule are not delivered to the purchaser or if the certificates, coupons or documentation have been lost or mutilated and replacements have not been requested, and the seller so states, if the purchaser is a broker, dealer or municipal securities dealer or, may at its option, (1) Purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller; (2) Cancel the transaction as to all or any part of the securities necessary to complete the transaction. (D) Purchaser’s Options. To close out a transaction as provided herein the purchaser may, at its option-- (1) Purchase ("buy-in") at the current market all or any part of the securities necessary to complete the transaction, for the account and liability of the seller; (2) Cancel the transaction as to all or any part of the securities necessary to complete the transaction. (3) Accept from the seller in satisfaction of the seller’s obligation under the original contract (which shall be concurrently cancelled) the delivery of municipal securities which are comparable to those originally bought in quantity, quality, yield, or price, and which include, with any additional expenses or any additional cost of acquiring such substituted securities being borne by the seller; or (4) Require the seller to repurchase the securities on terms which provide that the seller pay an amount which includes (equal to) accrued interest and bear the burden of any change in market price or yield. A close-out will operate to close out all transactions covered under retransmitted notices and shall extend the date for close-out of amounts in customers’ accounts maintained with the seller by one business day and the party transmitting the notice shall attach to the notice or as extended due to retransmittals, the seller’s reasons for failing to complete the transaction. The notice shall state that unless the transaction is completed not later than the twentieth business day following the settlement date, regardless of the number of close-out notices issued. Anything herein to the contrary notwithstanding, each time period specified in subparagraph (A) shall be extended by one business day for each retransmittal of the notice of close-out subsequent to the initial close-out notice. (E) Close-Out Not Completed. A close-out transaction may be completed in accordance with the terms of the notice or as extended due to retransmittals. (F) "Cash" Transactions. The purchaser may close out transactions made for “cash” (excluding any action by the purchaser pursuant to subparagraph (D) of this paragraph), must be closed out not later than the nineteenth business day following the settlement date. If a close-out pursuant to a notice of close-out is not completed in accordance with the terms of the notice and the provisions of this rule, the notice shall expire. Additional close-out notices may be issued, provided that a close-out procedure initiated pursuant to this rule with respect to a transaction must be completed not later than the close of business on the day delivery is due. (1) Close-Out by Seller. If a seller makes good delivery according to the terms of the transaction and the requirements of the Act and the rules thereunder applicable to brokers, dealers or municipal securities dealer handling such order within 30 business days following delivery of the securities to the customer. (2) Close-Out by Purchaser. If the purchaser or any additional cost of acquiring such substituted securities being borne by the seller; or, made for or amended to include guarantee of the contract between the parties. In all cases, the notice shall state that unless the transaction is completed not later than the close of business on the day delivery is due. Such notice shall be accompanied by a copy of the purchaser’s confirmation of the transaction to prevent brokers, dealers or municipal securities dealer from taking possession of any change in market price or yield. The notice shall state that unless the transaction is completed not later than the close of business on the day delivery is due. (F) "Cash" Transactions. The purchaser shall become effective on January 1, 1979.
cancel the meeting.

PSE's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The basis for the proposed rule change is to provide the PSE with more flexibility in reporting confirmation of "GTC" orders. Currently, open "GTC" orders must be reported quarterly, but the proposed rule change would give flexibility to requiring more frequent reporting thus helping to reduce discrepancies, errors and delays, and enhance efficiency.

The basis for the proposed rule change is to enable the PSE to promote just and equitable principles of trade and carry out the purposes of the Act by requiring more frequent reporting resulting in the PSE's ability to respond to market conditions more quickly.

PSE states that comments have neither been solicited nor received from members on the proposed rule change.

PSE believes the proposed rule change fails to burden upon competition.

Within 45 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission on Business and Exchange Commission, Washington, D.C. 20540. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1109 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the paragraphs above and should be submitted on or before October 6, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.


[FR Doc.77-29061 Filed 9-14-77; 8:45 am]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Cancelled Meeting

In Volume 42 FR 170, page 44061, September 1, 1977 A.I.D. announced a meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development to be held on September 20, 1977, from 9 a.m. to 5:30 p.m. at the Ramada Inn, Route 900, Fort Myer Drive, Arlington, Va. The purpose of this notice is to indicate that said meeting has been cancelled.

Dated: September 13, 1977.

Fletcher Riggs, A.I.D. Advisory Committee Representative Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc.77-27054 Filed 9-14-77; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on October 4 and 5, 1977, beginning at 9:30 a.m., Room 1206, Nassif Building, 400 7th Street SW, Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To discuss proposed amendments to the IMCO Gas Code in preparation for the upcoming meeting of IMCO's Subcommittee on Bulk Chemicals.

2. To discuss proposed Coast Guard regulations for inspection of gas ships.

Attendance is open to the interested public. With the approval of the Chair-

man, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain C. E. Mathieu, Commodore-in-Chief, U.S. Coast Guard, Washington, D.C. 20590 (202-426-2366). Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 7, 1977.

W. M. Bennett,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.77-36832 Filed 9-14-77; 8:45 am]

Federal Aviation Administration

DISCONTINUANCE CRITERIA FOR AIRPORT TRAFFIC CONTROL TOWERS; POLICY FORMULATION

Public Hearings

The Federal Aviation Administration (FAA) will hold public hearings on its policy regarding cessation of service at airport traffic control towers. These hearings will afford interested persons the opportunity to present views, data, and arguments regarding the subjects and issues stated in a notice of policy formulation published in the Federal Register on September 1, 1977 (42 FR 44082). Evening as well as day hearings are scheduled to accommodate the general public.

The Hearings

The hearings will be conducted at the following times and locations:

October 4, 1977—Los Angeles, California: Convening at 9:30 a.m. and 7:00 p.m. at Hyatt House Hotel, Los Angeles International Airport, 6235 West Century Boulevard, Los Angeles, California.

October 7, 1977—Kansas City, Missouri: Convening at 9:30 a.m. and 7:00 p.m. in Room 140, Federal Office Building, 601 East Twelfth Street, Kansas City, Missouri.

October 11, 1977—Washington, D.C.: Convening at 9:30 a.m. and 7:00 p.m. in Auditorium, FAA Headquarters Building, 800 Independence Avenue SW, Washington, D.C.

Hearing Procedure

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator.

Since the hearings will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given the opportunity to do so at the conclusion of the presentations in the same order in which initial statements are presented.

Interested persons are invited to attend the hearings and to participate by making oral or written statements concerning their respective topics, their sub-

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NOTICES

3. Cease operation of all (73) towers at which there is a net operating loss.
4. Cease operation of a portion (35 to 40) of the towers identified in option number 3.
5. Continue Federal operation of all noneconomic towers until fiscal year 1980 to give state or local interests an opportunity to assume responsibility.

The notice presents analyses of the respective options and contains the material that is the subject of these public hearings. While all comments are of interest, the FAA specifically invites statements or comments regarding the policy options in terms of the specific alternatives stated in the notice.

Before taking final action regarding its control tower policy, the FAA will consider the statements presented at the hearings and all written comments submitted.

AVAILABILITY OF TRANSCRIPTS
Transcripts of each hearing will be made and anyone may purchase copies from the reporter. A transcript of each hearing will be available for examination in the office of the Director, Office of Aviation System Plans, Room 307C, 800 Independence Avenue SW., Washington, D.C.

Issued in Washington, D.C., on September 7, 1977.

Dwane W. Peeler,
Associate Administrator for Policy Development and Review (Acting)

[FR Doc.77-26986 Filed 9-14-77; 8:45 am]

NEW EXEMPTIONS

EXEMPTION APPLICATIONS

AGENCY: Materials Transportation Bureau, DOT.
ACTION: List of applications for exemption.
SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by October 17, 1977.
ADDRESSED TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should be addressed to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Materials Transportation Bureau

Applicant Earth Water Equipment Inc., Alberton, Mont.

Regulation(s) affected: Piper Aircraft Co., North Charleston, S.C.

Nature of application: To authorize the use of non-DOT insulated portable tanks, (sections 404 and 405, subparts D, E, and F, 49 CFR 173.365).

For the hearings at Los Angeles, Calif., write or call:
Public Affairs Officer, Western Region (AWE-5), Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009; or telephone 213-588-6431.

For the hearings at Kansas City, Mo., write or call:
Public Affairs Officer, Central Region (ACE-5), Federal Aviation Administration, Room 1548 Federal Office Building, 601 East Twelfth Street, Kansas City, Mo. 64106; or telephone 816-374-0440.

For the hearings at Washington, D.C., write or call:
Assistant Administrator for Public Affairs (APA-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; or telephone 202-263-3863.

Written Comments Invited

In addition to materials presented at the hearing, persons not participating in the hearings are invited to submit written comments on the control tower discontinuance policy in accordance with the notice published in the Federal Register on September 1, 1977. Such communications should be addressed to:

The closing date for submitting written comments is October 15, 1977. All comments will be available for examination both before and after the closing date for comments.

SCOPE OF INQUIRY

The notice, regarding the FAA's policy formulation for tower discontinuance standards, identifies five potential options and their implications. Those policy options are as follows:
1. Continue Federal operation of all (425) existing towers.
2. Cease operation of 8 towers meeting existing discontinuance criteria.
3. Cease operation of all (73) towers at which there is a net operating loss.
4. Cease operation of a portion (35 to 40) of the towers identified in option number 3.
5. Continue Federal operation of all noneconomic towers until fiscal year 1980 to give state or local interests an opportunity to assume responsibility.

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1006). 49 CFR 123.53 (c).
Issued in Washington, D.C., on September 7, 1977.

J. R. Grothe,
Chief, Exemptions Branch,

[FR Doc.77-26986 Filed 9-14-77; 8:45 am]
## EXEMPTION APPLICATIONS

**AGENCY:** Materials Transportation Bureau, DOT.

**ACTION:** List of Applications for Renewal of Exemption or Application to Become a Party to an Exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein. Normally, the modes of transportation would be identified and the nature of application would be specified, as in past publications. However, this notice is abbreviated to expedite docketing and public notice. These applications have been separated from the new applications for exemptions to facilitate processing applications awaiting disposition.

**DATES:** Comments by September 30, 1977.

**ADDRESSED TO:** Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION:** Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

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<th>Application No.</th>
<th>Applicant</th>
<th>Renewal of special permit or exemption</th>
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<td>2606-X</td>
<td>Dow Chemical Co., Freeport, Tex</td>
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This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)) .

Issued in Washington, D.C., on September 7, 1977.


[FR Doc.77-26579 Filed 9-14-77;8:45 am]

National Highway Traffic Safety Administration

FORD MUSTANG AND MERCURY COUGAR DEFECT INVESTIGATION

Public Proceeding Regarding Adequacy of Manufacturer’s Notification Campaign on Seat Belt Failures

Pursuant to Section 156 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1416) the Administ-
istrator has granted the petitions of Austin F. Stevens, Administrator, Cal., and Charles Arena of New York City, N.Y., for a hearing to determine whether Ford Motor Co. has reasonably met its obligations to notify owners of and remedy a safety-related defect in driver bucket seats in 1968 and 1969 model Ford Mustangs and Mercury Cougars.

The defect exists in the inboard hinge pin of the driver seat. The driver seat back swivels around this pin when the seat back is tilted forward to permit access to the rear compartment of the vehicle. The defect manifests itself when the pin breaks, permitting the seat back to rotate rearwards in a clockwise direction. When this happens, the driver can fall into the rear compartment and lose visibility of the road ahead and control of the vehicle. Accidents and injuries can and have occurred as a result of seat pin failure.

In August 1975 the National Highway Traffic Safety Administration ordered Ford to recall the 1968 and 1969 Mustangs and Cougars. Ford refused, and the agency immediately sought enforcement of its order in Federal district court. On October 20, 1976, Judge George Hart of the U.S. District Court for the District of Columbia, ordered Ford to notify owners of and remedy the defect in the Mustangs and Cougars. Ford then sought and obtained a stay of the District Court's order pending an appeal it filed with the U.S. Court of Appeals, District of Columbia Circuit.

After some initial proceedings in the Court of Appeals on March 21, 1977, decided to recall the cars pursuant to statutory requirements. On March 23, 1977, Ford notified the agency of its decision and in late April and early May commenced the recall.

Since that time the agency has received a large number of consumer complaints alleging that adequate quantities of replacement parts designed for the campaign were unavailable at local dealerships. Other information received by the agency indicates that problems exist with respect to dealers requiring inspection of the defective seat prior to repair and owners of the affected vehicles being directed to dealerships many miles from their homes if they wish to obtain the required repairs.

The agency has queried Ford twice about these problems, and the manufacturer's responses have been unsatisfactory.

An initial public proceeding will be held at 10 a.m., October 4, 1977, in Room 4234, Department of Transportation Headquarters, 400 Seventh Street SW., Washington, D.C. 20590, at which any interested person (including the manufacturers) may make oral (as well as written) presentations of data, views, and arguments on the question of whether Ford has reasonably met its obligation to notify owners, purchasers, and dealers of a safety-related defect under 15 U.S.C. 1411, and to remedy such defect under 15 U.S.C. 1414. Interested persons are invited to participate through written or oral presentations. A transcript will be kept and exhibits may be accepted. There will be no cross-examination of witnesses. Persons who wish to make oral presentations are required to notify Mrs. Nancy Martus, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2859), before the close of business on September 30, 1977.

Issued on September 8, 1977.

JOHN CLAYBROOK,
Administrator.

DEPARTMENT OF THE TREASURY

Customs Service
COLUMBUS, NEW MEXICO, CUSTOMS PORT OF ENTRY

Change in Hours of Service

AGENCY: United States Customs Service, Department of the Treasury

ACTION: Notice of change in hours of service

SUMMARY: This notice announces a reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. The new hours of service will be from 8:00 a.m. to Midnight. This action is being taken because the traffic at the port between the hours of Midnight and 8 a.m. does not warrant providing service during those hours. The reduction in the hours of service will permit the more effective use of Customs manpower.

DATES: The new hours of service will become effective September 30, 1977.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Section 1.7 of the Customs Regulations (19 CFR 1.7) requires that each Customs office be open for business between the hours of 8:30 a.m. and 5 p.m. on all days of the year except Saturdays, Sundays, and national holidays. The regulations further provide that Customs services required to be performed outside a Customs office shall be furnished between the hours of 8:00 a.m. and 5:00 p.m.

Many Customs ports of entry regularly provide service during hours in addition to those specified in the regulations. The Customs port of entry at Columbus, N. Mex. (Region VI), has been open 24 hours a day. However, the Regional Commissioner of Customs for Customs Region VI has determined that the volume of traffic through that port between the hours of Midnight to 8 a.m. does not warrant providing regular service during those hours. Therefore, regular service during those hours will be discontinued effective September 30, 1977. Beginning on that date, the hours of service at the Customs port of entry at Columbus, N. Mex., will be from 8 a.m. to Midnight each day. The reduced hours of service will permit better utilization of Customs manpower and will reduce the cost of Customs operations at the port.


ROGER E. CHASEN,
Commissioner of Customs.

[FR Doc.77-26923 Filed 9-14-77;8:45 am]
ASSIGNMENT OF HEARINGS

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 Dockets 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 22301 (Sub-No. 24), Sioux Transportation Co., Inc. now assigned September 8, 1977, at Omaha, Neb., is canceled, application dismissed.

MC 4405 (Sub-No. 51), Dealers Transit, Inc., now assigned October 18, 1977, to Dallas, Tex. is canceled, application dismissed.


MC 142672 (Sub-No. 3), David Beneux Produce and Trucking, Inc., and MC 142672 (Sub-No. 4), David Beneux Produce and Trucking, Inc., now assigned October 4, 1977, at Philadelphia, Pa., will be held in the U.S. Custom House, Second and Chestnut Street.

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INTERSTATE COMMERCE COMMISSION

[Notice No. 460]

ASSIGNMENT OF HEARINGS

MC 111710 (Sub-No. 632), Willis Shaw Prowm Express, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Custom House, Second and Chestnut Street.

MC 139866 (Sub-No. 80), Gangloff & Down-Juan Trucking, Inc., now assigned October 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Street.

MC 142497 (Sub-No. 1), Atlantic Charter Bus Service, Inc., now assigned October 12, 1977, at Norfolk, Va., will be held in Grand Jury Room 421, U.S. District Courthouse, Federal Building.

MC 138989 (Sub-No. 174), Arkansas-Best Freight System, Inc., now assigned October 13, 1977, at New Orleans, La., is canceled.

MC 65898 (Sub-No. 33), Decato Bros., Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.

MC 143130, Ritchie Bus Lines, Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.

PROTESTS

MC 60914 (Sub-No. 49), Aera Trucking, Inc., now assigned October 17, 1977, at Washington, D.C., for prehearing in the Interstate Commerce Commission, Washington, D.C.

MC 111172 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop now assigned October 17, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.

MC 142881 (Sub-No. 1), Rexford C. Greer, d.b.a. American Truck Stop now assigned October 1, 1977, at Harrisburg, Pa., will be held in Room No. 922, Federal Building, 228 Walnut Street.

MC 145060, C&M Express, Inc., now assigned October 18, 1977, at Baltimore, Md., will be held in Room G-30, Federal Building, 31 Hopkins Plaza.

MC 143059 (Sub-No. 1), Mercer Water & Sewer Transportation Co., Inc., now assigned September 21, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

HIGHER RATES

MC 4405 (Sub-No. 547), Dealers Transit, Inc., now assigned September 15, 1977, at Dallas, Tex., is canceled and application dismissed.


MC 111172, Rexford C. Greer, d.b.a. American Truck Stop now assigned October 17, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.

MC 142881, Rexford C. Greer, d.b.a. American Truck Stop now assigned September 21, 1977, at Philadelphia, Pa., will be held in Grand Jury Room 421, U.S. District Courthouse, Federal Building.

MC 55898 (Sub-No. 53), Decato Bros., Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.


MC 111172, Rexford C. Greer, d.b.a. American Truck Stop now assigned October 17, 1977, at Philadelphia, Pa., will be held in U.S. Customs Court Room, 3d Floor, U.S. Custom House, Second and Chestnut Streets.

MC 142881, Rexford C. Greer, d.b.a. American Truck Stop now assigned October 17, 1977, at Harrisburg, Pa., will be held in Room No. 922, Federal Building, 228 Walnut Street.

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MC 142881, Rexford C. Greer, d.b.a. American Truck Stop now assigned September 21, 1977, at Philadelphia, Pa., will be held in Grand Jury Room 421, U.S. District Courthouse, Federal Building.

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MC 55898 (Sub-No. 53), Decato Bros., Inc., now assigned October 17, 1977, at Boston, Mass., and will be held on the Fifth Floor, 150 Causeway.

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served upon applicants’ representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protestants must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. The protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operations authorized are limited to transportation service to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, D.C. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-7725 filed August 22, 1977. Transferee: EDWARD N. BUTTON, INC., 1329 Pennsylvania Avenue, N.W., Washington, D.C. 20004. Transferee’s representative: Donald W. Smith, P.O. Box 2465, One Indiana Square, Indianapolis, Ind. 46282. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 10797 issued March 20, 1951, as follows: Machinery, parts, materials, equipment, and supplies used in the preparation and serving of foods in restaurants or commissaries between Washington, D.C., on the one hand, and, on the other, points in New Mexico, Arizona, and California. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, D.C. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77230 filed August 22, 1977. Transferee: WABASH VALLEY VAN & STORAGE COMPANY, 2237 Locust Street, Terre Haute, Ind. 47807. Transferee’s representative: Robert O. Michels and Jerry D. Flynn, doing business as ACME Van & Storage Co., 2237 Locust Street, Terre Haute, Ind. 47807. Applicants’ representative: Donald W. Smith, Suite 2485, One Indiana Square, Indianapolis, Ind. 47204. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 35436 issued October 1, 1973, as follows: Household goods as defined by the Certificate of-Applicant, between Terre Haute, Ind., and points within 15 miles thereof, on the one hand, and, on the other, points in Tennessee, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77281 filed August 25, 1977. Transferee: GARY J. WARNER, doing business as WARNER WAREHOUSING CO., 180 East Mill Street, Marion, Ohio 43305. Transferee’s representative: Theodore Stanavich, 749 South College Ave. Address: Same as Transferee. Applicants’ representative: Harold J. Keating, 2187 Armistead Road, Suit 406, Marion, Ohio 43305. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 19797 issued March 20, 1971, as follows: Refrigerated, poultry, pork, beef, and pork products, from Marion, Ohio, to Lawrenceburg, Ind., and Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying application for temporary authority under Section 210a(b).

No. MC 61403 (Sub-No. 248TA), filed August 26, 1977, Applicant: THE MAISON AND DIXON TANK LINES, INC., P.O. Box 269, Hwy. 11W, Kingsport, Tenn. 37662. Applicant’s representative: Charles E. Cox, P.O. Box 689, Kingsport, Tenn. 37662. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting tank vehicles, from Montgomery, Ala., to Cincinnati, Ohio, and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant’s information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from the approval of the application. A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 61895 (Sub-No. 68TA), filed August 26, 1977, Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24075. Applicant’s representative: John D. Stone, P.O. Box 355, Collinsville, Va. 24075. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting salt and salt products, except in bulk, from Akron, Ohio, and St. Clair, Mich., to points in North Carolina, South Carolina, and Virginia, for 180 days. Applicant has also filed an underlying application for temporary authority under Section 210a(b).

MOTOR CARRIERS OF PROPERTY

No. MC 103207 (Sub-No. 493TA), filed August 23, 1977, Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant’s representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Photographic products, in vehicles equipped with mechanical refrigeration, from Dallas, Tex., to Kansas City, Kan., and Kansas City, Mo., restricted to traffic originating at Dallas, Tex., and destined to the named points, for 180 days. Applicant has also filed an underlying application for temporary authority under Section 210a(b).

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per(s); Agfa-Gevaert, Inc., 1789 Hurd Drive, Irving, Tex. 75062. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Texas 75242.

No. MC 108207 (Sub-No. 465TA), filed August 23, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 316 Cadiz Street, P.O. Box 5888, Dallas, Texas 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Texas 75222. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Frozen food, (2) Frozen vegetables and fruits, (3) Frozen dairy products and other foodstuffs, (4) Meat and meat by-products, (5) Meat packing plants (except hides and commodities in bulk), from the plantsite and/or storage facilities of Geo. A. Hormel at or near Fort Dodge, Iowa, to Leachville, Ark., restricted to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Texas 75242.

No. MC 109724 (Sub-No. 3TA), filed August 18, 1977. Applicant: PAUL J. SCHMIT TRUCKING, 17755 Bedford Drive, Brookfield, Wis. 53005. Applicant's representative: Wm. C. Dineen, 110 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Send, in bulk, in tank vehicles, from the unincorporated community of Kleeville, town of Springfield, Dane County, Wis., to points in Iowa and Minnesota, under a continuing contract or contracts, with George M. Pendergast and Co., Inc., for 180 days. Supporting shipper(s): George M. Pendergast & Co., Inc., 615 W. Canal Street, Milwaukee, Wis. 53203. Application includes an opposition to: Gall Gaughey, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, P.O. Box 5888, Dallas, Texas 75222. Send protests to: Gall Gaughey, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, P.O. Box 5888, Dallas, Texas 75222.

No. MC 1111302 (Sub-No. 110TA), filed August 26, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amber road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen, Sales and Traffic, P.O. Box 16470, 1500 Amber Road, Knoxville, Tenn. 37919. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry sodium silicate, Interstate Commerce Commission, in hopper-type vehicles, from the plantsite of International Salt (American Enka) in Lowland, Tenn., to the plantsites of Deering Milliken Company in Abbeville, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 60 days of operating authority. Supporting shipper(s): Inter national Salt Company, 1600 Tullie Circle, Suite 153, Atlanta, Ga. 30328. Send protests to: Joe J. Tutte, District Supervisor, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37219.

No. MC 111729 (Sub-No. 715TA), filed August 13, 1977. Applicant: FUROLA TRANSPORTATION, INC., P.O. Box 588, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Automobile windows, windshield, metal striping, rubber gaskets, and materials and supplies used in the installation and mounting of same, restricted against the transportation of packages or articles weighing in excess of 100 pounds, between Memphis, Tenn. on the one hand and, on the other, points in Arkansas and points in and north of the following Mississippi Counties: Hinds, Lauderdale, Newton, Rankin, Scott, and Warren, for 180 days. Supporting shipper(s): Binswanger Glass Company, 1514 S. Main St., Memphis, Tenn. 38111. Send protests to: Maria B. Kejes, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112617 (Sub-No. 373TA), filed August 25, 1977. Applicant: LIQUID TRANSPORTING, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Polymer solution (except liquid resins and liquid plastics), in bulk, in tank vehicles, from the plantsite of Inmont Corporation at Greenville, Ohio, to the Lummus Company at or near Bruceton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. John A. Ganote, Assistant Plant Manager, Inmont Corporation, 2148 So. 41st Street, Louisville, Ky. 40211. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, Section C-14, P.O. Box 26 Post Office Blvd., Louisville, Ky. 40202.

No. MC 115821 (Sub-No. 30TA), filed August 19, 1977. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks, II, 1301-1100 Commerce Street, Room 13C12, Louisville, Ky. 40202. (Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prefabricated buildings, complete, knocked down or in sections, and equipment and materials incidental to the erection of such buildings when transported in connection therewith, from Oakland, Maine to points in the States of Massachusetts, Pennsylvania, New Hampshire, Vermont, New York, Rhode Island, Connecticut, Ohio, Michigan, Florida, North Carolina, South Carolina, and California, and to points on the U.S.-Canada Boundary line in New York, Vermont, New Hampshire, and Maine for products destined for the Canadian provinces of Nova Scotia, Ontario, Quebec, and New Brunswick, under a continuing contract, or contracts, with Katahdin Forest Products Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Katahdin Forest Products Company, Oak- field, Maine. Send protests to: Donald C. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Port- land, Maine 04111.

No. MC 117686 (Sub-No. 175TA), filed August 18, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5006 South Lewis Blvd, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wichier, Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Glass beads, glass spheres and thermo plastic materials and supplies used in the application of the commodities named in (1) above (except commodities in bulk), from Jackson, Miss., to points in Arkansas, illi-
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nois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and South Dakota, for 180 days. Supporting shipper(s): B. J. Young, Controller, Cataphote Division of Ferro Corp., Box 2369, Minot, N.D. 58702. Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.


No. MC 123408 (Sub-No. 4TA), filed August 11, 1977. Applicant: WILLIAM GILCHRIST, 165 North Kelsey Avenue; Old Forge, Pa. 18518. Applicant's representative: Joseph P. Hoary, 121 South Main Street; Taylor, Pa. 18517. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Materials, supplies, and products used in or produced by the food processing industry (except commodities in bulk), from Erie and North East, Pa.; Dunkirk, Buffalo, Newark, and Westfield, N.Y., to Virginia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, and Florida. The operator is authorized herein to be limited to a transportation service to be performed, under a continuing contract, or contracts, with Welch Foods, Inc., of Westfield, N.Y., for 180 days. Applicant's representative: Larry D. Pemberton, and Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food businesses, and articles distributed by meat packing-houses, as is dealt in by wholesale, retail, and chain grocery and food businesses, (except commodities in bulk), from the plantsite and/or warehouse facilities of the R. T. French Co. at Springfield, Mo., to the state of Florida, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Metal containers, container ends and closures, materials, equipment and supplies used in the manufacture, sale or distribution of containers, ends, and closures (except commodities in bulk), from the plantsite of The Continental Group, Inc., at Danville and Monica, Ill., under a continuing contract, or contracts, with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Welch Foods, Inc., of Westfield, N.Y., for 180 days. Applicant's representative: Donna Ehrlich, 14507 Frontier Road, New York, Nebr. 68128. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Calcium propionate, sodium propionate and sodium diacetate (except commodities in bulk), from Verona, Mo.; Dallas, Tex.; and Lodi, N.J.; to Atlanta, Chicago, Cincinnati, Columbus, Dayton, Milwaukee, Des Moines, N.C.; Cincinnati and Cleveland, Ohio; Detroit, Mich.; Franklin Park, Ill.; Los Angeles, Calif.; and Williamsport, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federated Mills, Inc., Evelyn Higgins, Director of Marketing, 110 Kennedy Drive, Smithtown, N.Y. 11787. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S.P.O. Bidg., Scranton, Pa. 18503.

No. MC 13231 (Sub-No. 2GTA), filed August 18, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: D. Paul Stafford, Winkle and Wells Exchange Park, Suite 1125, P.O. Box 45538, Dallas, Tex. 75242. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat by-products, and articles distributed by meat packing-houses, as is dealt in by wholesale, retail, and chain grocery and food businesses, (except commodities in bulk), from the plantsite of Superior Packing Co. at or near Ellensburg, Wash., to Boston and Worcester, Mass.; Baltimore and Landover, Md.; Cambridge, Mass.; and New York City, N.Y.; Harrisburg and Philadelphia, Pa.; Norfolk and Williamsburg, Va.; Washington, D.C.; Bayonne, N.J.; Chicago, Ill., and its commercial zone, and Kansas City, Kansas, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Superior Packing Co., P.O. Box 277, Ellensburg, Wash. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods (except frozen and except in bulk), from the plantsite of the John of Arc facilities at Beltside and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming, for 180 days. Supporting shipper(s): Division of Arc Co., Inc. 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S.P.O. Bidg., Scranton, Pa. 18503.

No. MC 140033 (Sub-No. 29TA), filed August 12, 1977. Applicant: CHARTER TRANSPORTATION, INC., 1715 Jackson Building, Suite 13C12, Dallas, Texas 75242. Applicant's representative: Larry D. Pemberton, and Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned goods (except frozen and except in bulk), from the plantsite of the John of Arc facilities at Beltside and St. Francisville, La., to points in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming, for 180 days. Supporting shipper(s): Division of Arc Co., Inc. 2231 West Altorfer Drive, Peoria, Ill. 61614. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S.P.O. Bidg., Scranton, Pa. 18503.
by motor vehicle, over irregular routes, transporting: Wood furniture stock, wood furniture parts, wood board, from the facilities of Allied International, Inc., at or near Hanover, South Boston, and Westfield, Mass., Norwich and Windsor Locks, Conn., to points in Arkansas, Tennessee, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia and Wisconsin, for 180 days. Supporting shipper(s): Allied International, Inc. 490 Rear Rutherford Avenue, Charleston, Maine 04230. Send protests to: Monica A. Bledgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 141134 (Sub-No. 3TA), filed August 16, 1977. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, Ill. 62221. Applicant's representative: Ernest A. Brooks, II 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry animal and poultry feed, from Shelby County, Tenn., to Moulton, Town Creek, Athens, and Cullman, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joe D. Daffin, Truck Operations Manager, International Multifoods Corp., 1200 Multifoods Corp., Minneapolis, Minn. 55402. Send protests to: Harold C. Joffe, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62703.

No. MC 142508 (Sub-No. TTA), filed August 9, 1977. Applicant: NATIONAL TRANSPORTATION, INC., 1401 "L" Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in the Description case 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and facilities of Morgan Colorado Beef Co. at or near Fort Morgan, Colo., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edward T. Hopkins, Manager of Operations, Morgan Colorado Beef Co., P.O. Box 487, Fort Morgan, Colo. 80701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 820, 110 North 14th Street, Omaha, Nebr. 68102.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[PR Dec. 77-269123 Filed 9-14-77; 7:04 am]

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

NEBRASKA INTRASTATE FREIGHT RATES AND CHARGES—1977

Petition for Investigation of Intrastate Freight Rates and Charges Within State of Nebraska

Present: Charles L. Clapp, Commissioner, to whom this matter has been assigned for action.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed May 31, 1977, petitioners, five common carriers by railroad 1 subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Nebraska, request that this Commission institute an investigation of their intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, to determine if any undue burden on or competitive disadvantage to any other common carrier in the State of Nebraska, creating an undue burden or otherwise causing or creating an unreasonable discrimination, or both, shall be described for the full increases authorized for interstate application by this Commission in Ex Parte No. 305-RE. 2

By joint petition filed July 1977 with the Nebraska Public Service Commission, petitioners sought to make the increases granted in Ex Parte No. 305-RE applicable on Nebraska intrastate traffic. The Nebraska Public Service Commission, by order of April 26, 1976, denied the increases, and after further hearing again denied the increases by order of November 30, 1976, and finally denied further hearing on December 14, 1976. Petitioners contend that present intrastate freight rates from, to, and within Nebraska are just and reasonable and that the increases sought are not too great. Furthermore, the petitioners maintain that the increases do not exceed a just and reasonable level; that transportation conditions for the intrastate transportation of recyclables in Nebraska are not more favorable than for interstate traffic; that traffic moving under present Nebraska intrastate rail freight rates and charges fails to provide its fair share of earnings; and that the present Nebraska intrastate freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Nebraska and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 305-RE.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or conditions of any state.

Wherefore, and good cause appearing therefor:

It is, therefore, ordered, that the petition be, and it is hereby granted, the Commission may institute an investigation, under sections 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Nebraska intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable preference, preference, or prejudice as between interstate carriers, or to cause either such carriers, or cause undue or unreasonable advantage, preference, or prejudice, or to cause either such carriers, or otherwise cause or create an unreasonable burden, or other violation of law, found to exist.

It is further ordered, that all common carriers by railroad operating in the State of Nebraska, subject to the jurisdiction of the Federal Railroad Administration, and also operating in intrastate commerce in Nebraska, and who are, hereby made respondents in this proceeding.

It is further ordered, that all persons who wish to participate in this proceeding shall file and receive a copy of this order, and file and receive a copy of all pleadings, or other submission, or any other document necessary to the determination of this matter, shall make known that fact by notifying the Office of Proceedings, Room 5242, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the filing of this order. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, that as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

It is further ordered, that a copy of this order shall be served upon each of the petitioners and respondents herein; that the State of Nebraska be notified of the filing by serving copies of this order upon the Governor of the State of Nebraska and to the Nebraska Public Service Commission; and that further notice of this order be given by publishing a copy of this order in the Federal Register for publication in the Federal Register.
NOTICES

No. MC 135599 M1 (Notice of filing of petition to broaden territorial description to include the states of New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Pennsylvania, Maryland, Maine, and the District of Columbia, to the facilities of St. Regis Paper Co., located at or near Troy, New York, New York corporation, at Bronx, N.Y., to points in Massachusetts, Rhode Island, Maryland, Virginia, and the District of Columbia. By the instant petition, petitioner seeks to add Brown Bridge Mills, Inc., of Troy, Ohio as an additional shipper to the above authority.)

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY


The following petitions seek modifications or interpretations of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket," "sub," and "suffix" (e.g., Ml, M2) numbers identified by the Federal Register notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before October 17, 1977.

The following grants of operating rights authority are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.


Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.
46459

NOTICES

sylvania-West Virginia State line and
extending south along U.S. Highway 19
to Sutton, W. Va.,. thence along West
Virginia Highway 4 to Clendenin, W. Va.,
thence along U.S. Highway 119 to junc­
tion U.S. Highway 60 a t Charleston,
W. Va. thence east along U.S. High­
way 60 to the Virginia-West Virginia
State line to (a) points in that part of
Ohio on and bounded by a line begin­
ning at Bellaire, Ohio, and extending
west along Interstate Highway 70 to
junction Interstate Highway 77, thence
north along Interstate Highway 77 to
junction U.S. Highway 36, thence west
along U.S. Highway 36 to junction Ohio
Highway 16, thence south along Ohio
Highway 16 to junction Ohio Highway
60, thence south along Ohio Highway 60
to junction Interstate Highway 70,
thence west along Interstate Highway 70
to junction U.S. Highway 23, thence
south along U.S. Highway 23 to Ports­
mouth, Ohio, thence east along U.S.
Highway 52 to junction Interstate High­
way 64 at Huntington, W. Va., and (b)
Belmont, W. Va., restricted in (1) (b) to
the transportation of traffiic destined to
the points in (1) (a) above, and (2) Bel­
mont, W. Va., to points in that part of
Ohio on and bounded by a line beginning
at Bellaire, Ohio, and extending west
along Interstate Highway 70 to junction
Interstate Highway 77, thence north
along Interstate Highway 77 to junction
U.S. Highway 36, thence west along U.S.
Highway 36 to junction Ohio Highway
16, thence south along Ohio Highway 16
to junction Ohio Highway 60, thence
south along Ohio Highway 60 to ju nc­
tion Interstate Highway 70, thence west
along Interstate Highway 70 to junction
U.S. Highway 23, thence south along U.S.
Highway 23 to Portsmouth, Ohio, thence
east along U.S. Highway 52 to junction
Interstate Highway 64 a t Huntington,
W. Va., restricted to the transportation
of traffic which originated at points in
the origin territory in (1) above.

ton, Ky., Detroit and Grand Rapids,
Mich., Cleveland, Columbus, and Cincin­
nati, Ohio, Pittsburgh and Evans City,
Pa., Nashville and Memphis, Term.,
Roanoke, Va., and Charleston, W. Va.;
and (2) returned shipm ents of the com­
modities named in (1) above, in the re­
verse direction, under a continuing con­
tract or contracts with The Kroger Co.,
of Cincinnati, Ohio, 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 re­
quirements of the Interstate Commerce
Act and the Commission’s rules and reg­
ulations. The purpose of this republica­
tion 1s to indicate applicant’s actual
grant of authority.
M otor C arrier , B ro k er , W ater C arrier
and F reigh t F orwarder O perating
R ig h ts A pplica tio n s

The following applications are gov­
erned by Special Rule 247 of the Com­
mission’s General Rules of Practice (49
CFR § 1100.247). These rules provide,
among other things, th at a protest to the
granting of an application must be filed
with the Commission within 30 days after
the date of notice of filing of the appli­
cation is published in the F ederal R e g is ­
t e r . Failure to seasonably to file a pro­
test will be construed as a waiver of op­
position and participation in the pro­
ceeding. A protest under these rules
should comply with Section 247(d) (3) of
the 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 spe­
cific portions of its authority which protestant believes to be in conflict with
th at sought in the application, and de­
scribing in detail the method—whether
by joinder, interline, or other means—by
which protestant would use such author­
ity to provide all or part of the service
N ote .—The purpose of the instant repub­ proposed), and shall specify with par­
lication is to indicate the actual authority ticularly the facts, matters, and things
granted.
relied upon, but shall not include issues
No. MC 134238 (Sub-No. 9) (Republr- or allegations phrased generally. Pro­
cation) filed May 27, 1975, published in tests not in reasonable compliance with
the F ederal R eg ist er issue of June 26, the requirements of the rules may be re­
The original and one copy of the
1975, and republished this issue. Appli­ jected.
protest shall be filed with the Commis­
cant: GENE’S, INC., 10115 Brookville- sion, and a copy shall be served concur­
Salem Road, Clayton, Ohio 45315. Appli­
cant’s representative: Paul F. Berry, 8 rently upon applicant’s representative,
if not representative is
East Broad Street, Ninth Floor, Colum­ or applicant
If the protest includes a request
bus, Ohio 43215. An Order of the Com­ named.
for oral hearing, such requests shall
mission, Division 1, Acting as an Appel­ meet the requirements of section 247(d)
late Division, dated August 24, 1977, and (4) of the special rules, and shall include
served September 1, 1977, finds on re­ the certification required therein.
consideration, that operation by appli­
Section 247(f) further provides, in
cant in interstate or foreign commerce
as a con tract carrier by motor vehicle, part, that an applicant who does not in­
over irregular routes of (1) Ic e cream , tend timely to prosecute its application
ice cream novelties, and w ater ices, in shall promptly request dismissal thereof,
vehicles equipped with mechanical re­ and that failure to prosecute an applica­
tion under procedures ordered by the
frigeration, (a) from the storage facil­ Commission will result in dismissal of
ities of The Kroger Co., at or near Cin­ the application.
cinnati, Ohio, to St. Louis, Mo., and Little
Further processing steps will be by
Rock, Ark., and (b) from the warehouse Commission order which will be served
of Home Dairy Co., at Berne, Ind., to St. on each party of record. Broadening
Louis, Mo., Little Rock, Ark., Atlanta, amendments will not be accepted after
Ga„ Peoria, 111., Louisville and Lexing­ the date of this publication except for

good cause shown, and restrictive
amendmends will not be entertained fol­
lowing publication in the F ederal R eg ­
is t e r of a notice th at the proceeding has
been assigned for oral hearing.
Each applicant states that there will
be no significant effect on the quality of
the human environment resulting from
approval of its application.
No. MC 1239 (Sub-No. 9), filed August
1, 1977. Applicant: PONY TRUCKING,
INC., 501 State Route 7, Steubenville,
Ohio 43952. Applicant’s representative:
Maxwell A. Howell, 1100 Investment
Building 1511 K Street NW., Washing­
ton, D.C. 20005. Authority sought to op­
erate as a con tract carrier, by motor ve­
hicle, over irregular routes. transporting
iron and steel, iron and steel products, ti­
tanium an d titanium products, between
Midland, Pa., on the one hand, and, on
the other, points in Connecticut, Illinois,
Indiana, Michigan, Massachusetts, New
Jersey, New York, Ohio and Wisconsin,
under a continuing contract or contracts
with Crucible, Inc.
N ote .—I f a hearing is deemed necessary,
the applicant requests th at it be held at
Pittsburgh, Pa.

No. MC 2253 (Sub-No. 75), filed Au­
gust 3, 1977. Applicant: CAROLINA
FREIG H T CA RRIERS CORPORATION,
P.O. Box 697, Cherryville, N.C. 28021. Ap­
plicant’s representative: Edward G. Villalon, Suite 1032, Pennsylvania Building,
Pennsylvania Ave. and 13th St., NW.,
Washington, D.C. 20004. Authority sought
to operate as a com m on carrier, by motor
vehicle, over regular routes, transport­
ing: G en eral com m odities (except those
of unusual value, classes A and B explo­
sives, household goods as defined by the
Commission, commodities in bulk, and
those requiring special equipment): (1)
Between Atlanta, Georgia and Knoxville,
Tennessee, serving Knoxville and C hatta­
nooga, Tennessee for purposes of joinder
only: From Atlanta over Interstate High­
way 75 to Knoxville, and return over the
same route. From Atlanta over U.S.
Highway 41 to junction U.S. Highway
411, thence over U.S. Highway 411 to
junction U.S. Highway 129, thence over
U.S. Highway 129 to Knoxville, and re­
turn over the same route. (2) Between
Chattanooga, Tennessee and Chicago,
Illinois, serving Chattanooga, Tennessee,
Louisville, Kentucky, Indianapolis, Indi­
ana and the junction of Interstate High­
way 65 and U.S. Highway 30 for purposes
of joinder only: From Chattanooga over
Interstate Highway 24 to junction In ter­
state Highway 65, thence over Interstate
Highway 65 to junction Interstate High­
way 80, thence over Interstate Highway
80, to junction Interstate Highway 94,
thence over Interstate Highway 94 to
Chicago, and return over the same route.
(3)
Between Knoxville, Tennessee and
Cincinnati, Ohio, serving Knoxville, Ten­
nessee, Lexington, Kentucky, and the
junction of U.S. Highway 25E and In ter­
state Highway 75 for purposes of joinder
only: From Knoxville over Interstate
Highway 75 to junction Interstate High­
way 71, thence over interstate Highways
71 and 75 to Cincinnati, and return over
the same route. (4) Between Lexington,

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Kentucky and Louisville, Kentucky, serving Lexington and Louisville, Kentucky for purposes of joinder only: From Lexington over Interstate Highway 64 to Louisville, and return over the same route. (5) Between Louisville, Kentucky and Cincinnati, Ohio, serving Louisville, Kentucky for purposes of joinder only: From Louisville over Interstate Highway 71 to junction Interstate Highway 75, thence over Interstate Highway 75 to Cincinnati, and return over the same route. (6) Between Mercer, Ohio and junction U.S. Highway 30 and Interstate Highway 65, serving the junction of U.S. Highway 30 and Interstate Highway 65 for purposes of joinder only: From Mercer over U.S. Highway 33 to junction U.S. Highway 30, thence over the same route. (7) Between Charleston, West Virginia and Parkersburg, West Virginia, serving Charleston, West Virginia and Parkersburg, West Virginia for purposes of joinder only: From Charleston over U.S. Highway 81 to junction Interstate Highway 65, and return over the same route. (8) Between Rocky Mount, North Carolina and Lynchburg, Virginia, serving Lynchburg, Virginia for purposes of joinder only: From Rocky Mount over U.S. Highway 64 to junction North Carolina Highway 93, thence over North Carolina Highway 98 to Durham, North Carolina, thence over U.S. Highway 501 to Lynchburg, and return over the same route. (22) Between Greensboro, North Carolina and junction Interstate Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania, serving Lynchburg, Virginia and junction Interstate Highway 76 and U.S. Highway 30 at or near Breezewood, Pennsylvania for purposes of joinder only: From Greensboro over U.S. Highway 30 to junction U.S. Highway 522 to junction Interstate Highway 76, thence over Interstate Highway 76 to junction U.S. Highway 30 at or near Breezewood, and return over the same route. (23) Between Lynchburg, Virginia and Charleston, West Virginia, serving Lynchburg, Virginia and junction U.S. Highways 19 and 60 for purposes of joinder only: From Lynchburg over U.S. Highway 501 to junction U.S. Highway 60, thence over U.S. Highway 501 to Charleston, and return over the same route. (24) Between Durham, North Carolina and Greensboro, North Carolina, from Durham over Interstate Highway 85 to Greensboro, and return over the same route in connection with routes (1)–(26), serving points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 98, 210 to junction Interstate Highway 81 at or near Ripley, West Virginia for purposes of joinder only: From junction U.S. Highway 33 and Interstate Highway 77 at or near Ripley over U.S. Highway 33 to Columbus, and return over the same route. (25) Between Durham, North Carolina and Greensboro, North Carolina: From Durham over Interstate Highway 85 to Greensboro, and return over the same route.
Traffic transported between points in Georgia, on the one hand, and, on the other, points in North Carolina and South Carolina (except points within 35 miles of Clover, South Carolina) is restricted to movements to, from, or through points in North Carolina which are within 35 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina. (4) Transportation of traffic between points in Georgia, on the one hand, and, on the other, South Carolina, is restricted to movements to, from, or through any point in North Carolina which is both within 30 miles of Charlotte, North Carolina and within 35 miles of Clover, South Carolina (except those within 35 miles of Clover, South Carolina). (5) Restricted against the transportation of traffic between points in West Virginia, Ohio, Indiana, Illinois, Wisconsin, and points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 8, thence along U.S. Highway 219 to Thistleton. (6) The applicant’s representative: Wil­

Russell and James Franklin Russell, do­

Applicant requests that it be held at Jack­

Han, 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty household goods shipping containers, set up or knocked down, between points in the United States, including Alaska and Hawaii, and between points in the United States and Canada located in Montana, to.

Note.—Applicant states that this application seeks to convert an existing contract permit to a common carrier Certificate of Public Convenience and Necessity in com­pliance with the Commission’s order in MC 11722, (Sub-No. 56). dated June 23, 1977, to eliminate dual operations. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

Note.—Applicant is seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty bottles and cans, from points in Idaho and Oregon to Yakima, Washing­

tion. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

Note.—Applicant is seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty bottles and cans, from points in Idaho and Oregon to Yakima, Washing­

tion. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

## Notices

### No. MC 12350 (Sub-No. 133), filed August 5, 1977.
Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 18190, Houston, Tex. 77022. Applicant’s repre­

sentative: Beth Waggoner

TRUCKING CO., d.b.a. the Waggoners, 600 West Sixteenth Street, P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty household goods shipping containers, set up or knocked down, between points in the United States, including Alaska and Hawaii, and between points in the United States and Canada located in Montana, to.

Note.—Applicant states that this application seeks to convert an existing contract permit to a common carrier Certificate of Public Convenience and Necessity in com­pliance with the Commission’s order in MC 11722, (Sub-No. 56). dated June 23, 1977, to eliminate dual operations. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

Note.—Applicant is seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty bottles and cans, from points in Idaho and Oregon to Yakima, Washing­

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tion. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

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Note.—Applicant is seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty bottles and cans, from points in Idaho and Oregon to Yakima, Washing­

tion. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

Note.—Applicant is seeks to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty bottles and cans, from points in Idaho and Oregon to Yakima, Washing­

tion. If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.
NOTICES

89512. Applicant's representative: David N. Inwood, P.O. Box 1611, Reno, Nev. 89505. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except household goods, as defined by the Commission, in bulk, between Carson City, Nev., and Ridgecrest, Calif., over U.S. Highway 395, serving all intermediate points. Restriction: Restricted to traffic originating at, or destined to points in Los Angeles County, Calif., and destined to points within 4 miles of the California-Nevada state line.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Reno or Carson City, Nev., or Bishop, Calif.

No. MC 44055 (Sub-No. 47), filed July 25, 1977. Applicant: MILK LINE LINES, INC., 2300 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: John H. Haggerty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Yucca, Ariz., and Kingman, Ariz., from Yucca over Interstate Highway 40 (U.S. Highway 60) to Kingman, and return over the same route, serving all intermediate points; and (2) between Wickenburg, Ariz., and Las Vegas, Nev., from Wickenburg over U.S. Highway 93 to Las Vegas, and return over the same route, serving all intermediate points in Arizona.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Kingman, Ariz., Las Vegas, Nev., or Phoenix, Ariz.

No. MC 47171 (Sub-No. 90), filed August 5, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4359, Greenville, S.C. 29608. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Lytle, Conn., and Kingsport, Tenn., and return over the same route, serving all intermediate points; and (2) between Wickenburg, Ariz., and Las Vegas, Nev., from Wickenburg over U.S. Highway 93 to Las Vegas, and return over the same route, serving all intermediate points in Arizona.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Kingsport, Tenn., or Las Vegas, Nev., or Phoenix, Ariz.

No. MC 51146 (Sub-No. 515), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 1542, Denver, Colo. 80201. Applicant's representative: Wayne Dowling (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Carson City, Nev., and Ridgecrest, Calif., over U.S. Highway 395, serving all intermediate points. Restriction: Restricted to traffic originating at, or destined to points in Los Angeles County, Calif., and destined to points within 4 miles of the California-Nevada state line.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 516), filed August 8, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 1542, Denver, Colo. 80201. Applicant's representative: Wayne Dowling (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Carson City, Nev., and Ridgecrest, Calif., over U.S. Highway 395, serving all intermediate points. Restriction: Restricted to traffic originating at, or destined to points in Los Angeles County, Calif., and destined to points within 4 miles of the California-Nevada state line.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo., or Salt Lake City, Utah. Common control may be involved.

No. MC 55067 (Sub-No. 109), filed August 2, 1977. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: James M. Hodges, 1060 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Polyethylene drums, from Racine, Wis., to Lake View, Iowa.

Note.—If a hearing is deemed necessary, the applicant requests that the hearing be held at Omaha, Neb., or Chicago, Ill.

No. MC 60014 (Sub. 63), filed August 8, 1977. Applicant: HOUSTON TRUCK LINES, INC., P.O. Box 308, Monroeville, Pa. 15145. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Con­duit or pipe, cement, containing asbestos fiber and fittings thereof, from the plant of Cement Asbestos Products Co. (subsidiary of ASARCO, Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 56787 (Sub-No. 59), filed July 22, 1977. Applicant: BROWN TRANSORT CORP., 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat and meat products, fresh or frozen, from Bartow, Fla., to points in Massachusetts, New York, New Jersey, Louisiana, Mississippi, and the District of Columbia.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 57697 (Sub-No. 9), filed July 25, 1977. Applicant: LESTER SMITH TRUCKING CO., P.O. Box 209, Pampa, Texas 79065. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; serving the construction site of Cement Asbestos Products Co. (subsidiary of ASARCO, Inc.), at or near Ragland, Ala., to points in Connecticu
transporting; General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Altus, Okla., and Woodward, Okla., serving no intermediate municipalities, transporting: Granite cut stone in bulk, with Iron & steel articles, from the plant-site of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Ohio, Pennsylvania, and steel articles from the facilities of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Ohio, Pennsylvania, and steel articles from the facilities of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Ohio, Pennsylvania, and steel articles from the facilities of Atlas Steel and Wire located at or near Harahan, La., to points in Alabama, Georgia, Kentucky, Mississippi, Ohio, 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Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Minneapolis, Minn.

No. MC 107295 (Sub-No. 838), filed August 4, 1977. Applicant: PRE-FAB TRANSIT CO., a corporation, Route 150, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: Plywood and composition board, from Jacksonville, Fla., to points in the United States (except Alaska and Hawaii).

Note.—If a hearing is deemed necessary, the applicant requests that it be held in Jacksonville, Fla.

No. MC 107496 (Sub-No. 1099), filed August 8, 1977. Applicant: CALÉDONIA TRANSPORT CORP., 3202 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum products, in bulk, from Canton, Mo., to points in Illinois; and (2) petroleum products from Consolidated Oil Company's Terminal in South Dakota on, east and south of a line beginning at the North Dakota-South Dakota State line and extending along South Dakota Highway 45 to junction South Dakota Highway 44, thence along South Dakota Highway 44 to the Missouri River, and thence along the Missouri River to the South Dakota-Nebraska State line.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 107498 (Sub-No. 1100), filed August 8, 1977. Applicant: RIAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Tallow, in bulk, from Estherville, Iowa, to points in Wisconsin; and (2) Molasses, Liquid Feeds and Liquid Feed Supplements, in bulk, in tank vehicles, from the facilities of Cargill, Inc. located at Garden City, Kans. to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois or Minneapolis, Minnesota.

No. MC 107515 (Sub-No. 1097), filed August 1, 1977. Applicant: REFRIGERATED LUDLHAM & ULLMAN TRANSPORT CO., INC., P.O. Box 308, Forest Park, Georgia 30060. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE, Suite 315, Atlanta, Georgia 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, in the transportation of intravenous solutions, related drugs and medicines, and related medical supplies, in vehicles equipped with mechanical refrigeration, from Cleveland, Mississippi and Memphis, Tennessee, to points in Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois or Minneapolis, Minnesota.
LINES, INC., P.O. Box 48, Caledonia, New York 14423. Applicant's representative: S. Michael Richards, 44 N. 18th Ave., Webster, New York 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Compressed gases and liquid chemicals in bulk (except petroleum gases), from Houston, Texas, Moundsville, Charleston, and Natrona, W. Va., Lake Charles, Geismar, and Edgemoor, Del., to Charlotte, N.C., Pusan, Mo., Reserve, La., Millford, Va., Mobile, Ala., St. Petersburg, Jacksonville, and Fort Lauderdale, Fla., and Norfolk, Va. 

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 109876 (Sub-No. 1087), filed August 8, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicaco St., Enosville, Tennessee 37917. Applicant's representative: A. A. Metler (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Tanks, pressure vessels, custom fabrications of stainless steel and high alloys, from the plant of Alloy Fabricators, Inc., located at Trenton, Georgia to points in the United States (except Alaska and Hawaii).

Note.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 110420 (Sub-No. 771), filed August 8, 1977. Applicant: QUALITY CARRIERS, INC., 1100 Commercial Bldg., P.O. Box 337, Piasa, Prairie, Wis. 53168. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Chemicals, in bulk, in tank vehicles, from Brookfield, Wis., and North Baltimore, Ohio, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Tennessee, Texas, Wisconsin; and (2) Materials and supplies used in the manufacture of chemicals, in bulk, in tank vehicles, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin, to Brookfield, Wis., and North Baltimore, Ohio.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 110563 (Sub-No. 202), filed August 1, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, St. Route 28 North, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington St., Chicago, Illinois 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 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, 85 M.C.C. 209, 766, (except hides and commodities in bulk), from Sioux City, Iowa to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

No. MC 113661 (Sub-No. 393), filed August 1, 1977. Applicant: LIQUID TRANS PortERS, INC., 1232 Fern Valley Road, P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leon­ard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Whiskey and wine in bulk, in tank vehicles, from Bardstown, Kentucky on one hand, and, on the other, points in Atlanta, Georgia.

Note.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky. or Washington, D.C. Common control may be involved.


Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Georgia or Washington, D.C.

No. MC 112713 (Sub-No. 264), filed August 5, 1977. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 72-70, 10990 Roe Avenue, Shawnee Mission, Kansas 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), and services (except those requiring special equipment), serving the plantsite and facilities of Hosier Energy Div. of Indiana Statewide R.E.C., at or near Merom, Indiana, as an off-route point in conjunction with carrier's presently authorized operations.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.
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Note.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Texas or Tulsa, Oklahoma.

No. MC 113459 (Sub-No. 114), filed August 5, 1977. Applicant: J. H. JEFFRIES TRUCK LINE, INC., P.O. Box 94859, Oklahoma City, Okla. 73109. Applicant’s representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Pre-cut log buildings, from McCook, Nebraska, to points in the United States, including Alaska, but excluding Hawaii.

Note.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Tulsa, Okla.

No. MC 113678 (Sub-No. 688) (Correction), filed June 29, 1977 and published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected, this issue. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80642. Applicant’s representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods (except commodities in bulk), from Traverse City, Mich., to points in Arizona, California, Nevada, Idaho, Montana, and Utah, restricted to traffic originating at Traverse City, Mich.

Note.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill. The purpose of this republication is to delete the States of New Mexico, Oregon, and Washington, and to add the States of Idaho and Montana.

No. MC 113678 (Sub-No. 688), filed August 4, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80642. Applicant’s representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat products, meat by-products, and articles distributed by meat packinghouses (except commodities in bulk in tank vehicles), from Colorado, Nebraska, to points in the United States (except Alaska, Hawaii and Nebraska).

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo., or Omaha, Nebr.

No. MC 113678 (Sub-No. 698), filed August 4, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, Colo. 80642. Applicant’s representative: Roger M. Shaner (same as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Alcoholic beverages including wines (except commodities in bulk in tank vehicles), from Chicago, Ill., to points in Illinois and Kentucky. Applicant requests that the hearing be held at either Denver, Colo., or Omaha, Nebr.

No. MC 114211 (Sub-No. 313), filed August 8, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard St., Waterloo, Iowa 50704. Applicant’s representative: Mr. Daniel Sullivan, Suite 1400, 136 Wynnewood Professional Bldg., Dallas, Texas 75224. Authority sought to operate as a common carrier over irregular routes, by motor vehicle, transporting: Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment, lawn and leisure product dealers and manufacturers (except commodities in bulk) between Grand Island and Lexington, Nebraska and Vinton, Iowa on the one hand, and, on the other, points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California and the Ports of Entry between the United States and Canada located in North Dakota, Montana, Idaho and Washington.

Note.—If a hearing is deemed necessary we request it be held at either Chicago, Illinois or Washington, D.C.

No. MC 114552 (Sub-No. 136), filed August 2, 1977. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant’s representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington Va. 22210. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Roofing asphalt (except in bulk), from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Texas, and (2) Floors utilized in the manufacture and distribution of roofing asphalt (except commodities in bulk), from points in Alabama, Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Texas to Memphis, Tenn.

Note.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn.

No. MC 115511 (Sub-No. 253), filed August 2, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant’s representative: Kim G. Meyer, P.O. Box 672, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: Composition board and such materials, equipment and supplies as are used in the manufacture, distribution and installation thereof between the facilities of the United States Gypsum Company, located in Greenville, Mississippi, and the Ports of Entry between the United States Gypsum Company, Greenville, Mississippi, and the Ports of Entry between the United States Gypsum Company, Greenville, Mississippi, and the Ports of Entry between the States Gypsum Company, Greenville, Miss.

Note.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C. Common control may be involved.

No. MC 115904 (Sub-No. 79), filed August 5, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant’s representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Gypsum, gypsum products and building materials, from the facilities of Nucor Steel, a Division of Nucor Corporation, at or near Darlington, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, Tennessee and the District of Columbia.

No. MC 115841 (Sub-No. 586), filed August 2, 1977. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 23163, Nashville, Tenn. 37202. Applicant’s representative: Henry E. Eaton, 515 Pennsylvania Bldg., Pennsylvania Ave. and 18th St. NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Confectionery and confectionery products in vehicles equipped with mechanical refrigeration, from the plants and storage facilities of M&M/Mars, a division of Mars, Inc., near Chicago, Ill., to points in Ohio and Kentucky.

Note.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, or Nashville, Tenn., or Washington, D.C.


Note.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C. Common control may be involved.
materials (except in bulk) and such ma-

Note.—Common control may be involved.

If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga. or Washington, D.C.

No. MC 116456 (Sub-No. 68), filed Aug-

7, 1977. Applicant: RUSS TRANS-

PORT, INC., P.O. Box 4022, Cha-

teau, Tenn. 37424. Applicant's repre-

sentative: Jack Kieliewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) non-

ferrous scrap and aluminum ingots be-

tween the facilities of Texas Reduction Corp. located at or near Alvin, Tex., on the one hand, and, on the other, points in the United States (ex-

cept Alaska or Hawaii) and (2) non-

ferrous scrap and aluminum ingots be-

tween the facilities of Bayuk Cigars, Inc. located at or near Dothan, Ala.

Note.—If a hearing is deemed necessary, applicant requests that it be held at Austin or Houston, Tex.

No. MC 117119 (Sub-No. 647), filed Au-

gust 8, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 183, Elm Spring, Tex. Applicant's repre-

sentative: L. M. McLean (same address as applicant). Authority sought to oper-

ate as a common carrier, by motor ve-

hicle, over irregular routes, transporting: Such merchandise as is dealt in by retail discount stores (except commod-

ities in bulk), from Monroe, La., to Plain-

view, Tex.; McAlester and Ponca City, Okla.; Cynthiana and Corbin, Ky., re-

stricted to traffic originating at and des-

tined to facilities of Howard Bros. Dis-

count Stores, Inc.

Note.—Common control may be involved.

If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Ark., Memphis, Tenn., or New Orleans, La.

No. MC 117557 (Sub-No. 23), filed Au-

gust 4, 1977. Applicant: MATSON, INC., P.O. Box 26, Baltimore, Md. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a common carrier, by ve-

hicle, over irregular routes, transporting:

(1) Such machinery and equipment, as are generally used in construction, road building, mining, logging, farming, indus-

trial, and commercial activities, (2) parts, attachments, and accessories of the commod-

ities described in (1) above; and (3) materials, equipment, and supplies used in the manufacture, sales, and distribution of the commodities listed in (1) and (2) (except commodities in bulk) between points in the United States (except Alaska and Hawaii).

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Chi-

cago, Ill.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

P.O. Box 9693, Fort Worth, Tex. 76107. Authority sought to operate as a com-

mon carrier, by motor vehicle, over irreg-

ular routes, transporting: Malt bever-

ages and related advertising materials, and returned empty malt beverage con-

tainers, from Fort Worth, Tex., on the one hand, and, on the other, points in New Mexico and Colorado.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Fort Worth, Tex., or Denver Co.

No. MC 118130 (Sub-No. 80), filed Au-

gust 1, 1977. Applicant: SOUTH EAST-

ERN EXPRESS, INC., P.O. Box 6985, Fort Worth, Tex. 76115. Applicant's repre-

sentative: B. F. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to oper-

ate as a common carrier, by motor ve-

hicle, over irregular routes, transport-

ing: Automatic vehicle washing equip-

ment and detergents, and liquid house-

hold laundry products, from Fort Worth, Tex., to points in New Mexico, Kansas, Oklahoma, Colorado, Arizona, and Cali-

fornia.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Fort Worth or Dallas, Tex.

No. MC 119789 (Sub-No. 363), filed Au-

gust 5, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6182, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: (1) Such machinery and equipment, as are generally used in construction, road building, mining, logging, farming, industrial, and commercial activities, (2) parts, attachments, and accessories of the commodities described in (1) above; and (3) materials, equipment, and supplies used in the manufacture, sales, and distribution of the commodities listed in (1) and (2) (except materials used in the manufacture, sales, and distribution of the commodities listed in (1) and (2) (except commodities in bulk) between the facilities of Heinz U.S.A., division of H.J. Heinz Co. at Tracy and Stockton, Cali., to the Distribution Centers of Heinz U.S.A., Division of H.J. Heinz Co. located at Grand Prairie, Tex., and Iowa City, Iowa.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 120646 (Sub-No. 20), filed Au-

gust 9, 1977. BRADLEY FREIGHT LINES, INC., 56 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Blvd., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: Commodities used in the manufac-

ture of new furniture (except in bulk) and new furniture, from points in the United States in and east of Minnesota,
Iowa, Missouri, Arkansas, and Louisiana, to the facilities of Drexel Heritage Furnishings located at or near Kingstree, S.C., and Drexel, Marion, Morganton, Hildebrand, Shelby, Morrisville, a common carrier, by motor vehicle, over irregular routes, transporting: Roofing and building materials, from points in Pulaski County, Ark., to points in Kansas, Missouri, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Asheville, N.C.

No. MC 123407 (Sub-No. 375), filed May 10, 1977, published in the Federal Register issue of June 16, 1977, and republished as amended this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building materials from Kansas City, Mo., to points in Minnesota, North Dakota, South Dakota, Iowa, and Nebraska.

NOTE.—The purpose of this republication is to correct a typographical error in the territorial description. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 394), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bakery products (except frozen bakery products), between the plantsites of Archer Daniels Midland Co., located at or near Ripley, Miss., to points in Arkansas, Louisiana, New Mexico, and Oklahoma, to Port Arthur, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 395), filed August 2, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fertilizer products and lubricating oils in bulk in tank vehicles, from the plantsite of Archer Daniels Midland Co., located at or near Ripley, Miss., to points in Arkansas, Louisiana, New Mexico, and Oklahoma, to Fort Worth, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 396), filed August 1, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Roofing and building materials, from points in Polk County, Ark., to points in Kansas, Missouri, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may also be involved.

No. MC 124151 (Sub-No. 6), filed August 4, 1977. Applicant: VANGUARD TRANSPORTATION INC., foot of Lafayette Street, Carteret, N.J. 07008. Applicant's representative: Morton E. Kiel, Suite 6183, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products (except petro-chemicals), in bulk, in tank vehicles, from the facilities of Shell Oil Co., located at or near Paulsboro, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Baltimore, Md., restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 124308 (Sub-No. 31), filed July 29, 1977. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 7279, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehkey, 1000 16th Street NW, Washington, D.C. 20035. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry synthetic plastic granules and pellets, in bulk, in tank vehicles, between the plantsites of Fiber Core Company, Inc. at or near Piberon and Earl, N.C.; Greenville, S.C.; and Darlington, S.C.; and the plantsite of Celanese Corp. at or near Greer, S.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C. or Charlotte, N.C.

No. MC 124411 (Sub-No. 12), filed August 8, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's representative: James M. Fodge, 1889 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Co., located at or near Spencer and Holstein, Iowa, and David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Omaha, Nebr., or Des Moines, Iowa.
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No. MC 124735 (Sub-No. 19), filed August 4, 1977. Applicant: R. C. KERCHEVAL, Jr., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant’s representative: George R. L. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: tires, tubes, wheels, and wheel attaching parts, from points in Mississippi, Arkansas, Texas, Ohio, Alabama, Wisconsin, California, and Nevada, under a continuing contract or contracts with Wesco Distributors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.


NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 124947 (Sub-No. 66), filed August 9, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant’s representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: buildings, complete, knocked down, or in sections; (2) building sections and building panels; (3) parts and accessories used in the installation and completion of buildings, complete, knocked down, or in sections; (4) metal prefabricated structural components and panels and accessories used in the installation and completion thereof, from the plant site of Marathon Metallurgical Building Co., at Fort Collins, Colo., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 125433 (Sub-No. 111), filed July 21, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant’s representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: bentonite, except in bulk, from (1) Lovell, Wyo., to points in California, Oklahoma, Texas, New Mexico, Arizona, Minnesota, Oregon and Washington; (2) from Malta, Mont., to points in the United States (except Alaska and Hawaii); (3) from Gaseyne, N. Dak., to points in Louisiana, Oklahoma, Texas, New Mexico, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Chicago, Ill. Common control may be involved.

No. MC 125433 (Sub-No. 113), filed August 8, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant’s representative: David J. Lister (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) fireplaces, dampers, air heaters, ventilators, stoves, broilers, grates, cookers, grills, and parts, accessories, and display material for the above, and (2) equipment, materials, and supplies used in the manufacture of the components and supplies of Whittier Steel & Manufacturing Inc., located at or near Santa Fe Springs, Calif., on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii); and (b) between the facilities and shipping points of Whittier Steel & Manufacturing Inc., located at or near Sheboygan, Ky., and Walled Lake, Mich., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 126276 (Sub-No. 132), filed August 6, 1977. Applicant: FAST MOTOR SERVICE, INC., 8478 Plainfield Road, Brookfield, Ill. 60513. Applicant’s representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Fiberglass containers and container ends, from Ponca City, Okla., to Chicago, Ill., under a continuing contract or contracts with The Continental Building Products Co., located at or near Buffalo and Chanute, Kansas, or points in Delaware, Maryland, and New Jersey.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 127101 (Sub-No. 4), filed August 3, 1977. Applicant: JOHN C. RICHIE, P.O. Box 535, Iowa, La. 70647. Applicant’s representative: Drew Ranier, 1130 Pithon Street, Lake Charles, La. 70601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: sand and gravel, in bulk, in dump vehicles, from points in Allen, Hardin, Jasper, Jefferson, Newton, Orange, Sabine and Tyler Counties, Texas, under a continuing contract or contracts with Trinity Concrete Products Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lake Charles, La.

No. MC 127303 (Sub-No. 26), filed August 5, 1977. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 996, Granville, Ill. 60322. Applicant’s representative: E. Stephen Raybey, 665 McCracken Bank Bldg., 666 E. Seventeenth St., NW., Washington, D.C. 20011. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: malt beverages, and related materials, equipment and supplies, from Milwaukee, Wis., and Peoria, Ill., to Omaha, Neb., and Council Bluffs, Iowa. Empty containers on return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 127530 (Sub-No. 5), filed August 1, 1977. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington Street, Bartowville, Ill. 61507. Applicant’s representative: Edward J. Baze, 39 South LaSalle Street, Chicago, Ill. 60605. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: furnace pipe, elbows, duct work, register boxes, wall stack, gutters and rain carrying accessories, and materials, equipment and supplies used in the manufacture and distribution of the above mentioned commodities, between the facilities of Champion Furnace Co., located at Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, West Virginia, and Wisconsin, under a continuing contract or contracts with Champion Furnace Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 128007 (Sub-No. 164), filed July 28, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant’s representative: E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Smectitevermiculite, from the facilities of Micro-Lite, Inc., located at or near Buffalo and Chanute, Kansas, or points in Delaware, Maryland, and New Jersey.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 130067 (Sub-No. 106), filed August 8, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant’s representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prepared animal, fish and poultry feed, dry (except in bulk), from the plant site or storage facilities of Doane Products Co., in Jasper County, Mo., to points in Colorado, those points in Kansas and west of U.S. Highway 31, and points in New Mexico, Oklahoma, and Texas.
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[Text content from the image]
Applicant requests it be held at New York, Tex.

No. MC 134477 (Sub-No. 183), filed August 1, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: (1) Foodstuffs (except commodities in bulk), between the facilities of the Georgia-Pacific Corp. at Lyons Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, Ohio, Michigan, West Virginia, Kentucky, Wisconsin, Minnesota, and the District of Columbia; and (2) Printing paper and equipment, materials, and supplies used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Woodland, Maine to Gilman, Vt., Plattsburg, N.Y., Reading, Pa., and Lyons Falls, N.Y.

Applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 138343 (Sub-No. 119), filed August 10, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Printing paper and equipment, materials, and supplies used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Lyons Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, Ohio, Michigan, West Virginia, Kentucky, Wisconsin, Minnesota, and the District of Columbia; and (2) Printing paper and equipment, materials, and supplies used in the operation of paper mills (except commodities in bulk and commodities, the transportation of which, because of size and weight, require the use of special equipment), between the facilities of the Georgia-Pacific Corp. at Woodland, Maine to Gilman, Vt., Plattsburg, N.Y., Reading, Pa., and Lyons Falls, N.Y.

Applicant requests it be held at either Boston, Mass., or Washington, D.C.
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Gastonia, N.C. Applicant's representative: Eric Meierhoefer, Suite 712, 1011 K Street NW., Washington, DC 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Zippers, thread, binding, braid, lace, tape, webbing, ribbon, and sewing aids, and (2) materials and equipment used in the conduct of the businesses described above (except commodities in bulk) from Utah, Nevada, Arizona, California, Idaho, Montana, Colorado, New Mexico, and Oregon; and supplies used in the manufacture and sale of the commodities in (1) above (except in bulk) from points in Connecticut and New Jersey to Charlotte, N.C., and Bennettsville, S.C.; restricted to traffic originating at the facilities of or used by Bunte Candies, Inc., located at or near Oklahoma City and Edmond, Okla., to points in the United States (except Alaska, Hawaii, and Oklahoma); and (2) candy, confectionery, and confectionery packaging materials and supplies, except in bulk, from the facilities of or utilized by Bunte Candies, Inc., located at or near or near Oklahoma City and Edmond, Okla., restricted in (1) above to the transportation of traffic originating at the named origins, and further restricted in (2) above to the transportation of traffic destined to the named destinations.

Note.—Applicant holds contract carrier authority in No. MC 138985 (Sub-No. 2) and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Oklahoma City, Okla., or Atlanta, Ga.

No. MC 138696 (Sub-No. 50), filed August 8, 1977. Applicant: FEDERAL EXPRESS CORPORATION, INC., 30901, Ft. Lauderdale, Fla. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Non-alcoholic beverages (1) from Madison, Wis., to St. Paul, Minn., and cross ties, equipment, and supplies used in the sale, manufacture, processing, production, and distribution of textiles, textile articles, pottery or porcelain, and chemicals (except commodities in bulk), between New Orleans and Houma, La., on the one hand, and, on the other, points in the United States except Alaska and Hawaii. Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corp. (1) Applicant states that it already holds contract carrier authority in No. MC 138200 to transport the identical commodities between Laredo, Brenham, Houston, and Atlanta, Ga., to Oregon and Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, treated materials and chemicals (except commodities in bulk), between New Orleans and Houma, La., on the one hand, and, on the other, points in the United States except Alaska and Hawaii. Applicant states that it is a commonly-controlled contract carrier for and on behalf of Chromalloy American Corp. and that the purpose of this authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corp. (2) Applicant requests that it be held at Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by discount and variety stores from the plant site and storage facilities of McCreary Stores located at or near York, Pa., to Oregon and Washington.

No. MC 139498 (Sub-No. 257), filed August 5, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 Liberty Drive, Maryland Heights, Mo. 63146. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in by discount and variety stores from the plant site and storage facilities of McCreary Stores located at or near York, Pa., to Oregon and Washington.

No. MC 140624 (Sub-No. 73), filed August 2, 1977. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Denver, Colo. 80222. Applicant's representative: John F. De Cock (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, pharmaceuticals, supplies, and products,
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(3) chemicals, (4) alcoholic beverages, (5) tobacco products, (6) pet foods, (7) such commodities as are dealt in by district warehouses, or (8) exempt commodities when moving with regulated commodities, (a) from Denver, Colo., to points in the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri; and (b) from points in the United States in and west of Arkansas, Iowa, East Nebraska, Minnesota, and Missouri, to Denver, Colo., restricted in (1) through (7) above against the transportation of commodities in bulk.

Note.—Common control may be involved. Applicant states that it intends to lack the requested authority in (a) and (b) above at Denver, Colo. If a hearing is deemed necessary applicant requests it be held in a consolidated hearing with another application at Denver, Colo.


Note.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 141511 (Sub-No. 6) (Correction) filed June 23, 1977, published in the Federal Register issue of August 11, 1977, and republished, as corrected, this issue. Applicant: ROBERT W. KETTIG, doing business as PROTEIN EXPRESS, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Oelsen, 69 Tomme Ave., Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Electrical equipment and appliances and materials, equipment, and supplies used in the manufacture, installation, and sale thereof, from the factories of Brown Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif.; Salt Lake City, Utah; Pasco, Wash.; Kansas City, Mo.; and Denver, Colo.; and (2) microfilm machines and equipment, materials, and supplies used in the sale of the foregoing, from the facilities of Micro Design, Division of Bell & Howell, Inc., located at or near Hartford, Wis., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted in (1) and (2) above to the transportation of shipments originating at the named origin and destined to the named destinations.

Note.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill. The purpose of this republication is to add the requested authority in (3) above, which was inadvertently omitted in the previous publication.

No. MC 141804 (Sub-No. 71), filed August 5, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL INC., P.O. Box 1217, Goodlettsville, Tenn. 37072. Applicant's representative: Charles R. Parker (same address as applicant). Authority sought to operate as a motor carrier, by motor vehicle, over irregular routes, transporting: Foam, cellular, expanded or sponge and equipment, parts, and supplies used in the manufacture thereof, from Lawrence, Mass., Eddystone and Hatfield, Pa.; Lyndhurst, Paramus, East Rutherford, Middlesex, and Piscataway, N.J.; Coldwater and Mieland, Mich.; Fort Wayne, Ind.; New York, N.Y.; Topeka and Carson, Calif., restricted to the transportation of commodities originating at or destined to the plantate or storage facilities utilized by Wisconsin Foam Products, Inc.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif. or Nashville, Tenn.

No. MC 141914 (Sub-No. 16), filed August 8, 1977. Applicant: FRANK & SON, INC., Route 1, Box 1984, Big Cabin, Okla. 74122. Applicant's representative: Garth Brasel, Mezzanine Floor, Beacon Building, Tulsa, Okla. 74103. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Residental heating and cooling units, their components, accessories, and equipment used in the manufacturing thereof, from plant site of Rheem Manufacturing Co. at Millcreekville, Ga., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 141924 (Sub-No. 3), filed August 8, 1977. Applicant: GOLDEN VALLEY TRANSPORTATION, INC., P.O. Box 205, Roberts, Idaho 83444. Applicant's representative: Mark K. Boyle, 345 W. 2nd St., St. George, Utah 84770. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, in the transportation of meats, meat products, meat by-products, and articles distributed by meat packing houses, from the facilities of Golden Valley Packers located at or near Roberts, Idaho, to Chicago, Ill.; North Baltimore, Ohio; Pueblo, Pa.; Omaha, Nebraska; Butler, Wis.; Memphis, Tenn.; and Ogden, Utah, and points in their respective commercial zones, under a continuing contract or contracts with Golden Valley Packers.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at either Idaho Falls, Idaho, or Salt Lake City, Utah.

No. MC 142286 (Sub-No. 18), filed August 11, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. 4, Harrow, Ontario, Canada N0R10G. Applicant's representative: William B. Elmer, 21835 East Nine Mile Road, St. Clair Shores, Mich. 48030. Authority sought to engage in operations in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes in the transportation of liquid corn syrup, in bulk, in tank vehicles, from Chicago, Ill., to ports of entry on the International boundary line between the United States and Canada in Michigan, New York, and for furtherance to points in Ontario and Quebec, Canada.

Note.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 142783 (Sub-No. 1), filed August 4, 1977. Applicant: BIRD MOTOR TRANSPORT, INC., 3901 South Pennsylvania Ave., Nashville, Tenn. 37206. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs, food-treating compounds, spices, extracts, additives, candles, cards, and spices, and related items, raw materials, equipment, and supplies used in the packaging, sale, and distribution of the foregoing commodities, in vehicles equipped with mechanical distribution; and (2) Commodities in bulk, in tank vehicles, restrict to which is exempt or partially exempt from regulation under the provisions of Section 203(b) (6) of the Interstate Commerce Act, in mixed loads with the commodities described in (1) above, between Atlanta, Ga., on the one hand, and, on the other, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract, or contracts, with Nationwide Package, Inc.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 143033 (Sub-No. 1), filed August 2, 1977. Applicant: GUNDY H. ROBERTS AND MARY T. ROBERTS, d.b.a. GUNDY'S TRANSPORT & STORAGE, 301 Gundy's Lane, Enterprise, Ala. 36333. Applicant's representative: Alan F. Wolfleister, 1700 K Street, NW, Washington, D. C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used household goods, between points in Barbour, Coffee, Covington, Dale, Henry, Houston, Jackson, and Pike Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement in containers, and further restricted to the performance of pickup and delivery service in connection with packaging, uncrating, and decontamination or unpacking, uncrating and decontaminating of such traffic.

Note.—If a hearing is deemed necessary, applicant requests it be held at Enterprise, Ala.
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No. MC 143210 (Sub-No. 2), filed August 5, 1977. Applicant: W. C. HALL, Callao, Va. 23433. Applicant's representative: James L. Brazee, Jr., 2310 Parklake Drive NE., Suite 2465, One Indiana Square, Pittsburgh, Pa. 15222. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: roofing asphalt in bulk, from Texas, Maryland, to Village and Heathsville, Va.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Callao, Va., or Richmond, Va.

No. MC 143243 (Sub-No. 1), filed August 9, 1977. Applicant: CECIL LINTON, d.b.a. LINTON TRUCKING, 114 Ewing Street, Seymour, Ind. 47274. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting plastic beehives from Seymour and Columbus, Indians to points in the United States, (except Alaska and Hawaii).

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Indianapolis, Ind.

No. MC 143275 (Sub-No. 1) (Correction), filed June 16, 1977, published in the Federal Register issue of August 4, 1977, and reprinted as corrected, in this issue. Applicant: HILTON K. RAWLINS, P.O. Box 84, McRae, Ga. 31055. Applicant's representative: Wm. Addams, Suite 212-3200 Roosevelt Road NE., Atlanta, Ga. 30342. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) lawn mower sub-assemblies and lawn mower parts, between McRae and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky. and Bradley, Ill.; (2) material and supplies (except commodities in bulk) used in the manufacture of lawn mowers from points in South Carolina, North Carolina, and Indiana; Sardis, Miss.; Livingston, Tenn., and Jacksonvllle, Fla., to McRae and Swainsboro, Ga.; Orangeburg, S.C.; Williamsburg, Ky. and Bradley, Ill., under a continuing contract, or contracts with Roger Lown Products of Savannah, Ga.

Note.—The purpose of this correction is to indicate the correct commodity and territory description in part (2). If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 143276 (Sub-No. 3), filed August 5, 1977. Applicant: WEATHER TRANSPORTATION COMPANY, a corporation, 5452 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: James L. Brazer, Jr., 2310 Parklake Drive NE., Suite 190, Atlanta, Ga. 30345. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: roofing asphalt in barrels, drums and/or packages, in flatbed trailers with removable sides, from the plant site of Young Refining Corp., located at Huey Road, Douglasville, Douglas County, Ga., to points in North Carolina, South Carolina, Tennessee, and Alabama.

No. MC 143217 (Sub-No. 2), filed August 8, 1977. Applicant: GEORGE CLARK TRANSIT CO., (a corporation), 2502 Calumet Avenue, Manitowoc, Wis. 54220. Applicant's representative: John L. Brunstrom, 5414 Northway Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Silica sand, in bulk, from points in Green Lake County, Wis., to Mineapolis and St. Paul, Minn., under a continuing contract, or contracts with C. A. Cline Sand Co.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Madison, Wis., or Chicago, Ill.

No. MC 143323 (Sub-No. 1), filed August 5, 1977. Applicant: C. D. YARBRUGH et al. d.b.a. Y & Z TRUCKING, H. S. McGee, Filing Agent, Box 5347, Roadside, Ind. 47365. Applicant's representative: Kevin V. Canepelli, 1729 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Lumber (except plywood and veneer) from points in Bay County, Florida to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, under a continuing contract or contracts with H. C. Hodges Lumber Company of West Bay, Inc.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at either Tallahassee or Jacksonville, Florida.

No. MC 143398 (Sub-No. 1), filed August 4, 1977. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibson Road, Charlotte, N.C. 28211. Applicant's representative: Ralph McDonald, Post Office Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) from Hillsboro, Ore., to the plant site of Commercial Welding Co. located at or near Provo, Utah; (2) cattle waters from Hobkins, Ore., to the plant site of Commercial Welding Co. located at or near Baker, Oregon; (3) mineral feeders, from Hillsboro, Kans., to the plant of Commercial Welding Co. located at or near Provo, Utah; (4) cattle waters from Hobkins, Ore., to the plant site of Commercial Welding Co. located at or near Provo, Utah; and (5) Livestock handling equipment, from the plant of Commercial Welding Co., located at or near Baker, Oregon, to the plant site of Commercial Welding Co. located at or near Provo, Utah; (6) materials and supplies used in the manufacture of livestock handling equipment, from the plant of Commercial Welding Co. located at or near Provo, Utah, to the plant site of Commercial Welding Co. located at or near Baker, Oregon, under a continuing contract or contracts with Commercial Welding Co.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 143552, filed August 3, 1977. Applicant: CLEWEND ASSOCIATES, INC., 1 Whitefield St., Caldwell, N.J. 07006. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07834. Authority sought to operate as a contract carrier, over irregular routes transporting: Paper products, (1) from Beacon, N.Y., and Muncie, Ind., to Buena Park and Oakland, Calif.; Denver, Colo.; Atlanta, Ga.; Fair Lawn, N.J.; St. Louis, Mo.; Dayton, Ohio; Porden, Ore.; Philadelphia and Pittsburgh, Pa.; Buffalo, N.Y.; Philadelphia, Tex.; and Richmond, Va.; (2) from Beacon, N.Y., to Chicago and Newport, Ill.; and (3) from Marseilles, Ill., to Buffalo and Niagara Falls, N.Y., under contract or contracts with Nabisco, Inc., at East Hanover, N.J.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 143555, filed August 4, 1977. Applicant: CARDINAL TRANSPORTATION CO., INC., 415 Fifth Avenue, South, Nashville, Tenn. 37210. Applicant's rep
Applicant: DYSART TRUCKING, Inc., Kane, Wash., or Portland, Oreg. 

Representative: Steven C. Schoenebaum, 1200 Regency Building, Seattle, Wash., under a continuing contract or contracts with Columbia Foods, Inc., and/or storage facilities utilized by M.C.C. 209 and 766. From the plant sites articles distributed by meat packing houses as described in Section A and C.

U.S. Highway 431 to Johnson, Ala.; from Johnson over U.S. Highway 80 to Guntown, Miss., and return over the same route, serving all intermediate points; (3) between South Carrollton, Ky., and Guffie, Fla.; from South Carrollton over Kentucky Highway 61 to its junction with Kentucky Highway 815, thence over Kentucky Highway 815 to Guffie, and return over the same route, serving all intermediate points; (4) between Guffie, Ky., and Utica, Ky.; from Guffie over Kentucky Highway 136 and U.S. Highway 431, and return over the same route, serving all intermediate points; (5) between Calhoun, Ky., and Junction of Kentucky Highway 136 and U.S. Highway 431; from Calhoun over Kentucky Highway 136 to Utica, 1500 miles, and return over U.S. Highway 431, and return over the same route, serving all intermediate points. Serving all points in Muhlenburg, Ohio, and McLean Counties, Kentucky, as off-route points in connection with the regular route operations described above. If a hearing is deemed necessary applicant requests that it be held at Nashville, Tenn., or Washington, D.C.


No. MC 143566, filed August 8, 1977. Applicant: MIDWEST EXPRESS, INC., Suite 504, First National Bank Bldg., Johnstown, Pa. 15901. Applicant's representative: James W. Patterson, 1200 Regency Building, Seattle, Wash. 98004. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products and by-products, articles distributed by and commodities used by meat packing houses, in vehicles equipped with mechanical refrigeration. Between Lancaster County, Nebraska, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia. Restricted to traffic originating at or destined to the facilities of Acme Markets, Inc. or its subsidiary, American Stores Packing Company, under continuing contract or contracts with Acme Markets, Inc. or American Stores Packing Company. 

No. MC 143570, filed August 8, 1977. Applicant: D & G TRUCKING INC., 4430 Overland, Meridian, Idaho 83642. Applicant's representative: David E. Windish, P.O. Box 121, Boise, Idaho 83701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Paper and aluminum, and paper and aluminum products, for recycling and reuse, from points in Idaho south of the state line with Oregon, to points in California, Oregon and Washington. 

No. MC 143572, filed August 5, 1977. Applicant: DAVENPORT TRANSFER CO., INC., 1110 10th Ave., Columbus, Ga. 31902. Applicant's representative: Henry C. Williams, 235 South High Street, Route 235, Renton, Wash. 98055. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, of used household goods and articles, in the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of picking and delivery service in connection with the packing, crating and containerization or unpacking, inreting and decontamination of such traffic, between points in Muscogee, Chat-Coochee, Harris, Troup, Meriwether, Marion, Talbot, Stewart, Webster, and Quitman Counties, Georgia, and Lee, Russell, Chambers, Barbour and Macon Counties, Alabama.

Note: If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 143573, filed August 8, 1977. Applicant: Thomas S. Rahberg, d.b.a. RAHBERG TRUCKING, Rural Route No. 1, Clinton, Wis. 53525. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Material, in bulk, in dump vehicles, from Oswego, Illinois to points in Wisconsin.
trip, sightseeing, or pleasure tours, beginning and ending at points in the counties of Alameda, Santa Clara, and Santa Cruz, California, and extending to points in and west of the state, including Alaska, but excluding Hawaii.

Note.—If a hearing is deemed necessary, applicant requests that it be held at Oakland or San Francisco, Calif. The purpose of this correction is to correct the territorial description.

No. MC 126667 (Sub-No. 3), filed August 5, 1977. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 31 Milk St., Boston, Mass., 02109. Applicant's representative: Jeremy Kahn, Suite 735, Investment Building, Washington, D.C., 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Passengers and their baggage, in the same vehicle with passengers, in special operations, between Boston, Quincy, Milford, Brockton, and Plymouth, Massachusetts, on the one hand, and, on the other, Altadena, California, on the other.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 143178 (Sub-No. 1), filed July 6, 1977. Applicant: GOLDEN STATE COACHES, INC., P.O. Drawer 'G', Carson City, Nev., 89701. Applicant's representative: Mike Soumbeniotis, P.O. Box 646, Carson City, Nev., 89701. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Passengers and their baggage, in special and charter operations, from points in Butte, Lassen, Plumas and Tehama Counties, Calif., within an area bounded on the north and west by Deles, Calif., on the south by Paradise, Calif., and on the east by Westwood, Calif., to points in the United States, including Alaska but excluding Hawaii, and return, restricted against services provided from points on U.S. Highway 89.

Note.—If a hearing is determined necessary, the Applicant requests that it be held at either Sacramento or San Francisco, Calif.


FREIGHT FORWARDER

No. FF 590, filed August 5, 1977. Applicant: SURF-AIR, INC., P.O. Box 6542, Atlantic, Ga., 39835. Applicant's representative: Robert C. Dryden, P.O. Box 6444, Atlantic, Ga., 39835. Authority sought to participate in the transportation of General Commodities Excluding articles exceeding 19 feet in length or weight. Common carriers of the United States, including Alaska and Hawaii, restricted to the transportation of shipments having an immediately prior or subsequent movement in the air forwarder.

Note.—Common control may be involved. If a hearing is deemed necessary, the Applicant requests it be held in Atlanta, Ga. or Washington, D.C.

WATER

No. W-16 (Sub-No. 11), filed August 8, 1977. Applicant: S. C. LOVELAND CO., INC., 320 Walnut St., Philadelphia, Pa., 19106. Applicant's representative: Donald MacLeay, 1625 K Street, NW., Washington, D.C., 20006. Authority sought to operate as a common carrier by water, by self-propelled vessel, in order to permit use of the facility of common carriers by rail, motor, water and express, in the transportation of General Commodities and component parts thereof and related equipment, to or from ports and points along the Pacific coast and tributary waterways in California, on the one hand, and, on the other, Atlantic or Pacific coasts.

Note.—The intention is to enlarge applicant's self-propelled vessel authority, and to acquire control through ownership of lease operating right and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 248(e) and 210a(b) of the Commission's Rules of Practice (49 C.F.R. 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served on applicant's representative, or applicant, if no representative is named.

Buffalo, Rochester and Pittsburgh Railway Company (BR&P) and The Old Railroad Company (B&O), 2 North Charles Street, Baltimore, Maryland 21201, represented by Mr. Peter J. Shudtz, Assistant General Attorney, The Baltimore and Ohio Railroad Company, 2 North Charles Street, Baltimore, Maryland 21201, hereby give notice that on the 24th day of August, 1977, they filed with the Interstate Commerce Commission an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition by the BR&P of a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and operation over the line by the B&O, which application is assigned Finance Docket No. 28541.

The BR&P proposes to acquire a line of railroad from the trustees of the estate of the Erie Lackawanna Railway Company and the B&O proposes to operate over the line. The line extends generally from the Borough of Mount Jewett at J&B Junction to Johnsonburg at Clarion Junction and passes through Free- man, Hutchins, Midmont, Rasselas and Keeney, all in the Commonwealth of Pennsylvania. The total number of miles of main line track proposed to be acquired is 20.47 miles. Additionally, applicants will acquire 8.60 miles of side track. All of the above trackage is located between Valuation Stations 1659+57 and 2930+30.

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 C.F.R. 1106.12) in Ex Parte No. 55 (Sub-No. 4), Implementation National Environmental Policy Act, 1969, 322 T.C.C. 451 (1976), any protests may include a statement indicating a major Federal action significantly affecting the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific facts the exact nature and degree of the anticipated impact. See Implementation National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the.

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proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 1200 E. 8th Street and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation and where an interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY; THE BALKMANS AND OHIO RAILROAD COMPANY

OPERATING RIGHTS APPLICATION (S) DIRECTLY RELATED TO FINANCE PROCEEDINGS NOTICE

The following operating rights applications (s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, 49 U.S.C. la(6) (a), and the elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

A copy of the protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 277(d) of the Commission's General Rules of Practice (49 CFR 110.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 110329 (Sub-No. 74) (republication), filed May 21, 1976, published in the Federal Register Issue of August 26, 1976, republished August 11, 1977, and further republished this issued to correct and clarify the notice of August 11, 1977, which is administratively final, was published in the Federal Register Issue of August 23, 1977, which gave notice of the conversion of Certificates of Registration in No. MC 28893 (Sub-No. 19 and 20), which were not included in the original Federal Register publication, since they were not acquired by 'Potter Freight Lines, Inc., until after the section 5 and section 207 applications were filed herein, so an Article of Authority to an Application for Conversion of Certificates of Registration in No. MC 28893 (Sub-No. 19 and 20), which was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of the line of railroad beginning at milepost 1.5 near Sleepy Eye, Minn., and extending to the end of the line nearest to the junction of the line with the lines of the Chicago & North Western, in Le Sueur, Minn., Redwood and Brown Counties, Minn. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described findings of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued, and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the present cost of providing rail freight service on such line, or for railroad by such carrier, and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the avoidable cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not in excess of 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an agreement or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

Information and procedures regarding the filing of applications for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Filing Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Chicago & North Western Transportation Co. Abandonment Between Sleepy Eye and Redwood Falls, Minn., All in Redwood and Brown Counties, Minn., Notice of Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant within 30 days after this Federal Register publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 50)]

Chicago & North Western Transportation Co. Abandonment Between Sleepy Eye and Redwood Falls, Minn., All in Redwood and Brown Counties, Minn.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a) that by an order entered on February 14, 1977, and the decision and order of the Commission, Division 3, served July 25, 1977, the Commission, Division 3, held that the initial decision of the Administrative Law Judge entered on February 14, 1977, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of the line of railroad beginning at milepost 1.5 near Sleepy Eye, Minn., and extending to the end of the line nearest to the junction of the line with the lines of the Chicago & North Western, in Le Sueur, Minn., Redwood and Brown Counties, Minn. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described findings of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued, and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the present cost of providing rail freight service on such line, or for railroad by such carrier, and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the avoidable cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not in excess of 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an agreement or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

Information and procedures regarding the filing of applications for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Filing Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Burlington Northern Inc. Abandonment Between Wheeling and Lees in Benson County, N. Dak.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a) that by an order entered on July 12, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of the line of railroad beginning at milepost 1.5 near Sleepy Eye, Minn., and extending to the end of the line nearest to the junction of the line with the lines of the Chicago & North Western, in Le Sueur, Minn., Redwood and Brown Counties, Minn. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described findings of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued, and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the present cost of providing rail freight service on such line, or for railroad by such carrier, and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the avoidable cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not in excess of 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an agreement or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

Information and procedures regarding the filing of applications for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Filing Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Burlington Northern Inc. Abandonment Between Wheeling and Lees in Benson County, N. Dak.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a) that by an order entered on July 12, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set

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forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad between milepost 97.48 near Brinemade and milepost 197.53 near Leeds in the northern half of Benson County, N. Dak., a distance of 98.5 miles in Benson County, N. Dak. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that: (1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a railroad service continuation payment) and no service involved to be continued; and (2) It is likely that such proffered assistance would:
   (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing railroad service on such line, together with a reasonable return on the value of such line, or
   (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement with the carrier seeking such abandonment, to provide such assistance to purchase such line and to provide for the continued operation of railroad services over such line.

Upon notification to the Commission of the execution of such an agreement (including a government entity), the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued railroad service or the acquisition of the involved railroad line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13891. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-6 (Sub-No. 46)]

BURLINGTON NORTHERN INC. ABANDONMENT BETWEEN STERLING AND NEW RAYMER IN LOGAN AND WELD COUNTIES, COLO. NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) of the Interstate Commerce Act (49 U.S.C. 1(6) and 49 U.S.C. 1a(6) (a) that by an order entered on July 25, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 237 I.C.C. 706, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of its line of railroad extending from milepost 232.00 near Sterling to milepost 266.50 near New Raymer, a distance of 34.5 miles, in Logan and Weld Counties, Colo. A certificate of abandonment will be issued to the Burlington Northern Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a railroad service continuation payment) to enable the railroad service involved to be continued; and

(2) It is unlikely that such proffered assistance would:
   (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing railroad service on such line, together with a reasonable return on the value of such line, or
   (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an agreement (including a government entity), the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued railroad service or the acquisition of the involved railroad line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register, on March 31, 1976, at 41 FR 13891. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-7 (Sub-No. 27)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ABANDONMENT IN FOND DU LAC, COUNTY OF FOND DU LAC, WIS. NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a) that by an order entered on June 30, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oklahoma Ry. Co., Abandonment, 237 I.C.C. 117 (1944), and the applicable provisions of Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of a line of railroad about 1.5 miles in length together with about 0.48 miles of auxiliary tracks, a total distance of about 2.40 miles, including a line of about 174 feet in length and about 1,314 feet of auxiliary track which is jointly owned by the Chicago, North Western Transportation Co., extending between Engineer's Station 0-69 to 71-60 and 82-39 to 113-21, all in Fond du Lac, County of Fond du Lac, Wis. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a railroad service continuation payment) to enable the railroad service involved to be continued; and

(2) It is unlikely that such proffered assistance would:
   (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing railroad service on such line, together with a reasonable return on the value of such line, or
   (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

Upon notification to the Commission of the execution of such an agreement (including a government entity), the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued railroad service or the acquisition of the involved railroad line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register, on March 31, 1976, at 41 FR 13891. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.
NOTICES

ST. LOUIS-SAN FRANCISCO RAILWAY CO. ABANDONMENT BETWEEN BYTHEVILLE AND MONETTE IN MISSISSIPPI AND CRAIGHEAD COUNTIES, ARK.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by order entered on July 19, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 231 I.C.C. 700, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Co. of that portion of its line extending from milepost TD 239.77 near Bythewood, Ark., in a westerly direction to milepost TD 268.00 near Monette, Ark., a distance of approximately 28.23 miles all in the counties of Mississippi and Craighead, Ark. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an agreement or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonments Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by order entered on July 21, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 237 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of its line of railroad extending from milepost 208.73, beyond Burrell, in a southwesterly direction to the end of the branch at milepost 214.85 near Riverdale, a distance of approximately 6.12 miles in Fresno County, Calif. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonments Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by order entered on July 21, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of that portion of its line of railroad extending from milepost 104.37, near Citrus, Calif., to milepost 106.36, near Fair Oaks, Calif., a distance of approximately 1.99 miles. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonments Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

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on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order. [Docket No. AB-43 (Sub-No. 16)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT BETWEEN ELCO AND MURPHYSBORO, IN ALEXANDER, UNION, AND JACKSON COUNTIES, ILL.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 20, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 706, and the applicable provisions of section 405 of the Rail Passenger Service Act, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of the line of railroad from milepost 518.8 near Elco, Ill., in a northerly direction to milepost 458 near Murphysboro, Ill., a distance of 36 miles, in Alexander, Union, and Jackson Counties, Ill. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained herein as well as the instructions contained in the above-referenced order. [Docket No. AB-57 (Sub-No. 31)]

SOO LINE RAILROAD CO. ABANDONMENT BETWEEN RACO JUNCTION AND RACO IN LUCE AND CHIPPEWA COUNTIES, MICH.

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an initial decision and order entered on June 3, 1977, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 706, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Soo Line Railroad Co. of its branch line of railroad between milepost 46.69 at Raco, Mich., and extending in an easterly direction to the end of the line at milepost 19.69 at Raco, Mich., all in Luce and Chippewa Counties, Mich., a distance of 27 miles. A certificate of abandonment will be issued to the Soo Line Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042. 4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 2262 (Deviation No. 163).
ROADWAY EXPRESS INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44308, filed August 24, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over deviation routes as follows: (1) From Rison, Ark., over Arkansas Highway 85 to junction Arkansas Highway 114, thence over Arkansas Highway 114 to Star City, Ark., (2) from Denmark, Ark., over Arkansas Highway 87 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 87 to North Crosssett, Ark., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Rison, Ark., over U.S. Highway 79 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction Arkansas Highway 81, thence over Arkansas Highway 81 to Star City, Ark., (2) from Denmark, Ark., over U.S. Highway 167 to junction U.S. Highway 67, thence over U.S. Highway 67 to Bradford, Ark., and (3) from junction U.S. Highway 82 and Arkansas Highway 82 over U.S. Highway 82 to Crosssett, Ark., thence over Arkansas Highway 133 to North Crosssett, Ark., and return over the same routes.

By the Commission

H. G. HOMME, JR.,
Acting Secretary.

[FED Reg 42, 7999 09-15-77 4:18 a.m]
TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by October 5, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed, protests may commence by October 17, 1977, subject to its tariff publication effective date.

P-16-77 (special certificate—waste products), filed August 10, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, Ga. 31792. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting: Waste products for recycling and reuse between all points in Illinois, Indiana, New York, North Carolina, Virginia, and Tennessee, in furtherance of recognized pollution control programs sponsored by (1) Bassichis Co., of Cleveland, Ohio; (2) KOI Petroleum, Inc., of Hamilton, Ohio; and (3) Spray-Dyne, Inc., of Hamilton, Ohio, for the purpose of recycling liquid waste materials, in bulk and in drums.

P-18-77 (special certificate—waste products), filed August 10, 1977. Applicant: WILLS TRUCKING, INC., 5755 Granger Road, Cleveland, Ohio 44131. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, and the transportation of: Waste products for recycling and reuse between all points in Iowa, Michigan, Ohio, Michigan, Kentucky, West Virginia, Pennsylvania, New York, North Carolina, Virginia, and Tennessee, in furtherance of a recognized pollution control program sponsored by (1) Bassichis Co., of Cleveland, Ohio, and (2) Brockway Glass Co. of Brockway, Pa., for the purpose of recycling various types of litter.

P-19-77 (special certificate—waste products), filed August 19, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, in the transportation of: Glass cullet, between points in Connecticut, Illinois, Indiana, Maryland, Minnesota, Missouri, New York, Ohio, Pennsylvania, Rhode Island, Texas, and West Virginia, in furtherance of recognized pollution control programs sponsored by: (1) National Bottle Co. of Bala Cynwyd, Pa.; (2) PFG Industries, Inc., of Pittsburgh, Pa., for the purpose of recycling glass cullet.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-26911 Filed 9-14-77; 7:45 am]
CONTENTS

1. CIVIL AERONAUTICS BOARD.
   TIME AND DATE: 1 p.m. September 9, 1977.
   PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.
   STATUS: Open.
   PERSON TO CONTACT:
   Phyllis T. Kaylor, the Secretary (202-673-5068).

2. CIVIL AERONAUTICS BOARD.
   TIME AND DATE: 2 p.m. September 9, 1977.
   PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.
   STATUS: Open.
   PERSON TO CONTACT:
   Phyllis T. Kaylor, the Secretary (202-673-5068).

3. CIVIL AERONAUTICS BOARD.
   TIME AND DATE: 10 a.m., September 15, 1977.
   PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.
   SUBJECT 1. Ratification of items adopted by notation.*
   3. Docket 31239. Application of Braniff for emergency exemption to offer a refund to certain passengers who travelled between Denver and Miami on July 28 and 29 (Memo No. 7403, BFR).
   4. Docket 31873. Complaint of the State of Maryland against Eastern's proposal to increase the discount applicable to its excursion fare in the Philadelphia-Florida market (Memo No. 7342-A, BFR).
   6. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6799-B, BFR).

8. North Central Airlines—request for waiver of the two percent limitation on off-route charters (Memo No. 7405, BOR, OGC).
10. Do-ket 31036. Motion of Hearing on the matter of certification of a U.S. carrier to serve the Houston/Dallas/Ft. Worth—Calgary/Edmonton-Anchorage/ Fairbanks Route, filed by the California Transportation Authority and the Edmonton-Area Air Services Commission (the Canadian parties) (Memo No. 7396, BOR, BIA).
12. Docket 30687. TWA’s application for San Diego-Kansas City/St. Louis nonstop authority (Memo No. 7374, BOR, OGC).
14. Dockets 30969 and 28269, Temporary Suspension and deletion of Eastern Air Lines Service over segment 7 of Route 10 (Memo 7327-A, BOR).
15. Dockets 30658 and 28110 and 28342, Rocky Mountain Airlines’ request to use Dash 7 aircraft in scheduled service in Colorado; Aspen Airlines’ and Rocky Mountain Airlines’ requests for Denver-Aspen certificate authority (Memo No. 4689-C, BOR, BLJ, OGC).
17. Dockets 27838 and 30818, Consolidation of Enforcement Cases (Memo No. 7409, BLJ, OGC).
18. Ratemaking to amend Part 387 of the Board’s Organization Regulations to be consistent with the National Emergencies Act, Pub. L. 94-412 (Memo No. 7399, OGC).
20. Docket 30778, Rulemaking petition filed by Reuben Robertson to grant authority to administrative law judges to consolidate enforcement proceedings (Memo No. 7395, OGC).

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

SUPPLEMENTARY INFORMATION:
Any decision of the Board suspending these tariffs would have to be sent to the President by the statutory deadline of September 13, 1977. In order for the Board to reach its determination and inform its staff, the following Members have voted that agency business requires that the Board meet on less than seven days’ notice and that no earlier announcement of the meeting was possible:
Chairman Alfred E. Kahn
Member Lee R. West
Member Elizabeth E. Bailey
[5-1314-77 Filed 9-12-77;4:04 pm]
CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 14, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Establishment Inventory Project: A briefing by the Directorate of Field Operations on the need of both headquarters and field offices for a common, automated, CPSC verified establishment inventory.

2. Meeting with AAMA: Representatives of the American Apparel Manufacturers Association will meet with the Commission to discuss issues related to the CPSC staff paper on Children's Sleepwear and inventory.

3. Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

APPLICATION FOR CONSENT TO MERGE AND ESTABLISH BRANCHES

Southern Bank and Trust Company, Greensville, Virginia, an insured State nonmember bank, for consent to merge under its charter and title with Morgan Bank and Trust, Spartanburg, South Carolina, also an insured State nonmember bank, and for consent to establish the two offices of Morgan Bank and Trust as branches of the resultant bank.

APPLICATION FOR CONSENT TO MERGE

Carroll Bank, Hillsville, Virginia, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the Bank of Carroll, Hillsville, Va., also an insured State nonmember bank, and for the use of "Bank of Carroll".

APPLICATION FOR CONSENT TO ACQUIRE ASSETS AND ASSUME LIABILITIES AND ESTABLISH TWO BRANCHES

Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

APPLICATION FOR CONSENT TO MOVE A BRANCH

Banco Credito y Ahorro Ponceo, Ponce, Puerto Rico, for consent to move a branch from the corner of Calle Patria and Calle Juan Ramon Velez to the corner of Calle Patria and Carretera #2, Mayati, PR.

CONSUMER PRODUCT SAFETY COMMISSION.


LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Establishment Inventory Project: A briefing by the Directorate of Field Operations on the need of both headquarters and field offices for a common, automated, CPSC verified establishment inventory.

2. Meeting with AAMA: Representatives of the American Apparel Manufacturers Association will meet with the Commission to discuss issues related to the CPSC staff paper on Children's Sleepwear and inventory.

3. Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

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CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 14, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Establishment Inventory Project: A briefing by the Directorate of Field Operations on the need of both headquarters and field offices for a common, automated, CPSC verified establishment inventory.

2. Meeting with AAMA: Representatives of the American Apparel Manufacturers Association will meet with the Commission to discuss issues related to the CPSC staff paper on Children's Sleepwear and inventory.

3. Ocean State Bank, Santa Monica, California, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the First Pacific Bank, Los Angeles (P.O. West Hollywood), Calif., also an insured State nonmember bank, and for consent to establish the two offices of First Pacific Bank as branches of the resulting bank.

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APPLICATION FOR CONSENT TO MOVE A BRANCH

Banco Credito y Ahorro Ponceo, Ponce, Puerto Rico, for consent to move a branch from the corner of Calle Patria and Calle Juan Ramon Velez to the corner of Calle Patria and Carretera #2, Mayati, PR.
SUNSHINE ACT MEETINGS

RECOMMENDATION WITH RESPECT TO THE AMENDMENT OF CORPORATION RULES AND REGULATIONS

Memorandum and resolution proposing the final adoption of amendments to Part 303 of the Corporation’s rules and regulations, entitled “Applications, Requests and Submittals,” so as to include applications for mergers or assumption transactions within the current procedures applied to all other application proceedings.

Resolution winding up the affairs of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands.

Appeals, pursuant to the Freedom of Information Act, from the Corporation’s earlier partial denial of requests for records.

REPORTS OF COMMITTEES AND OFFICERS

Minutes of the actions approved by the Committee on Liquidations, Loans, and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding the transmittal of “no significant effect” competitive factor reports.

Report of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors, pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation, for the period June 16, 1977-August 16, 1977, detailing all disbursements in excess of $10,000 and all sales of real estate properties in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn., pursuant to authority delegated by the Board of Directors.


Final report of the Chief, Accounting and Budget Branch, Office of the Controller, as of April 30, 1977, with respect to the receivership of the Brighton National Bank, Brighton, Colo.

Summary of liquidation and insurance expenses, estimated losses, and other fiscal data in connection with active liquidations as of June 30, 1977.

Report of secretarial and transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202-385-4446).

[S-1911-77 Filed 9-12-77:2:06 pm]

8

FEDERAL POWER COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 14, 1977, 42 FR 46094.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 16, 1977.

CHANGE IN THE MEETING: The following items have been added:

Item No. Docket No. and Company

P-10—E-5173, Southern California Edison Company.

P-11—ER76-533, Central Vermont Public Service Corporation.
MATTERS TO BE CONSIDERED:

1. Interstate Commerce Commission.


PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Matters to be considered:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda:

1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Heroman, Confidential Assistant to Commissioner Brown, Telephone 202-275-7535.

MATTERS TO BE CONSIDERED:

11. National Transportation Safety Board.

TIME AND DATE: 9:30 a.m., Thursday, September 22, 1977 (NM-77-30).


STATUS: The first two items on the agenda will be open to the public; the third item will be closed to the public.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Douglas White, Acting Chairman, NTSB, 20594.


TIME AND DATE: 10 a.m., Wednesday, September 21, 1977.


STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION:


MATTERS TO BE CONSIDERED:


2. Consideration of Division Chairman Brown's Motion to Dismiss Complaint and Recommendations in the Matter of May 5, 1977, re Communication Problems in the Air Traffic Control System.

3. Discussion with Administrative Law Judges regarding aviation enforcement adjudication cases.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202-755-4930.

MATTERS TO BE CONSIDERED:


TIME AND DATE: 2:00 p.m., September 15, 1977.

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

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202-523-0161.
SUNSHINE ACT MEETINGS

MATTERS TO BE CONSIDERED: Meeting with State Public Service Commissioners (N.Y. and III).

CONTACT PERSON FOR MORE INFORMATION:
Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.
[S—1342-77 Filed 9-14-77; 10:20 am]

17
NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published in the issue of September 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, September 22, 1977 (NM-77-30).

CHANGE IN THE MEETING: The following item has been added for consideration as the first item on the agenda:


[S—1346 Filed 9-14-77; 12:09 pm]
**DATES:** The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

**FOR FURTHER INFORMATION CONTACT:**

**SUPPLEMENTARY INFORMATION:** The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates applies for each listed community. The entry reads as follows:

---

**§ 1914.6 List of eligible communities.**

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
<th>Community No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kansas</td>
<td>Ellis</td>
<td>Victoria, city of</td>
<td>July 25, 1977, emergency</td>
<td>July 16, 1976</td>
<td>200552</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Madison</td>
<td>Unincorporated areas</td>
<td></td>
<td></td>
<td>810465</td>
</tr>
<tr>
<td>Texas</td>
<td>Panoram</td>
<td>Ladora, city of</td>
<td></td>
<td>July 11, 1976</td>
<td>480821</td>
</tr>
<tr>
<td>California</td>
<td>Santa Barbara</td>
<td>Carpintera, city of</td>
<td>July 18, 1977, suspension withdrawn</td>
<td>July 24, 1975</td>
<td>000632</td>
</tr>
<tr>
<td>Florida</td>
<td>Bay</td>
<td>Panama City, city of</td>
<td></td>
<td>June 25, 1976</td>
<td>040124</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Essex</td>
<td>South Orange, village of</td>
<td></td>
<td>July 16, 1974</td>
<td>130179</td>
</tr>
<tr>
<td>New York</td>
<td>Cayuga</td>
<td>Oswego, village of</td>
<td></td>
<td>July 16, 1974</td>
<td>300101</td>
</tr>
<tr>
<td>Do</td>
<td>Brie</td>
<td>Checketowaga, town of</td>
<td></td>
<td>July 7, 1973</td>
<td>300203</td>
</tr>
<tr>
<td>Do</td>
<td>Tioga</td>
<td>Oswego, town of</td>
<td></td>
<td>May 25, 1976</td>
<td>300391</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Bertie</td>
<td>Windor, town of</td>
<td></td>
<td>November 1, 1976</td>
<td>300791</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Schuylkill</td>
<td>Boylston, township of</td>
<td></td>
<td>September 30, 1977</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Delaware</td>
<td>Gilletson Heights, borough of</td>
<td></td>
<td>September 30, 1977</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Berks</td>
<td>Danville, borough of</td>
<td></td>
<td>September 30, 1977</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Carbon</td>
<td>East Penn, township of</td>
<td></td>
<td>September 10, 1978</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Derry Township</td>
<td>Berks Township of</td>
<td></td>
<td>September 10, 1978</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Schuylkill</td>
<td>Gillett, borough of</td>
<td></td>
<td>June 18, 1976</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Darlington</td>
<td>Hambrook, Borough of</td>
<td></td>
<td>September 24, 1974</td>
<td>200716</td>
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<tr>
<td>Do</td>
<td>Berks</td>
<td>Oxford, borough of</td>
<td></td>
<td>November 24, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Schuylkill</td>
<td>Juniata, borough of</td>
<td></td>
<td>January 9, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Tonawanda</td>
<td>Lost, borough of</td>
<td></td>
<td>April 4, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Perry</td>
<td>Orleans, borough of</td>
<td></td>
<td>May 14, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Crawfords</td>
<td>Meadville, borough of</td>
<td></td>
<td>October 12, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>York</td>
<td>North York, borough of</td>
<td></td>
<td>May 19, 1975</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Berks</td>
<td>Ontonagon, township of</td>
<td></td>
<td>March 5, 1976</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Luzernes</td>
<td>Palmyra, township of</td>
<td></td>
<td>June 11, 1976</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Darlington</td>
<td>South Hanover, township of</td>
<td></td>
<td>September 26, 1976</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>York</td>
<td>Spring Garden, township of</td>
<td></td>
<td>October 12, 1976</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Delaware</td>
<td>Swarthmore, borough of</td>
<td></td>
<td>May 10, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>York</td>
<td>Upper Providence, borough of</td>
<td></td>
<td>May 17, 1977</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Chester</td>
<td>West Whiteland, township of</td>
<td></td>
<td>April 15, 1978</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>Bradford</td>
<td>West Mead, township of</td>
<td></td>
<td>July 28, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Do</td>
<td>York</td>
<td>York, city of</td>
<td></td>
<td>March 20, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Tennessee</td>
<td>Anderson</td>
<td>Clinton, town of</td>
<td></td>
<td>November 2, 1973</td>
<td>200716</td>
</tr>
<tr>
<td>Texas</td>
<td>Tarrant</td>
<td>Bedford, city of</td>
<td></td>
<td>December 27, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Washington</td>
<td>Okanagon</td>
<td>Twp, town of</td>
<td></td>
<td>December 27, 1974</td>
<td>200716</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Pike</td>
<td>Unincorporated areas</td>
<td>July 25, 1977, emergency</td>
<td>July 25, 1977</td>
<td>212008</td>
</tr>
<tr>
<td>Ohio</td>
<td>Hamilton</td>
<td>Roswell, village of</td>
<td>February 7, 1975, emergency, March 5, 1977, regular:</td>
<td>February 7, 1975</td>
<td>306011</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Luzerne</td>
<td>Plymouth, township of</td>
<td></td>
<td>July 1, 1977, suspended: July 21, 1977, reinstated</td>
<td>420624</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977

Issued: August 11, 1977.

[Docket No. FI 3329]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program. Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the State.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

For further information contact:


SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction projects in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part the sale of such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at §1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

(FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977)
PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Special Flood Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator has published a notification of the establishment of the Special Flood Hazard Areas (SFHAs) of some locations. That modification of the Special Flood Hazard Areas (SFHAs) of some locations is appropriate.

Any person who has knowledge of changed conditions or new scientific or technical data or who wishes to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified SFHAs are currently in effect and are subject to the Flood Insurance Act of 1968, as amended, 42 U.S.C. 4901-4128, and 24 CFR Part 1916.

SUPPLEMENTARY INFORMATION:

The numerous changes made in the SFHAs on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified SFHAs contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified SFHAs determinations are available for inspection.


JAY JANUS, Under Secretary.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the base (100-year) flood elevations of some locations is appropriate.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map (FIRM), in effect in the community, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The community must change any existing requirements that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

The entry (entry not to be codified in CFR) reads as follows:

§ 1916.8 Changes in base flood elevations.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, as amended (Public Law 90-442), 42 U.S.C. 4001-4128, and 24 CFR Part 1913).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified elevations are in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 15270, 451 Seventh Street SW, Washington, D. C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the floodplain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

[FR Doc. 77-28910 Filed 9-14-77; 7:8:45 am]

JAY JANTS, Under Secretary.

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 15270, 451 Seventh Street SW, Washington, D. C. 20410.

FEDERAL REGISTER, VOL. 42, NO. 179—THURSDAY, SEPTEMBER 15, 1977
§ 1916.8 Changes in base flood elevations.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Date and name of newspaper where notice was published</th>
<th>Chief executive officer of community</th>
<th>Effective date of modified flood insurance rate map</th>
<th>New community number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>Charlotte</td>
<td></td>
<td>The Daily Herald News, Aug. 4, 1977</td>
<td>Mr. John R. Printon, Charlotte County administrator, courthouse annex, 2d floor, 116 West Olympia, Punta Gorda, Fl. 33950.</td>
<td>12061B</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>Clay</td>
<td>Smithville, city of</td>
<td>The Democrat Herald, Aug. 4, 1977</td>
<td>Hon. L. R. Lukon, mayor, city of Smithville, 108 North Bridge St., Smithville, Mo. 64089.</td>
<td>202271B</td>
<td></td>
</tr>
</tbody>
</table>


Issued: July 18, 1977.
CIVIL AERONAUTICS BOARD

CERTIFICATED AIR CARRIERS

Uniform System of Accounts and Reports; Transactions With Affiliates and Nontransport Divisions
SUPPLEMENTARY INFORMATION:

Amendment of CAB Form 41 Schedules Regarding to Transactions With Affiliates and Nontransport Divisions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment modifies the Board's Uniform System of Accounts and Reports for Certificated Air Carriers by: (1) Combining a quarterly report schedule dealing with carrier accounts with associated companies and nontransport divisions and an annual schedule dealing with air carrier investments into a single schedule to be filed annually; (2) revising the format of another schedule which deals with the reporting of air carrier transactions as required by affiliated companies and nontransport divisions; (3) adding a requirement for carriers to disclose income tax allocation procedures used in filing consolidated returns; and (4) establishing a requirement to establish a separate set of books for nontransport leasing operations. These changes were developed as part of the Board's on-going effort to reduce and improve air carrier reporting wherever possible.


FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: During 1976, the Board conducted an extensive review of carrier reporting requirements designed to monitor the actions between air carriers and affiliated companies. The purpose of this review was three-fold: (1) To improve the effectiveness of these reports, (2) to correct deficiencies in the reporting requirements, and (3) to eliminate any unnecessary reports. Suggestions for improving these reporting requirements were received from several carriers during the review. As a result, the Board issued ER-324 proposing to amend its CAB Form 41 reporting by: (1) Combining quarterly Schedule B-4(d), "Accounts with Subsidiaries, Other Associated Companies and Nontransport Divisions," with annual Schedule B-44, "Investment Held by, or for the Account of, Respondent" to make the resulting new schedule an annual filing; (2) modifying the format and reporting instructions for Schedule B-44, "Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies"; (3) adding a new accounting plan, CAB Form AP-16, to disclose income tax allocation procedures; and (4) eliminating the requirement to establish a separate accounting system for leasing operations as required in section 1-6 of Part 241.

Only two respondents—Pan American World Airways and Northwest Airlines—submitted comments in response to the rulemaking notice. Upon consideration of the comments, the Board has decided to adopt the amendments with modifications discussed below. Except to the extent modified, the tentative findings in the Explanatory Statement of ER-324 are made final by this amendment.

In one of its comments, Pan American suggests that the title of the newly proposed Schedule B-41 be expanded to encompass the reporting of current account receivables and payables. We believe this comment is pertinent and has merit; therefore, we are revising the title of Schedule B-41 to read "Receivables, Payables and Investments Relating to Affiliates and Other Investment Data." This schedule contains a parenthetical note which instructs carriers not to report data in certain columns in a section of that schedule captioned "Other Investments." Northwest stated that one of the columns used to report "Notes and Accounts Payable" may have been inadvertently deleted from the parenthetical note. We believe this information was not required on the B-41 schedule which will be superseded by this rule and that a considerable burden would be involved if carriers were required to report such data.

Northwest's assertion is correct. The information was not reported on the old Schedule B-41, and it was not our intention to now require it for this rule. Accordingly, the number of the column relating to "Notes and Accounts Payable" has been inserted in the parenthetical note and carriers will not be required to report these data in the "Other Investments" section of Schedule B-41.

This rule will become effective 80 days after Federal Register publication and shall be applicable to all reports coming due after that date. Moreover, the requirement for filing Schedule B-44b, shall be terminated with the report covering the quarter ended June 30, 1977.

In consideration of the foregoing, the Civil Aeronautics Board amends Part 241 of its Economic Regulations effective December 5, 1977, as follows:

1. Amend section 03—Definitions for Purposes of This System of Accounts and Reports, so as to delete the definition “Subsidiary company” and have section 03 read in pertinent part:

Section 03 Definitions for Purposes of This System of Accounts and Reports.

- Stops, technical—Aircraft landings made pursuant to the purpose of refueling or deplaning traffic. For purposes of identifying reporting entities, landings made for stopover passengers are regarded as technical stops.

Tariff, published-

2. Amend section 1—Introduction to System of Accounts and Reports, to specifically exclude leasing operations by having section 1-6, "Accounting entities," read in pertinent part:
Sec. 1—6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 32(h), as applicable. Such separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not related to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational unit, shall be treated as a separately operated organizational division; except that the provisions of this paragraph and paragraph (b) shall not apply to leasing activities.

(b) As a general rule, * * * * *

3. Amend section 2—General Accounting Policies, as follows:

A. By amending section 2-1, “Basis of allocation between entities,” by changing paragraph (c) so that section 2-1 reads in pertinent part as follows:

Sec. 2-1 Basis of allocation between entities.

(c) For purposes of this section, investments by the air carrier used in common regulated air carrier and those transport-related revenue services defined as separate nontransport ventures under section 1-6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses those investments. Where the entity of predominant use is a nontransport venture, the air carrier shall reflect the investment in account 1520, “Advances to Associated Companies.”

B. By amending section 2-18—Transactions between members of an affiliated group, to eliminate the word “incidental” from paragraph (c) so that section 2-18 reads in pertinent part as follows:

Sec. 2-18 Transactions between members of an affiliated group.

(c) The cost, less all associated valuation allowance accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable transport-related revenue or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares, or charges contained therein in the appropriate transport-related services, capital gains or air carrier accounts. Where no tariff or prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration for the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment-Credit or subaccount 88.1 Intercompany Transaction Adjustment-Debit.

(d) Income taxes * * * *

4. Amend section 5—Balance Sheet Account Groupings, so that paragraph (b) of section 5-3, “Investments and special funds,” reads in pertinent part as follows:

Sec. 5-2 Investments and special funds.

(b) Investments in investor controlled companies shall be recorded at cost plus the equity in undistributed earnings or losses since acquisition, except as provided in paragraph (c) of this section. Investments in all other associated or nonassociated companies shall be recorded at cost, except as provided in paragraph (c).

(c) Permanent impairment * * * *

Section 22 [Amended]

5. Amend section 22—General Reporting Instructions, as follows:

A. By revising the list of reporting schedules to eliminate Schedule B-4(b) and change the title of Schedules B-41 and B-44 that the list reads in pertinent part as follows:

<table>
<thead>
<tr>
<th>Schedule No.</th>
<th>Schedule title</th>
<th>Filing frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-3</td>
<td>Statement of changes in stockholder's equity</td>
<td>Quarterly, Annually</td>
</tr>
<tr>
<td>B-1</td>
<td>Allowance for uncollectible accounts</td>
<td>Do.</td>
</tr>
<tr>
<td>B-5</td>
<td>Property and equipment</td>
<td>Do.</td>
</tr>
<tr>
<td>B-14</td>
<td>Summary of property obtained under lease; summary of equipment under consignment</td>
<td>Quarters under lease; annually under consignment; annually and otherwise</td>
</tr>
<tr>
<td>B-41</td>
<td>Receivables, payables and income and expenses not requiring working capital</td>
<td>Annually</td>
</tr>
<tr>
<td>B-43</td>
<td>Inventories of raw materials and aircraft engines</td>
<td>Do.</td>
</tr>
<tr>
<td>B-44</td>
<td>Transactions between air carrier and affiliates—annual summary</td>
<td>Do.</td>
</tr>
<tr>
<td>B-10</td>
<td>Long-term and short-term nontrade debt</td>
<td>Do.</td>
</tr>
</tbody>
</table>

B. By revising paragraph (d) to include a new subparagraph (16) and other editorial changes so that paragraph (d) will read in pertinent part:

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases, where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty days after the close of the first calendar quarter in which the procedures become effective. The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety days after receipt. Such statements shall be filed in triplicate on standard forms AP-1 through AP-16.

1. Procedures for assigning or procuring property and loss items between operating entities as described in section 2-1.

10. Procedures for assigning or procuring expenses between transport operations and transport-related operations described by section 18-7100 or 11-7100.

14. Procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company or vice versa, and adjustments as prescribed in sections 6-1510.1 and 6-1510.2.

16. Procedures for allocating income taxes among the transport entities of the air carrier, its nontransport divisions and members of an affiliated group in accordance with section 2-18(d).

Section 23 [Amended]

6. Amend section 23—Certification and Balance Sheet Elements, as follows:

A. By revising the reporting instructions applicable to Schedule B-4 to delete the portion of the instructions dealing with accounts with investor controlled companies, other associated companies and nontransport divisions, so that the new title and instructions for this schedule read, in their entirety, as follows:

Schedule B-4—Allowance for uncollectible accounts.

(a) This schedule shall be filed by all route air carriers.

(b) Each allowance for uncollectible accounts shall be separately identified in the indicated section of this schedule. Columns 1 and 2 shall reflect the account number and description of the asset against which each allowance is provided. The sum of the balances at the end of each quarter which are provided against each asset account shall agree with the corresponding amount reported on Schedule B-1 Balance Sheet.

B. By revising paragraph (c) to exclude the term “subsidiaries” from the instructions applicable to Schedule B-12 so that the instructions for Schedule B-12 read in pertinent part:

Schedule B-12—Statement of changes in financial position.

(c) In determining working capital generated by operations, net income as reported in item 9899 on Schedule P-1.1 or Schedule P-1.2 shall be increased by expenses not requiring working capital
in the current period and shall be decreased by income not generating working capital in the current period, due to gains on property retirements and undistributed earnings of investor controlled companies.

C. By revising the instructions to Schedule B-44 so that the new title and reporting instructions fit into the row of work under the existing form. This read, in their entirety, as follows:

Schedule B-44—Receivables, payables and investments relating to affiliates and other investment data.

(a) This schedule shall be filed by all route air carriers.

(b) The data shall be grouped and separately subtitled according to:

(1) investments in investor controlled companies (account 1510.1); (2) investments in nontransport divisions of investor controlled companies (account 1510.2); (3) investments in non-transport divisions and other investment data; and (4) notes and accounts receivable and advances.

(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each parent or vehicle vote and accounts receivable, both current and noncurrent, due to the air carrier. Additionally, this shall show the nontransport division of the air carrier. For which separate records and books of account are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies where settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies.

This column shall also reflect the net amounts receivable from each nontransport division.

(f) Column 4 "Investments at Cost" shall reflect the cost to the air carrier at date of acquisition of investments in affiliated companies; plus the equity in undistributed earnings or losses since acquisition reflected in column 5 "Equity in Undistributed Earnings or Losses" the aggregate with the corresponding amounts in balance sheet subaccount 1510.1 Investments in Investor Controlled Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subaccount 1510.2 Investments in Other Associated Companies.

(g) Column 5 "Equity in Undistributed Earnings" shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 "Other Investments and Receivables" shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under "Other Investments and Receivables.

(i) Column 7 "Notes and Accounts Payable" shall reflect the gross amounts due on current notes and open accounts with associated companies.

(j) Column 8 "Advances" shall reflect, from accounts 2210, "Long-Term Debt" and 2240, "Advances from Associated Companies," the amounts due associated companies for fixed, long-term and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2240.

(k) Column 9 shall reflect the amount of dividends received on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall reflect the amount of dividends received on all bonds, notes and other investments for companies reported in column 1.

(l) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable, which "a/c rec.," with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the "yes" for investments held in the name of the air carrier and "no" for investments held in the name of others for the account of the air carrier. If the answer is "no" carriers should supply the name of the person to whom the interest is held at the bottom of the schedule.

(n) Column 12 "Number of Shares or Principal Amount" shall reflect the number of shares or the principal amount of bonds or notes held by the air carrier.

(o) Column 13 "Percent of Total Issue Outstanding" shall reflect, for the associated companies listed in column 1, the percent of outstanding stock owned by the air carrier. Column 13 is not applicable for "Other Investments" or for "Non-transport Divisions" listed in column 1.

(j) For reporting instructions to Schedule B-44 so that the new title and reporting instructions fit into the row of work under the existing form. This read, in their entirety, as follows:

Schedule B-44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all route air carriers.

(b) The aggregate annual amounts of transactions exchanged between the air carrier and any affiliate, including any of its nontransport divisions, shall be grouped on this schedule by line item under four major groupings: (1) increases in carrier's resources, (2) decreases in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purpose of this schedule the term "affiliate" means associated companies including investor controlled companies and organizational divisions as defined in section 1-6 and the term "resources" shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash receivables, securities, investments, equipment, supplies, buildings and land, and operational services. Net income from investor controlled companies and organizational divisions, as defined in section 1-6 shall be reported as a decrease in a resource. Authorized but unissued bonds or stock, estimated revenue not yet accrued or collected and contingent assets, shall not be considered resources for the purposes of reporting on Schedule B-44.

(d) Within the transaction groupings for resources, the term "operational services" shall include the providing of benefits to other parties by an expenditure of capital, equipment, supplies, labor, material, sales, know-how, or any combination of these in the conduct of business operations; permission granted for rights of entry or rights under leasing or license agreements considered operational services; however, the cash disbursed or cash received for those rights will be reported under the appropriate classification.

(e) Within the transaction groupings for resource increases, on the line entitled "Cash received by carrier from affiliate," carriers shall report cash and checks. This includes for example: (1) cash advanced by an affiliate, (2) cash remittances by an affiliate to the carrier for purchases or services procured from the carrier, (3) cash remittances by an affiliate to the carrier for the purchase of a nontransport division, (4) cash dividends paid by an affiliate to the carrier, (5) cash remittances by affiliate to carrier in settlement of income tax transactions, (6) a/c rec. paid by an affiliate to the carrier in settlement of "current account" transactions, and (7) checks drawn by an affiliate, payable to the carrier in exchange for cash or cash in kind. Within the transaction groupings for resource decreases, on the line entitled "Cash disbursed by carrier to affiliate" carriers shall report cash paid out by the carrier to an affiliate, whether in cash or by check; this includes, for example: (1) cash advance to an affiliate, (2) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier for payment of advances or loans, (4) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate in settlement of income tax transactions, (6) a/c remittances by affiliate to carrier in settlement of "current account" transactions, and (7) checks drawn by the carrier, payable to an affiliate in exchange for cash or cash in kind.

(f) Within the transaction groupings for resource increases, on the line entitled "Contribution of capital by affiliate to carrier," carriers shall report any increase in assets without regard to the transaction grouping for resource decrease, purchase of additional securities or any other contribution of capital. Within the transaction groupings for resource decreases, on the line entitled, "Contribution of capital by carrier to affiliate," carriers shall report increases in the investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction grouped under this column shall be reported on this paragraph or in paragraph g) below which exceeds one percent of the carrier's net stockholder equity reported on line 2895 of Schedule B-1, "Balance Sheet," shall be described as to the na-
Within the transaction grouping for resource increases, on the line entitled "Credit adjustments to affiliate's retained earnings," carriers shall report credit adjustments to the affiliate's retained earnings, which have been pledged for the benefit of the affiliate or such as collateral or security for loans. Within the transaction grouping for resource decreases, on the line entitled "Debit adjustments to affiliate's retained earnings," carriers shall report debit adjustments to the affiliate's retained earnings, which shall be reported as directed in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported on the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

Columns 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

Within the transaction grouping for resource increases, on the line entitled "Net income of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net income of the Investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by the carrier for the benefit of the affiliate or such as collateral or security for loans," carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported on the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

Within the transaction grouping for resource increases, on the line entitled "Interest income from affiliate," the carrier shall report its proportionate share of the net interest income of the affiliate, if any, for under the equity method.

Within the transaction grouping for resource decreases, on the line entitled "Interest expense to affiliate," the carrier shall report its proportionate share of the net interest expense of the affiliate, if any, for under the equity method.

The basis used in valuing property, equipment, and other assets acquired by the carrier or the affiliate or such as collateral or security for loans shall be footnoted and described in the space provided at the bottom of the form.

In the transaction grouping for income tax transactions, on the first two lines carriers shall report the amount of income tax credits transferred, if any, from the affiliate to the carrier by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. The last two lines shall reflect the transfer, if any, of net operating losses pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported on the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Financial services performed by affiliate for carrier" and "Financial services performed by carrier for affiliate," carriers shall report the amount of financial services flowing to and from the air carrier, respectively.

Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Results of operations in the current period of an investor controlled company accounted for under the equity method," the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Investment and Credit to Account 8100)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Preference dividends paid or declared," the carrier shall report the amounts of preference dividends paid or declared, as gains on property retirements and undistributed earnings of investor controlled companies.
(c) Column 1 shall reflect the name of each associated company, and each other issuer of securities held by the air carrier. This column shall also reflect the name of each company from which nontransport division accounts are maintained, both current and noncurrent, are due to the air carrier. Additionally, this column shall show the name of each nontransport division for which separate records and accounts are maintained.

(d) Column 2 shall reflect gross amounts due from associated companies which are settled currently.

(e) Column 3 shall reflect advances, loans, and other amounts not settled currently, due from associated companies. This column shall also reflect the net amount receivable from each nontransport division.

(f) Column 4 “Investments at Cost” shall reflect the cost to the air carrier at date of acquisition of investments in associated companies. The cost of investments in investor controlled companies, shall be considered as the acquisition of undistributed earnings or losses since acquisition reflected in column 5 “Equity in Undistributed Earnings” shall agree in the aggregate with the corresponding amounts in balance sheet subgroup 310.2 Investments in Other Associated Companies. The cost of investments in other associated companies shall agree with the corresponding amounts in balance sheet subgroup 310.3 Investments in Investor Controlled Companies. The amounts due to associated companies listed in column 4 shall reflect the cost to the air carrier and affiliates—annual summary. This column shall be filed by all supplemental air carriers.

(g) Column 5 “Equity in Undistributed Earnings” shall reflect the equity in undistributed earnings or losses of investor controlled companies. The amounts due to investor controlled companies shall reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition of those rights. Column 5 shall also reflect the equity in undistributed earnings or losses of investor controlled companies since acquisition.

(h) Column 6 “Other Investments and Receivables” shall reflect the amount of the investments and receivables of a noncurrent nature for those companies listed in column 1 under “Other Investments.”

(i) Column 7 “Notes and Accounts Payable” shall reflect the gross amounts due to associated companies for notes, loans and advances which are not settled currently. Also, column 8 shall reflect the advances from Nontransport Divisions in account 2340.

(j) Column 9 shall reflect the amount of dividends received during the year on all securities held for companies reported in column 1, except those received from investor controlled companies. Also, column 9 shall also reflect the amount of interest received during the year on all bonds, notes, and other investments for companies reported in column 1.

(k) Column 10 shall reflect the type of security, such as stocks, bonds, notes, or accounts receivable (abbreviate “a/c receivable”) with respect to investments and noncurrent receivables.

(m) Column 11 shall reflect the words “interest” or “interest in the name of the carrier” for investments held in the name of others for the account of the air carrier. If the answer is “no” carriers should supply the name and address of each person in whose name the interest is held at the bottom of the schedule.

(n) Column 12 “Number of Shares or Debt Principal Amount” shall reflect the number of shares of stock or the principal amount of bonds or notes held by the carrier. Column 13 is not applicable for transactions or for “Nontransport Divisions” listed in column 1.

C. By revising the instructions to Schedule B-44 so that the new title and reporting instructions for this schedule read, in their entirety, as follows:

Schedule B-44—Transactions between air carrier and affiliates—annual summary.

(a) This schedule shall be filed by all supplemental air carriers.

(b) The aggregate annual amounts of transactions exchanged between the carrier and any of its affiliates, including transactions involving reversals shall be grouped on this schedule by line item under four major groupings: (1) increase in carrier's resources, (2) decrease in carrier's resources, (3) dividends, and (4) income tax transactions.

(c) For the purpose of this schedule the term “affiliate” means associated companies including investor controlled companies and organizational divisions as defined in section 1-6 and the term “resources” shall mean assets such as current, noncurrent other than fixed, and fixed assets; it includes cash, receivables, securities, investments, equipment, supplies, buildings and land, and operational services. Net income from investor controlled companies and organization divisions, as defined in section 1-6, shall be reported as an increase in resources. The amount of associated companies net income from the investment accounts as the result of a purchase or sale transactions, (7) cash dividends paid by the carrier to an affiliate, (5) cash disbursed by the carrier to an affiliate for purchases or services procured from an affiliate, (3) cash disbursed by the carrier to an affiliate for investment accounts as the result of a purchase of additional securities or any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (1) or in paragraph (g) below, which exceeds the carrier's net stockholder equity reported on line 2955 of Schedule B-1, “Balance Sheet,” shall be described as to the nature of the transaction and the amount involved on Schedule P-2, “Notes to Income Statement.”

(g) Within the transaction grouping for resource increases, on the line entitled “Contribution of capital by affiliate to carrier,” carriers shall report any increase in assets without regard to the type of asset which results from the purchase or sale of assets or from any other contribution of capital. Any transaction reported on the lines discussed in this paragraph (1) or in paragraph (g) below, which exceeds the carrier's net stockholder equity reported on line 2955 of Schedule B-1, “Balance Sheet,” shall be described as to the nature of the transaction and the amount involved on Schedule P-2, “Notes to Income Statement.”
(Debit to Investment and Credit to Account 8100)." the carrier shall report its proportionate share of the net income of an investor controlled company accounted for under the equity method. Within the transaction grouping for resource decreases, on the line entitled "Net loss of affiliate for year (Debit to Account 8100 and Credit to Investment)," the carrier shall report its proportionate share of the net loss of an investor controlled company accounted for under the equity method.

(i) Within the transaction grouping for resource increases and the transaction grouping for resource decreases, on the lines entitled "Operational services performed by affiliate for carrier" and "Operational services performed by carrier for affiliate," carriers shall report the amount of operational services flowing to and from the air carrier, respectively.

(j) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Property, equipment, and other assets acquired by carrier from affiliate" and "Property, equipment, and other assets disposed of by carrier to affiliate," air carriers shall report assets acquired from affiliates and assets disposed of to affiliates, respectively. These lines shall not include contributions of capital or cash transactions which shall be reported as directed in paragraphs (e) and (f) above.

(k) Within the transaction grouping for resource increases and resource decreases, on the lines entitled "Resources pledged by affiliate in the interest of carrier" and "Resources pledged by carrier in the interest of affiliate," carriers shall report the assets, including receivables which have been pledged for the benefit of the carrier by the affiliate or by carrier for the benefit of the affiliate such as collateral or security for loans.

(l) Within the transaction grouping for dividends, carriers shall report cash dividends and property dividends paid or received. Both cash and property dividends shall also be reported in the appropriate line item under the resource increase or resource decrease transaction grouping. The basis used in valuing property dividends (cost, market value, etc.) shall be footnoted and described in the space provided at the bottom of the form.

(m) In the transaction group for income tax transactions, on the first two lines carriers shall report the amount of income taxes billed by the carrier to the affiliate and by the affiliate to the carrier. These amounts shall not be reported in resource increase or resource decrease transaction groupings until remittances are made. On the second two lines, carriers shall report the amounts of investment tax credits transferred, if any, pursuant to any tax allocation agreement, formal or informal, used in the preparation of consolidated tax returns. No amount reported in the last four lines of this section shall be reported in the resource increase or resource decrease transaction groupings.

(n) In the blank space provided under the word "Affiliate" at the top of columns 2 through 9, carriers shall insert the name of the affiliate with whom the transactions took place, using a separate column for each affiliate.

(o) Columns 2, 3, 4, 5, 6, 7, 8, and 9 shall be used, one column for each affiliated group member, to separately reflect the annual aggregate dollar amount of the transactions exchanged between the carrier and the affiliate for each line item indicated in column 1 under each of the four transaction groupings.

9. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting as shown in Exhibits A, B, and C, and add a new accounting plan form AP-16 as shown in Exhibit D.

(See 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766; (49 U.S.C. 1324, 1377).)

By the Civil Aeronautics Board.

PHELLIS T. KAYLOR,
Secretary.

Note.—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).
<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Ending Balance</th>
<th>Cost of Goods Sold</th>
<th>Advance Due</th>
<th>Percentage of Total Advance Due</th>
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<tbody>
<tr>
<td>Notes and Accounts Receivable</td>
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<tr>
<td>Advances</td>
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<td>Accounts Receivable</td>
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<td>Other Investments</td>
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<td>Investments at Cost</td>
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<td>Equity In Undistributed Earnings</td>
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<td>1510</td>
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<td>3515</td>
<td>Equity In Undistributed Earnings</td>
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Notes:
- The table above includes receivables, payables, and investments relating to affiliates and other investment data.
- The table is organized to show various categories and their ending balances, cost of goods sold, and advance due.
- The table is divided into different sections: Notes and Accounts Receivable, Advances, Accounts Receivable, Other Investments, Investments at Cost, Equity In Undistributed Earnings, Other Investments, Notes and Accounts Payable, Advances, Investments at Cost, Equity In Undistributed Earnings.
- Each section contains specific columns such as Ending Balance, Cost of Goods Sold, Advance Due, and Percentage of Total Advance Due.
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<th>Affiliate</th>
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<td><strong>Aggregate Annual Amounts of Transactions with Carrier</strong></td>
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<td><strong>Increase in Carrier's Resources</strong></td>
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<td>Cash received by carrier from affiliate</td>
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<td>Contribution of capital by affiliate to carrier</td>
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<td>Credit adjustments to affiliate's retained earnings</td>
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<td>Net income of affiliate for year (Debit to Investment and Credit to Account 8100)</td>
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<td>Operational services performed by affiliate for carrier</td>
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<td>Property, equipment, and other assets acquired by carrier from affiliate</td>
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<td><strong>Decrease in Carrier's Resources</strong></td>
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<td>Cash disbursed by carrier to affiliate</td>
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<td>Contribution of capital by carrier to affiliate</td>
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<td>Debit adjustments to affiliate's retained earnings</td>
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<td><strong>Dividend</strong></td>
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<td>Paid by affiliate to carrier - from Investor Controlled Companies</td>
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<td><strong>Income Tax Transactions</strong></td>
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<td>Income taxes billed by carrier to affiliate</td>
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<td>Income taxes billed by affiliate to carrier</td>
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<td>Net operating losses transferred by carrier to affiliate</td>
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</table>

Explanation of basis used in valuing property and dividends:

Schedule B 44: Any transaction reported on these lines which exceeds 20 percent of the carrier's net stockholder equity shall be described as to nature and amount on Schedule B 44.
### Status of Accounting Plans Required to be Filed

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<tr>
<th>Statement No.</th>
<th>Subject</th>
<th>Applicable Section</th>
<th>Was Plan Revised This Period (Yes or No)</th>
<th>Date Filed</th>
<th>Effective Date</th>
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<td>Depreciation</td>
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<td>Obsolescence and deterioration allowances — expendable parts</td>
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<td>Application of maintenance burden</td>
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<td>Computation of available seat-miles and available ton-miles</td>
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<td>Accrued vacation liability</td>
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<td>Accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company, or vice versa, and adjustments in investment accounts</td>
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<td>Accounting for pension plans</td>
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<td>16</td>
<td>Allocating income taxes</td>
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**NOTE:** If not applicable, use the abbreviation “NA”
PROcedures for Allocating Income Taxes among Transport Entities, Affiliates and Nontransport Divisions

Procedures to become effective on _______________________, 19 ___

Requirement for filing: Section 22(d) [ ] or 32(d) [ ] and Section 2-18(d) of the Uniform System of Accounts and Reports

PART A

Please check applicable box:

- Carrier files Federal income tax returns as an independent company [ ]
- Income of carrier reported to Internal Revenue Service as a part of a consolidated tax return [ ]

If carrier reports income as a part of a consolidated tax return, please list below the affiliated companies that are included in the consolidated tax return:

Describe allocation procedures used to allocate income taxes among the affiliated group: (In the event there is a written tax allocation agreement, the furnishing of a copy of such agreement will be considered response)

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: _______________________________

TITLE: _______________________________

DATE: ____________________________________
PROCEDURES FOR ALLOCATING INCOME TAXES AMONG TRANSPORT ENTITIES, AFFILIATES AND NONTRANSPORT DIVISIONS

Procedures to become effective on 10

Requirement for filing: Section 22(d) or 32(d) and Section 2-18(d) of the Uniform System of Accounts and Reports

PART B

Describe allocation procedures used to allocate income taxes among the transport entities of the air carrier and its nontransport divisions in compliance with section 2-18(d).

CERTIFICATION

I certify that this statement was prepared under my direction and that the procedures specified herein will be practiced on and after the effective date of the procedures.

SIGNED: __________________________,_____

TITLE: ________________________________

DATE: ________________________________

CAB Form AP-16b (11-77)

[FED Dec. 77-26722 Filed 9-14-77:8:45 am]
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